



## **Manging Conflicts of Interest Policy**

**February 2019**

### **Vision Statement:**

“Be Extraordinary”

### **Mission Statement:**

We believe that young people achieve their fullest potential when they have a vision of everything their lives could become. The Bible (John 10:10) quotes Jesus as saying, “I have come that they may have life and may have it in all its fullness”. As academies, we commit ourselves to inspiring our students, and equipping them with the resilience and determination to unlock their unique gifts and realise their highest aspirations. We aim to achieve this through following distinctively Christian principles, and focusing on four key areas, service, achievement, leadership and teamwork.

**Reviewed and approved by Sentamu Academy Learning Trust Board of Directors on 11.03.19**

The next ‘Period of Review’ will be **February 2022**

# Sentamu Academy Learning Trust

## Managing Conflicts of Interest Policy

### 1.0 Key points and summary

Decisions made on behalf of the Sentamu Academy Learning Trust (SALT) should be made free from any external influences that individuals have, either personal or fiduciary, and should avoid potential reputational risk for SALT.

SALT is a charitable company that predominately receives its funding from taxpayers. It is essential that potential conflicts of interest are identified and responded to appropriately to ensure the integrity of decision making.

Members, Trustees, Governors, and employees are required to fully declare potential conflicts of interest through regular disclosure, at meetings where they may have a conflict of interest, and at the commencement of procedures (such as procurement) where they may have a conflict of interest. All individuals are required to comply with the spirit of the policy as well as its content and to act with high standards at all times. If in doubt, individuals should declare a potential conflict and allow others to evaluate it.

Failure to declare a conflict of interest may be a disciplinary offence for employees, and for governors, trustees and members may result in their removal from office.

### 2.0 Background

Academy Trusts are charitable companies (although regulated by DfE rather than Charity Commission). The Articles of Association and Academies Financial Handbook both contain provisions relating to managing potential conflicts of interest, and about contracting between 'related parties'. While these provisions are primarily focused upon trustees, it is important that members, governors and employees also avoid conflicts of interest.

Article 97 of the Articles of Association states that:

*"Any Director/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 Director/Trustee shall disclose that fact to the Directors/Trustees as soon as he becomes aware of it. A Director/Trustee must absent himself from any discussions of the Directors/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)."*

This policy requires that members, governors and employees abide by this principle as if Article 97 referred directly to them.

For trustees, they are the legal directors of the trust and have a legal obligation and duty of care to act in the best interests of SALT and promote the long-term success of the company. The Companies Act 2006 sets out specific requirements to avoid conflicts of interest (section 175), not to accept benefits from third parties (section 176), to declare interests in proposed transaction or arrangement (section 177), and to declare interests in existing transaction or arrangement (sections 182 – 187). These are drafted widely and require over-disclosure; for instance section 175 (1) states that *"a director of a company must avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company."*

### **3.0 A conflict of interest**

A conflict of interest arises when the personal interest or loyalty of an individual or a member of their family is or is reasonably perceived to be in conflict with their responsibilities toward SALT. Such actual or potential conflicts can inhibit free discussion and could compromise or appear to compromise any SALT decisions in which that individual was involved.

Conflicts of interest can include those where:

- An individual could benefit financially or otherwise from the decision, including employment or promotion or otherwise from the decision;
- A individual's duty to SALT competes with a duty or loyalty to another organisation or person.

A member of their family would include spouse, partner, children, parents and any other close family members as relevant to the potential conflict (please see Annex 4).

Individuals are required to declare a a potential conflict of interest as soon as reasonably practicable after they become aware of the interest.

### **4.0 Procedure**

The Trust is required to ensure that it has a process for identifying and managing potential or actual conflicts of interest. To this end, it is recommended to adopt a process of:

- Regular disclosure – all members, trustees, governors, and senior staff must complete a Register of Interests form (as shown in Annex 1) annually at the beginning of each academic year and thereafter every time their circumstances require a change;
- Meeting procedures – at the beginning of each meeting of members, trustees or governors (including any committees or sub-committees), or any meetings of senior staff where potential conflicts of interest could arise (such as awarding contracts following a procurement exercise), individuals will be required to declare any potential conflicts of interest for specific items on the agenda;
- Procedural safeguards – any individual with a potential conflict of interest within any specified process (such as a procurement process) must declare that potential conflict in advance of having any involvement in the process. For procurement processes, this means not having any involvement in the preparation of the specification, the identification of potential firms to invite to tender, engagements with any potential tenderers, and evaluation of tenders;
- Recruitment and selction - any individual with a potential conflict of interest within any specified process must declare that potential conflict in advance of having any involvement in the process. This means not having any involvement in the preparation and decision making process.

