



**ADVANCED
TRANSPORT &
INFRASTRUCTURE
NATIONAL COLLEGE**

Registered Office:
National College for Advanced Transport & Infrastructure
The Finance Office,
The University of Birmingham,
Edgbaston, Birmingham, United Kingdom,
B15 2TT
Company number: 13219816
Chair of Governors: Professor Stephen Jarvis

CONFLICTS OF INTERESTS POLICY (INCLUDING COMMONALITY OF INTERESTS)

NATIONAL COLLEGE FOR ADVANCED TRANSPORT AND INFRASTRUCTURE

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AUTHOR:	David Rose
OWNER:	David Rose
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CONFLICTS OF INTEREST POLICY

National College for Advanced Transport and Infrastructure (NCATI), a charitable Private Limited Company that is limited by guarantee and registered under Company Number 13219816 (“the College”) and a wholly owned subsidiary of the University of Birmingham (“the University”) has adopted this Policy to address conflicts of interest so as to ensure its activities, and those of its Governors and staff are, and are seen to be, conducted to the highest standards of ethics and integrity.

This Policy comprises the following parts:

Section A: Policy Statement

Section B: Scope

Section C: Recognising Conflict of Interest

Section D: Procedure

Schedule 1: Additional considerations and requirements applicable to categories of Governors with Commonality of Interests

BACKGROUND

- The Governors of the College are its charity trustees. They have a duty to act in the best interests of the College. In particular, they must not place themselves in a position where they have, or may have, a direct or indirect interest that conflicts with their duties as charity trustee and must not profit from their position as charity trustee except as authorised by the Articles of Association and/or the Charity Commission in accordance with charity law.
- These obligations derive from the general fiduciary duties owed by charity trustees and the Companies Act 2006, which sets out specific requirements in relation to conflicts of interest.
- The Governance Agreement dated 29th April 2021 between the University of Birmingham, acting by its Council, and the College as its wholly owned subsidiary, requires a Conflicts of Interests Policy to be prepared, adopted, maintained and regularly reviewed.
- This policy has been prepared with reference to the College’s Articles of Association and Charity Commission guidance document CC29: “Conflicts of interest: a guide for charity trustees”.

Section A: Policy Statement

1. NCATI encourages its Governors and both staff employed by it and its wholly owned subsidiary, NCHSR Limited (together called ‘staff’), to engage in a wide variety of external activities in addition to their core occupations such as serving on government, business and community boards, providing expert advice, media commentary, schools outreach and collaborations with commercial organisations.

2. NCATI considers such activities are normally in the public interest and are also beneficial to the College and the individuals concerned.
3. On occasions, however, participation in such activities may give rise to conflicts of interest, whether actual or potential, perceived or alleged.
4. All NCATI governors and staff are required to recognise and disclose activities that might give rise to conflicts of interest or the perception of conflicts and to ensure that such conflicts are seen to be properly managed or avoided.
5. If properly managed, activities can usually proceed as normal whilst at the same time upholding the person's obligations to the College, meeting regulatory and other external requirements, and protecting the integrity and reputation of the College. By contrast conflicts which are not managed effectively may jeopardise the College's public standing and may cause serious damage to the reputation of the College and of the individuals concerned.
6. It is therefore the College's policy to encourage and foster external activities whilst ensuring that when conflicts or perceived conflicts arise, they are acknowledged and disclosed, and in relevant cases, properly managed.
7. This policy must be read by all Governors and staff and should be reviewed annually or sooner if required.
8. Any Governor who becomes aware of a breach of this Policy must report it to the Chair of Governors and the Clerk to the Governors as soon as possible.

Section B: Scope

9. This Policy applies to all Governors and staff of the College. Where a Governor has a conflict of interest and there is no commonality of interest then the Governor should follow the provisions of Articles 84 & 85 (that, in turn, refer to Articles 6.5 – 6.10) of the Articles of Association of the College in conjunction with this Policy noting that the provisions of the Articles take precedence over this Policy. However, it is recognised some governors may have commonality of interests because they are employees of the University, staff of NCATI, employed by an organisation that was a member of the University-led consortium that bid successfully for the former NCATI, or their appointment is ex-officio. The additional considerations and requirements on these categories of governors are contained in the Schedule 1 to this Policy.
10. It is the responsibility of each individual to recognise situations in which they have a conflict of interest or might reasonably be seen by others to have a conflict, to disclose that conflict to the appropriate person and to take such further steps as may be appropriate, as set out in more detail in Section D: Procedure, below.
11. Where an individual is uncertain about how this Policy might affect their activities or has any questions about its application, they should seek advice from the Clerk to the Governors

Section C: Recognising Conflict of Interest

12. A conflict of interest arises where the commitments and obligations owed by an individual Governor or member of staff to the College are likely to be compromised, or may appear to be compromised, by:

12.1 That person's personal benefit, or a benefit to immediate family (or a

person with whom the person has a close personal relationship)¹, whether financial or otherwise (including, without limitation, in relation to the exploitation of any property, information or opportunity, whether or not the College could take advantage of it but excluding any situation which cannot reasonably be regarded as likely to give rise to a conflict of interest). "Benefit" for the purposes of this Policy includes any payment or material benefit (including property, loans, goods, and services), other than reasonable out of pocket expenses or the benefit of an insurance policy.

- 12.2 The commitments and obligations that person owes to another person, organisation, or body.
13. There can be situations in which the appearance of conflict of interest is present even where no conflict actually exists. Therefore, it is important for all Governors and staff when evaluating a potential conflict of interest to consider how it might be perceived by others.
14. The duty to declare a possible conflict applies to the perception of the situation rather than the actual existence of a conflict. However, the duty is not infringed if the situation cannot reasonably be regarded as giving rise to a conflict of interest.
15. Conflicts of interest may be financial or non-financial or both. Further information about both types is set out in paragraphs 16 to 18, below.
16. A financial conflict of interest, for the purpose of this Policy, is one where there is or appears to be an opportunity for personal financial gain.
17. Financial interest means anything of monetary value, for example:
- 17.1.1 payments for services
 - 17.1.2 equity interests
 - 17.1.3 intellectual property rights.
18. The level of financial interest is not the determining factor as to whether a conflict of interest should be disclosed. What might be "not material" or "not significant" for one person might be very significant for another. Good practice will, therefore, mean the disclosure of "any" financial interest however small. A conflict will arise if the interest might provide, or be reasonably seen by others, to provide an incentive to the individual which affects their actions and where they have the opportunity to affect a College decision or other activity particularly where the individual is a decision maker or could be reasonably perceived to be able to influence decision making.

Section D: Procedure

19. It is the duty of every Governor and member of staff to disclose any conflict of interest or any circumstances that might reasonably give rise to the perception of a conflict of interest. Apparent or perceived conflicts of interests can be as damaging as actual conflicts of interest.
20. Upon appointment Governors should declare their interests, on the form used by the

¹ For the purpose of this Policy "immediate family" is defined as follows: spouse or civil partner, son and daughter. However, the "close personal relationship" giving rise to an interest could extend to the following (noting this is not intended to be an exhaustive list): unmarried partner, parent, brother, sister, grandparent, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, the (unrelated) child of an unmarried partner, (as well as half and step members of family) and to close relatives or close friends, where it might be reasonable for another party to take the view that financial benefits might affect that person's actions.

College from time to time. These interests will be recorded in a Register of Governors' Interests to be maintained by the Clerk to the Governors which will be formally updated on an annual basis. Each Governor must, however, keep their declaration under review and will be required to confirm it is accurate at every meeting of the governing body and its committees, with any changes from the position already declared in the Register of Interests being recorded in the minutes of the meeting. Where there is a change in a governor's circumstances, they must make a further declaration and submit it to the Clerk to the Governors so the Register can be updated.

