



**Board of Directors
Code of Conduct**

January 2015

Code of Conduct

1 Introduction

This code is intended as a guide for members of the Board of Directors, to indicate the standards of conduct expected of them, to enable them to understand their obligations and to assist them both in carrying out their duties and their relationship with the Board (of which they are a member) and the SFC. The Code gives cognisance to the Code of Good Governance issued to the sector in December 2014 where applicable. It is aimed at promoting effective and well-informed management. Acceptance of appointment as a Member of a Board will be construed as acceptance of this Code.

As neither parent nor subsidiary company are listed as a devolved public body directors are not legally obliged to comply with the key guidance of the model code of conduct published by the Standards Commission and outlined below. Whilst not intended to be a definitive or authoritative statement of the law it is intended to carry with it the broad thrust of these measures established under the Ethical Standards Framework in Public life etc. (Scotland) Act, 2000. This Act sets up an ethical framework for members of public bodies, setting out their general principles and rules of conduct.

This Code applies to every committee, working party or other subsidiary body of the Board to which members are appointed.

It should be noted however, that as private companies limited by guarantee Colleges Scotland and CDN are governed by the Companies Act 2006 and Board Members must abide by this Act, and in particular the responsibilities given to the Directors within this legislation. As a registered charity, Members must also abide by the Charity and Trustee Investments (Scotland) Act 2005. Due to the length and complexity of this legislation, it is not covered in this guide.

However, individual Board members who act in accordance with the law, honestly, reasonably, in good faith and without negligence should not become personally liable for actions in execution or purported execution of his/her Board function or duties. Board members who want further advice should consult the Company Secretary.

2 Key Principles of the Code of Conduct

The general principles upon which this Code of Conduct are based are:

Service

You have a duty to act in the interests of the company of which you are a director and in accordance with the core tasks of the Board of Directors.

Selflessness

You must not act in order to gain financial or other material benefit for yourself, family or friends.

Integrity

You must not place yourself under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties as a member of the Board of Directors.

Objectivity

You must make decisions solely on merit when carrying out your duties as a director.

Accountability and Stewardship

You are accountable for your decisions and actions. You have a duty to consider issues on their merits, taking account of the views of others and must ensure that the company of which you are a Director uses its resources prudently and in accordance with the law.

Openness

You have a duty to be as open as possible about your decisions and actions, giving reasons for your decisions and restricting information only when the wider public interest clearly demands.

Honesty

You have a duty to act honestly. You must declare any private interests relating to your duties and take steps to resolve any conflicts arising in a way that is in accordance with the Articles of Association of the company.

Leadership

You have a duty to promote and support these principles by leadership and example, to maintain and strengthen the public's trust and confidence in the integrity of the company of which you are a director and its members in conducting its business.

Respect

You must respect fellow members of the Board of Directors and employees of the company of which you are a director and the role they play, treating them with courtesy at all times.

You should apply the principles of this Code to your dealings with other directors (including directors of a parent or subsidiary, as the case may be) and the employees of each company.

3 General Conduct

Relationship with Employees

You should treat any staff employed by each company with courtesy and respect. It is expected that employees will show you the same consideration in return.

Allowances

You should comply with the Memorandum and Articles of Association and any rules of the Board of Directors regarding remuneration, allowances and expenses.

Gifts and Hospitality

You should not canvass or seek gifts or hospitality.

You are responsible for your decisions connected with the offer or acceptance of gifts or hospitality and for avoiding the risk of damage to public confidence in the company of which you are a director. As a general guide, it is usually appropriate to refuse offers except:

(a) isolated gifts of a trivial character or inexpensive seasonal gifts such as a calendar or diary, or other simple items of office equipment of modest value;

(b) normal hospitality associated with your duties and which would

reasonably be regarded as inappropriate to refuse; or

(c) gifts received on behalf of the company of which you are a director.

You must not accept any offer by way of gift or hospitality, which a member of the public might reasonably think, could influence you in the performance of your duties as a member of the Board of Directors, show favour, or disadvantage, to any individual or organisation. You should also consider whether a member of the public might reasonably think that you could be influenced in the performance of your duties as a member of the Board of Directors by any gift received by your spouse or cohabitee or by any company in which you have a controlling interest, or by a partnership of which you are a partner. The term "gift" includes benefits such as relief from indebtedness, loan concessions, or provision of services at a cost below that generally charged to members of the public.

You should not accept repeated hospitality from the same source.

