



## BORDESLEY MULTI ACADEMY TRUST

### **CONFLICT OF INTEREST POLICY**

**Adopted on 22/09/2020**

*Document control*

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BORDESLEY MULTI ACEDMY TRUST

## CONFLICT OF INTEREST POLICY

### 1 Introduction

- 1.1 This policy sets out the framework for ensuring that the decisions and decision-making process at Bordesley Multi Academy Trust (BMAT) are, and are seen to be, free from personal bias and do not unfairly favour any individual or company connected to the Trust.
- 1.2 Members, Trustees, Governors and Senior Employees of the Trust have an obligation to act in the best interests of the Trust and in accordance with its Articles of Association in order to avoid situations where there may be a conflict of interest.
- 1.3 Situations may arise where family interests or loyalties conflict with those of the Trust. They may create problems as they can inhibit free discussions, result in decisions or actions that are not in the interests of the Trust and risk the impressions that the Trust has acted improperly.
- 1.4 The aim of this Policy is to ensure that:
  - i) Every member, Trustee, Governor and Senior Employee understands what constitutes a conflict of interest and that they have a responsibility to identify and declare any conflicts that might arise
  - ii) Every potential conflict of interest is identified, prevented and recorded, ensuring that the conflict does not affect the decision-making of the Trust

### 2 Definition

- 2.1 For the purpose of this document:
  - i) Members, Trustees and Governors are referred to as Trustees
  - ii) Bordesley Multi Academy Trust is referred to as the Trust
  - iii) Learners refers to all EYFS, pupil and students being educated at any of the schools within BMAT

### 3 Legal 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 ESFA Academies Financial Handbook
  - The BMAT Articles of Association

### 4 What is a Conflict of Interest?

- 4.1 The Trust adopts the definition of the Charity Commission which states that a Conflict of Interest is any situation where a Trustee or Senior Employee's personal interests or loyalties could, or could

be seen, to prevent the Trustee or Senior Employee from making a decision in the best interests of the Trust.

4.2 Conflicts of interest usually arise in the following situations:

a **Benefits to Trustees/Senior Employees** - There is a potential financial or measurable benefit directly to a Trustee or Senior Employee, or indirectly through a connected person. Examples of benefits are where the Trustees or Senior Employees decide to:

- sell, loan or lease Trust assets to a Trustee or Senior Employee
- acquire, borrow or lease assets from a Trustee for the Trust
- pay a Trustee for carrying out their trustee role
- pay a Trustee for carrying out a separate paid post within the Trust, even if that Trustee has recently resigned as a Trustee
- pay a Trustee, or a person or company closely connected to a Trustee or Senior Employee, for providing a service to the Trust. This covers anything that would be regarded as a service and includes legal, accountancy or consultancy services through to painting or decorating the trust's premises or any other maintenance work
- employ a Trustee's or Senior Employee's spouse, immediate family member and/or interested other at the Trust
- make a grant to a Trustee, or a person who is an immediate family member and/or interested other to a Trustee or Senior Employee
- allow a Trustee or Senior Employee to influence service provision to their exclusive advantage

b **Conflict of Loyalty** – a Trustee's or Senior Employee's duty to the Trust may compete with a duty or loyalty they owe to another organisation or person. A conflict of loyalty could also arise where the religious, political or personal views could interfere with the ability of the Trustee or Senior Employee to decide the issue only in the best interests of the Trust. For example, a Trustee's or Senior Employee's loyalty to the Trust could conflict with his or her loyalty to:

- another organisation, such as their employer
- another charity or trust of which they are a trustee/director
- a member of their family
- another connected person or organisation

The test is always that there is a conflict of interest if the Trustee's or Senior Employee's other interest could, or could be seen to, interfere with the ability to decide the issue only in the best interests of the Trust.

## 5 Identifying the Conflict of Interest

5.1 Trustees and Senior Employees are expected to identify any conflicts of interest at an early stage.

5.2 A standard agenda item must be included at the beginning of each Board of Trustee and Trust Committee Meetings to enable the declaration of any actual or potential conflicts of interest.

- i) If a Trustee is uncertain whether or not s/he is conflicted, s/he should err on the side of openness, declaring the issue and discussing it with the other trustees
- ii) If a Trustee is aware of an undeclared conflict of interest affecting another Trustee, they should notify the other Trustees or the Chair

5.3 If a conflict of interest is identified outside of a meeting, the Trustee or Senior Employee must complete a Conflict of Interest Form and submit it to the Clerk to the Board of Trustees or Local Governing Body (LGB)

- 5.4 On an annual basis, or when a Trustee or Senior Employee joins the Trust, a Register of Interest Form (attached as Appendix A) must be completed to enable the Register of Interests to be kept up to date

## **6 Dealing with the Conflict of Interest**

- 6.1 Trustees must consider the conflict of interest so that any potential effect on decision-making is eliminated

- 6.2 Where available, legal or governing document requirements on how a conflict of interest must be handled should be used, however, in serious cases, it can be decided that removing the conflict of interest itself is the most effective way of preventing it from affecting the decision-making

- 6.3 Examples of important legal or governing document requirements are the Academies Financial Handbook and the Trust's Articles of Association

