

TRUSTEE CONFLICTS OF INTEREST POLICY

Version control

Date	Action	Next review
	New policy	
	Policy reviewed and approved by Board	

Introduction

In this document, the word “trustee” is used to refer to any individual who has accepted their appointment as a trustee of the Cresconova Academy, a charitable company registered in England and Wales with company number 15767926 (the “**Charity**”).

While this policy focuses primarily on trustees, the principles set out in this document also apply, where relevant and appropriate, to senior staff, employees, volunteers and any individuals involved in decision-making on behalf of the Charity. Any conflicts of interest arising in relation to such individuals must be identified, declared and managed in a manner consistent with this policy and the Charity’s governance framework.

Conflicts of interest

The trustees of the Charity have a legal obligation to always act in the best interests of the Charity and in accordance with its articles of association (the “**Articles**”), policies and charity law. They are expected to act impartially and objectively and to take steps to avoid any conflict of interest - whether actual or potential and whether or not the trustee concerned will derive any personal benefits.

A conflict of interest is any situation in which a trustee’s personal interests, or an interest which they have in (or owe to) another body arise at the same time as, or appear to clash with, the interests of the Charity. Such conflicts can create problems by inhibiting free discussion and decision-making, resulting in decisions or actions that are not in the interests of the Charity or the other body, or risk giving the impression that the Charity has acted improperly. A trustee must not place him or herself in a position where such a conflict does or may potentially arise.

Conflicts can come in all shapes and sizes. The trustees should be alive to this, and each trustee has a responsibility to identify where they perceive there may be an issue in relation to themselves or a person connected to them.

This policy seeks to help the trustees avoid conflicts of interest and to set out how to manage such conflicts in the event that they do arise in order to protect both the Charity and the trustees. It applies to all trustees equally. Its purpose is to ensure transparency and to enable the trustees to adopt practical solutions to ensure the open and proper management of any particular conflict.

WHAT IS A CONFLICT OF INTEREST?

There are a number of situations in which conflicts of interest may occur. Common examples include situations where a trustee or a connected person (“**Connected Person**”, see paragraph 5 below) receives a direct or indirect financial benefit, a non-financial benefit or where the trustee has a conflict of loyalties. “Benefit” includes the receipt of any property, goods or services which has monetary value, as well as money.

These conflicts of interest or loyalties are not always prohibited, but steps will need to be taken to identify and manage any conflicts, as set out in the next section of the policy.

1 **Direct financial benefit**

Trustees cannot receive any financial benefit from the Charity unless they have express legal authority to do so. Examples of direct financial benefit include:

- paying a trustee for a service they provide to the Charity;
- paying a trustee a salary if they become an employee of the Charity; and
- selling or leasing assets owned by the Charity to a trustee or by the Charity purchasing or leasing assets from a trustee.

2 **Indirect financial benefit**

Trustees are also generally not expected to receive indirect financial benefit from the Charity unless they have legal authority to do so. Examples of indirect financial benefit include:

- employing a trustee’s spouse, where the salary payments contribute to the joint household income for the trustee and their spouse; and
- paying a business owned by a trustee for goods and services to the Charity. Any payment by the Charity in respect of the provision of those goods or services will add to the profits of the business in which the trustee has a direct financial interest.

3 **Non-financial benefit**

A common example of a non-financial benefit is when a trustee receives a non-financial benefit as a beneficiary of the Charity.

4 **Conflict of loyalties**

Even where there is no possibility of personal profit, there may be situations where a trustee’s loyalty to another person or organisation conflicts with their duties to the Charity. A conflict of loyalty will arise where a member of the public, with knowledge of the facts, could reasonably regard the trustee’s interest as significant enough that their judgment of the Charity’s interests could or would be biased.

5 **Connected Persons**

5.1 Conflicts of interest relate to a trustee’s personal interests and the interests of those connected to them. This means that there is a conflict of interest where there is a proposed transaction between the Charity and a Connected Person. Similarly, there is a conflict of interest where there is a benefit or a potential benefit to a Connected Person.

5.2 For these purposes, Connected Persons include:

- a child, parent, grandchild, grandparent, brother, sister of the trustee;
- the spouse or civil partner of the trustee or any person living with the trustee as their partner;
- the spouse or civil partner of a trustee's child, parent, grandchild, grandparent or sibling;
- a business partner of the trustee;
- an institution controlled by either the trustee or a connected person; or
- a corporate body in which the trustee or a Connected Person has, or two more Connected Persons together have, a substantial interest (i.e. more than 20% of the entity's share capital or voting power).

