

THE HARLINGTON AND SUNDON ACADEMY TRUST



HARLINGTON LOWER AND SUNDON LOWER SCHOOL CONFLICTS OF INTEREST POLICY

Approved by Board of Trustees: September 2023
Next review: September 2024

1. Purpose of the policy

1.1 This policy sets out the framework for ensuring that all decisions and decision-making processes of The Harlington and Sundon Academy Trust (HASAT) are, and are seen to be, free from personal bias and do not unfairly favour any individual, company or other organisation connected with HASAT. Trustees have an obligation to act in the best interests of HASAT and its constituent schools and, in accordance with HASAT's Articles of Association, to avoid situations where there may be a potential conflict of interest. Situations may arise where family interests or loyalties conflict with those of the HASAT. These can inhibit free discussions, result in decisions or actions that are not in the best interest of HASAT, and give rise to the perception that the HASAT has acted wrongly.

1.2 HASAT is therefore committed to ensuring:

- that every trustee understands what constitutes a conflict of interest, and their responsibility to identify and declare any conflicts that might arise; and
- that the conflict and the actions taken are recorded to ensure that the conflict does not affect decision-making at any level within the governance of HASAT.

2. Legal and operational framework

2.1 This policy is framed by the following legislation and statutory guidance and HASAT's governing documents:

- Companies Act 2006
- Funding Agreements with the Secretary of State for Education
- Articles of Association
- The current DfE Governance Handbook and ESFA Academy Trust Handbook
- The codes of conduct for trustees and staff members.
- Charity Commission guidance: The Essential Trustee: What you need to know; Conflicts of Interest: A Guide for Charity Trustees

3 Definition

3.1 HASAT has adopted the Charity Commission's definition, which states that a conflict of interest is any situation where the personal interests or loyalties of a trustee could, or could be seen to, prevent the relevant individual from making a decision in the best interests of HASAT.

3.2 For the purposes of this policy, a Connected Party is defined as any individual or organisation connected to a Member, Trustee or Local Governor. For these purposes the following **persons** are connected to a Member, Trustee or Local Governor:

- a relative of the Member, Trustee or Local Governor. 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 Member, Trustee or Local Governor or a relative of the Member, Trustee or Local Governor;
- a company in which a member or the relative of a Member, Trustee or Local Governor (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, Trustee or Local Governor (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.

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

- is controlled by the individual or organization
- controls the organisation; or
- is under common control with the individual or organization

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 regard to the body; or a 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.

4 Identifying conflicts of interest

4.1 HASAT expects individual trustees and members and the Board of Trustees and its committees to be able to identify any potential conflicts of interest at an early stage.

4.2 Individual trustees and members who fail to identify and declare any conflicts of interest are also failing to comply with their personal legal responsibility to avoid conflicts of interest and to act only in the best interests of HASAT and its pupils.

4.3 HASAT must ensure at all times that any conflicts of interest do not prevent it from making decisions that are only in the best interest of HASAT and its pupils.

4.4 All trustees, members and staff members are required to make an annual Declaration of Interests. Any changes during the course of the year must be notified in a new Declaration of Interest, within 28 days of the interest being known. For staff members, the annual declaration should be made within the first month of the academic year, for trustees, the annual declaration should be made at the first trustee meeting of the academic year and revisited at each subsequent meeting to ensure changes are declared. 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 sub- committees or as part of a procurement process.

4.4 HASAT will maintain a register of standing interests, which is kept by the Clerk to the Trustees and published and regularly updated on the constituent schools' websites. 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. If a trustee believes that there is a potential Conflict of Interest which is inappropriate to be shown on the Register for personal reasons, he/she must set out a case to the Chief Executive Officer (CEO) and Chair of Trustees who will decide whether that interest should not be included on the 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

4.5 Trustees should have a standard agenda item at the beginning of each meeting to declare any actual or potential Conflict of Interests which they have in an item to be discussed on the agenda, before the item is discussed. If a trustee is uncertain if they are conflicted then they should declare the issue and discuss it with the other T=trustees. If a trustee is aware of an undeclared Conflict of Interest affecting another trustee they should declare this to the other trustees. Where there is a declared Conflict of Interest the relevant Trustee should withdraw from the meeting, discussion, decision making or voting that takes place concerning that Conflict of Interest or a Connected Party's interest(s).