- 6.4 Serious conflicts of interest include, but are not limited to, those which:

- Are so acute and extensive that the Trustee is unable to make their decisions in the best interest of the Trust, or could be seen to be unable to do so
- Are present in significant or high risk decisions of the Trustees
- 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 Trustee benefit

- 6.5 **Benefits to Trustees/Senior Employees** – where there is a proposed financial transaction between a Trustee/Senior Employee and the Trust, or any transaction or arrangement:

- The benefit must be authorised in advance by the Trust Finance & Site Committee or LGB. If there is no meeting planned within the timeframe of authorisation being required, then the Chair of the Finance & Site Committee or LGB Chair and one other Finance & Site Committee member can be contacted to authorise the benefit. If the person affected is the Chair of the Finance & Site Committee then the Chair of Trustees plus one other Finance & Site Committee member must authorise the benefit. Where the LGB Chair is affected, then the Chair of the Trust and one other Finance & Site Committee member must authorise the benefit
- The Trustees and governing body expect the affected Trustee/Governor to be absent from any part of the meeting where the issue is discussed or decided
- The affected individual should not vote or be counted in deciding whether a meeting is quorate

- 6.6 **Conflicts of Loyalty** – where there is a conflict of loyalty and the affected Trustee does not stand to gain any benefit and there are no specific governing documents or legal provisions about how the conflict of loyalty should be handled, the affected Trustee should declare the interest. The remainder of the Trustees must then decide what level of participation, if any, is acceptable on the part of the conflicted Trustee. The options might include, but are not limited to, deciding whether the conflicted Trustee:

- Having registered and fully declared the interest, can otherwise participate in the decision
- Can stay in the meetings where the decision is discussed and made, but not participate
- Should withdraw from the decision-making process
- If a conflict of interest is raised outside of a meeting and there is no meeting planned within the timeframe of the conflict needing to be reviewed, the Chair of Trustees plus one other Trustee or Chair of Governors, plus one Governor, can be contacted to consider the conflict of interest and determine the resolution. If the person affected is the Chair of Governors then the Chair of the Trustees plus one other Trustee must consider the conflict of interest and determine the resolution. Where the Chair of the Trust is affected then a Member and one other Trustee must consider the conflict of interest and determine the resolution. The resolutions must be recorded on the Conflict of Interest Log

- 6.7 In deciding which course of action to take regarding a Conflict of Interest, Trustees:
- Must always make their decisions only in the best interest of the Trust
  - Should always protect the Trust's reputation and be aware of the impression that their actions and decisions may have on those outside the Trust
  - Should always be able to demonstrate that they have made decisions in the best interest of the Trust and independently of any competing interest
  - Should require the withdrawal of the affected Trustee from any decisions where the Trustee's other interest is relevant to a high risk or controversial Trustee decision or could, or be seen to, significantly affect the Trustee's decision-making at the Trust
  - Can allow the Trustee to participate where the existence of the other interest poses a low risk to the decision making in the Trust's interest, or is likely to have an insignificant bearing on their approach to an issue
  - Should be aware that the presence of a conflicted Trustee can affect trust, could inhibit free discussion and might influence decision making in some way

## **7 Recording the Conflict of Interest**

- 7.1 The Trust must keep a Register of Interests for the Board of Trustees, Senior Employees and for each LGB, which must be published on their websites. This Register of Interest must be kept up to date through regular review. A copy of the Register of Interest Form is attached as Appendix A.
- 7.2 The Academies Financial Handbook covers what must be captured in the Register of Interest and what must be published on the website. This includes:
- Directorships, partnerships and employments with businesses
  - Trusteeships and governorships at other educational institutions and charities
  - For each interest: the name of the business; nature of the business; the nature of the interest; and the date the interest began

The Register must also identify any material interests arising from immediate family and/or other relationships between the academy trust's members, trustees or local governors and relationships between members or trustees and employees.

Trusts should consider carefully whether to include the interests of other individuals in the Register of Interests. This may include other employees of the Trust and immediate family and/or interested others of the individuals already on the register. If in doubt the presumption should be towards including an interest on the register.

Trusts must publish on their websites relevant business and pecuniary interests of Members, Trustees, Governors and Accounting Officers.

- 7.3 A Declaration of Interest Log must be kept by each Board of Trustees and LGB, which details the potential conflicts, the discussions and the resolutions.
- 7.4 The Logs will be monitored by the Chair of Trustees to ensure that actions forming part of the resolution are appropriate, are following legal requirements and have been implemented correctly.

## **8 Confidentiality**

- 8.1 Trustees and Senior Employees cannot use information obtained from the Trust for their own benefit or that of another organisation if it has been obtained in confidence or has special value such as commercial sensitivity.

