



## **Conflict of Interest and Related Party Transaction Policy**

<b>Audience:</b>	<b>All Academies</b>
<b>Approved:</b>	<b>16/19/2019</b>
<b>Other related policies:</b>	
<b>Policy Owner:</b>	<b>Louise Wilson – Chief Executive Officer</b>
<b>Policy Model:</b>	<b>Compliance – all CMAT academies use this policy</b>
<b>Review:</b>	<b>Annually</b>
<b>Version Number:</b>	<b>1.0 (December 2020)</b>

## **I. Introduction**

1.1. Managing conflicts of interest appropriately is essential for protecting the integrity of the Trust and to protect the Trust from any perceptions of wrongdoing. The Trust needs to demonstrate the highest levels of transparency so that it can demonstrate that conflicts of interest are managed in a way that cannot undermine the probity and accountability of the organisation.

1.2. 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. It is however not always possible to all avoid conflicts of interest, they are inevitable in many aspects of public life, including the education sector. However, by recognising where and how they arise and dealing with them appropriately, the Trust will be able to ensure proper governance, robust decision-making, and that appropriate decisions about the use of public money are made.

1.3. All those who are employed by the Trust and/or act in an official capacity on its behalf must uphold the highest standards of public conduct and, at all times, act in the interests of the Trust. In particular, all are specifically expected to apply the Seven Principles of Public Life established by the Nolan Committee:

- Selflessness – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- Integrity – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- Objectivity – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- Accountability – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- Openness – Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- Honesty – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest; and
- Leadership – Holders of public office should promote and support these principles by leadership and example.

## **2. Policy Scope**

2.1. This policy applies to the following individuals who are employed by the Trust and/or act in an official capacity on its behalf:

- All senior employees in Academies (Principal and Senior Leadership Team) and in Head Office (Executive Team / Executive Principals), including, all full and part time staff, any staff on sessional or short term contracts, agency staff; and seconded staff.

- Any self-employed consultants or other individuals working for the Trust under a contract for services should make a declaration of interest in accordance with this policy, as if they were Trust employees.
- Members and Trustees. This includes all members of the Trust's committees whether Trustees or independent members, including co-opted members and members of committees/groups from other organisations.
- All local Governors of Academies.

2.2. It is the responsibility of all individuals in the Trust to familiarise themselves with this policy and comply with its provisions in relation to the management of conflicts of interest and related party transactions. On any occasions where there is any concern that a particular circumstance or event, whilst complying with this Policy, may still lead to a potential or actual Conflict of Interest (whether real or perceived), they should consult with the Governance Lead to seek further advice.

### **3. Legal and Regulatory Framework**

3.1. This Policy takes its legal framework from the following legislation and statutory guidance:

- Companies Act 2006.
- Conflicts of Interest: A Guide for Charity Trustees.
- The Education and Skills Funding Agency (ESFA) Academies Financial Handbook.
- The Department for Education Governance Handbook.
- The Articles of Association of the St Thérèse of Lisieux Catholic Multi Academy Trust.

### **4. What is a conflict of interest?**

4.1. A conflict of interest exists where an individual's personal interests or loyalties could, or could be seen to prevent them making a decision which is in the best interest of the Trust. A conflict of interest will occur when there is a divergence between an individual's private interests or loyalties (or those of any connected parties) and the interests of the Trust and its academies such that an independent observer might reasonably question whether the individual's actions or decisions are determined by considerations of personal gain, whether financial or otherwise.

4.2. A conflict of interest may be:

- Actual – there is a material conflict between one or more interests.
- Potential – there is the possibility of a material conflict between one or more interests in the future.

4.3. Conflicts might occur due to the possibility of individuals or connected parties having:

- direct or indirect financial interests.
- non-financial or personal interests.
- conflicts of loyalty where decision makers may have competing loyalties between the Trust and the other person or entity.

### **5. The Trust's policy on Managing Conflicts of Interest**

5.1. Declaration of Interests

5.1.1. This Policy sets out the requirements which all individuals outlined in section 2.1 must comply with in respect to making appropriate Declaration of Interests where those interests could potentially conflict with the interests of the Trust or its Academies. All individuals have a duty to make a Declaration of Interest in accordance with this Policy.

