

## Shadow Board – Shetland Merger Project

<b>Committee</b>	Shadow Board
<b>Subject</b>	Shadow Board register of Interests
<b>Action requested</b>	<input checked="" type="checkbox"/> For information only <input type="checkbox"/> For discussion <input type="checkbox"/> For recommendation
<b>Brief summary of the paper</b>	Boards of Directors of colleges are required to hold a register of interests and to make this available to the public, usually via the college website
<b>Resource implications</b> [if yes, please provide detail]	No
<b>Risk implications</b> [if yes, please provide detail]	No
<b>Date paper prepared</b>	05-Sep-19
<b>Date of committee meeting</b>	25-Sep-19
<b>Author</b>	Project Manager
<b>Equality and diversity</b>	No
<b>Status</b>	Non-confidential
<b>Freedom of Information</b> Can this paper be included in 'open' business?*	Yes

<b>3. Background</b>	
<b>1.1</b>	<ul style="list-style-type: none"> <li>The Shadow Board has prepared a Memorandum of Articles of Association (MAA) now being finalised in preparation for establishing a new company with charitable status.</li> </ul>
<b>1.2</b>	<ul style="list-style-type: none"> <li>This paper refers to the importance of following guidance on codes of conduct for good governance.</li> <li>The MAA makes reference to conflicts of interest and the disclosure of interests.</li> <li>It is good practice to maintain a register of interests guided by a policy on the regularity of updating the register (usually annually) and the requirements of declaring new interests when these arise (usually within one month).</li> <li>The draft policy will be submitted for approval to the Board of the new company. Its description of relevant interests may be of interest to members of the Shadow Board. At this stage, a register of interests would be good practice as a voluntary measure of transparency.</li> </ul>
<b>4. Report authors</b>	
<b>2.1</b>	<p><b>Project Manager</b></p> <ul style="list-style-type: none"> <li>The attached paper was developed from other college registers and is consistent with that used by UHI for its Board and governance structures</li> </ul>

**Declaration of Interests and Register of Interests - Managing conflicts of interest**

- This policy requires that the Chair, Board members, observers who attend Board meetings, members of Board committees and the Principal/Chief Executive and senior <Shetland Institute UHI> staff should declare and manage any personal, professional, academic or business interests which may conflict with their duties to <Shetland Institute UHI>.

**Declaration of interests**

2. For the purposes of this guidance, interests are categorised as follows:

- General interests: A Board/committee/staff member holds a General interest under this guidance where a decision of the Board or a committee would affect the Board/committee/staff member no more than the generality of those affected by the decision, where this involves a significant number of affected parties, or where the impact on the Board/committee/staff member is minimal
- Prejudicial interests: A Board/committee/staff member holds a Prejudicial interest under this guidance where a decision of the Board or a committee would affect the Board/committee/staff member specifically, or a danger of prejudice or bias with regard to the decision in question. For example, if a member holds an executive or non-executive position at a partner agency or other organisation subject to a decision by the Board or a committee, the member may be viewed as benefiting personally or more than the generality of those affected by the decision, and hence would hold a Prejudicial interest under this guidance
- Irreconcilable interests: A Board/committee/staff member holds an Irreconcilable interest under this guidance where a member's interest is incompatible with their role at <Shetland

Institute UHI>. In assessing whether any of the above interests apply, members should consider not merely their own position, but also those of close family members, any person living in the same household as them, or any firms, businesses or organisations with which they are closely connected.

3. The test to apply when assessing whether an interest is General, Prejudicial, or Irreconcilable is how a member of the public would reasonably perceive a Board/ committee/staff member's position. For example, if a member of the public could reasonably regard a Board/committee/staff member as benefiting from a decision more than the generality of those affected, suggesting a danger of prejudice or bias to the issue at hand, this would constitute a Prejudicial interest under this guidance, even if the Board/committee/staff member themselves believed there was no real danger of bias or prejudice on their part.

4. General interests need not be declared, and members may participate in discussions and decisions where they hold such interests.

5. Prejudicial interests must be declared. Irreconcilable interests must be declared to the Chair as soon as the conflict is apparent to the member. See 'managing conflicts of interest' below.

6. Should a member believe that another member has a Prejudicial or Irreconcilable interest which has not been declared, they have a duty to bring this to the attention of the Chair. Managing conflicts of interest

7. Board/committee meetings: As a standard agenda item, members will be invited to declare at the beginning of each meeting any conflicts of interests they have in relation to items later on the agenda. The declared interests will be recorded in the Board's/committee's minutes, together with any consequent action (for example, the member not being present for the discussion of that item).

