



# CONFLICT OF INTEREST POLICY

<b>Approval Date</b>	February 2017
<b>Policy Owner</b>	Dean Ashton (CEO)
<b>Adopted by Trust Board</b>	February 2017
<b>Review Date</b>	As required

## **1 Purpose and scope**

- 1.1 This document sets out the principles for managing potential and actual conflicts of interests or duty affecting the Trustees and Members of Reach South Academy Trust (**Reach South**). Its purpose is to enable Trustees and Members to ensure the open and proper management of any particular conflict.
- 1.2 The main duties relating to the management of conflicts of interest fall to the Trustees. However, there are also requirements on the Members as well and so these are also specified below.

## **2 Background**

- 2.1 Trustees have a legal obligation to act in the best interests of Reach South and in accordance with its articles of association (**articles**), its policies and the laws that apply to it. (This will include any additional requirements of the funding agreement with the Secretary of State and the academies financial handbook). They are expected to act impartially and objectively, and to take steps to avoid conflicts of interest or duty.
- 2.2 Conflicts inhibit free discussion, may result in decisions that are not in the best interests of Reach South and risk giving the impression that the Trustees (or Members) have acted improperly.
- 2.3 Conflicts can come in all shapes and sizes. The Trustees and the Members should be alive to this, and each Trustee and Member has a responsibility to identify where there may be a conflict in relation to themselves or a person connected to them.
- 2.4 This policy is not intended to inhibit the normal course of business. While recognising that identifying and managing conflicts is very important, the Trustees wish to deal with them in a way which recognises the materiality of the risk that a particular conflict may pose to the best interests of Reach South.

## **3 Legal context**

- 3.1 There are some fundamental legal issues Trustees should ensure they understand. These are summarised below.

### **3.2 Duty to avoid conflicts**

- 3.2.1 Every Trustee owes a duty to avoid any conflict of interest or loyalty. The duty is not simply to mitigate any conflicts that arise, but to avoid them altogether. In this context the duty does not simply relate to actual conflicts of interest or loyalty, but rather a

Trustee must avoid a situation where he has, or can have, a direct or indirect interest or loyalty that conflicts, or possibly may conflict, with Reach South's interests.

### **3.3 Types of conflict**

3.3.1 A conflict will typically arise where a Trustee has:

- a conflict of loyalty; and/ or
- a personal interest (i.e. monetary interest) in a proposed transaction. This is often referred to as a 'Trustee Benefit' or a 'Related Party Transaction'.

3.4 These are considered in further detail below.

### **3.5 Conflicts of loyalty**

3.5.1 A Trustee who owes a duty to another body (which may be because they are a governor, trustee, director, shareholder, member, officer or employee of that other body) might find that that duty conflicts with their duty to Reach South. Even though the Trustee might not have any personal (i.e. monetary) interest in the transaction, and cannot benefit from it personally, he or she will have a conflict of loyalty.

### **3.6 Trustee benefits and related party transactions**

3.6.1 In some cases, a conflict of interest or loyalty might also involve a payment being made to the Trustee or a person (or business) connected to a Trustee. This is referred to as a 'Trustee Benefit'. A transaction which is entered into which confers a Trustee Benefit is referred to as a 'Related Party Transaction'.

3.6.2 In order for a Trustee to receive a Trustee Benefit, there must be express legal authority. Such authority might be given under the articles of association (typically subject to a specific procedure being complied with) or on a case by case basis by the Charity Commission.

3.6.3 If a Trustee Benefit is received by a Trustee without authority, this will amount to a breach of trust and the relevant Trust could be liable for repaying all or part of the Benefit to Reach South. This is irrespective of whether Reach South might have received value (e.g. services provided) in return for the Benefit.