You must record details of all gifts and hospitality received with the Company Secretary which should be made available for public inspection.

You must not accept any offer of a gift or hospitality from any individual or organisation which stands to gain or benefit from a decision the Board of Directors may be involved in determining, or who is seeking to do business with the company of which you are a director, and which a member of the public might reasonably think could influence you in the performance of your duties as a member of the Board of Directors.

You must comply with the Anti-bribery policy of the company of which you are a director.

Confidentiality Requirements

There may be times when you will be required to treat discussions, documents or other information relating to the work of the Board of Directors in a confidential manner. Where a matter is not confidential, you are requested to exercise your judgement as to what should or should not be made available to outside bodies or individuals. In any event, such information should never be used for the purpose of personal or financial gain, or used in such a way as to bring the Board of Directors into disrepute.

Use of Company Facilities and Resources

Members of the Board of Directors must not misuse company facilities and resources.

4 Registration of Interests

Introduction

The following sets out the kinds of interests (financial and otherwise) that you must register. These are called "Registerable Interests". You must at all times ensure that these interests are registered, when you are appointed and whenever your circumstances change in such a way as to require change or an addition to your entry in the Board of Directors' register.

Annex A contains key definitions to help you decide what is required when registering your interests under any particular category. These categories are listed below with explanatory notes designed to help you decide what is required when registering your interests under any particular category.

Category One: Remuneration

You have a registerable interest where you receive remuneration by virtue of being:

- employed;
- self-employed;
- the holder of an office;
- a director of an undertaking;
- a partner in a firm; or
- undertaking a trade, profession or vocation or any other work.

The amount of remuneration does not require to be registered and remuneration received as a member of the Board of Directors does not have to be registered.

If a position is not remunerated it does not need to be registered under this category. However, unremunerated directorships may need to be registered under category two, 'Related Undertakings'.

If you receive any allowances in relation to membership of any organisation, the fact that you receive such an allowance must be registered.

When registering employment, you must give the name of the employer, the nature of its business, and the nature of the post held in the organisation.

When registering self-employment, you must provide the name and give details of the nature of the business. When registering an interest in a partnership, you must give the name of the partnership and the nature of its business.

Where you undertake a trade, profession or vocation, or any other work, the detail to be given is the nature of the work and its regularity. For example, if you write for a newspaper, you must give the name of the publication and the frequency of articles for which you are paid.

When registering a directorship, it is necessary to provide the registered name of the undertaking in which the directorship is held and the nature of its business.

Registration of a pension is not required as this falls outside the scope of the category.

Category Two: Related Undertakings

You must register any directorships held which are themselves not remunerated but where the company (or other undertaking) in question is a subsidiary of, or a parent of, a company (or other undertaking) in which you hold a remunerated directorship.

You must register the name of the subsidiary or parent company or other undertaking and the nature of its business, and its relationship to the company or other undertaking in which you are a director and from which you receive remuneration.

The situations to which the above paragraphs apply are as follows:

- you are a director of a board of an undertaking and received remuneration

(declared under category one); and

- you are a director of a parent or subsidiary undertaking but do not receive remuneration in that capacity.

Category Three: Contracts

You have a registerable interest where you (or a firm in which you are a partner, or an undertaking in which you are a director or in which you have shares where the nominal value of these shares is:

(a) greater than 1% of the issued share capital of the undertaking; or

(b) greater than £25,000

have made a contract with the Board of Directors under which goods or services are to be provided, or works are to be executed and which has not been fully discharged.

You must register a description of the contract, including its duration, but excluding the value or consideration of the contract.

Category Four: Houses, Land and Buildings

You have a registerable interest where you own or have any other right or interest in houses, land and buildings, which may be significant to, of relevance to, or bear upon, the work and operation of the company of which you are a director.

The test to be applied when considering appropriateness of registration is to ask whether a member of the public acting reasonably might consider any interests in houses, land and buildings could potentially affect your responsibilities to the company of which you are a director or could influence your actions or decision-making.

Category Five: Shares and Securities

You have a registerable interest where you have an interest in shares which constitutes a holding in a company or organisation which may be significant to, of relevance to, or bear upon, the work and operation of the company of which you are a director.

The test to be applied when considering appropriateness of registration is to ask whether a member of the public acting reasonably might consider any interests in shares and securities could potentially affect your responsibilities to the company of which you are a director or could influence your actions or decision-making.

You are required to declare the name of the company only, not the size or nature of the holding or value of such interests.