IDENTIFYING AND MANAGING CONFLICTS – PRACTICAL STEPS

1 **Register of Interests**

- 1.1 Each trustee must make a written declaration of their interests, and any gifts or hospitality they receive in connection with their role as a trustee of the Charity. The purpose of this is to make the other trustees and staff of the Charity aware of any interests and to ensure transparency in decision-making. A declaration form is provided for this purpose in the Appendix.
- 1.2 The declaration should be updated within 28 days whenever there is a change in the trustee's interests and in any event at least annually. If a trustee is not sure whether to make a declaration, or what to declare, then they should err on the side of caution and make a declaration.
- 1.3 Interests and gifts will be recorded on the Charity's Register of Interests which will be maintained by the Charity's administrator. Trustees may inspect the Register at any time and a copy will be available at all trustee meetings.

2 **Declaring interests and managing conflicts at meetings**

- 2.1 In accordance with the Article 10.1 of the Charity's Articles, the trustees must declare (either orally or in writing) at the earliest possible time any interest they have (whether in a personal or fiduciary capacity) which may be affected by a matter or question to be discussed or considered by the trustees, whether or not they have already made a written declaration in respect of the interest in question. If the matter is being discussed at a meeting of the trustees then the trustee should make a declaration to the meeting.
- 2.2 Once this declaration is made, the trustee can only take part in the decision-making process to such an extent as is necessary to inform the debate and must otherwise absent himself or herself from any discussions of the trustees relating to that matter.
- 2.3 Any trustee absenting themselves from any discussions in accordance with the Articles must not vote or be counted as part of the quorum in any decision of the trustees on that matter. This means that there must always be at least two unconflicted trustees to form a quorum for decision making on any matter.
- 2.4 A clear record of any such declaration, discussion and decision should be kept noting the nature and extent of the conflict, an outline of the discussion, and the actions taken to manage the conflict.

3 **Authorised benefits**

- 3.1 The following permitted benefits are expressly authorised by the Charity's Articles.
- 3.2 A trustee or Connected Person may:
 - receive a benefit from the Charity as a beneficiary, provided that a majority of trustees do not benefit in this way;
 - enter into a contract for the supply of goods or services to the Charity where permitted by, and subject to the conditions in, sections 185 and 186 of the Charities Act 2011. In summary, the relevant conditions are:
 - (i) a written agreement must be entered into;
 - (ii) the payment for services must be reasonable;

- (iii) the unconflicted trustees must regard the arrangements as being in the best interests of the Charity;
 - (iv) a majority of trustees must not be in receipt of payments authorised by the Charity's Articles or section 185 of the Charities Act 2011; and
 - (v) the Articles must not prohibit the payment.
- receive interest on money lent to the Charity at a reasonable and proper rate (not more than the base rate);
 - receive rent for premises let by the trustee to the Charity subject to the conditions set out in Article 9.2.4 of the Charity's Articles. In summary, the amount of rent (if any) and the other terms of the lease must be reasonable and proper and the conflicted trustee(s) must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion. The unconflicted trustees must regard the arrangements as being in the best interests of the Charity; and
 - take part in the normal trading and fundraising activities of the Charity on the same terms as members of the public.
- 3.3 If the benefit from which the conflict of interest arises is not authorised by the Charity's Articles, or the trustees are not sure whether they have authority to proceed in respect of any transaction then they should take professional advice and consider approaching the Charity Commission for authorisation.
- 3.4 In order for the Charity Commission to consider authorising the benefit, the trustees will need to show why it is in the Charity's best interests to permit the benefit and resulting conflict of interest.

4 **Failure to declare interests or manage conflicts**

The consequences of failing to manage conflicts of interest effectively can include a range of adverse effects such as damaging the Charity's reputation, inviting a legal challenge against a decision made by the trustees, personal liability to make good any loss to the Charity arising from the payment of any unauthorised benefit and triggering a further enquiry by the Charity Commission. It is therefore important for each trustee to think carefully about each of their interests on a regular basis and how these impact their role as trustee.

APPENDIX
DECLARATION OF INTERESTS FORM

I _____ as trustee of Cresconova Academy have set out below my interests, in accordance with the Charity's conflicts of interest policy.

List of categories

- 1 Current employment and any previous employment in which you continue to have a financial interest;
- 2 Appointment (voluntary or otherwise), e.g. trusteeships, directorships, local authority membership, tribunals, etc.;
- 3 Membership of any professional bodies, special interest groups or mutual support organisations;
- 4 Investments in unlisted companies, partnerships and other forms of business;
- 5 Gifts or hospitality offered from external bodies in connection with the Charity;
- 6 Any contractual relationship with the Charity; and
- 7 Any other interests or conflicts not already covered including interests of Connected Persons

List of interests

Category (please insert number)	Details of specific interest or transaction	Name of Connected Person (if relevant)

To the best of my knowledge, the above information is complete and correct. I undertake to update as necessary the information provided, and to review the accuracy of the information on at least an annual basis. I give my consent for it to be used for the purposes described in the conflicts of interest policy and for no other purpose.

Signed:

Date: