



Policy and Procedure: Conflicts of Interest Policy and Register of Business and Pecuniary Interests Guidance

Version: 2.0

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Date: 21 March 2019

Date of Board Approval: Audit Committee 21 March 2019

Review date: Every 3 years

1 Legal framework

1.1 This policy takes its legal framework from the following legislation and statutory guidance:

- Companies Act 2006
- Conflicts of Interest: A Guide for Charity Trustees (Charity Commission).

1.2 This policy should be read in conjunction with the following other documents:

- Academies Financial Handbook (AFH) (Education and Skills Funding Agency)
- Articles of Association
- Terms of Reference
- Code of Conduct.

1.3 This document consists of:

- Conflicts of Interest Policy
- Template for Annual Conflicts of Interest Acknowledgement Statement (Annex 1)
- Template for Register of Business and Pecuniary Interests Form for completion by each Relevant Individual (Annex 2)
- Appendix 1 Guidance Note on Related Party Transactions

2 Definition of a Conflict of Interest

2.1 Eastern Multi-Academy Trust adopts the guidance of the Charity Commission, which advises that a conflict of interest is any situation in which a relevant individual's personal interests or loyalties could, or could be seen to, prevent them from making a decision only in the best interests of the Trust.

2.2 Conflicts of interest usually arise where either:

- there is a potential financial or measurable benefit directly to a relevant individual, or indirectly through a connected person; or
- a relevant individual's duty to the Trust may compete with a duty or loyalty they owe to another person or organisation.

An example of a conflict of interest would be where a Trustee or Local Governor (or a close relation of such) is a sole proprietor or partner in a supplier from which a Trust academy could make purchases and the Trustee or Local Governor is involved with the selection of suppliers.

2.3 To avoid repetition within this document, the phrase 'Relevant Individuals' is used to include all Members, Trustees, Local Governors, Staff in the central Trust (including Clerks) and Senior Staff in each academy (the latter defined for these purposes as the Principal and their direct line reports).

2.4 Reference to the 'Trust' should be interpreted as including all its academies.

3 Background and Statement of Intent

3.1 Eastern Multi-Academy Trust Members, Trustees, Local Governors and Staff have an obligation under both company and charity law to act in the best interests of the Trust and in accordance with its regulatory documents.

In addition, the Trust is subject to rules and regulations in relation to transactions with connected parties. The Academies Financial Handbook makes reference to these as 'related party transactions'. In general terms, related or connected parties include family, relatives or business partners of a Relevant Individual as well as businesses in which a Relevant Individual has an interest through ownership or influence. Appendix 1 of this policy provides guidance on the AFH requirements regarding related party transactions.

Situations may arise where personal, private or family business and pecuniary interests conflict with those of the Trust. This may create tensions, inhibit free and open discussion and result in decisions or actions that are not in the interests of the Trust.

It is vital that the decision-making processes, decisions and the application of decisions at the Trust and its academies are, and are seen to be, free from

personal or other bias such that the Trust is not laid open to criticism, challenge or reputational damage. In spending public money, it is imperative that Relevant Individuals do not benefit personally from the decisions that they make.

To this end, all Relevant Individuals are required to declare any business and pecuniary interest which leads to, or may potentially lead to, a conflict of interest and, wherever possible, to avoid situations in which there is or may be a conflict of interest. Declarations of business and pecuniary interests are recorded in a Register of Business and Pecuniary Interests.

Any financial transactions between the Trust and related parties are required by legislation to be disclosed in the Trust's published audited accounts each year.

The Trust seeks to identify conflicts of interest and take appropriate action to prevent them from affecting any decisions made, such that the best interests of the Trust are safeguarded.

3.2 This policy sets out the framework for ensuring that decisions are made in the best interests of the Trust, free from personal or other bias and do not unfairly favour any individual or organisation connected with the Trust, in line with its legislative context. It intends to

- Ensure that every Relevant Individual understands what the Trust considers to constitute a conflict of interest or a potential conflict of interest;
- Ensure that every Relevant Individual understands that they have a responsibility to identify and declare any business or pecuniary interest that might arise;
- Ensure that every Relevant Individual formally records in the Trust's Register of Business and Pecuniary Interests the interest and their responsibility to take any necessary actions to ensure that the interest does not affect the decision-making of the Trust.

4 Register of Business and Pecuniary Interests

4.1 The Register of Business and Pecuniary Interests is maintained by the Clerk to the Trustees (in the case of Members, Trustees and Local Governors), by the Company Secretary (in the case of central Trust Staff) and by the Principal at each academy (in the case of relevant Senior Staff). The Register is kept by the Company Secretary.