3.6.4 We consider Trustee Benefits and Related Party Transactions in more detail at paragraph 11 below.

## **4 Declaration of interests by both Trustees and Members**

- 4.1 On their appointment, and at least once each year, Trustees and Members must declare their interests on the declaration of interests form attached at Appendix 2. This includes:
  - 4.1.1 directorships, partnerships and employments with businesses,
  - 4.1.2 trusteeships and governorships at other educational institutions and charities; and
  - 4.1.3 any material interests arising from close family relationships between the Members or Trustees, and relationships between Members or Trustees and employees.
- 4.2 The Clerk to the Trustees will use the information provided by Trustees and the Members to maintain a register of interests. The register will be accessible to all Trustees and Members.
- 4.3 Trustees and Members should amend their declarations of interest as soon as possible following any change in their circumstances and will, in any event, be invited to update their entries at the first Trustees' or Members' meeting in each calendar year.
- 4.4 In addition to completing and updating the declaration of interests, every Trustee must declare to the other Trustees and the Clerk to the Trustees the nature and extent of any direct or indirect interest he or she may have in any existing transaction or arrangement with Reach South or any transaction or arrangement proposed with Reach South of which the Trustee is aware.
- 4.5 A Trustee's declaration must be made to the other Trustees and the Clerk to the Trustees:
  - 4.5.1 at a Trustees' meeting at which the transaction or arrangement is to be discussed; or
  - 4.5.2 by written notice sent by post or email to the other Trustees and the Clerk to the Trustees using the form of notice attached at Appendix 3.
- 4.6 The Trustee must give notice to the other Trustees and the Clerk to the Trustees before any proposed transaction or arrangement is entered into or, in any other case, as soon as reasonably practicable. The declaration of any interest will be an agenda item for every Trust Board and committee meeting.
- 4.7 If Trustees are unsure of what to declare, or whether/when their declaration needs to be updated, they should contact the Clerk to the Trustees for guidance.

## **5 Publishing information relating to Trustees' and Members' interests**

- 5.1 In accordance with the academies financial handbook, the Clerk to the Trustees must publish relevant business and pecuniary interests of Trustees and Members (including governance roles in other educational institutions on the Reach South website). An interest will be considered to be 'relevant' in circumstances where it might give rise to a potential conflict of interest.
- 5.2 Reach South shall take advice from its auditors in respect of the disclosure of interests and in particular, Related Party Transactions in the preparation of its annual report and accounts to ensure full compliance with the Statement of Recommended Practice (the Charities SORP, FRS 102, effective 1 January 2015).

## **6 Data protection**

- 6.1 The information provided will be processed in accordance with data protection principles as set out in the Data Protection Act 1998. Data will be processed only to ensure that Trustees and Members act in the best interests of Reach South. The information provided will not be used for any purpose other than those set out in this policy, or the declarations or notices themselves.

## **7 Managing the conflict of interest**

- 7.1 Where a Trustee has an interest or a loyalty exists which conflicts or may conflict with his or her duties as a Trustee of Reach South, the Trustee must:
- 7.1.1 disclose that fact as soon as he or she becomes aware of it; and
  - 7.1.2 absent himself or herself from any discussions of the Trustees in which it is possible that a conflict will arise between his or her duty to act solely in the interests of Reach South and any other duty or personal interest he or she might have.
- 7.2 Where a Member has an interest or loyalty exists which conflicts or may conflict with his duties as a Member of Reach South, the Member must:
- 7.2.1 disclose that fact as soon as he or she becomes aware of it; and
  - 7.2.2 if requested by the other Members, absent himself or herself from any discussions of the Members in which it is possible that a conflict will arise between his or her duty to act solely in the interests of Reach South and any other duty or personal interest he or she might have.

## **8 Parent Trustees and Members**

- 8.1 Trustees and Members who are also parents of pupils at Reach South will have a personal interest in the provision of education to their child. The articles allow parent Trustees and Members, as beneficiaries, to receive educational services on the same terms as those provided to all pupils by Reach South.
- 8.2 In order to manage the potential conflict that may arise for parent Trustees as a result of their interest in their child's education by Reach South:
- a parent Trustee should not vote or count in the quorum on, or discuss, any matter which relates specifically to their child. This will include any decision in respect of disciplinary action which might be taken against him or her; and
  - a parent Trustee is authorised to vote and count in the quorum and discuss any matter which relates to pupils of Reach South generally.
- 8.3 We wouldn't expect such matters to be discussed at Members' meetings but should this be the required, the above will also apply in respect of Parent Members.
- 8.4 Parent Trustees and Members should give a notice declaring their interest in their child's education by Reach South. The interest will be identified in the register of interests.

