

CONFLICTS OF INTEREST AND RELATED PARTY TRANSACTION POLICY

Date of Last Review: January 2019

Date of Next Review: January 2022

Responsibility: Mr R Carling

Advisory Body Signature: *R Carling*



What is the Policy for?

In order to provide transparent and open governance, it is important to seek to avoid and manage not just conflicts of interest but the perception of them. The overall approach taken is to avoid conflicts of interest wherever possible and, where it is not possible, to manage and declare them. This policy will seek to ensure both staff and public are aware the Trust fosters an environment where there are policies and processes in place to avoid conflict of interest and, where any issues should arise, there are procedures to ensure they are dealt with fairly and transparently.

Who is the Policy for?

This policy applies to anyone within the Trust who is charged with the responsibility of making a decision with financial implications on behalf of any of the schools in the trust, central services within Trust or for the Trust as a whole, who can influence the career progression of another member of staff or who can influence the appointment of an external candidate. As such it applies to Members, Trustees, Governors, Executive Management, Principals, Head Teachers, Heads of Schools and those Senior Managers who may be charged with any kind of procurement or who line manage another member of staff.

What Constitutes a Conflict of Interest?

A conflict of interest, or the perception of conflict, arises when a person has influence over, or decision making authority about, appointments, career progression, compensation, benefits or other such matters concerning another person with whom they have a close relationship, or a member of staff has influence or decision rights over purchasing or other transactions where a close relationship is involved, i.e. related party transactions.

Definition of a Close Relationship

A close relationship is defined as “a close member of the family or member of the same household who may be expected to influence or be influenced by the person”. This would include:

- Husband, wife, civil partner, partner or cohabitee
- Parent
- Child
- Brother or sister

The list is not limited to the above and the assumption should be made that it means “being in a relationship with”.

The Trust follows the policy for related-party transactions laid out in the Academies Financial Handbook 2018. This deals with goods or services provided by individuals or organisations connected to the Trust and/or the Academies. For ease of reference, the relevant sections from the Academies Financial Handbook are shown in Appendix A

The Trust's Purchasing Policy (see Financial Regulations Manual) should be followed and adhered to for any transactions by all in the Trust, including the individual schools as well as the Trust as a whole. Wherever possible, related-party transactions should be avoided. Note: Trustees have agreed that related party transaction should only be used in exceptional circumstances. For any unavoidable related-party transaction that does occur, this must be approved, in writing, by someone more senior than the person in the school/Trust who has the relationship with the related party. The approver must have the delegated authority to approve the transaction and must satisfy themselves that all the rules and guidelines both within the schools, the Trust as a whole and within the Financial Handbook and any related Trust policies have been followed to the best of their knowledge.

Conflicts of Interest during Governance Meetings (LGBs, Trustees and Member meetings)

- Attendees should be asked at the start of any governance meeting (i.e. Members' meeting, Board of Trustees, Executive Management meeting and Local Governing Body meetings, including committees thereof), to declare any interests in items on the Agenda.
- It is up to the Chair of the meeting to decide whether it would be in the best interests of any decision making for the person with the declared interest to stay for the discussion of that particular item. This should be clearly noted in the Minutes, notes or action points with the explanation as to why that person was asked to stay.
- Anyone with a declared conflict of interest will not have any voting rights whatsoever on that item.
- Should a conflict occur unexpectedly during a meeting, e.g. through Any Other Business, it should be declared immediately to the Chair of the meeting. The Chair can then make the decision whether to ask the person to leave or to make a note of the declaration and withdraw any voting rights from that person.

Governance meetings applicable would include:

- Members' meetings or Board of Trustee meetings
- Executive Management meetings
- Local Governing Body meetings
- Any committee meetings from the above bodies
- Senior Leadership meetings
- Recruitment Panels
- Formal HR Meetings/Panels

This is not an exhaustive list and should always include any bodies set up around procurement arrangements.

Line Management Structure

The direct line management structure will not include people who are in a close relationship. Where two people in the same line management structure subsequently enter into a close relationship, one or other must be moved to a different line

management structure. Advice should be sought from the Trust Head of HR before any action is taken.

Where someone has a close relationship that could affect decisions taken, the Executive Head Teacher/Principal/Head Teacher must be advised. If that person is an Executive Head Teacher/Principal/Head Teacher it should be declared to the Education Director and if it is a member of the Executive Management team it should be declared to the Chief Executive Officer.

All reasonable steps should be taken to avoid people being in the direct line management structure with someone with whom they have a close relationship. This will include considering appointing one of the people with the relationship to an equivalent role in a different line management structure. In cases where this cannot be avoided, a member of staff more senior than both members in the close relationship will make decisions about areas which would otherwise lead to a conflict of interest. Advice should be sought from the Trust's Head of HR in the first instance.

