

# Mind the Gap: Contradictions in Tate's ethical decision-making over BP

**In 2016 Tate will decide whether to renew its current five-year sponsorship deal with BP.**

Tate's Ethics Committee last reviewed BP sponsorship in 2010-11 to make a recommendation to the art museum's Board of Trustees for or against renewal. This happened while increasing numbers of artists, Tate members, gallery visitors and commentators were challenging BP's suitability as a sponsor. The minutes of Ethics Committee meetings were recently released after three years of Freedom of Information appeals. Tate was also forced to disclose that BP's sponsorship between 1990-2006 amounted to 0.5% of Tate's annual budget (between £150,000-330,000 per annum).

Platform asked experts in museum governance, ethics, and sustainability to comment on Tate's Ethics Committee deliberation, based on these minutes. This briefing is a digest of their responses.

**We propose a set of questions that every arts institution needs to consider when deciding on sponsorship. The full commentaries are available online.**

“ To maintain [the public's] trust, we need to always ask whether our actions would stand up when subjected to public scrutiny. <sup>1</sup> ”

**Museums Association**

<sup>1</sup> <http://www.museumsassociation.org/comment/policy-blog/02062015-public-trust-how-close-is-too-close-when-it-comes-to-sponsorship>

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The comments in full will be available on Platform's website at <http://platformlondon.org/tate-ethics/>

Platform combines arts, research, and education in projects that work for social and environmental justice.



The terms of the sponsorship renewal discussion were outlined and [redacted] [redacted] redacted under *sc. 43(2)* was highlighted. It was noted that both quantifiable and reputational risk should be considered, and that the test for refusal of funds towards charitable objectives remained high. It was noted that previous similar [redacted] by the Ethics Committee had recommended the continuation of a high-

## 1 Transparency: how much to disclose?

“The very fact that considerable effort has had to be engaged to gain access to the documents setting out the Tate’s Ethics Committee analysis, discussion and recommendations in relation to its BP sponsorship could be argued to be unethical. It is not very moral for a public body to represent its ethical credentials and at the same time not respect the dimension of transparency. Such a policy undermines confidence in ethical integrity.” **Tim Crook**

*Tate argued in court that disclosure of sponsorship information would undermine commercial confidentiality of the BP contract, and risked damaging Tate’s relationship with BP.*

“The sponsorship agreement is not the product of some highly competitive tendering process or a commercial contract full of trade secrets or intellectual property issues. Why then is there any element requiring confidentiality? Surely it is in the interest of both organisations to be fully transparent about the relationship and to celebrate its achievements and mutual benefits, especially as it has been maintained for so long. It may be that in 1990, when the BP/Tate relationship was first established, attitudes towards transparency were different from those that prevail today – but that does not mean that they should have been maintained uncritically as each period of sponsorship was negotiated.

“Even the Cabinet Office has recently asserted that an “overarching transparency principle” should apply in relation to contracts with public service providers and that there “should be a presumption in favour of disclosing information....commercial confidentiality being the exception rather than the rule.” <sup>2</sup> **David Carrington**

## 2 Who makes decisions on sponsorship ethics?

*Tate’s Ethics Committee is made up of three trustees and one co-opted member. It advises the Board of Trustees on the ethical issues including acceptance of funds.* <sup>3</sup>

“As Ethics Committees are usually advisory the [institution] should promote the maximum opportunity to make recommendations that speak ‘truth to power.’ The power in any body of this kind rests in its senior executives. Apart from the presence of four Trustees, Tate’s Ethics committee meetings [were] dominated by executives. At the meeting held on 6th May 2010 executive presence was equal to that of the Trustees who should be seen to represent the conscience of the Tate as a public arts institution. I am not so sure that unpopular and unpalatable truths in this context have a maximum opportunity to be harvested with the presence of so much executive power.

“The Ethics Committee’s ‘Co-Opted member’ – Jules Cher QC – is a distinguished lawyer. This is a curious spectrum. Ethics and laws do have overlapping concerns. However, the risk of having a professional lawyer playing such a key role (a potential casting vote), means that focus and direction of discussion could be considerably influenced and confused by confirmation that what is not against the law is moral.” **Tim Crook**

<sup>2</sup> <https://www.gov.uk/government/publications/transparency-of-suppliers-and-government-to-the-public>

<sup>3</sup> <http://www.tate.org.uk/download/file/fid/37157>

Members of the Committee will be familiar with Tate's Ethics Policy to fundraising, which are outlined above and...

### 3 How is ethics different from legality?

"The confusion between a legal advisory process and ethical advisory process is rather well encapsulated when it is minuted that Mr Sher 'drew the Committee's attention to the legal requirement for a charity to be predisposed to accept funds, where their origin was known to be legal, as was the case with BP'

"I cannot help thinking that at this point the Ethics Committee ceased to function in its role concerning ethics. People who are not professional lawyers are inevitably going to concentrate their pragmatic minds when offered an argument that it would unlawful to refuse BP sponsorship.

"The minutes state that 'Taking a moral stance on the ethics of the Oil and Gas sector remains outside of Tate's charitable objectives.' With respect, is this not an abnegation of the purpose of having an Ethics Committee? The ethics of the tobacco industry, of pharmaceutical companies such Distillers when it manufactured Thalidomide, of the arms industry, and indeed of business sectors that can have a measurable impact on social, material and environmental reality, are relevant." **Tim Crook**

### 4 How is ethics different from reputation management?

"The Ethics Committee has, understandably, focused on media coverage of the protests. ... However, measuring the quantity of media coverage is a very instrumental exercise. It does not address the intrinsic morality of taking the sponsorship. And that is, in my opinion, what an Ethics Committee should be doing. The preoccupation with media coverage could be confused with the exigencies of a branding or public relations and marketing committee."