5.1.2. The Declaration of Interest form should be completed:

- By all individuals in section 2.1 within twenty-eight days (28) of appointment and taken into consideration prior to appointment.
- Annually, and no later than October half term, by all individuals outlined in section 2.1. A nil return is required if no conflicts exist.
- When an individual becomes aware of a new interest during the course of the year the interest must be notified in a new Declaration of Interest within twenty-eight (28) days of the interest being known.

5.1.3. Annual and updated Declarations throughout the year should be made on the Declaration of Interests form which is available from the Governance Lead. Other declarations should be made during the course of the day to day business of the Trust, for example during Trust Board meetings and meetings of its committees in relation to agenda items or as part of a procurement process.

5.1.4. Original forms (or scans) will be kept at Trust Head Office by the Governance Lead.

5.1.5. Individual Declaration of Interests will be collated to form a Register of Interests. The Register will be managed by the Governance Lead.

5.1.6. Declarations of Interest for Members, Trustees, Senior employees (as defined in 2.1), and local Governors will be published on the Trust website.

5.1.7. Declarations of Interest for local Governors, and Academy Senior Leadership Teams will be published on each Academy website.

5.1.8. The Register of Interests will be used to identify any potential, actual or perceived Conflicts of Interest in order to enable the Trust to avoid or appropriately manage them. For example, it will be used to ensure that the Trust's procurement and trading activity is fair to all parties involved and to help the Trust ensure that the highest standards of propriety and conduct are met, especially in respect of Connected Party transactions.

5.1.9. If an individual believes that there is a potential Conflict of Interest which is inappropriate to be shown on the Register for personal reasons, they must set out a case to the Chief Executive who will decide, in conjunction with the Governance Lead, whether that interest should not be included on the published Register. There will be a presumption that all declarations are shared unless there are circumstances that apply which would make this inappropriate, and if the redaction from the Register cannot lead to a potential Conflict of Interest occurring or would prevent it from being managed appropriately. It should be noted that it would be a disciplinary offence for any member of staff who legitimately has access to the Register to disclose the contents of it except where this is necessary for them to properly discharge their duties.

5.1.10. Members, Trustees, Committees and Local Governing Bodies will have a standard agenda item at the beginning of each meeting to declare any actual or potential conflicts of interests relating to items to be discussed on the agenda, before the item is discussed. If an individual is uncertain if they are conflicted then they should declare the issue and discuss it with the Chair

and Clerk to the meeting. If an individual is aware of an undeclared conflict of interest affecting an attendee of the meeting or a Connected Party he/she should declare this to the other attendees at the meeting.

5.1.11. Once it has been established that an individual has a conflict of interest it is up to the Chair of the meeting to decide how to manage the situation. That situation must be managed by the following actions:

- The individual absenting him/herself from any discussions in relation to the matter by leaving the meeting,
- Not taking part in any vote on the matter; and
- Not being counted in the quorum in relation to that decision.

5.1.12. 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.

5.1.13. Minutes of the meetings at which conflicts are an issue will record:

- the nature of the conflict and determinations regarding the conflict.
- the relevant person's non-participation with respect to consideration of the matter.

## **6. Pecuniary and Non-Pecuniary Interests**

6.1. There are a variety of potential interests that individuals may have that could potentially conflict with their duty to always act in the best interests of the Trust and its Academies. Those listed below must be declared by individuals if they have such an interest or if any Connected Party has such an interest. However, there may be other potential interests or conflicts that exist not listed below which should also be declared.

### **6.2. Pecuniary Interest**

6.2.1. Pecuniary (monetary/financial/business) interests include, but are not restricted to:

- a financial interest in a company or organisation if he/she or any nominee of his/hers is the beneficial owner of more than 1% of the issued capital (e.g. shares, bonds etc.).
- directorships, partnerships and employments with businesses irrespective of whether or not they trade with the Trust, its Academies or subsidiary companies.

6.3. Non-Pecuniary Interests 6.3.1. Non-pecuniary (non-monetary/financial) interests include, but are not restricted to:

- individuals being the partner or relative of other members of staff or Trustees, Trust Members, independent committee members or Local Governors.
- pursuit of a business interest/opportunity which is in potential conflict with the best interests of the Trust.
- where any individual's partner or relative would have a pecuniary interest, as set out in 6.1.1 above, if they were a member of staff.
- pursuit of a business interest/opportunity which is in potential conflict with the best interests of the Trust.

