

Palladian Academy Trust Conflicts of Interest Policy & Connected Parties Trading

Date of last review:	July 2020	Review period:	1 years
Date of next review:	July 2021	Governance Lead:	Audit and Risk Committee

Contents:

Statement of intent

1. Legal framework
2. Definition
3. Identifying conflicts of interest
4. Articles of Association
5. Interests which should be declared
6. Governor / Trustee benefits
7. Register of interests & Publication
8. Declaring interests
9. Removing conflicts of interest
10. Withdrawing from decision-making
11. Records of proceedings
12. Confidentiality
13. Monitoring and enforcement
14. Policy circulation
15. Appendix A: Annual Conflicts of Interest Policy and Code of Conduct
Acknowledgement Statement and Business Interest Declaration Form (proposed that this is electronic)

Statement of Intent

This policy sets out the framework for ensuring that the decisions and decision-making processes at Palladian Academy Trust are, and are seen to be, free from personal bias and do not unfairly favour any individual or company connected with the Trust or constituent academies.

Trust Board and committee members, including school governing bodies, are the people responsible under the multi academy trust's articles of association for controlling its management and administration. They have the responsibility for directing its affairs, and for ensuring that it is solvent, well-run, and delivering the trust's charitable outcome for the benefit of the public.

The board of trustees have statutory duties as company directors as set out in the Companies Act 2006. These comprise the duties to:

- Act within their powers;
- Promote the success of the company;
- Exercise independent judgement;
- Exercise reasonable care, skill and diligence;
- Avoid conflicts of interest;
- Not to accept benefits from third parties' and
- Declare interest in proposed transactions or arrangements

These duties are especially relevant when entering into transactions with connected parties. Situations may arise where family or business 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 impression that the Trust has acted improperly. We expect all trustees, governors and key decision making staff to follow this protocol.

Palladian Academy Trust therefore intends to:

- Ensure that every trustee and governor understands what constitutes a potential business interest and a potential conflict of interest and that they have a responsibility to identify and declare any interests and conflicts that might arise for themselves or close family members.
- Record the disclosure of potential interests or conflicts and the actions taken to ensure that the conflict does not affect the decision-making of Palladian Academy Trust.
- Maintain and publish business interests and conflicts as required information in line with statutory duties

1. Legal framework

This policy takes its legal framework from the following legislation and statutory guidance:

- Companies Act 2006.
- Conflicts of Interest: A Guide for Charity Trustees.

This policy must be read in conjunction with the following:

- Academies Financial Handbook 2019 (in particular sections 5.34-5.58)
- Palladian Academy Trust Code of Conduct Policy

2. Definition

Palladian Academy Trust adopts the definition of the Charity Commission, which states that a conflict of interest is any situation where a governors' personal interests or loyalties could, or could be seen, to prevent the trustee or governor from making a decision in the best interests of the Trust. Related parties are as detailed in the Academies Financial Handbook 2019 section 5.34.

3. Identifying conflicts of interest

Palladian Academy Trust expects individual trustees and the Board, governors and Governing Bodies to be able to identify any conflicts of interest at an early stage. Individual governors / trustees who fail to identify and declare any conflicts of interest will also fail to comply with their personal legal responsibility to avoid conflicts of interest and act only in the best interest of the Trust and its students.

The Trust Board must ensure that any conflicts of interest do not prevent them from making a decision only in the best interests of the Trust and its students.

4. Articles of Association & Academies Financial Handbook 2019

The Trust's Articles of Association (para 97) state:

Any 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 Trustee shall disclose that fact to the Trustees as soon as he becomes aware of it. A Trustee must absent himself from any discussions of the Trustees in which it is possible that a conflict will arise between his duty to act solely in the interests of the Company and any duty or personal interest (including but not limited to any Personal Financial Interest).

The Academies Financial Handbook 2019 (paras 5.35.-5.37) states:

5.35 *Academy trusts **must** be even-handed in their relationships with related parties by ensuring that:*

- trustees comply with their statutory duties as company directors to avoid conflicts of interest, not accept benefits from third parties, and declare interest in proposed transactions or arrangements
- all members, trustees, local governors of academies within a MAT and senior employees complete the register of interests, in accordance with sections 5.44 to 5.47 of this handbook
- no member, trustee, local governor, employee or related individual or organisation uses their connection to the trust for personal gain, including payment under terms that are preferential to those that would be offered to an individual or organisation with no connection to the trust
- there are no payments to trustees by the trust unless permitted by the articles, or by authority from the [Charity Commission](#), and comply with any relevant agreement with the Secretary of State. Trusts will need to consider these obligations where payments are made to other business entities who employ the trustee, are owned by the trustee, or in which the trustee holds a controlling interest
- the [Charity Commission's](#) approval is obtained where the trust believes a significant advantage exists in paying a trustee for acting as a trustee
- payments provided to the persons referred to in section 5.48 satisfy the 'at cost' requirements in this handbook

5.36 The trust should be aware of the Charity Commission's guidance for trustees [CC11: Trustee expenses and payments](#).