4.2 In the case of Members, Trustees and Local Governors, the Register is also published on the Trust website in accordance with the requirements of the Academies Financial Handbook.

5 Identifying Conflicts of Interest

5.1 Relevant Individuals are expected and required to identify and declare formally all interests that might conflict with the interests of the Trust. Those failing to identify and declare any conflicts of interest will fail to comply with their personal legal responsibility to avoid conflicts of interest and act only in the best interests of the Trust.

Examples of interests which should be declared include, but are not limited to, the following:

- Being an employee, director, advisor or partner of another business or organisation;
- Holding another public office;
- Trusteeships and governorships at other institutions and charities;
- Significant shareholdings;
- Owning a debt to someone/an organisation;
- Appointments of influence or control within a business or organisation;
- Being a member of a club, society, group, collective, co-operative or association whether business, professional, recreational, sporting, political, religious or social;
- Having received a gift, hospitality or other benefit from someone/an organisation;
- Having a professional, legal or moral obligation to someone else;
- Holding or expressing political, religious or personal views that may indicate prejudice or predetermination for or against a person, group or issue;
- Being a spouse, partner, relative or close friend, or business or private associate of someone who has one of these interests.

In the latter case, the Declaration Form might thus read, for example:

Name of Business	Nature of Business	Nature of Interest	Date from which involved
----- Educational Resources Ltd	Supplier of educational products	Brother is Managing Director of company	July 2017

5.2 A relative is defined as a close member of family or a member of the same household, who may be expected to influence, or be influenced by, the Relevant Individual. This includes, but is not limited to, a child, grandchild, parent, sibling, spouse, civil partner or cohabitee.

5.3 Having a professional, legal or moral obligation to someone else would include, but is not limited to, disclosure of close family relationships between Relevant Individuals and between Relevant Individuals and other Trust employees.

In this case, the Declaration Form might read, for example:

Name of Business	Nature of Business	Nature of Interest	Date from which involved
King's Lynn Academy	Education	Spouse is a Science teacher at the academy	Sept. 2018

5.4 Significant shareholdings include companies in which the Relevant Individual or relative of the Relevant Individual (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. However, in the case of a company which has shares listed on a recognised stock exchange, an interest must be declared where a Relevant Individual holds more than 1% of the issued capital.

5.5 An organisation is influenced or controlled by the Relevant Individual or relative of the Relevant Individual (taken separately or together) if that individual is able to secure that the affairs of the body are conducted in accordance with the individual's wishes.

5.6 It is expected that such interests would be declared if they might be deemed to conflict with the interests of the Trust e.g. links with firms or organisations from which the Trust does or may wish to buy goods or services; the ownership of shares in or the owing of a debt to a company that does, or might, supply goods and services to the Trust now or at any time in the future. If in doubt about whether or not there is a conflict of interest, the recommendation is to declare it.

6 Declaring a Conflict of Interest

6.1 It is expected that conflicts of interest are identified and declared at an early stage. If an interest is not declared immediately for any reason, there is a legal and moral obligation to declare such an interest at a later date as soon as the Relevant Individual becomes aware that it has become an interest that might conflict with the interests of the Trust and/or might influence their involvement in and/or the conduct of and/or outcome of discussions or decisions being made by the Trust.

6.2 All Relevant Individuals are required to keep an updated entry record of any conflicts or potential conflicts of interest in the Trust's Register of Business and Pecuniary Interests.

6.3 The Register shall be circulated to all Relevant Individuals annually or more frequently on request. In the case of Members, Trustees and Local Governors, the Register is also published on the Trust website in accordance with the requirements of the Academies Financial Handbook. All Relevant Individuals undertake to review the Register and to draw attention to any potential conflicts of interest which they consider have been omitted or overlooked by any Relevant

Individual. If in doubt about whether or not there is a conflict of interest, there should be a presumption to include it on the Register.

6.4 All Relevant Individuals are obliged to complete and sign a declaration of their business and pecuniary interests even if their declaration is 'None'.

6.5 All formal meetings of the Trust have a standard agenda item at the beginning of each meeting to enable any actual or potential conflicts of interest to be declared. Relevant Individuals are required to declare any interest which they have in an item to be discussed at the earliest opportunity and before any discussion of the item itself.

6.6 If a Relevant Individual is uncertain whether or not they have a conflict of interest, they should declare the issue and discuss it with those attending the meeting.

6.7 If an individual is aware, or becomes aware, of an undeclared conflict of interest affecting themselves or any other Relevant Individual, they should notify those attending the meeting immediately.

7 Managing Conflicts of Interest

7.1 All Relevant Individuals must consider their conflicts of interest such that any potential effect on decision-making is eliminated and must follow the legal or governing document requirements on how conflicts of interest must be handled.