- a professional (e.g. employment) or legal responsibility to someone else or some other body which is in potential conflict with the best interests of the Trust or its Academies.
- having a beneficial interest in a trust which is in potential conflict with the best interests of the Trust.
- having received/about to receive a gift, hospitality or other benefit from an organisation that has or is likely to do business with the Trust, or is involved in a procurement process with the Trust.
- membership of a society or other organisation, including Trusteeships and Governorships at other educational institutions or charities (irrespective of whether there is a trading relationship with the Trust, its Academies or subsidiary companies).
- holding another public office.
- close personal relationships with people or organisations that may, or do, undertake business with the Trust or its academies.
- a potential benefit in the future, such as the offer of employment or other benefits, from an organisation that undertakes or could undertake work on behalf of the Trust or its Academies or subsidiary companies.

## **7. Connected Parties**

7.1. For the purposes of this policy, a Connected Party is defined as any individual or organisation connected to an individual defined in section 2.1. For these purposes the following persons are Connected Parties:

- a relative of the individual. 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 may not be limited to, a child, step-child, parent, step-parent, spouse or civil partner;
- an individual or organisation carrying on business in partnership with the individual.
- a company in which an individual or the relative of an 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.
- an organisation which is controlled by an individual or relative of an individual (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 that is given the right under the Trust's articles of association to appoint a Member, Trustee or Local Governor; or anybody related to such an individual or organisation.
- any individual or organisation recognised by the Secretary of State as a sponsor of the academy trust; or anybody related to such individual or organisation.

7.2. A body is related to another individual or organisation if it:

- is controlled by the individual or organisation.
- controls the organisation; or

- is under common control with the individual or organisation.

7.3. For these purposes, control means:

- holding more than 20% of the share capital (or equivalent interest).
- having the equivalent right to control management decisions with regards to the body; or
- having the right to appoint or remove a majority of the board or Local Governing Body.

7.4. In the case of Connected Parties, the interests of a Connected Party are deemed also to be the interest of the individual defined in section 2.1. Declarations of Interest must include those of the Connected Party where the interest may cause the individual to have a conflict of interest.

7.5. Personal Relationships and Family Members

7.5.1. Individuals defined in section 2.1 should declare if they are related to or have a partner who is a member of staff or a Member, Trustee, Independent Committee member or Local Governor.

7.5.2. Individuals who have declared a partner or family member who is a member of staff must not be involved in the recruitment, selection, line management, appraisal, promotion or other processes involving the member of the member of staff or where conflict of interest may exist.

7.5.3. Applicants for jobs within the Trust and its Academies will be asked to declare whether they are related to, or are closely acquainted with, any members of the Trust Board, Local Governing Bodies or senior managers within the Trust or its Academies.

7.6. Related party transactions

7.6.1. Related party transactions involve transactions – the purchase, sale, lease or donation of goods, services, property or money – for which one party has control or influence over the other, or where the parties are subject to common control.

7.6.2. Company law, Charity law and the Academies Financial Handbook permit these sorts of transactions as long as they are declared and subject to robust procurement procedures in order to properly manage conflicts of interest.

7.6.3. Related party transactions are common in the Academies sector as many academy Directors are drawn from local public and private sector organisations.

7.6.4. Related parties constitute:

- Parties with control over, or controlled by, the entity (for example parent and subsidiary companies).
- Parties having significant influence over the entity.
- Key management personnel of the entity, including any director.
- Close family members of any of the above.
- Others subject to control or significant influence by any individual referred to above.

7.7. Related Party Interest Disclosure requirements

7.7.1. The Trust is required to 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.

7.7.2. Accounting standards also require related party transactions to be disclosed in the financial statements so that users can gain a full understanding of the transactions which have taken place, and any factors that might have influenced them.

7.7.3. Where related party transactions have occurred, that disclosure must be made and should include:

- the names of the related parties.
- a description of the relationship between the parties.
- a description of the transactions.
- the amounts involved.
- the amounts due to or from related parties at the balance sheet date, and any provisions for doubtful debts or amounts written off.

#### 7.8. Reporting of Related Party Transactions to ESFA

7.8.1. The Trust and its Academies will correctly observe the requirements set out in the Academies Financial Handbook for Trusts to report all transactions with related parties to ESFA in advance of the transaction taking place. This requirement applies to transactions made on or after 1 April 2019.