5.37 The board of trustees **must** ensure requirements for managing related party transactions are applied across the trust. The board chair and the accounting officer **must** ensure their capacity to control and influence does not conflict with these requirements. They **must** manage personal relationships with related parties to avoid both real and perceived conflicts of interest, promoting integrity and openness in accordance with [The 7 principles of public life](#).

5.38 Trusts **must** recognise that some relationships with related parties may attract greater public scrutiny, such as:

- transactions with individuals in a position of control and influence, including the board chair and accounting officer
- payments to organisations with a profit motive, as opposed to those in the public or voluntary sectors
- relationships with external auditors beyond their duty to deliver a statutory audit

5.39 The trust **must** 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.

5. **Interests which should be declared**

The academy trust's register of interests **must** capture relevant business and pecuniary interests of members, trustees, local governors of academies within a MAT and senior employees, including:

- directorships, partnerships and employments with businesses
- trusteeships and governorships at other educational institutions and charities
- for each interest: the name and nature of the business, the nature of the interest and the date the interest began

The register **must** identify relevant material interests from close family relationships between the academy trust's members, trustees or local governors. It **must** also identify relevant material interests arising from close family relationships between those individuals and employees. Close family relationships are defined in the Academies Financial Handbook as follows: 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 (AFH 5.48).

This information will be stored and used by trustees to inform and identify potential areas of conflict to ensure and evidence that transactions with connected parties and trustees and governors have been conducting in accordance with the high standards of accountability and transparency required within the public sector.

6. **Trustee and governor benefits & trading with connected parties**

Trustees and governor benefits include any payments or benefits to governors or a connected person, apart from their reasonable out of pocket expenses. They also cover situations where a trustee or governor could receive property, loans, goods or services from the Trust.

Where there is a proposed sale or lease of Trust land to a trustee or governor, or to a person or company closely connected with a governor, this will need to be authorised by the EFSA, even if the disposal is at full market value.

The payment of reasonable expenses to trustees and governors is not a benefit, so it does not create a conflict of interest or require authorisation.

Subject to sections 5.53 to 5.56 of the Academies Financial Handbook 2019 a trust must pay no more than 'cost' for goods or services provided to it by the following persons ('services' do not include contracts of employment):

- members or trustees of the academy trust
- individuals or organisations 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 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 can 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

The Trust will ensure any agreement with an individual or organisation referred to in the above section (AFH 5.48) 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

Reporting and approval of related party transactions

The Palladian Academy Trust will report all contracts and other agreements with related parties to ESFA in advance of the contract or agreement commencing, using ESFA's related party on-line form. This requirement applies to all such contracts and agreements made on or after 1 April 2019.

The Trust must obtain ESFA's prior approval, using ESFA's related party on-line form, for contracts and other agreements 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 or other agreement exceeding £20,000
- a contract or other agreement of any value that would mean the cumulative value of contracts and other agreements with the related party exceeds, or continues to exceed, £20,000 in the same financial year ending 31 August

7. Register of interests & Publication

The Trust will publish on their websites relevant business and pecuniary interests of members, trustees, local governors and accounting officers. It has discretion over the publication of interests of other individuals named on the register.

Trustees and governors should keep an updated record of any conflicts of interest in the Trust's register of interests, which is maintained by COO and Clerk to the Board. This will be published as part of the statutory financial requirements.

8. Declaring interests

Trustees and governors should have a standard agenda item at the beginning of each meeting of the Trust board and all Committees to declare any actual or potential conflicts of interest.

A trustee or governor should declare any interest which he / she has in an item to be discussed, at the earliest possible opportunity and before any discussion of the item itself.

If a trustee or governor is uncertain whether or not he / she is conflicted, he / she should declare the issue and discuss it with the other trustees or governors.

If a trustee or governor is aware of an undeclared conflict of interest affecting another governor, then he / she should notify the other governors / trustees or the Chair.