If at any point a potential or actual conflict of interest is identified, the procedure in Annex 2 will be followed.

The Articles of Association and Academies Financial Handbook contain specific provisions regarding trading with Trustees or firms where they have a significant interest. These are outlined in Annex 3.

## ANNEX I: Register of interests form

It is important that members, trustees, governors and staff not only act impartially, but are also seen to act impartially. Members, trustees, governors and staff have a responsibility to avoid any conflict between their business and personal interests and those of the academy trust.

Please complete the following form, writing 'None' if that is applicable. Please notify any changes to the form to the Clerk (for members / trustees / governors) or to the Principal (for employees). The Register will be reviewed annually or when your circumstances change.

*For any interests please also record the date that interest began.*

## SENTAMU ACADEMY LEARNING TRUST

### REGISTER OF INTEREST

*Please complete and return to your Clerk/Business Manager*

I (NAME).....

A member, trustee, local governor or staff member confirm that I have read the Managing Conflicts of Interest Policy and am aware of the requirements of the Academy's Financial Regulations as far as they are explained in the Notes of Guidance.

<b>Name:</b>	
<b>*Trustee / *Member / *Local Governor of the following Academy</b> (*delete as appropriate):	
<b>Date:</b>	
Employment:	<i>Details of all my employers in the last 12 months:</i>
Business:	<i>Details of all businesses in which I am a partner or sole proprietor:</i>

Company directorships:	<i>Details of all companies of which I am a director:</i>
Trusteeships:	<i>Details of all charities of which I am a trustee:</i>
Membership of organisations, public bodies, etc	<i>Details of all organisations of which I am a member AND have a position of general control or management.</i>

Declaration of interests of immediate family:	<i>Details of business interests, company directorships and trusteeships of family (to include spouse/partner, siblings, children, parents and in-laws):</i>		
<i>Name:</i>	<i>Relationship to me:</i>	<i>Organisation name:</i>	<i>Nature of interest:</i>

**Declaration:**

**I confirm that I have disclosed all of my financial and non-financial interests and those of my immediate family. I understand that it is my responsibility to disclose to the company secretary any additional interests as they arise.**

**Signed.....**

**Print name**

**Date**

## **ANNEX 2: Process if a potential or actual conflict of interest is identified**

If any interests are declared by members, trustees, governors or employees, in order to prevent the potential conflict of interest affecting any decision of the academy trust, the remaining members / trustees / governors (or the Principal or Chief Executive Officer) will:

1. If the Conflict of Interest relates to an item on a specific meeting agenda:
  - 1.1. Decide whether there is a conflict of interest if there is any doubt;
  - 1.2. Decide the appropriate role for the individual, specifically whether:
    - 1.2.1. They should be absent during discussion of the item;
    - 1.2.2. They should be absent during decision about the item;  
(Note – it would usually be expected that they should be absent for the discussion and decision; if this is the case they would not count towards whether the meeting was quorate for that item).
  - 1.3. Consider whether the conflict of interest means that the anticipated course of action should be changed or not pursued altogether;
  - 1.4. Ensure that the decision of the meeting, its rationale, and any subsequent actions are properly recorded to ensure that the Trust can demonstrate that it made the decision appropriately.
2. If the Conflict of Interest relates to other activity of the Trust that is not under consideration at a specific meeting:
  - 2.1. Decide whether there is a conflict of interest if there is any doubt;
  - 2.2. Decide what procedural safeguards need to be put in place to ensure that the integrity of trust decision making is not compromised;
  - 2.3. Consider whether the conflict of interest means that the anticipated course of action should be changed or not pursued altogether;
  - 2.4. Ensure that the decision of the trust, its rationale, and any subsequent actions are properly recorded to ensure that the trust can demonstrate that it made the decision appropriately.

For conflicts of interest where an individual could benefit financially from a decision (such as the trust awarding a contract to a company in which they have a significant interest), it is expected that the remaining individuals would require procedural safeguards to ensure that the individual with the conflict of interest has no role in or advantageous knowledge of the procurement process and associated decision making. This would need to be in accordance with the Articles of Association and Academies Financial Handbook (more information is available in Annex 3 in relation to trustees and members).