Category Six: Non-financial Interests

You have a registerable interest if you have non-financial interests which may be significant to, of relevance to, or bear upon, the work and operation of the company of which you are a director. It is important that relevant interests such as membership or holding office in public bodies, clubs, societies and organisations such as trades unions and voluntary organisations, are registered and described.

The test to be applied when considering appropriateness of registration is to ask whether a member of the public acting reasonably might consider any non-financial interest could potentially affect your responsibilities to the company of which you are a director or could influence your actions or decision-making.

Section 5: Declaration of Interests

In considering whether to make a declaration in any proceedings, you must consider not only whether you will be influenced but whether anybody else would think that you might be influenced by the interest. You must keep in mind that the test is whether a member of the public, acting reasonably, might think that a particular interest could influence you.

Interests of Other Persons

The Code requires only your interests to be registered. You may, however, have to consider whether you should declare an interest in regard to the financial interests of your spouse or cohabitee which are known to you. You may have to give similar consideration to any known non-financial interest of a spouse or cohabitee. You have to ask yourself whether a member of the

public acting reasonably would regard these interests as effectively the same as your interest in the sense of a potential effect on your responsibilities as a member of the Board of Directors.

The interests known to you, both financial and non-financial, of relatives and close friends may have to be declared. This Code does not attempt the task of defining 'relative' or 'friend'. The key principle is the need for transparency in regard to any interest which might (regardless of the precise description of relationship) be objectively regarded by a member of the public, acting reasonably, as potentially affecting your responsibilities as a member of the Board of Directors.

Making a Declaration

You must consider at the earliest stage possible whether you have an interest to declare in relation to any matter which is to be considered. You should consider whether agendas for meetings raise any issue of declaration of interest. Your declaration of interest must be made as soon as practicable at

a meeting where that interest arises. If you do identify the need for a declaration of interest only when a particular matter is being discussed you must declare the interest as soon as you realise it is necessary.

The declaration must be sufficiently informative to enable those at the meeting to understand the nature of your interest but need not give a detailed description of the interest.

A director who is in any way, whether directly or indirectly, interested in a proposed transaction or arrangement with the company of which he or she is a director shall declare the nature and extent of his interest to the other directors before the company enters into the transaction or arrangement.

A director who is in any way, whether directly or indirectly, interested in a transaction or arrangement that has been entered into by the company shall declare the nature and extent of his interest to the other directors as soon as is reasonably practicable in accordance, unless the interest has already been declared before the transaction or arrangement was entered into.

Effect of Declaration

Whether a director can vote or take part in any discussion following a declaration is regulated by the Articles of Association of each company.

Annex A: Definitions

1. "Remuneration" includes any salary, wage, share of profits, fee, expenses, other monetary benefit or benefit in kind. This would include, for example, the provision of a company car or travelling expenses by an employer.
2. "Undertaking" means:
 - a) a body corporate or partnership; or
 - b) a unincorporated association carrying on a trade or business, with or without a view to a profit.
3. "Related Undertaking" is a parent or subsidiary company of a principal undertaking of which you are also a director. You will receive remuneration for the principal undertaking though you will not receive remuneration as director of the related undertaking.
4. "Parent Undertaking" is an undertaking in relation to another undertaking, a subsidiary undertaking, if a) it holds a majority of the voting rights in the undertaking; or b) it is a member of the undertaking and has the right to appoint or remove a majority of its board of directors; or c) it has the right to exercise a dominant influence over the undertaking (i) by virtue of provisions contained in the undertaking's memorandum or articles or (ii) by virtue of a control contract; or (d) it is a member of the undertaking and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in the undertaking.
5. "Group of companies" has the same meaning as "group" in section 474(1) of the Companies Act 2006. A "group", within s474(1) of the Companies Act 2006, means a parent undertaking and its subsidiary undertakings.
6. "Public body" means a devolved public body listed in Schedule 3 of the Ethical Standards in Public Life etc (Scotland) Act 2000.
7. "A person" means a single individual or legal person and includes a group of companies.
8. "Any person" includes individuals, incorporated and unincorporated bodies, trade unions, charities and voluntary organisations.
9. "Spouse" does not include a former spouse or a spouse who is living separately and apart from you.



10. "Cohabitee" includes a person, whether of the opposite sex or not, who is living with you in a relationship similar to that of a husband or wife.

11. "Board of Directors" means the Board of Directors of Colleges Scotland and the College Development Network, as the case may be.