



**TRUST IN LEARNING (ACADEMIES)**  
**CONFLICT OF INTEREST POLICY 2017-18**

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Date	Page	Change	Purpose of Change
11.09.16	4-5	Add Related Party definitions	Add missing information
11.09.16	All	Update for 2016 Academies Financial Handbook/Academies Accounts Direction	Update
18.09.17	Various	Change EFA to ESFA	Name change
18.09.17	9	Change Education Funding Agency to Education and Skills Funding Agency	Name change

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## 1. Policy Statement

This policy sets out the detailed process that needs to be followed by Trust in Learning (Academies) (TiLA), its staff, Members, Directors and Local Governing Body members to avoid any potential conflict of interest.

TiLA is committed to undertaking, and being seen to undertake, all of its activities to the highest possible standards of propriety and integrity expected of a public body. The Trust, its staff, Members, Directors and Local Governing Body members will act fairly, honestly and with integrity in all aspects of what they do. TiLA's staff, Members, Directors and Local Governing Body members must uphold the highest standards of public conduct and, at all times, act in the interests of the Trust. TiLA, its staff, Members, Directors and Local Governing Body members are specifically expected to apply the Seven Principles of Public Life established by the Nolan Committee:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

Conflicts of interest (whether real or perceived) cannot always be eliminated but they need to be identified so that they can be avoided or managed appropriately in accordance with this policy.

## 2. Application of the Policy

This policy applies to all Members, Directors and Local Governing Body members and sets out the minimum requirements that must be met. On any occasions where Members, Directors or Local Governing Body members are concerned that a particular circumstance or event, whilst complying with this policy, may still lead to a potential or actual conflict of interest (whether real or perceived), they should consult with the TiLA's Company Secretary to seek further advice.

Staff should refer to Trust employee policies.

## 3. Conflicts of Interest

A conflict of interest exists where a Member, Director or Local Governing Body member's personal interests or loyalties could, or could be seen to prevent them making a decision which is in the best interest of TiLA. A conflict of interest will occur when there is a divergence between an individual's private interests or loyalties (or those of any connected parties) and the interests of TiLA and its academies such that an independent observer might reasonably question whether the individual's actions or decisions are determined by considerations of personal gain, whether financial or otherwise.

A conflict of interest is a set of circumstances that creates a risk that an individual's ability to discharge their duty to act in the best interests of TiLA is compromised because their judgement could be impaired or influenced by a secondary interest.

Conflicts might occur due to the possibility of individuals or connected parties having:-

- direct or indirect financial interests;
- non-financial or personal interests;
- conflicts of loyalty where decision makers may have competing loyalties between TiLA and the other person or entity

#### 4. Declaration of Interests

This policy sets out the requirements which Members, Directors and Local Governing Body members must comply with in respect to making appropriate Declaration of Interests where those interests could potentially conflict with the interests of TiLA or its academies. Members, Directors and Local Governing Body members have a duty to make a Declaration of Interest in accordance with this policy.

All Members, Directors and Local Governing Body 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 Members the annual declaration should be completed at TiLA's annual general meeting (AGM). For Directors and Local Governing Body members the annual declaration should be made at their first meeting of the academic year.

Annual and updated declarations should be made on the declaration of interests form in Appendix 1. Other declarations should be made during the course of the day to day business of the Trust, for example at the commencement of Trust board meetings and meetings of its subcommittees or as part of a procurement process.

Individual declaration of interests will be collated to form a register of interests. The register will be managed by TiLA's Company Secretary with a copy available to the Accounting Officer and finance director.

The register of interests will be used to identify any potential, actual or perceived conflicts of interest in order to enable TiLA to avoid or appropriately manage them. For example, it will be used to ensure that TiLA'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 Member, Director or Local Governing Body member 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 Accounting Officer 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. It should be noted that it would be a disciplinary offence for any member of staff who legitimately has access to the register to disclose the contents of it except where this is necessary for them to properly discharge their duties.

Members, Directors and Local Governing Body members should have a standard agenda item at the beginning of each meeting to declare any actual or potential conflict of interests. The Members, Directors or Local Governing Body members should declare any interest which he/she has in an item to be discussed, before the item is discussed. If a Member, Director or Local Governing Body member is uncertain if he/she is conflicted then he/she should declare the issue and discuss it with the other Members, Directors or Local Governing Body members. If a Member, Director or Local Governing Body member is aware of an undeclared conflict of Interest affecting another Member, Director or Local Governing Body member or a connected party he/she should declare this to the other Members, Directors or Local Governing Body members.

Where there is a declared conflict of interest the relevant Member, Director or Local Governing Body Member 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. Pecuniary and Non-Pecuniary Interests**

There are a variety of potential interests that Members, Directors and Local Governing Body members may have that could potentially conflict with their duty to always act in the best interests of the Trust and its Academies. Those listed below must be declared by Members, Directors and Local Governing Body members if they have such an interest or if any connected party has such an interest. However, there may be other potential interests or conflicts that exist not listed below which should also be declared.