For conflicts of interest where there is a conflict of loyalty the remaining individuals will consider the specific circumstances of the conflict before determining whether, and if so what, role the individual with the conflict of interest would be able to have in the process.

## **ANNEX 3: Related party contracts**

### **General principles**

Academy Trusts are charitable companies (although regulated by DfE rather than Charity Commission), and charity law generally expects trustee involvement to be altruistic.

Paying a trustee for their role as trustee would require Charity Commission approval since it would be a 'regulated change', and this is likely to have a high threshold test before approval is granted – i.e. that it is clearly in the interests of the charity and provides a significant and clear advantage over all other options.

### **Members**

In summary, the Articles of Association state that:

- 1) Members cannot be paid for their role as member (and there is no provision for expenses within Articles 6.2 or 6.2A); and
- 2) The Academy Trust can contract with members for "goods or services supplied to the Academy Trust" (6.2b)) so long as the conditions in 6.2A are satisfied (essentially, that appropriate process has been followed to appoint the Member for the supply of goods or services, including avoiding any conflicts of interest, that the reason for the appointment is recorded by the Trustees, and that the remuneration is reasonable).

### **Trustees**

In summary, the Articles of Association state that:

- 1) Trustees can not be paid for their role as trustee (although trustees who are employees can be paid as employees in accordance with Article 6.6c));
- 2) Trustees can be reimbursed for reasonable expenses properly incurred when acting on behalf of the Academy Trust (Article 6.5, although note that this excludes expenses in connection with foreign travel); and
- 3) The Academy Trust can contract with trustees for "the supply of goods or services to the Academy Trust" (6.7b)), or to receive interest on money lent to the Academy Trust (6.7c)), or receive rent from property occupied by the Academy Trust (6.7d)), so long as the conditions in 6.7 and 6.8 are satisfied (essentially, that appropriate process has been followed to appoint the trustee for the supply of goods or services, including avoiding any conflicts of interest, that the reason for the appointment is recorded by the trustees, that the remuneration and any other terms are reasonable, that the other trustees are satisfied that it is best to contract with another trustee compared to someone who is not a trustee, and that the majority of trustees then in office have received no such payments or benefit).

#### **It is important to note that:**

- Trustees can only be reimbursed for expenses where cash has been expended – i.e. for travel. This could include costs such as care arrangements for children / relatives where those have been incurred as a result of the trustee's obligations to the trust;
- Trustees cannot be reimbursed for loss of earnings;
- Trustees cannot be given 'attendance allowances' or any variation of this approach.

### **Academies Financial Handbook regarding trading with related parties**

The general principles are that:

- 1) Academy Trusts must only pay for goods or services "at cost" from related parties (paragraph 3.10.12);
- 2) "Related parties" are defined as any member, trustee governor or staff member, or anyone who is a close relative, business partner, company with 20% share ownership, company controlled by a member, trustee or governor, organisation able to appoint members and trustees, or the DfE recognised sponsor. (Paragraph 3.10.1);

- 3) The definition of cost is 'full cost' so can include direct and indirect costs (i.e. share of overheads), but must not include an element of; and
- 4) Any commercial arrangements with related parties must be properly procured through open and fair process, including a statement of assurance that the charge does not exceed the cost, and supported by open book accounting to prove that the charge is not above cost.

(This relates to the 2018 edition of the Academies Financial Handbook).

#### **Related Parties - key updates from the 2018 edition of the Academies Financial Handbook:-**

Trusts **must** report all transactions with related parties to the ESFA in advance of the transaction taking place using an online form where they exceed the preset limits. (3.10.4, 3.10.6 and 3.10.7).

What are the limits for reporting - Trusts **must** obtain prior approval from the ESFA for contracts for the supply of goods or services to the trust by a related party where:

- the contract exceeds £20,000.
- a contract of any value that would take the total value of contracts with the related party beyond £20,000.
- 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.

Trusts **must** also obtain ESFA's approval for transactions with related parties that are novel, contentious and/or repercussive. The definition of this included below:

- Novel transactions are those of which the academy trust has no experience, or are outside its range of normal business.
- Contentious transactions are those that might cause criticism of the trust by Parliament, the public or the media.
- Repercussive transactions are those likely to cause pressure on other trusts to take a similar approach and hence have wider financial implications.

The approval process is not intended to capture staff remuneration. 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.

The full guidance can be read here

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/714474/Academies\\_Financial\\_Handbook\\_2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714474/Academies_Financial_Handbook_2018.pdf)

## ANNEX 4: Employing Family and Friends

### 1. EMPLOYMENT OF RELATIVES, PARTNERS AND CLOSE FRIENDS

1.1 This policy has been developed in order to minimise the risk of problems arising through relatives, partners or close friends working together in the same working environment.