If one of the parties is the Executive Head Teacher/Principal/Head Teacher, the Chief Executive Officer and a Trustee will be involved in making decisions which otherwise would lead to a conflict of interest.

Such decisions mentioned above would include (but not be limited to), those relating to salary, promotion, taking on extra responsibilities, opportunities for career progression, continuing professional development opportunities, appraisal, complaints and any formal HR proceedings outcomes e.g. disciplinary, capability, grievance.

Conflicts of interest must be considered as part of any appointment process and management of the issue must be identified before any appointment is made which could lead to a conflict of interest or the perception of it.

A close relation cannot be appointed to a role which reports directly to the Executive Head Teacher/Principal/Head Teacher. In the event the Executive Head Teacher/Principal/Head Teacher enters into a relationship with a direct report, one or other must leave the school/Trust or take a position that reports into some else among the school/Trust staff. Advice should be sought from the Trust's Head of HR before any action is taken.

A staff member's appraisal will not be conducted by a person with whom they are in a close relationship.

Where it has been impossible to avoid a line manager directly managing someone with whom they have a close relationship, the appraisal will be done by someone who is senior to the direct line manager, having first discussed the appraisal with them.

Where this cannot be avoided if the direct line manager is an Executive Head Teacher/Principal/Head Teacher, the appraisal should be conducted by the Chief Executive Officer after having discussions with the Executive Head Teacher/Principal/Head Teacher.

The procedures for staff applying for any post/extra responsibilities will follow the same procedures as above.

Any staff involved in the recruitment process will be asked to declare any close relationships they may have with any of the candidates and, if so, will not be involved in any stage of the recruitment process e.g. shortlisting, interviewing, etc.

In cases where a conflict of interest may arise, (other than an Executive Head Teacher/Principal/Head Teacher), a member of staff more senior than both members in the close relationship will replace the person in the close relationship in the recruitment process and on the interview panel.

Where this concerns an Executive Head Teacher/Principal/Head Teacher, the Chief Executive Officer will replace them in the recruitment process.

For any decisions around training or CPD time off work which could cause a conflict of interest, a more senior member of staff than those in the close relationship will make the decision.

In the case where one of the parties is the Executive Head Teacher/Principal/Head Teacher, the Chief Executive Officer will make the decision.

Complaints / Grievances / Disciplinary / Capability / Sickness Cases involving a Member of Staff in a Close Relationship. The relevant Trust policies should be referred to at all times.

Where any proceedings are instigated under staff policies and one of the members is in a close relationship with the member involved, these shall be referred to the Executive Head Teacher/Principal/Head Teacher and/or the Trust's Head of HR to determine the appropriate person to be involved.

For the avoidance of doubt, such proceedings could include:

- Chairing a grievance hearing or Chairing a disciplinary hearing or Handling a complaint
- Being a member of an Appeals Panel
- Chairing a Sickness meeting
- Conducting a disciplinary / grievance investigation
- Chairing a Capability hearing

This is not an exhaustive list and other instances may be relevant.

A staff member shall suffer no adverse repercussions from raising a complaint or grievance against someone who is in a close relationship with another member of staff or governor

The senior member within the close relationship is expected to maintain the highest professional standards, including not passing on confidential information to the other member within that close relationship. This includes all information which is shared at management levels above those to which the less senior member would normally have access.

If a staff member suspects that information is being shared inappropriately, it should be reported to, and investigated by, a more senior member of staff.

Where one of the parties is an Executive Head Teacher/Principal/Head Teacher and the other is suspected of receiving confidential information from them, the Chief Executive Officer should handle the complaint.

Failure to Follow this Policy

Members, trustees and Local Governing Body members who do not follow this policy may be in breach of their duties and may be subject to internal action within the Trust, including being removed from their post. In certain circumstances Members, Trustees and Local Governing Body members may also be subject to external sanction, including being barred from undertaking the role of a company director or Director and in exceptional cases being subject to criminal prosecution.

The Education & Skills Funding Agency may also issue a Financial Notice to Improve (FNtI) to the Trust when there is deemed to be irregular use of public funds or inadequate financial governance and management (including breaches of the duties, principles and requirements governing connected party relationships and transactions). Failure to comply with an FNtI can, in exceptional circumstances, also result in the termination of our funding agreement(s). If Members, Trustees and Local Governing Body members believe any of their number are undertaking activity that leads to personal gain they should report their concerns under the Trusts Whistleblowing

Staff who do not follow this policy may be subject to disciplinary action using the Trusts policies.