7.8.2. The report will be made using ESFA's on-line form by the Central Finance Team.

#### 7.9. Approval of related party transactions by ESFA

7.9.1. The Trust and its Academies will correctly observe the requirements set out in the Academies Financial Handbook for Trusts to obtain ESFA's approval for transactions with related parties that are novel, contentious and/or repercussive.

7.9.2. ESFA's prior approval will be sought 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.

7.9.3. All requests for ESFA's prior approval will be undertaken by the Central Finance Team.

7.10. 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.

#### 7.11. 'At cost' requirements

7.11.1. The Trust and its Academies will correctly observe the 'at cost' requirements set out in the Academies Financial Handbook.



7.11.2. In line with these requirements, the Trust and its Academies will pay no more than 'cost' for goods or services provided to it by:

- 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 anybody connected to such individual or organisation.
- any individual or organisation recognised by the Secretary of State as a sponsor of the academy trust; or anybody connected to such individual or organisation.

7.11.3. The 'at cost' requirement applies to contracts for goods and services from a connected party exceeding £2,500, cumulatively, in any one financial year of the Trust. For these purposes, where a contract takes the Trust's cumulative annual total with the connected party beyond £2,500, the element above £2,500 must be at no more than cost.

7.11.4. The Trust will ensure that any agreement with an individual or organisation referred to in section 7.11.2 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

7.11.5. For these purposes the cost will be the 'full cost' of all the resources used in supplying the goods or services. The full cost includes:

- all direct costs (the costs of any materials and labour used directly in producing the goods or services); and

- indirect costs (comprising a proportionate and reasonable share of fixed and variable overheads).

7.11.6. Full cost must not include an element of profit.

## **8. Training and awareness**

8.1. The Trust will ensure that all individuals outlined in 2.1 understand their responsibilities under this Policy by providing appropriate training, education and guidance. The level of training and the nature of the education and guidance may vary depending upon the role as relevant to the policy.

## **9. Record keeping**

9.1. The Trust will retain records evidencing compliance with this policy, as set out in the Trust's Records Management Policy.

9.2. Records kept in connection with conflicts of interest and related party transactions must be compliant with the Trust's policy on General Data Protection Regulation ("GDPR") Compliance.

## **10. Roles and Responsibilities**

10.1. The Trustees, as charity trustees, have ultimate accountability for the Trust's proper management, which includes management of conflicts of interest and related party transactions.

10.2. Responsibility for recommending an appropriate Conflict of Interest and Related Party Transaction Policy is delegated to the Trust's Executive Team.

10.3. Responsibility for implementing and adhering to this Policy is delegated to the Trust's Executive Team for the Trust as a whole and to the Principals for their individual academies.

10.4. The Governance Lead shall keep a register of interests and shall ensure that the register is updated at least annually.

10.5. All individuals outlined in 2.1 are responsible for notifying the Governance Lead of any in-year changes which need to be made to their entry in the register of interests when those changes occur.

10.6. All senior staff are responsible for ensuring conflicts of interest and related party transactions are managed within their areas of responsibility and for complying with internal control procedures as applicable to their role.

## **11. Approvals and Exceptions**

11.1. Significant deviations from this Policy or its associated Procedures must be monitored and reported to the Governance Lead and the Audit and Risk Committee.

11.2. Policy deviations for which remediation is planned must be approved and tracked to resolution by the Governance Lead and the Audit and Risk Committee.

## **12. Reporting and Consequences of Non-Compliance**

12.1. Individuals 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 individuals may also be subject to external sanction, including being barred from undertaking the role of a company director and in exceptional cases being subject to criminal prosecution.

12.2. The Education and 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).

12.3. If any individual believes anyone within the Trust is undertaking activity that leads to personal gain they should report their concerns to appropriate management, being either the Governance Lead or Internal Audit or via the Trust's Whistleblowing procedure.

### **13. Policy Status**

13.1. This policy does not form part of any employee's contract of employment.

### **14. Timing and frequency of review of the policy**

14.1. This policy will be reviewed every three years or when relevant statutory guidance is issued.

### **15. Related Policies**

15.1. This policy is related to the following other Trust policies:

- Recruitment and Selection Policy
- Procurement Policy
- Data Protection Policy
- Gifts and Hospitality Policy
- Whistleblowing Policy