## **9 Managing the relationship with REAch2**

- 9.1 Trustees and Members who are also involved with REAch2 will have an interest in all matters relating to REAch2 and its relationship with Reach South. A Trustee or Member might have a potential conflict between the duty owed to Reach South and the duty owed to REAch2.
- 9.2 In order to manage this conflict, such Trustees (or Members to the extent relevant) should not vote or count in the quorum on any matter relating to the relationship between REAch2 and Reach South, but may (if invited to do so by the other Trustees (or Members as relevant)) take part in any discussion about any such matter where the other Trustees conclude that it would be useful for the Trustee (or Member) to remain in order to provide information. This will include any decision by Reach South to enter into an agreement for the provision of services to REAch2.
- 9.3 If Reach South is to receive payments from REAch2 (or otherwise receive a benefit - such as services provided at an undervalue), the Related Party

Transaction will need to be properly managed in accordance with Appendix 1. This will apply to:

- 9.3.1 Trustees of Reach South who are also trustees, employees, members or consultants of REAch2;
- 9.3.2 Trustees of Reach South who are connected to persons who are trustees, employees, members or consultants of REAch2, (a person will be connected if they are included in the list at 11.2.1(a))
- 9.4 Those Trustees who are also trustees and members of REAch2 must observe the provisions dealing with conflicts in Reach South's articles of association and adhere to any conflicts policy adopted by its trustees.

## **10 Expenses**

- 10.1 The Charity Commission describes expenses as *"refunds by a charity of legitimate payments which a trustee has had to meet personally in order to carry out his or her trustee duties"*. Expenses includes:
  - 10.1.1 the reasonable cost of travelling to and from trustee meetings, and on trustee business and events;
  - 10.1.2 the reasonable cost of childcare, or care of other dependents (for example, an elderly parent) whilst attending trustee meetings;
  - 10.1.3 the cost of postage and telephone calls on charity business; and
  - 10.1.4 cost of reasonable overnight accommodation and subsistence (including any essential care costs) while attending trustee meetings or other essential events such as voluntary sector conferences or specialist training courses.
- 10.2 The following should not be classified as 'expenses':
  - 10.2.1 compensation for loss of earnings whilst carrying out trustee business; or honoraria payments (small or token sums not intended to reflect the true value of the service provided); or
  - 10.2.2 expenses in connection with foreign travel.
- 10.3 The Chair of the Trust Board, or in his or her absence, the Vice-Chair has the authority to approve expense claims from Trustees.
- 10.4 Expense claims should normally be supported by bills or receipts, except where it is impractical to expect this, for example, where very small amounts are claimed.

## **11 Trustee Benefits and Related Party Transactions**

### **11.1 What is a 'Benefit'?**

11.1.1 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 Reach South on normal commercial terms. A Trustee who may derive any personal benefit of this kind from a transaction with Reach South will have a conflict between their duty to Reach South 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.

11.1.2 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. In this case, this will include Reach South.

11.1.3 Payments in respect of expenses are not classified as 'Benefits' and are considered in further detail in paragraph 10 below.

### **11.2 Connected persons**

11.2.1 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 Reach South 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).

### **11.3 General Trustee Benefits**

11.3.1 Trustees are expressly authorised to receive the following "general" Benefits (i.e. Benefits that are available to all



Trustees):

- indemnity insurance paid for by Reach South;
- indemnity payments from Reach South under its articles;
- reasonable expenses properly incurred by the Trustee in acting as a Trustee and paid or reimbursed by Reach South (which are not considered to be 'Benefits' at all) but excluding expenses in connection with foreign travel; and
- payments 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.

#### **11.4 Specific Trustee benefits**

11.4.1 In addition, Trustees may also receive the following "specific" Benefits (i.e. Benefits made available to individual Trustees) in accordance with an authority under Reach South's articles:

- payments made to any Trustee in their capacity as a beneficiary of Reach South;
- payments received under a contract of employment;
- reasonable and proper remuneration for goods or services supplied to Reach South, other than for acting as a Trustee;
- interest on money lent to Reach South 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 Reach South by a Trustee if the amount of the rent and the other terms of the lease are reasonable and proper rate.

11.4.2 These Benefits however will only be authorised if the procedure set out in article 6.8. 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.

11.4.3 By way of reminder, Benefits received from Reach South will also be caught by the restriction and so must be properly authorised in accordance with the articles.

11.4.4 Please note that a Trustee cannot receive payment for acting as a Trustee unless this is specifically authorised by the Charity Commission.