1.2 There is no attempt here to define "relatives", "partners" or "close friends" because of the obvious difficulty in doing so.

1.3 The aim of the policy is to put in place proper procedures to ensure that there can be no grounds for suspicion, no matter how ill founded, that employment decisions were in any way influenced by improper motives.

1.4 The policy will apply to:

- Permanent employees
- Temporary employees
- Casual workers- including students, holiday and work placements including work experience placements
- Agency workers
- Consultants & Contractors

1.5 Managers must consider the implications if relatives / partners or close friends work together and must consider what action to take, if they do.

1.6 It will be the responsibility of managers to take any necessary action, in light of this procedure and on the basis of common sense and reasonableness.

1.7 Broadly speaking, there will be two scenarios where this issue is likely to need particular consideration, i.e.,

- At the time of recruitment / appointment, and
- Where a relationship develops between two people whom currently work together.

#### **At the Time of Recruitment / Appointment**

1.8 All candidates for appointment are required to disclose on their application form, any relationship to a person who works for the Sentamu Academy Learning Trust.

1.9 Senior staff (i.e. those on the Leadership scale) are required to disclose to the Principal/CEO any relationship known that exists between themselves and any candidate for appointment.

1.2.0 Any employee should not be involved, at any stage, in an appointment where they are related to an applicant or have a personal relationship outside work with him/her.

1.2.1 It is the responsibility of the manager concerned to require agency workers, consultants & contractors to declare, before they begin their assignment, whether they are related to, or are a partner or close friend of any existing employee of SALT.

1.2.2 There must not be a line management relationship between relatives, partners or close friends. If, in exceptional circumstances, a decision is made to go ahead with such a working arrangement, departments

will need to be able to demonstrate, by way of documentation, that they have made an assessment of the risks involved if the appointment is made. This assessment must include:

- The type of personal relationship
- The working relationship
- The level and function of the posts
- The function of the section
- The size of the work group
- Perception of others- colleagues / clients / public

1.2.3 The relevant SLT Member in consultation with the Principal must endorse the decision made.

### **Where a Relationship develops Within the Working Environment**

1.2.4 SALT realises that it is neither desirable nor possible to legislate against relationships developing within the working environment. This would also include relationships that develop between employees with business partners, suppliers and potential suppliers.

1.2.5 Where this happens, departments do, however, need to realistically consider the implications and any action that may need to be taken.

1.2.6 Depending upon the circumstances, this may involve the SLT / Principal considering one or more of the following that are not listed in order of importance:

- Re-arranging the work
- Re-arranging the reporting relationship
- Moving one of the partners to another office or establishment
- Voluntary redeployment to another department

1.2.7 Any proposed changes must be based on an objective view of the impact of the relationship on the working arrangements. The assessment should consider the factors contained within paragraph above.

1.2.8 In all cases it is necessary for the Principal to consult fully with the parties involved and seek to reach agreement. The affected individuals will have the right to be represented by their trade union or workplace colleague. Care must be taken to ensure that any change made is not contrary to the provisions of the employee's contract of employment.

### **3. AUTHORISATION / DOCUMENTATION / PROCESSES**

3.1 Both at the time of recruitment/appointment and subsequently, the Principal would normally authorise documentation related to salary, expenses, promotion arrangements, etc. However, in the exceptional circumstances of the Principal's relationship existing with a relative, partner or close friend, alternative arrangements must be made, for example the CEO should deal with such matters.

3.2 In any event, the following rules must always apply:

- It is not permissible for the relative, partner or close friend of an employee to be involved in drawing up any contractual documentation concerning the employment contract and other forms of contract such as the appointment of contractors.
- Employees should not be involved in decisions relating to discipline, complaints through the Respect at Work Policy, promotion, appraisal, financial claim (e.g. travel, subsistence and over time) or pay adjustments for any employee who is a relative, partner or close friend.

- Employees should not allow the impression to be created that an employment decision may have been taken for an improper reason. It is not sufficient that the employment decision was properly taken; the possible appearance of bias must be avoided.

#### **4. GENERAL**

Attention is drawn to the Code of Conduct for Employees, an employee has an obligation to declare any private interest where there is a possibility that it could conflict with their duty as an employee of SALT. Such interests should be declared by the employee to their Head of Department / SLT link member.