21. The general rule is that changes to disclosures should be made at the time the conflict first arises, or it is recognised that a conflict might be perceived and confirmed in writing or via email to the Clerk to Governors. In the unlikely event the Clerk to Governors has an interest in the matter to be disclosed, the disclosure should be made to the Director of Corporate Services.
22. All Governors must declare to the College's governing body either at the relevant governors' meeting prior to discussion of the relevant item or, if in advance of a Governors' meeting, to the Clerk to the Governors or the Chair of Governors (or Vice Chair if it is the Chair declaring the conflict of interest or conflict of loyalty) any conflicts of interest or conflicts of loyalty that might reasonably be regarded as potentially giving rise to an actual or potential conflict in accordance with the procedure in the preceding paragraphs 19 and 20. Where a conflict of interest is declared the Articles of Association shall be followed.

Schedule 1: Additional considerations and requirements applicable to categories of Governors with Commonality of Interests

1. It is recognised that Governors of the College who are employees of the University or are members of the College's Board ex officio or as staff or student Governors face a particular potential conflict of interest or conflict of loyalty as Governors of the College and as College employees, students, or members of the staff of the University. It is also recognised that the University and the College will frequently have a commonality of interests in relation to particular transactions and arrangements.
2. This Schedule supplements the Policy and sets out guidelines and procedures in relation to declaring and managing actual and potential conflicts of interest and conflicts of loyalty which arise specifically for Governors of the College by virtue of their employment at the University or by the College and outlines how to manage conflicts of interest or conflicts of loyalty when in either case there is a commonality of interests.
3. References to "commonality of interests" means a situation in which there is a substantial common interest between the College and the University (for example because both the College and the University's interests align in the context of a particular transaction) or between the interest of that Governor (or any person connected to such Governor) and the College; and "conflict of loyalty" means an actual and/or potential conflict in which a Governor's (or any person connected to such Governor as referenced in the footnote to paragraph 12.1) loyalties owed to another organisation, entity or person could be seen to prevent them from acting in the best interests of the College, including where neither that Governor nor persons connected to that Governor personally stand to benefit.

Practical Management of conflicts of interests and conflicts of loyalties

4. Where Governors of the College face a conflict of interest or a conflict of loyalty, and there is a substantial commonality of interests, the procedure below should be followed:
 - 4.1 The Governor(s) affected should first declare the nature and extent of conflict of loyalty to the other Governors before discussion of the matter, in accordance with Article 84 and paragraph 21, above.
 - 4.2 The unconflicted Governors shall consider the conflict and if they resolve that the conflict falls within the definition of commonality of interest then the unconflicted Governors may resolve that the conflicted Governor(s) can remain present at the meeting, count in the quorum and participate fully in the decision-making process, including by voting, and may authorise the conflict accordingly.
 - 4.3 The unconflicted Governors should record their decision to authorise the conflict, and their reasons for doing so, in the minutes of the meeting in question.
5. Where Governors of the College face a conflict of loyalty, and there is **not** a

commonality of interests, the procedure below should be followed:

- 5.1 the procedure set out in clause 4 of this Schedule shall first be followed.
- 5.2 The Governors who are not affected by the conflict of loyalty may resolve to authorise the conflict on such terms as they determine appropriate. Depending on the nature and extent of the conflict, the unconflicted Governors may decide whether the conflicted Governor(s) should be able to undertake all, some or none of the following actions: remain present at the meeting; count in the quorum; participate in discussions; and/or participate in the decision-making process.
- 5.3 In making this decision, the unconflicted Governors should have regard to:
 - 5.3.1 the nature and extent of the conflict of loyalty
 - 5.3.2 what is in the best interests of the College; and
 - 5.3.3 the reputation of the College and the impression that their actions and decisions may have on the College
- 5.4 The unconflicted Governors should record their decision to authorise the conflict, and their reasons for doing so, in the minutes of the meeting in question.