**Tim Crook**

"The argument Tate executive makes against retaining the financial partnership with BP is as follows: 'Environmental activism is on the rise. The oil and gas industry is appearing as the recipient of public scrutiny, disapproval and negativity, in the same way as the tobacco industry was in the 1990's. Tate has taken a public stance on sustainability and is arguably the cultural institution most in the public eye in the UK. In light of this the reputational risk to Tate of retaining BP as a partner is significant.' This refers only to appearance, disapproval and reputational risk, rather than the scientific consensus and deeply held values that drive environmental activism. This again underlines the extent to which Tate's ethical decision-making on this matter is far too driven by narrow self interest and reputation management." **Bridget McKenzie**

## 2. BP'S SPONSORSHIP OF TATE

During the meeting, Helen Alexander noted that she sat on the Board of utility companies, and whilst there was no overlap in operations with BP or other oil companies, she would not want to be the perception of this to the public. Jeremy Balfour, former director of BP's UK operations, *Oil*, through his participation in the

### 5

## How is sponsorship different from charitable giving?

“I found a surprising amount of inconsistency in meeting minutes and supporting documents about whether the financial support from BP were charitable donations or corporate sponsorship. The funding was referred to in different papers using both terms. This is not just an issue of semantics as the differences between these two forms of funding are significant, not least in expectations and perceptions of them, both within the two organisations and to external observers. Some of the comments made, for example, in the minutes of the Ethics Committee suggest that BP’s support was viewed as if it was a series of charitable donations but it is clear that it was commercial sponsorship, contributions made not as philanthropic gifts but as part of the profile-building Corporate Social Responsibility and marketing strategy of the company. There are several references in the May 2010 Ethics Committee minutes where it seems to be suggested that a charity such as Tate would be acting outside of its charitable purposes if the trustees chose to refuse an offer of funds – “taking a moral stance on the ethics of the Oil and Gas sector, and the Canadian Oil Sands initiative in particular, is outside of Tate’s charitable objectives.” Such a position may apply in the case of a donation (though reputational risk could still influence the trustees’ decision), but does not seem to me to apply to whether a charity should seek (or accept) commercial sponsorship; the latter is a contract within which the charity provides services and marketing opportunities in return for payment – it is not a philanthropic donation.

“For any discussion of the merits or otherwise of proposed or renewal of support from a commercial entity, the staff and trustees of a charity must all be clear as to the nature, terms and acceptability of the proposed funding or misunderstandings and confusion are likely, indeed inevitable.” **David Carrington**

The Committee considered that currently there was no evidence based on the acceptance of funds from BP would significantly damage the effective operation of Tate. The Committee however recognised that this could change in the future, and should be kept under review.

## 6

# How to consider climate change in decision-making?

“Tate’s Ethics committee considered BP’s environmental record but [only in terms of] local damage caused by the Tar Sands and the Gulf of Mexico disaster (Deepwater Horizon). The review did not consider the relationship of oil to climate change and its devastating effects. Tate’s ethical decision-making contradicts its ‘Vision for Sustainability’ in which a priority is to ‘Inspire change in our networks and visitors, supporting societal shifts to a more sustainable society’.” **Bridget McKenzie**

“At a time when Tate was adopting a ‘vision’ to “become a leader in museum sustainability practice and to influence the entire sector towards more sustainable environmental practice”,<sup>4</sup> there was clearly the potential for tension and controversy about seeking a renewed sponsorship deal with a company primarily engaged in oil and gas extraction – the more so in the same year as BP was at the centre of the Deepwater Horizon disaster in the Gulf of Mexico. ... It seems curious that, when adopting the new sustainability vision, Tate did not simultaneously examine whether it could create opportunities to reinforce the credibility of the new policy by seeking out new sponsorship arrangements with companies that are wholly engaged in renewable or other environmentally sustainable activity. Not to do so – and, at the same time, to seek the renewal of a high profile association with BP – exposes the governance of Tate at least to reputational scepticism about its commitment to the sustainability vision. I could not find in the papers that I have read any discussion at Board or Committee level as to what options might be available to match the adoption of the sustainability vision with the development of a complementary fund-raising strategy and initiatives to seek new corporate partnerships with companies wholly committed to sustainability practices throughout their work. It does seem to me that there has been a lack of a ‘joined up’ governance about these issues within Tate – with what now must be perceived as expensive and counterproductive consequences.”

**David Carrington**

<sup>4</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/247630/0376.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/247630/0376.pdf)

## 7

## Going forward

“Tate’s decision arises from a common mistake of seeing the environment as separate, and consequently a belief that environmental justice is outside the rightful sphere of museums’ influence and therefore outside their ethical considerations. Truly ethical criteria would drive Tate, as a charity, to hold policies and pursue practices that contribute to preserving the diversity of life and human culture on Earth.” **Bridget McKenzie**

“The minutes and papers that I have seen emphasise strongly the long-term nature of the relationship between BP and Tate. This is indeed significant and worthy of celebration – but times and attitudes change. Papers prepared by the Executive for the Ethics Committee acknowledge that consideration by Tate of the future relationship with BP should be reviewed in the “light of a continually changing environment” but there is no indication that staff or trustees stepped back from the existing relationship with BP and asked themselves what stance they would take if in 2010, for the first time, Tate had received an offer of corporate sponsorship from BP or it was proposed that such sponsorship be sought. Rather than focusing so much on the longevity of the past sponsorship deal, it might have been better governance to assess the case for starting a relationship with BP in an era when issues about and attitudes to oil and gas extraction and climate change are so very different than when the original sponsorship deal with BP was negotiated; and at a time when Tate was seeking to present itself as a leader on sustainability and to influence the entire arts sector towards more sustainable practice.” **David Carrington**