Managing Conflicts of Interest

In order to ensure that the Trust can respond and manage conflicts of interest promptly and effectively, where any Trustee, Governor or member of staff has reason to suspect that there is a conflict of interest that has not been declared, he/she must report this immediately to the Chief Financial Officer (CFO) who will then immediately notify the CEO and Chair of Trustees, save that if the alleged conflict of interest involves:

- The CEO, then the CFO will immediately notify only the CoT
- The CFO, then the report should be to the Chief Executive Officer (CEO), who will then immediately notify the Chair of Trustees (CoT)
- The CFO and the CEO, then the initial report will go directly and only to the CoT
- The CoT then the Trustee, Governor or member of staff alleging the fraud should first consult the Charity Protect on the steps which he/she should take. See Whistleblowing policy for details)

EXTRACT FROM THE ACADEMIES FINANCIAL HANDBOOK 2018**3.10 Transactions with related parties**

This part of the handbook deals with goods or services provided by or to individuals or organisations related to the academy trust Principles applying to related party relationships

3.10.1 Academy trusts must be even-handed in their relationships with related parties by ensuring that:

- Trustees comply with their statutory duties as company directors to avoid conflicts of interest, not to accept benefits from third parties, and to declare interest in proposed transactions or arrangements.
- All members, trustees, local governors of academies within a MAT and senior employees have completed the register of interests, in accordance with sections 3.10.8 to 3.10.11 of this handbook.
- No member, trustee, local governor, employee or related individual or organisation uses their connection to the trust for personal gain, including payment under terms that are preferential to those that would be offered to an individual or organisation with no connection to the trust.
- There are no payments to any trustee by the trust unless permitted by the articles, or by authority from the Charity Commission, and comply with any relevant agreement with the Secretary of State. Trusts will need to consider these obligations where payments are made to other business entities who employ the trustee, are owned by the trustee, or in which the trustee holds a controlling interest.
- The Charity Commission's approval is obtained where the trust believes a significant advantage exists in paying a trustee for acting as a trustee.
- Any payment provided to the persons referred to in section 3.10.12 satisfies the 'at cost' requirements in this handbook. The trust should be aware of the Charity Commission's guidance for trustees CC11: Trustee expenses and payments.

3.10.2 The board of trustees must ensure requirements for managing related party transactions are applied across the trust. The chair of the board and the accounting officer must ensure their capacity to control and influence does not conflict with these requirements. They must manage personal relationships with related parties to avoid both real and perceived conflicts of interest, promoting integrity and openness in accordance with the seven principles of public life.**3.10.3 Trusts must recognise that some relationships with related parties may attract greater public scrutiny, such as:**

- Transactions with individuals in a position of control and influence, including the chair of the board and the accounting officer.
- Payments to organisations with a profit motive, as opposed to those in the public or voluntary sectors.

- Relationships with external auditors beyond their duty to deliver a statutory audit. The trust must keep sufficient records, and make sufficient disclosures in their annual accounts, to show that transactions with these parties, and all other related parties, have been conducted in accordance with the high standards of accountability and transparency required within the public sector. Reporting of related party transactions to ESFA.

3.10.4 Trusts must report all transactions with related parties to ESFA in advance of the transaction taking place, using ESFA's on-line form. This requirement applies to transactions made on or after 1 April 2019. Approval of related party transactions by ESFA.

3.10.5 Trusts must obtain ESFA's approval for transactions with related parties that are novel, contentious and/or repercussive. Trusts should carefully consider the impact of this requirement and its relevance to transactions involving the chair of the board and the accounting officer.

3.10.6 Trusts must obtain ESFA's prior approval, using ESFA's on-line form, for contracts for the supply of goods or services to the trust by a related party agreed on or after 1 April 2019 where any of the following limits arise:

- A contract exceeding £20,000.
- A contract of any value that would take the total value of contracts with the related party beyond £20,000 in the same financial year ending 31 August.
- A contract of any value if there have been contracts exceeding £20,000 individually or cumulatively with the related party in the same financial year ending 31 August.

3.10.7 For the purposes of reporting to, and approval by, ESFA, transactions with related parties do not include salaries and other payments made by the trust to a person under a contract of employment through the trust's payroll.

REGISTER OF INTERESTS

3.10.8 The academy trust's register of interests must capture relevant business and pecuniary interests of members, trustees, local governors of academies within a MAT and senior employees, including:

- Directorships, partnerships and employments with businesses.
- Trusteeships and governorships at other educational institutions and charities.
- For each interest: the name of the business, the nature of the business, the nature of the interest, and the date the interest began.