8. Members should err on the side of declaring any interests if they are unsure whether or not to disclose (for example, if a member is unsure whether an interest constitutes a General or Prejudicial interest). Members are advised to discuss the potential conflict of interest with the Chair in advance of the meeting, who may direct whether the interest should be disclosed and what action should be taken as a result.

9. Where a member has a Prejudicial interest with respect to an agenda item, they will normally not participate in discussions and decisions with respect to that item, and shall not be counted as part of the meeting quorum for that item. They should normally withdraw from the meeting as their presence may influence the judgement of other members present, or inhibit free discussion on the item. Exceptionally, the Chair may invite the member to make a contribution if this would aid understanding of the matter under discussion, but the member should not normally participate or be present for the final part of the discussion or the decision.

10. Where a member has a Prejudicial interest to an agenda item, and the contents of papers for that item contain information or advice which would not be otherwise available to the member and which could be used to further that interest, then the papers for that item will be withheld from the member. Where a member knows in advance of a meeting that an agenda is likely to include an item for which they have an interest to declare, they should inform the Head of Governance. The Head of Governance will consult with the Chair of the Board/committee as to whether the member should receive papers relating to the item in question. Irrespective as to whether a conflict is declared, where the Head of Governance believes that a member has a conflict of interest (e.g. because of an entry on the register of interests), he/she will consult with the Chair of the Board/committee as to whether the member

should receive papers relating to the item in question. The Head of Governance will inform the member if papers are to be withheld. Irreconcilable interests

11. Potential Irreconcilable interests must be declared to the Chair as soon as these become apparent to the member. Where the member is unable to reconcile the interest in <Shetland Institute UHI's> favour, the member should normally resign from the Board/committee (if the conflict will remain live for an extended timeframe) or suspend participation in <Shetland Institute UHI> business while the conflict remains live (if the conflict is likely only to last for a short duration). Where the conflict relates to a specific aspect of their role at <Shetland Institute UHI>, consideration may be given as to their continuing to participate in other areas of <Shetland Institute UHI> business, at the discretion of the Chair.

12. Examples of Irreconcilable interests would include a member holding an Executive/Non-Executive position at an organisation in legal dispute with <Shetland Institute UHI>, or which was lobbying on an issue at odds with <Shetland Institute UHI's> aims and objectives.

### **Register of interests**

13. The policy requires that formal registers of interests be established. The registers are published on the <Shetland Institute UHI> website. The following interests should be recorded on the register:

- Executive and non-executive directorships of, significant shareholdings in, or employment by, public and private companies likely or possibly seeking to do business with <Shetland Institute UHI>
- Ownership or part-ownership of, or employment by, businesses or consultancies likely or possibly seeking to do business with <Shetland Institute UHI >
- Remunerated or honorary positions and other connections with higher education or further education institutions or other organisations (such as subject associations, learned societies, trades unions, or professional, statutory or regulatory bodies) that may give rise to a conflict of interest.

14. The registers will be kept up to date through an annual survey of members' interests. Notwithstanding this, members should inform the Secretary to the Board of any interests that should be recorded in the register as they arise.

**<Shetland Institute UHI> Board of Management**

**<Shadow Board>**

I <name> do hereby declare that I have read the notes pertaining to Declaration of Interests and have declared the following interests for inclusion in the Register of Members’ Interests produced by the Board of Management at <Shetland Institute UHI> in accordance with the Code of Good Governance for Scotland’s Colleges.

This Declaration of Interests extends to the involvement of any close member of the family (i.e. parent, sibling, partner, spouse, offspring or any close dependants)

<b>Registerable Interest</b>	<b>Description of Interest</b>	<b>Declaration of Interest (nothing to declare must be recorded)</b>
<b>Gifts and Hospitality</b>	A description of any gifts received on behalf of the Board of Management of <Shetland Institute UHI>	
<b>ALL paid remuneration</b>	<p>You have a registered interest where you receive remuneration if you are:</p> <ul style="list-style-type: none"> <li>• Employed or self employed</li> <li>• The holder of an office</li> <li>• A director of an undertaking</li> <li>• A partner in a company</li> <li>• Involved in undertaking a trade, profession, vocation or any other work</li> </ul> <p>If you receive an allowance in relation to membership of any organisation: Give the name (and registered name if different) the nature of the business, and the nature of the post you hold within the organisation.</p> <p>When registering self employment, you must give the name of the partnership and the nature of its business.</p> <p>If you undertake a trade, profession or vocation, or any other work, you must register</p>	