Articles of Association

Article 97 of the Articles of Association states that "Any Trustee who has or can have any direct or indirect duty or personal interest (including but not limited to any Personal Financial Interest) which conflicts or may conflict with his duties as a Trustee shall disclose that fact to the Trustees as soon as he becomes aware of it. A Trustee must absent himself from any discussions of the Trustees in which it is possible that a conflict will arise between his duty to act solely in the interests of the Academy Trust and any duty or personal interest (including but not limited to any Personal Financial Interest)."

Articles 6.2 – 6.9 of the Articles of Association detail the circumstances in which the Trust may or may not authorise a transaction with, or benefit to, a Member or Trustee of the Trust (or a connected party) and the procedures to follow to ensure that legal authority is assured.

Whilst these Articles specifically refer to the conduct of Members and Trustees, the Trust applies the same requirements to all Relevant Individuals.

7.2 In serious cases, Relevant Individuals may decide that removing the conflict of interest itself is the most effective way of preventing it from affecting decision-making. Serious conflicts of interest include, but are not limited to, those which:

- are so acute and extensive that the individual is unable to contribute to a decision in the best interests of the Trust, or could be seen to be unable to do so
- are present in significant or high-risk decisions of the Trust
- mean that effective decision-making is regularly undermined or cannot be managed in accordance with the required or best practice approach
- are associated with inappropriate personal gain or benefit.

8 The Decision-making Process

8.1 Charity law states that Trustees can only benefit from the Trust where there is an explicit authority obtained in advance. Authority is required where there is the possibility of benefit, therefore it is imperative that there is proper authority for any situation where a Trustee could benefit, irrespective of whether there is any actual benefit to the Trustee. The Trust seeks to ensure that proper procedures are in place to authorise benefits or potential benefits to all Relevant Individuals.

8.2 Where there is a proposed financial transaction between the Trust and a Relevant Individual, or any transaction or arrangement which confers a benefit to the Relevant Individual, which does not contravene the Trust's governing documents:

- the benefit must be authorised in advance by the Finance & Resources Committee. If there is no Finance & Resources Committee meeting planned within the time frame of authorisation required, then the Chair of the Finance & Resources Committee and one other member of this Committee can be contacted to authorise the benefit. Where the Relevant Individual is the Chair of the Finance & Resources Committee, then the Chair of the Board plus one other member of the Finance & Resources Committee must authorise the benefit.

Where the Relevant Individual is a Trustee, it may be necessary to obtain the prior written approval of the Charity Commission in accordance with Article 6.6 depending on the nature of the benefit e.g. property transactions.

- the Relevant Individual must absent him/herself from any part of the meeting in which the issue is discussed or decided.
- the Relevant Individual must not vote or be counted as part of the quorum for the matter.

8.3 Where there is a conflict of loyalty and the Relevant Individual does not stand to gain any benefit and the Trust's governing documents do not specify how the conflict of loyalty must be handled, the Relevant Individual should declare the interest which should be duly registered and the rest of those attending the

meeting must then decide the acceptable level of participation of the Relevant Individual.

The options may include, but are not limited to, the decision to:

- allow the Relevant Individual to participate in the decision;
- allow the Relevant Individual to remain in the meeting where the decision is discussed but not participate;
- require the Relevant Individual to absent him/herself from the part of the meeting in which the issue is discussed or decided.

8.4 When deciding which course of action to take regarding the conflict of loyalty, the following must be borne in mind:

- the decision must be made only in the best interests of the Trust and be demonstrably so;
- the conflict must pose no risk or low risk to the decision-making being made in the best interests of the Trust;
- due regard to the protection of the Trust's reputation must be paid and the impression given to those outside the Trust;
- the presence of a conflicted individual could affect trust between participants of the meeting and inhibit free discussion or influence decision-making.

9 Records of proceedings

9.1 Minutes should record details of any and all discussions on potential conflicts of interest and the decisions made.

10 Confidentiality

10.1 Relevant Individuals must not use information obtained directly or indirectly at or from the Trust for their own benefit (financial or otherwise) or the benefit of another individual, entity or organisation. All information obtained shall be deemed to have been obtained in confidence.

11 Monitoring and enforcement

11.1 The Trust's Audit Committee will monitor proceedings to ensure that any conflicts of interest are identified and mitigated as soon as possible.

11.2 Any Relevant Individual who fails to declare an interest and is found to be acting not in the best interests of the Trust will be required to explain the reasons for their omission and may face appropriate disciplinary action.