3.10.9 The register must identify any relevant material interests from close family relationships between the academy trust's members, trustees or local governors. It must also identify relevant material interests arising from close family relationships between those individuals and employees. 'Close family relationships' is defined in section 3.10.12 (third bullet).

3.10.10 Trusts should consider whether any other interests should be registered. Boards of trustees should keep their register of interests up-to-date.

3.10.11 Trusts must publish on their websites relevant business and pecuniary interests of members, trustees, local governors and accounting officers. Trusts have discretion over the publication of interests of any other individual named on the register. The Charity Commission offers guidance in Manage a conflict of interest in your charity and CC29: Conflicts of interest: a guide for charity trustees.

AT COST REQUIREMENTS

3.10.12 Subject to sections 3.10.17 to 3.10.20 a trust must pay no more than 'cost' for goods or services provided to it by the following persons ('services' do not include contracts of employment):

- Any member or trustee of the academy trust.
- Any individual or organisation related to a member or trustee of the academy trust. For these purposes the following persons are related to a member, or trustee:
 - A relative of the member or trustee. A relative is defined as a close member of the family, or member of the same household, who may be expected to influence, or be influenced by, the person. This includes, but is not limited to, a child, parent, spouse or civil partner.
- An individual or organisation carrying on business in partnership with the member, trustee or a relative of the member or trustee.
- A company in which a member or the relative of a member (taken separately or together), and/or a trustee or the relative of a trustee (taken separately or together), holds more than 20% of the share capital or is entitled to exercise more than 20% of the voting power at any general meeting of that company.
- An organisation which is controlled by a member or the relative of a member (acting separately or together), and/or a trustee or the relative of a trustee (acting separately or together). For these purposes an organisation is controlled by an individual or organisation if that individual or organisation is able to secure that the affairs of the body are conducted in accordance with the individual's or organisation's wishes.
- Any individual or organisation given the right under the trust's articles of association to appoint a member or trustee of the academy trust; or any body connected to such individual or organisation.
- Any individual or organisation recognised by the Secretary of State as a sponsor of the academy trust; or any body connected to such individual or organisation.

3.10.13 A body is connected to another individual or organisation if it is controlled by the individual or organisation, or controls the organisation, or is under common control with the individual or organisation. For these purposes, control means:

- holding more than 20% of the share capital (or equivalent interest), or
- having the equivalent right to control management decisions of the body, or
- having the right to appoint or remove a majority of the board or governing body.

- 3.10.14 The 'at cost' requirement does not apply to the trust's employees unless they are also one of the parties described in section 3.10.12.
- 3.10.15 While these provisions do not apply to contracts of employment, the same principles of securing value for money and using public money properly, including managing conflicts of interest, still apply. Salaries should be appropriate to the individual's skills and experience and to rates in the wider market.
- 3.10.16 Should any staff/personnel of an individual or organisation in section 3.10.12 be based in, or work from the premises of, the academy trust, that individual/ organisation and the trust must agree an appropriate sum to be paid to the trust for such use/occupation of the premises, save to the extent that they are carrying out work for the trust.
- 3.10.17 The 'at cost' requirement applies to contracts for goods and services from a related party agreed on or after 7 November 2013.
- 3.10.18 The 'at cost' requirement applies to contracts for goods and services from a related party exceeding £2,500, cumulatively, in any one financial year. For these purposes, where a contract takes the trust's cumulative annual total with the related party beyond £2,500, the element above £2,500 must be at no more than cost.
- 3.10.19 In relation to organisations supplying legal advice or audit services to the academy trust, the 'at cost' requirement applies where the organisation's partner directly managing the service is a member or trustee of the trust but not in other cases for those organisations. The published ethical standards for auditors also prevent partners or employees of the audit firm from acting as a trustee of their client trust, but not of other trusts.
- 3.10.20 In relation to dioceses, the contributions made by an academy trust to its diocese for services it receives associated with securing the academy trust's religious character and ethos, which only the diocese can provide, are regarded as meeting the 'at cost' requirement.
- 3.10.21 Academy trusts must ensure that any agreement with an individual or organisation referred to in section 3.10.12 to supply goods or services to the trust is properly procured through an open and fair process and is:
- supported by a statement of assurance from that individual or organisation to the trust confirming their charges do not exceed the cost of the goods or services, and
 - on the basis of an open book agreement including a requirement for the supplier to demonstrate clearly, if requested, that their charges do not exceed the cost of supply.
- 3.10.22 For these purposes the cost will be the 'full cost' of all the resources used in supplying the goods or services, and must not include any profit. Full cost includes:
- all direct costs (the costs of any materials and labour used directly in producing the goods or services); or indirect costs (a proportionate and reasonable share of fixed and variable overheads).