	<p>the nature of the work and its regularity.</p> <p>When registering a directorship, you must register the name of the undertaking and the nature of any applicable business.</p>	
<b>Related undertakings to the college</b>	You must register a directorship which is not itself remunerated but which is a parent or subsidiary of an undertaking which pays you remuneration.	
<b>Contracts</b>	<p>You must register an interest if you (or a firm in which you are a partner, a director or hold share capital) contract for:</p> <p>Goods which are to be provided or works which are to be executed for the Board of Management of &lt;Shetland Institute UHI&gt; and which have not fully been discharged.</p> <p>You must register a description of the contract and its duration.</p>	
<b>Houses, land and buildings</b>	You have a registerable interest if you own, have any other right or interest in housing, land and buildings or other interests that may be significant to, or relevance to, or bear upon, the work or operation of the Board of Management of <Shetland Institute UHI>.	
<b>Shares and securities</b>	You have a registerable interest if you have shares or securities in a company, undertaking or organisation that may be significant to, or relevance to, or bear upon, the work or operation of the Board of Management of <Shetland Institute UHI>.	
<b>Non Financial Benefits</b>	You have a registerable interest if you have non-financial interests which may	

	be significant to, or relevance to, or bear upon, the work or operation of the Board of Management of <Shetland Institute UHI>, for example: Other public bodies Clubs, societies and organisations Trades unions Voluntary organisations	
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I further confirm that I will notify the Board Secretary to the Board of Management of <Shetland College UHI> in writing of any amendment to the foregoing Declaration within one month of its occurrence.

Signed

Date

NAME

**Extract from Memorandum & Articles of Association**

1. Subject to the provisions of the Companies Act and of the Charities and Trustee Investment (Scotland) Act 2005 and of these articles of association, and provided that she/he has disclosed to the directors the nature and extent of any personal interest which she/he has (unless immaterial) a director (notwithstanding her/his office):
  - 1.1 May be a party to, or have some other personal interest in, any transaction or arrangement with the company or associated company
  - 1.2 May be a party to, or have some other personal interest in, any transaction or arrangement in which the company or associated company has an interest;
  - 1.3 May be a director, or a secretary of, or employed by, or have some other personal interest in, any associated company;
  - 1.4 In the case of an Executive Director or Staff Representative Director only, may be an employee of the company; and
  - 1.5 Shall not, because of her/his office, be accountable to the company for any benefit which she/he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such company;

And no such transaction or arrangement shall be liable to be treated as void on the ground of any such interest or benefit (see also article 128 in respect of voting when there is an interest).

2. For the purposes of the preceding article, an interest of which a director has not knowledge and of which it is unreasonable to expect her/him to have knowledge shall not be treated as an interest of hers/his; the references to “associated company” shall be interpreted as references to any subsidiary of the company or any other company in which the company has a direct or indirect interest.
3. The directors shall be entitled, for the purposes of section 175 of the Companies Act, to authorise (by way of resolution to that effect) any Conflict Situation that may arise (such that the duty of the

director concerned, under that section, to avoid conflicts of interest is not infringed) and to amend or vary any such authorisation; the directors may give such authorisation subject to such terms and conditions as they may consider appropriate and reasonable in the circumstances.

4. For the purposes of articles above, a “Conflict Situation” means any situation or matter (other than one which cannot reasonably be regarded as likely to give rise to a conflict of interest) in which any director has or could have a direct or indirect interest that conflicts, or possibly might conflict, with the interests of the company, such that:
  - 4.1 The situation and matters that fall within this definition may include (without limitation) (a) a situation where a director of the company becomes an employee, director, member of the management committee, officer or elected representative of a body which is a party to a significant contract with the company (or which is competing with the company in the context of any grant application) and (b) any such situation or matter which relates to the exploitation of any property, information or opportunity (irrespective of whether the company could take advantage of the property, information or opportunity);
  - 4.2 “Conflict of interest”, for this purpose, includes a conflict of interest and duty, and a conflict of duties.
5. For the avoidance of doubt, these articles shall not apply to a conflict of interest arising in relation to a transaction or arrangement with the company; any conflict of interest of that nature shall be governed by the provision of articles above and to the articles governing code of conduct.