### **5.1 - Pecuniary Interest**

Pecuniary (monetary/financial/business) interests include, but are not restricted to:

- A financial interest in a company or organisation if he/she or any nominee of his/hers is the beneficial owner of more than 1% of the issued capital (e.g. shares, bonds etc.);
- Employment in any business that provides goods, services or consultancy to the Trust, its academies or subsidiary companies.

### **5.2 - Non-Pecuniary Interests**

Non-pecuniary (non-monetary/financial) interests include, but are not restricted to:-

- Members, Directors and Local Governing Body members being the partner or related to other members of staff or Directors, Trust Members or Local Governing Body Members;
- pursuit of a business interest/opportunity which is in potential conflict with the best interests of the Academy Trust;

- where any Director, Trust Member or Local Governing Body member's partner or relative would have a pecuniary interest, as set out in 5.1 above, if they were a member of staff;
- pursuit of a business interest/opportunity which is in potential conflict with the best interests of TiLA;
- a professional or legal responsibility to someone else or some other body which is in potential conflict with the best interests of TiLA or its academies;
- having a beneficial interest in a trust which is in potential conflict with the best interests of the Trust;
- having received/or about to receive a gift, hospitality or other benefit from an organisation that has or is likely to do business with the Academy Trust (see separate Gifts and Hospitality Policy for further information);
- membership of a society or other organisation which is in potential conflict with the best interests of TiLA; including Trusteeships and Governorships at other educational institutions or charities (irrespective of whether there is a trading relationship with TiLA, its academies or subsidiary companies);
- holding another public office;
- close personal relationships with people or organisations that may, or do, undertake business with TiLA 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.

All pecuniary and business interests of Members, Trustees/Directors, local governors and Accounting Officers will be published on TiLA's website as required by the ESFA and the applicable Academies Financial Handbook.

## 6. Connected Parties

For the purposes of this policy a connected party is defined as any Member, Director or Local Governing Body member or any individual or organisation connected to a Member, Director or Local Governing Body member. For these purposes the following persons are connected to a: Member, Director or Local Governing Body member:-

- a relative of the Member, Director or Local Governing Body member. 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 Governing Body member or a relative of the Member, Trustee or Local Governing Body member;
- a company in which a Member Director or Local Governing Body member or the relative of a Member, Director or Local Governing Body member (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, Director or Local Governing Body or a relative of, (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, Director or Local Governing Body member; or anybody related to such an individual or organisation;
- any individual or organisation recognised by the Secretary of State as a sponsor of TiLA; 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 organisation
- controls the organisation; or
- is under common control with the individual or organisation

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
- having the right to appoint or remove a majority of the board or local governing body

In the case of connected parties, the interests of a connected party are deemed also to be the interest of the Member, Director or Local Governing Body member. Declarations of Interest must include those of the connected party where the interest may cause the Member, Director or Local Governing Body member to have a conflict of interest.

## **7. Personal Relationships and Family Members**

Members, Directors and Local Governing Body members should declare if they are related to or have a partner who is a member of staff or another Member, Director or Local Governing Body member within the Trust.

Members, Directors or Local Governing Body 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.

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, Local Governing Bodies or senior managers within the Trust or its academies.

## **8. Related party transactions**

Related parties arise where one party has control or influence over the other, or where the parties are subject to common control.

The ESFA's Academies Accounts Direction sets out that, for academy trusts, related parties include:

- parties with control over, or controlled by, the entity (for example parent and subsidiary companies)
- parties with significant influence over the entity
- key management personnel of the entity, including any director, whether executive or otherwise
- close family members of any of the above
- others subject to control or significant influence by any individual referred to above

Accounting standards require transactions between related parties to be disclosed in the company financial statements as related party transactions.

## 9. How Information will be processed

All information supplied by Members, Directors and Local Governing Body members will be held centrally and the details collated and recorded on a Register of Interests. This will remain confidential subject to the provisions of the Data Protection Act, the Freedom of Information Act and the requirements of the ESFA.

TiLA's Company Secretary will be the data controller and will maintain the register of interests for all Members, Directors and Local Governing Body members.

TiLA will publish on its website(s) details of relevant business and pecuniary interests of Directors, Members and Local Governing Body members. TiLA has discretion over the publication of the interests of other individuals including parent, spouse, civil partner, cohabitee and child in accordance with ESFA requirements.

Where related party transactions have occurred, the Academies Accounts Direction stipulates that disclosure should be made as follows:

- the names of the related parties
- a description of the relationship between the parties
- a description of the transactions
- the amounts involved
- the amounts due to or from related parties at the balance sheet date, and any provisions for doubtful debts or amounts written off

As a public authority, TiLA may be subject to requests made under the Freedom of Information Act 2000 either to provide this policy or for information from the register of interests. Wherever possible, TiLA will answer any such requests without revealing the names of any individual who has made a declaration unless this information is part of the extract of the register of interests published on TiLA's website(s). If personal details of those who have made declarations are requested that are not already in the public domain, the Trust will, where appropriate, consult with those individuals before disclosing

any additional personal information that may be in the public interest to disclose in accordance with this Act.