9. Removing conflicts of interest

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

Trustees and governors must follow any legal or governing document requirements on how a conflict of interest must be handled, but may, in serious cases, decide that removing the conflict of interest itself is the most effective way of preventing it from affecting their decision- making. Serious conflicts of interest include, but are not limited to, those which:

1. Are so acute and extensive that the trustees or governors are unable to make their decisions in the best interest of the Trust and its students, or could be seen to be unable to do so.
2. Are present in significant or high risk decisions of the trustees or governors.
3. Mean that effective decision-making is regularly undermined or cannot be managed

- in accordance with the required or best practice approach.
4. Are associated with inappropriate trustee or governor benefit.

10. **Withdrawing from decision-making**

Where there is a proposed financial transaction between a trustee or governor and the Trust, or any transaction of arrangement involving trustee or governor benefit:

1. There must be careful consideration that agreements fully comply with the 'at cost' requirement of the financial handbook and confirm that 'at full cost' includes no element of profit. The activity must be authorised in advance by the Finance and Resources Committee. If there is no Finance and Resources Committee meeting planned within the time frame of authorisation being required, then the Chair of the this Committee and Chair of the Audit and Risk Committee can be contacted to authorise the benefit. If the person affected is the Chair of the Finance and Resources Committee then the Chair of the Board plus the audit lead must authorise the benefit.
2. The Board and Governing Body expects the affected trustee or governor to be absent from any part of any meeting where the issue is discussed or decided.
3. The affected individual should not vote or be counted in deciding whether a meeting is quorate.

Where there is a conflict of loyalty and the affected governor does not stand to gain any benefit and there are no specific governing document or legal provisions about how the conflict of loyalty should be handled, the affected trustee or governor should declare the interest.

The remainder of the Board or Governing Body must then decide what level of participation, if any, is acceptable on the part of the conflicted trustee or governor. The options might include, but are not limited to, deciding whether the conflicted trustee or governor:

1. Having registered and fully declared the interest, can otherwise participate in the decision.
2. Can stay in the meetings where the decision is discussed and made, but not participate.
3. Should withdraw from the decision-making process in the way described above.

In deciding which course of action to take regarding a conflict of interest, trustees and governors:

1. Must always make their decisions only in the best interest of the Trust and its students.
2. 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.
3. Should always be able to demonstrate that they have made decisions in the best interests of the Trust and its students, and independently of any competing interest.

4. Should require the withdrawal of the affected individual from any decisions where that individual's other interest is relevant to a high risk or controversial governance decision or could, or be seen to, significantly affect the trustee's or governor's decision-making at the Trust.
5. Can allow a trustee or governor to participate where the existence of his / her other interest poses a low risk to decision-making in the Academy's interest, or is likely to have only an insignificant bearing on his / her approach to an issue.
6. Should be aware that the presence of a conflicted trustee or governor can affect trust between individuals, could inhibit free discussion, and might influence decision-making in some way.

Trustees and governors can, before their discussion, ask an individual who is withdrawing, to provide any information necessary to help make the decision in the best interests of the Trust and its students.

11. Records of proceedings

Trustees and governors should record in the minutes, details of any and all discussions on potential conflicts of interests and the decisions made. These will be made available in published minutes.

12. Confidentiality

Governors cannot use information obtained at 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.

13. Monitoring and enforcement

The Trust Board of Palladian Academy Trust will carry out continuous monitoring of its activities and members to ensure that any conflicts of interest are identified and mitigated as soon as possible.

Trustees or Governors who fail to declare an interest and are found to be in conflict with the best interests of the Academy will be expected to explain to the Trust Board his / her reasons for their omission.

Members may decide to terminate the membership of the relevant governor from the Board or Governing Body, if he / she is found to have knowingly and deliberately failed to declare an interest and has brought the Trust into disrepute.

14. Policy circulation

This policy will be circulated to every governor and member of a committee, who shall annually sign a statement which affirms that he / she has:

- Read and understood the policy.

- Agreed to comply with the policy

This policy will be included in the publication scheme on the Trust's website and will be made available to the public.

15. Link to electronic Declaration of Interests form.

<https://forms.office.com/Pages/ResponsePage.aspx?id=6pY2N158BUOriXviuEAEeNVN-TElgHxPgVxFrYIqyLFUMIJCSkVVTzBMWEtKUUg5WUo3MENJMDA0Wi4u>