12 Policy circulation

12.1 This policy will be circulated to every Relevant Individual who shall annually sign a statement which affirms that they have:

- Received a copy of the policy;
- Read and understood the policy;
- Agreed to comply with the policy.

12.2 The Conflict of Interests Policy will be published on the Trust's website and be reviewed in accordance with the Policy Approval Schedule.

Annual Conflicts of Interest Acknowledgement Statement

In accordance with the Eastern Multi-Academy Trust's Conflicts of Interest Policy ("the Policy"), I, the undersigned, hereby attest and affirm that I have:

1. Received a copy of the Policy
2. Read and understood the Policy
3. Agree to comply with the Policy.

Print Name:

Signature:

Date:

Declaration of Business & Pecuniary Interests

Name:

Role (Member/Trustee/LGB Governor and/or Staff Member's Job Title):

Name of Academy (where appropriate):

Date of Appointment:

I declare that I hold the following personal and/or pecuniary interests:

Name of Business/Organisation	Nature of Business	Nature of interest	Date from which involved	Date interest ceased

Signed & dated:

Please return this form to the Clerk.

You are reminded that completion of this form does not remove the requirement upon you to disclose orally any interest at any specific meeting and to leave the meeting for that agenda item.

Related Party Transactions – Guidance Note

Academy trusts need to be able to identify and document related party relationships at all levels throughout the organisation.

From 1 April 2019, the Academy Financial Handbook (AFH) requires academy trusts to disclose all related party transactions to the Education and Skills Funding Agency (ESFA) in advance of the transaction taking place.

In addition, transactions exceeding £20,000 (either individually or in aggregate), in the same financial year, with the same related party, will require approval from ESFA before the transaction can be entered into. Transactions with related parties that are novel, contentious and/or repercussive must obtain ESFA approval regardless of the transaction value.

Related parties for the purpose of reporting them to the ESFA are those that fall within the definition of the Charity SORP (FRS 102) and AFH and broadly include:

1. sponsors of the academy trust or anybody connected to a sponsor
2. any Member, Trustee, Local Governor or Senior Employee of the academy trust
3. any individual or body that has the right to appoint a Member or Trustee
4. any relative of a Member, Trustee, Local Governor or Senior Employee of the academy trust
5. any person carrying on a business or partnership with a Member, Trustee, Local Governor or Senior Employee of the academy trust
6. any organisation connected to a Member, Trustee, Local Governor or Senior Employee of the academy trust (an organisation is connected if the individual holds more than 20% of the voting right or shares of the entity).

Capturing related party arrangements should start at the induction process. The induction of new Members, Trustees, Local Governors or Senior Employees should include a process to capture full disclosure of pecuniary and business interests for the individual and for their relatives. Academy trusts should encourage individuals to declare all known pecuniary and business interests and not just those that the individual considers to be relevant to the academy trust. This should be an ongoing process which is undertaken on an annual basis.

These declarations should be collated and included on a central register so that finance teams are able to identify a potential related party before inadvertently transacting with one.

Academy trusts should assess why, and how, they need to transact with a related party. Many related party arrangements arise because there is a perceived cost advantage (for example a Trustee may offer a significant reduction on the normal commercial terms) but this should not be the only factor in choosing to transact with a related party over a regular supplier. The Board should ensure it fully documents and minutes its decision to enter into the transaction to ensure transparency.

The trust must also ensure that the 'at cost' principles (for transactions at or above £2500) are applied. A related party must not make any profit on the transaction and Trustees should ensure that they have undertaken sufficient enquiries (including a written confirmation from the related party) that the transaction is at, or below cost, before entering into the transaction.

There should also be a mechanism to enable board members to declare any conflicts of interest at board meetings when a contract is being awarded or discussed at that meeting. Where this is the case the individual should leave the meeting until the matter is concluded.

At the time of writing (March 2019) guidance pertinent to the 1 April 2019 deadline suggests that the new requirements will only apply to related party transactions that have been entered into, or committed to after 1 April 2019. Agreements with related parties that are already in existence at 1 April 2019 will fall into the new regime upon renewal of the agreement. It is recommended that agreements with related parties are reviewed at least every two years, and preferably on an annual basis, to ensure the agreement continues to be value for money. Academy trusts should remain alert to any amendments to an agreement that could take the transaction over the £20,000 limit as this would then require prior approval. In obtaining approval, academy trusts will need to demonstrate that the transaction has been entered into in line with usual procurement procedures, that conflicts of interest have been appropriately managed and that the transaction has been benchmarked against external suppliers if necessary. There is likely to be a delay between applying for ESFA approval and actually receiving it therefore academy trusts are advised to plan ahead to avoid delays in more urgent spending.

March 2019