



Olive Academies

## Conflict of Interest Policy

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## **1. Introduction**

Under the Companies Act, OA members and trustees have a legal obligation to act in the best interests of OA and in accordance with OA's Articles of Association, avoiding situations where there may be a potential conflict of interest. This also applies to academy advisory board members and senior employees.

A conflict of interest is any situation in which a trustee's personal interests, or interests that they owe to another body, may (or may appear to) influence or affect the trustee's decision making.

It is inevitable that conflicts of interest occur. The issue is not the integrity of the individual concerned, but the management of any potential to profit from a person's position within OA, or for an individual to be influenced by conflicting loyalties.

Such conflicts may create problems; they can:

- discourage free discussion;
- result in decisions or actions that are not in the interests of OA; and
- risk the impression that OA has acted improperly.

The aim of this policy is to protect both OA and the individuals involved from any appearance of impropriety and ensure trustees and senior employees act in compliance with the law.

## **2. The declaration of interests**

We ask members, trustees, AAB members and senior employees including accounting officers, headteachers and those who are able to influence financial decisions, e.g. budget holders, to declare their interests, and any gifts or hospitality received in connection with their role in OA. A declaration of interest form is provided for this purpose.

The declaration of interests needs to be updated at least annually and also when any changes occur. This includes:

- directorships, partnerships and employments with businesses
- trusteeships and governorships at other educational institutions and charities, and
- any material interests arising from close family relationships between the trustees, and relationships between trustees and employees

The clerk to the trustees will use the information provided by the trustees to maintain a register of interests. The register will be accessible to all trustees.

## **3. Publishing information relating to trustees' interests**

In accordance with the Academies Financial Handbook, OA will publish relevant business and pecuniary interests of members, trustees, academy advisory board members, and accounting officers. An interest will be considered 'relevant' in circumstances where it might give rise to a potential conflict of interest.

#### **4. Data Protection**

The information provided will be processed in accordance with data protection principles as set out in the Data Protection Act and the General Data Protection Regulations. Data will be processed only to ensure that trustees act in the best interests of OA. The information provided will not be used for any other purpose.

#### **5. Authority provided by the constitution**

OA's constitution allows for trustees and their connected persons to provide the trust with goods and services provided that the majority of the trustees do not benefit in this way and they comply with the following:

- The amount (or maximum amount) of payment is set out in a written agreement between OA and the relevant party and does not exceed what is reasonable; and
- The unconflicted trustees are satisfied that the arrangement and its terms are in the best interests of OA.

#### **6. Managing a conflict of interest**

##### **Notifications**

Where there is a long term conflict, such as where a trustee owes a duty of loyalty to another organisation, this should be discussed with the chair and other trustees. If the unconflicted trustees consider it in the best interests of OA for that trustee to continue as a trustee, they may authorise the conflict of interest in the circumstances, provided the requirements in the constitution (above) and the board procedures set out below are followed.

In any other case, on or before the start of all meetings, you should declare immediately if there is an item on the agenda where they may be a conflict of interest. If you fail to declare an interest that is known to the chair, they may declare it on your behalf.

If you are unsure whether a conflict exists, you should err on the side of caution and discuss this with the chair or other trustees.

##### **Board procedures**

In accordance with the constitution, the conflicted trustee:

- must be absent from the part of the meeting at which the arrangement/transaction is discussed; and
- must not vote on such matter or be counted as part of the quorum for the meeting where any vote takes place.

##### **Disclosure in accounts**

Any income or benefits a trustee receives from OA in the course of an accounting year must be disclosed. Where a member of OA's staff is connected to a party involved in the supply of a service or product to the charity, this information will also be fully disclosed in the annual report and accounts.

##### **Recording disclosure of interest**

All decisions, including the declared conflict and the outcome should be reported in the minutes of the board. The report will record:

- the nature and extent of the conflict;
- an outline of the discussion;
- the actions taken to manage the conflict.

## 7. Benefits and related party transactions

### What is a 'benefit'?

A "benefit" includes any property, goods or services which may have a monetary value, as well as money. This will include payments to a trustee for providing goods or services to OA on normal commercial terms. A trustee who may derive any personal benefit of this kind from a transaction with OA will have a conflict between their duty to OA and their own personal interest in the benefit. It is the potential benefit (rather than any actual benefit) which gives rise to this conflict of interest.

Payments which are made from subsidiary companies to trustees (or persons connected to trustees as set out below) will also be caught by the restriction.

Payments in respect of expenses are not classified as 'benefits'.

### Connected persons

The restriction on the receipt of trustee benefits also extends to persons or bodies which are connected to the trustee. A trustee can be put in a position of conflict where OA enters into a transaction or arrangement with a member of their family or a business in which they are a shareholder or partner or anyone else who is "connected" to them. Any benefit to the connected person is a benefit to the trustee. The definition of a connected person for these purposes is as follows:

- (a) any child, stepchild, parent, grandchild, grandparent, brother, sister or spouse of the Trustee or any person living with the trustee as his or her partner;
- (b) a firm or company in which the trustee is: a partner, an employee, a consultant, a director, a member or a shareholder (unless the payment is to any company which has shares listed on a recognised stock exchange and in which a trustee owns no more than 1% of the issued shares);
- (c) a firm or company in which an individual listed in (a) above is connected in the ways set out in (b).

### Specific trustee benefits

In addition, trustees may also receive the following "specific" benefits (i.e. benefits made available to individual trustees) in accordance with an authority under OA's articles:

- payments made to any trustee in their capacity as a beneficiary of OA;
- payments received under a contract of employment;
- reasonable and proper remuneration for goods or services supplied to OA, other than for acting as a trustee;
- interest on money lent to OA by a trustee at a reasonable and proper rate not exceeding 2% per annum below the base rate of a clearing bank to be selected by the trustees, or 0.5%, whichever is the higher; and

- rent on property leased to OA by a trustee if the amount of the rent and the other terms of the lease are reasonable and proper rate.

These benefits however will only be authorised if the conflict management procedure is complied with. Where a conflict is authorised, the trustee will not be in breach of his or her duty to avoid it, but the conflict must be managed.

Please note that a trustee cannot receive payment for acting as a trustee unless this is specifically authorised by the Charity Commission (see DfE Governance Handbook, January 2019)

### **Buying services from trustees/ members/ connected persons**

When buying services from trustees (or persons or bodies connected to trustees) or Members, in addition to ensure the proper conflict management procedures have been undertaken and agreed, OA will need to ensure that the contract had been properly procured; and the terms of the academies financial handbook relating to the 'at cost' principle have been complied with - i.e. that the contract is not 'for profit' (see section 5.34-5.43 on related party transactions in the Academies Financial Handbook for further details) - [www.gov.uk/government/publications/academies-financial-handbook](http://www.gov.uk/government/publications/academies-financial-handbook). As outlined in the AFH, all related party transactions need to be reported to the ESFA through their online form prior to the start of the contract and related party transactions over £20k in one year need prior approval from the ESFA.

### **8. Further reading**

Further guidance on the management of conflict of interests can be found here:

[www.gov.uk/government/publications/conflicts-of-interest-a-guide-for-charity-trustees-cc29](http://www.gov.uk/government/publications/conflicts-of-interest-a-guide-for-charity-trustees-cc29)

Further guidance on the matter of trustee benefits can be found here:

[www.gov.uk/government/publications/trustee-expenses-and-payments-cc11](http://www.gov.uk/government/publications/trustee-expenses-and-payments-cc11)