All Members, Directors and Local Governing Body members are assured that any declaration of interest will be processed in compliance with the data protection principles as set out in the Data Protection Act 1998. The data will be processed to identify any potential, actual or perceived conflicts of interest in order to enable TiLA to avoid or appropriately manage them and to help protect TiLA's interests and also to protect the individuals concerned against allegations of acting in their own interests, rather than those of the Trust. In general terms, if in any doubt, all Members, Directors and Local Governing Body members are advised to declare an interest or potential interest for their protection.

The data declared will primarily be used for the purposes outlined above and to ensure that TiLA'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.

However, Members, Directors and Local Governing Body members should be aware that, in accordance with the Data Protection Act 1998, personal data may be disclosed to external parties without needing specific consent during the normal course of TiLA's business activities, including where such purposes have been registered with the Information Commissioner's Office. This may be for accounting, analysis and audit purposes and also to prevent or detect crime, for example.

A person making a declaration of interests may at any time request a copy of their current declarations on application to the Accounting Officer. The data contained within declarations of interest forms and the register of interests or extracts thereof will be kept securely either in electronic or hard copy formats. Relevant extracts published on TiLA's websites will be made accessible to the general public as required by the ESFA as noted above.

## 10. Decision Making

Where there is a conflict of interest, for example a proposed transaction between a Member, Director, Local Governing Body member or connected party, and TiLA, the applicable Member, Director or Local Governing Body member must follow the procedure set out in the Trust's Articles of Association for absents themselves from the decision making process.

However, there will be a presumption against recommending any proposed transaction with a Member, Director or Local Governing Body member. Recommendations to enter the transaction would be made to the Trust Board by the Accounting Officer 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.

In the event of a decision being made to award a contract to a Member, Director or connected party (please note this excludes Local Governing Body members), the Trust can only enter the contract if it has

been properly procured following the Trust's tender policy procedures in the Trust Finance Manual and if the Member or Director, or connected party, can provide:-

- a statement of assurance from that individual or organisation to TiLA 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.

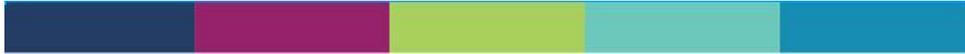
In the event of the above requirements being met in full, before a decision to enter a transaction with a Member, Director, Local Governing Body member or connected party is made the Trust Board must consider whether the transaction could be seen to be 'Novel or Contentious' (as defined by section 3.3 of the Academies Financial Handbook 2017). If so it must be referred to the ESFA for its explicit prior approval.

### **11. Failure to Follow this Policy**

Members, Directors and Local Governing Body members who do not follow this policy may be in breach of their duties and may be subject to internal action within TiLA, including being removed from their post. In certain circumstances Members, Directors and Local Governing Body members may also subject to external sanction, including being barred from undertaking the role of a company director or Director and in exceptional cases being subject to criminal prosecution.

The Education & 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 FNtI can, in exceptional circumstances, also result in the termination of our funding agreement(s).

If Members, Directors and Local Governing Body members believe any of their number are undertaking activity that leads to personal gain they should report their concerns under TiLA's Whistleblowing procedure.



**APPENDIX A**

**Name of Individual:**

**Your relationship with the Academy Trust: Member / Director / Local Governor / Senior Employee (please delete as applicable)**

Please disclose any other relationship you have with the Academy Trust (or could *potentially* have) including:

- under a contract of employment or a contract for goods or services (you do not need to disclose your contract of employment if you are a Senior Employee);
- trusteeships and governorships at other educational institutions/charities;
- any family members<sup>1</sup> which might be employed/contract with the Academy Trust; and
- details of any company or firm with which you or a family member are connected<sup>2</sup> that does or may have dealings with the Academy Trust.

Name of the individual/ business/ other educational institution (if relevant)	Nature of business (e.g. types of services provided/ governorship)	Nature of interest (e.g. how the firm/ business is connected to you /family member and its relationship to the Academy Trust)	Date that the interest commenced	Date of cessation of interest	Date of entry

<sup>1</sup> By which we mean any child, stepchild, parent, grandchild, grandparent, brother, sister or spouse or any person living with you as your partner.

<sup>2</sup> By which we mean that you or your family is a partner; an employee; a consultant; a director; a member; or a shareholder.



Name of the individual/ business/ other educational institution (if relevant)	Nature of business (e.g. types of services provided/ governorship)	Nature of interest (e.g. how the firm/ business is connected to you /family member and its relationship to the Academy Trust)	Date that the interest commenced	Date of cessation of interest	Date of entry

**I certify that I have declared all interests which:**

- I have with the Academy Trust; or
- Any company or firm connected to me that may have dealings with the Academy Trust.

Signed ..... Date .....

**OR**

**I certify that there are no interests which need to be declared at this time:**

Signed ..... Date .....