## **11.5 The management of Trustee Benefits and Related Party Transactions**

11.5.1 A flowchart is included in Appendix 1 to assist in the identification and management of Trustee Benefits.

11.5.2 The minutes of the Trustees' meeting will record the nature and extent of any conflict and summarise the discussion and the actions taken to manage the conflict.

## **12 Buying services from Trustees/ Members/ connected persons**

12.1 When buying services from Trustees (or persons or bodies connected to Trustees) or Members, in addition to complying with the necessary procedures relating to Related Party Transactions as set out in Appendix 1 where relevant, Reach South will need to ensure that:

12.1.1 the contract had been properly procured in accordance with the Reach South procurement policy; and

12.1.2 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 the handbook for further details).

## **13 Further reading**

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

<https://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:

<https://www.gov.uk/government/publications/trustee-expenses-and-payments-cc11/trustee-expenses-and-payments#4-4>

## **14 Adoption and circulation**

14.1 This policy was approved and adopted by a resolution of the Trust Board passed at a meeting held on [• 00 month year] and takes effect from [• 00 month year].

14.2 This policy shall be circulated to the Trust Board, the Members and others at the discretion of the Chair of the Trust Board.

## **15 Review**

- 15.1 The Trust Board will review this policy at their first meeting in each calendar year.

## **Appendix 1 The management of Related Party Transactions**

When considering this issue, the Trustees will need to consider the following questions:

### **Question 1: Is there a Benefit?**

A Benefit is a financial or other measurable benefit paid to a Trustee, or to a 'connected person' (please see below), either from Reach South or from Reach South. Benefits might also be made paid 'in kind' - for example, free use of Reach South's facilities or services for which users normally have to pay.

**If yes, please proceed to Question 2**

#### **TIP! Trustees' expenses**

A refund of properly incurred expenses is not a "Benefit". Article 6.5 permits a Trustee to be reimbursed for expenses properly incurred in relation to his role. However, expenses in relation to foreign travel cannot be recovered.

## Question 2: Is the Benefit being paid to a Trustee or to a connected person?

- a) Is the person receiving a Benefit a Trustee?
- b) Is the person receiving a Benefit a child, stepchild, parent, grandchild, grandparent, brother, sister, spouse or cohabiting partner of the Trustee?
- c) Is the Benefit to be received by a company or firm of which a Trustee or any of the persons listed in b) is:
  - a partner,
  - an employee,
  - a consultant,
  - a director,
  - a member, or
  - a shareholder of the company?

If yes to a) b, or c), please proceed to Question 3

## Question 3: Does the Benefit fall into the following list?

Please check whether the Benefit falls into list A, B or C below. If the Benefit is not listed, then it is not permitted unless specific Charity Commission consent is secured.

### List A

- 1 **Indemnity insurance.** Article 6.3 allows Reach South to protect Trustees from liability for negligence or breach of their duties with indemnity insurance. However, the insurance cannot cover a deliberate breach of duty by a Trustee or a situation in which the Trustee knew that he might be breaching his duties. There are also some other specific restrictions on the scope which the insurance can cover.
- 2 **Trustees' investments in shares.** Reach South is permitted to receive payment or other benefit from public limited companies in which a Trustee holds no more than 1% of the shares (article 6.4). In most cases, this means that Reach South can contract freely with other companies, without Trustees with small investments in shares in such

If List A applies, no further steps are required to authorise the benefit.

companies breaching their duties to Reach South.

### List B

- 3 **A beneficiary of Reach South.** This might be the case if, for example, a parent Trustee were to attend the academy for evening classes.
- 4 **Being employed by Reach South or entering into a contract for the supply of goods or services to Reach South, other than for acting as a Trustee.** Please note that a benefit paid to an individual who is already an existing employee of Reach South who is subsequently elected or appointed as a Trustee will instead fall under List B.
- 5 **Receiving interest on money lent** to Reach South 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 greater.
- 6 **Receiving rent for premises** let by the Trustee to Reach South if the amount of the rent and the other terms of the lease are reasonable and proper.

**If List B applies, please comply with Process B to authorise the benefit.**

### List C

- 7 The benefit is to be paid to an individual who is already an existing employee of Reach South who is subsequently elected or appointed as a Trustee - most commonly a staff Trustee.