5 Interests which should be declared

5.1 In accordance with the current DfE Governance Handbook and ESFA Academy Trust Handbook HASAT must record relevant business, pecuniary and governance interests of Members, Trustees and the MAT's Accounting Officer, including:

- (i) Any proprietary, shareholding, directorship, partnership, management, membership or employment involvement in businesses or organisations that provide goods, services or funds to HASAT or any of its constituent schools;
- (ii) Proprietary and governance roles at other educational institutions (irrespective of location or whether these have any trading or business relationship with HASAT or its constituent schools); and
- (iii) For each interest: the name of the organisation, the nature of the interest and the date when the interest began.

5.2 In accordance with the current Governance Handbook and Academy Trust Handbook HASAT must also identify any material interest arising from close family relationships between Trustees and HASAT employees. Close family relationship is defined as arising from: a close member or 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.

5.3 Under the Companies Act 2006: Where there has been a declaration of a conflict of interest that does not involve a proposed financial transaction between a Trustee and HASAT, s.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;

and s.177(6) provides that a director need not declare an interest —

(a) if it cannot reasonably be regarded as likely to give rise to a conflict of interest;

(b) if, or to the extent that, the other directors are already aware of it (and for this purpose the other directors are treated as aware of anything of which they ought reasonably to be aware); or

(c) if, or to the extent that, it concerns terms of his service contract that have been or are to be considered —

(i) by a meeting of the directors, or (ii) by a committee of the directors appointed for the purpose under the company's constitution.

6. Transactions with Related Parties

6.1 Where an interest arises from the provision of goods or services to HASAT, the requirements set out in Part 5 of the Academy Trust Handbook will determine how these matters are managed.

7. Personal Relationships and Family Members

7.1 Trustees and members should declare if they are related to or have a partner who is a member of staff or another trustee or member.

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

7.3 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 within the Trust or its constituent schools.

8. Benefits to Trustees

8.1 Trustees may only benefit from HASAT where there is an explicit authority in place in the HASAT's governing document before any decision is made that confers such a benefit.

8.2 Such benefits include any payments or benefits to them or a connected person, apart from their reasonable out of pocket expenses. Such benefits also include situations where they could receive property, loans, goods or services from HASAT.

8.3 Where there is a proposed sale or lease of HASAT land to a Trustee, or to a person or company closely connected to them, under HASAT's Funding Agreement this requires authorisation by the Secretary of State for Education even if the disposal is at full market value.

8.4 The payment of reasonable expenses to members and trustees is not a benefit, so it does not create a conflict of interest.

9. Decision Making

9.1 Where there is a Conflict of Interest, for example a proposed transaction between a trustee or Connected Party, and the Trust, the applicable trustee must absent themselves from the decision making process.

9.2 However, there will be a presumption against recommending any proposed transaction with a Trustee or Connected Party.

9.3 Recommendations to enter the transaction would be made to the Trust Board by the Chief Executive in only two circumstances: -

- I. if the arrangements not to enter the transaction would contravene Public Contracts Regulations or EU Procurement law;
- II. in the unlikely event that the goods and/or service are so unique that they cannot be secured from another source and there is no other solution that offers the same value for money.

9.4 In the case of an Advisory Council member, or their Connected Party, the Trust may enter a transaction under the following circumstances:

- the Local Governor is in no way connected to the procurement process;
- there is no other conflict or impact, for example negative external perception arising from entering into the transaction, and the transaction is likely to achieve broad public support;
- for planned annual spend of greater than £25k, the use of the supplier has approval from the Audit Committee

9.5 In the event of a decision being made to award a contract to a Trustee or Connected Party, the Trust can only enter the contract if it has been properly procured in a fair and open process and if the Trustee, or Connected Party, can provide: -

- a statement of assurance from that individual or organisation to the Trust confirming that their charges do not exceed the cost of the goods or services; and
- 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. 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). Full cost must not include an element of profit.

9.6 In the event of the above requirements being met in full, before a decision to enter a transaction with a member or trust or Connected Party is made, the Trust Board must consider whether the transaction could be seen to be 'Novel or Contentious'. If so, it must be referred to the ESFA for its explicit prior approval.

10. Failure to Follow this Policy

10.1 Members and trustees 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 and trustees and Local Governors may also subject to external sanction, including being barred from undertaking the role of a company director or trustee and, in exceptional cases, being subject to criminal prosecution.

10.2 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 FNtl can, in exceptional circumstances, also result in the termination of our funding agreement(s).

10.3 If Members and Trustees believe any of their number are undertaking activity that leads to personal gain, they should report their concerns under HASAT's Whistle Blowing Procedure.



We support children in becoming well rounded individuals where they naturally demonstrate the values of the school in all aspects of their lives.