## **9 Monitoring and Enforcement**

- 9.1 The Trust's Finance & Site Committee will undertake continuous monitoring of its activities and the Trustees/Senior Employees to ensure that any conflicts of interest are identified and mitigated as soon as possible
- 9.2 Trustees and Senior Employees who fail to declare an interest and are found to be in conflict with the best interests of the Trust will be expected to explain to the Chair of Trustees their reasons for their omission
- 9.3 Members reserve the right to terminate the membership of the relevant Trustee, if they are found to have knowingly and deliberately failed to declare an interest and have brought the Trust into disrepute
- 9.4 It will be treated as a serious disciplinary matter if a Senior Employee is found to have knowingly and deliberately failed to declare an interest and brought the Trust into disrepute

## **10 Policy Circulation**

- 10.1 This Policy will be published on the Trust's website and included in the Trust's policy review cycle
- 10.2 The Trustees are responsible for overseeing, reviewing and organising the revision of the Conflict of Interest Policy



BORDESLEY MULTI ACADEMY TRUST

### Declaration of pecuniary and personal interest

**Name:** .....

**School:** BORDESLEY MAT - .....

**Position:** Member/Trustee/Local Governor .....

I, ..... (name), declare as a Member/Trustee/Local Governor of Bordesley MAT - ..... School that I hold the following personal and/or pecuniary interest(s):

Pecuniary interests	Please provide details of the interest
Current employment	
Businesses (of which I am a partner or sole proprietor)	
Company directorships – details of all companies of which I am a director	
Charity trusteeships – details of all companies of which I am a trustee	
Membership of professional bodies, membership organisations, public bodies or special interest groups of which I am a member and have a position of general control or management	
Gifts or hospitality offered to you by external bodies while acting in your position as a member and whether this was declined or accepted in the last 12 months	
Contracts offered by you for the supply of goods and/or services to the school	
Any other conflict	

Personal interests	Name	Relationship to me	Organisation	Nature of the interest
Immediate family/close connections to member				
Company directorships or trusteeships of family/close connections to member				

**If you are a member, governor or trustee of any other schools and/or academies, please provide details below:**

**Name of school/academy:** \_\_\_\_\_

**Position held:** \_\_\_\_\_

**Date appointed/elected to post:** \_\_\_\_\_

**Date of termination to post:** \_\_\_\_\_

To the best of my knowledge the information supplied above is correct and complete. I understand that it is my responsibility to declare any conflict of interest/loyalty, business or personal that relates directly or indirectly, to myself or any relation in any contract, proposed contract or other matter when present at a meeting at the school where such contract or matter comes under consideration. I understand that I must withdraw from any meeting during the discussion of such contract or matter and must not vote in respect of it.

I agree to review and update this declaration annually and give consent for the information provided to be used in accordance with the appropriate policy.

**Signed:** .....

**Date:** .....

## Guidance notes

Governors and trustees have a legal duty to act only in the best interests of their schools. Where a situation arises in which they cannot do this due to a personal interest they have, steps should be taken to identify, prevent and record the conflict. This ensures governors or trustees are acting in the best interests of the school.

In the declaration above, you must provide details relating to:

- Your ownership or partnership of a company or organisation which may be used by the trust/school to provide goods or services;
- Goods or services you offer which may be used by the trust/school;
- Any close relation you have to someone who satisfies either of the above;
- Any close relationship you have to someone who is employed by the trust/school.

Declaring your conflicts of interest is a legal requirement within the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013 and for academies, in the Articles of Association and Academies Financial Handbook. However, making an annual declaration does not remove your requirement to make an oral disclosure of the interest and temporarily leave the meeting, where the interest is relevant to something being discussed.

## Pecuniary interests

Generally, governors should not participate in any discussions in which they may directly or indirectly benefit from a pecuniary interest, except where the relevant authority has authorised this i.e. legislation for maintained schools or articles of association for academies. A direct benefit refers to any personal financial benefit and an indirect benefit refers to any financial benefit you may have by virtue of a relationship to someone who stands to gain from a decision of the governing board. Both direct and indirect interests must be declared.

## Non-pecuniary interests (Conflicts of loyalty)

There may be a non-pecuniary interest whereby the governor does not stand to gain any benefit but a declaration should still be made. For example, this might be where a governor has a family member working in the school. While the governor might not benefit personally, their judgment could be impaired if something was brought up that would affect the family member.

## Handling the conflict

The governing board must make a decision as to whether or not they should take steps to remove the conflict by:

- Not pursuing the course of action it relates to; or
- Proceeding with it in an alternative way which does not give rise to conflict; or
- Not appointing the governor in question or seeking to secure their resignation.

In the minutes of the meeting, the following should be recorded:

- The nature of the conflict;
- Which governor(s) it relates to;
- Whether a declaration was made in advance of the meeting;
- A brief overview of what was discussed;
- Whether the governor(s) withdrew from the meeting;
- How the governors made the decision in the best interests of the school.

The School and Early Years Finance (England) Regulations 2013 provide for local authority financing schemes to keep a register of pecuniary interests for the trustees, governors and staff of schools. The register should be reviewed annually by the clerk to the governing body but any new interest or ceased interest, should be reported to the clerk as and when they occur. Upon completion, this signed form should be given to the clerk of governors whose responsibility it is to keep a register of all interests and review it annually. You can find NGA's model conflict register on the [NGA's website](#).

The Charity Commission has produced [guidance on dealing with conflicts of interests](#) which may be useful, even for schools that do not have charitable status.