**If List C applies, please comply with Process C to authorise the benefit.**

## **Process B**

- 1 The remuneration or other sums paid to the Trustee must not exceed an amount that is reasonable in all the circumstances.
- 2 The Trustee must absent himself from the part of any meeting at which there is discussion of:
  - his or her employment, remuneration, or any matter concerning the contract, payment or benefit; or
  - his or her performance in the employment, or his or her performance of the contract; or
  - any proposal to enter into any other contract or arrangement with him or her or to confer any benefit upon him or her; or
  - any other matter relating to a payment or the conferring of any benefit.
- 3 The Trustee must not vote on any such matter and is not to be counted when calculating whether a quorum of Trustees is present at the meeting.
- 4 (if relevant) The other Trustees are satisfied that it is in the interests of Reach South to employ or to contract with that Trustee rather than with someone who is not a Trustee. In reaching that decision the Trustees must balance the advantage of employing a Trustee against the disadvantages of doing so (especially the loss of the Trustee's services as a result of dealing with the Trustee's conflict of interest).
- 5 The reason for their decision is recorded by the Trustees in the minute book.
- 6 A majority of the Trustees then in office have received no such payments or benefit.

## **Process C**

- 1 The Trustee must absent himself from the part of any meeting at which there is discussion of:
  - his or her employment, remuneration, or any matter concerning the contract, payment or benefit; or
  - his or her performance in the employment, or his or her performance of the contract;
- 2 The Trustee must not vote on any such matter and is not to be counted when calculating whether a quorum of Trustees is present at the

meeting.



## Appendix 2 Declaration of Interest Form

**COMPANY NUMBER: 10151730**

### Declaration of Business and Pecuniary Interests for Members, Trustees, Governors and Trust staff

Name	
Position	
Date of Appointment	
Date of Resignation/Retirement	

**Individuals are reminded that completion of this form does not remove the requirement upon them to disclose orally any interest at any specific meeting and to leave the meeting for that agenda item.**

	Name of Organisation / Individual	Nature of the Business	Nature of Interest/Role	Date Interest began
Current <b>employment</b>				
<b>Businesses</b> (of which I am a partner or sole proprietor)				
Company <b>directorships</b> – details of all companies of which I am a director				
Charity <b>trusteeships</b> – details of all companies of which I am a trustee				
Relationships with Trust employees and/or its academies				
Membership of <b>professional bodies</b> , membership organisations, <b>Educational Institutions, public bodies</b> or <b>special interest groups</b> of which I am a Member / Trustee / Governor and have a position of general control or management				
Any other conflict				

**FAMILY INTERESTS:** Please use the table below to identify and list any **material interests** from close family relationships / relatives. 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. The Academies Financial Handbook defines a material interest as;

A person or a **close member of that person's family** is related to a reporting entity if that person:

- i. has **control** or **joint control** over the reporting entity;
- ii. has **significant influence** over the reporting entity; or
- iii. is a member of the **key management personnel** of the reporting entity or of a **parent** of the reporting entity.

	*School Class of Individual	Relationship	Organisation	Nature of the Business	Nature of Interest/ Role	Date Interest began
Immediate family/close connections to governor/trustee						
Are you a relative to any individual or organisation that is connected to a member or trustee of the academy trust of which you govern						
Company directorships or trusteeships of family/close connections to governor/trustee						

*\*If you are a parent of a pupil and not an elected parent governor, please provide the name of the class your child(ren) currently attend at the school. Please be advised that this information is not published. The requirement to disclose does not apply to the children who have left the school or are attending another school.*

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 Trust/Academy 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 trust/schools conflicts of interest's policy. I acknowledge that the information provided in this declaration will be made publically available on the schools website.

Full Name	
Signed	
Date	

**Appendix 3 Notice of interest**

Dear Sirs

**Notice of interest(s)**

In my capacity as a [Trustee] [Member] of Reach South Academy Trust, I hereby give you notice of the following interest(s):

<b>Interest</b>	<b>Nature and extent of interest</b>

Please treat me as interested in any transaction or arrangement between Reach South and any body corporate, firm or other person specified above.

I should be grateful if this notice could be tabled and read at the next meeting of the [Trustees] [Members].

Yours faithfully

Trustee: .....

Date: .....