



**Astrea Academy Trust**

INSPIRING BEYOND MEASURE

## **Astrea Conflicts of Interest Policy 2018-21**

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Written by	Head of Governance and Legal
Approval	Trust Board
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## **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 Astrea Academy Trust (**Astrea**). 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 Astrea 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 Astrea 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 Astrea.

## **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 Astrea'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 Astrea. 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 Astrea. This is irrespective of whether Astrea 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 Head of Governance and Legal 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 Head of Governance and Legal the nature and extent of any direct or indirect interest he or she may have in any existing transaction or arrangement with Astrea or any transaction or arrangement proposed with Astrea of which the Trustee is aware.

**4.5** A Trustee's declaration must be made to the other Trustees and Head of Governance and Legal:

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 Head of Governance and Legal

4.6 The Trustee must give notice to the other Trustees and the Head of Governance and Legal 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 Head of Governance and Legal for guidance.

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

5.1 In accordance with the academies financial handbook, the Head of Governance and Legal must publish relevant business and pecuniary interests of Trustees and Members (including governance roles in other educational institutions on the Astrea website). An interest will be considered to be 'relevant' in circumstances where it might give rise to a potential conflict of interest.

5.2 Astrea 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 Astrea. 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 Astrea, 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 Astrea 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 Astrea, 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 Astrea 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 Astrea 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 Astrea.

- 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 Astrea:
- 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 Astrea 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 Astrea. The interest will be identified in the register of interests.

## **9 Expenses**

- 9.1** 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:
- 9.1.1 the reasonable cost of travelling to and from trustee meetings, and on trustee business and events;
  - 9.1.2 the reasonable cost of childcare, or care of other dependents (for example, an elderly parent) whilst attending trustee meetings;
  - 9.1.3 the cost of postage and telephone calls on charity business; and
  - 9.1.4 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.
- 9.2** The following should not be classified as 'expenses':
- 9.2.1 compensation for loss of earnings whilst carrying out trustee business; or
  - 9.2.2 honoraria payments (small or token sums not intended to reflect the true value of the service provided); or
  - 9.2.3 expenses in connection with foreign travel.
- 9.3** The CEO has the authority to approve expense claims from Trustees.
- 9.4** 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.

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

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

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

10.1.2 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 Astrea.

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

## **10.2 Connected persons**

10.2.1 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 Astrea 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).

## **10.3 General Trustee Benefits**

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

- indemnity insurance paid for by Astrea;
- indemnity payments from Astrea under its articles;
- reasonable expenses properly incurred by the Trustee in acting as a Trustee and paid or reimbursed by Astrea (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 Astrea's articles:

- payments made to any Trustee in their capacity as a beneficiary of Astrea;
- payments received under a contract of employment;
- reasonable and proper remuneration for goods or services supplied to Astrea, other than for acting as a Trustee;



- interest on money lent to Astrea 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 Astrea 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 Astrea 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 Where the value of any related party transactions would exceed £20,000 either individually or cumulatively in a given financial year, the Trust will first obtain the permission of the ESFA to enter into such an agreement.

11.5.3 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, Astrea will need to ensure that:

12.1.1 the contract had been properly procured in accordance with the Astrea 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 Circulation**

14.1 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 Astrea or from Astrea. Benefits might also be made paid 'in kind' - for example, free use of Astrea'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 Astrea 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.** Astrea 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 Astrea can contract freely with other companies, without Trustees with small investments in shares in such companies breaching their duties to Astrea.

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

### List B

- 3 **A beneficiary of Astrea.** This might be the case if, for example, a parent Trustee were to attend the academy for evening classes.
- 4 **Being employed by Astrea or entering into a contract for the supply of goods or services to Astrea, other than for acting as a Trustee.** Please note that a benefit paid to an individual who is already an existing employee of Astrea who is subsequently elected or appointed as a Trustee will instead fall under List B.
- 5 **Receiving interest on money lent** to Astrea 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 Astrea 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 Astrea 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 Astrea 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 interests form

### Astrea Declaration of Interests Form

**Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

In accordance with the Trust's legal obligations, your declarations of interest will be held by the Trust and you will be asked to confirm this declaration annually. If you are assigned to a local committee, these declarations will be published on the school's website and will remain published for one year after you cease to be a member of the committee. As statutory documents, these details will be held indefinitely.

If you have any queries, please contact [governance@astreaacademytrust.org](mailto:governance@astreaacademytrust.org)

<b>Pecuniary interests</b>	<b>Please provide details of the interest</b>
Current employment	
Company directorships – details of all companies of which I am a director	
Appointments, whether paid or voluntary, at any other educational establishment	
Unpaid directorships, including charity trusteeships	
Membership of professional bodies, membership organisations, public bodies or special interest groups of which I am a member	
Gifts or hospitality offered to you by external bodies while acting in your position as a committee member	
Contracts offered by you for the supply of goods and/or services to the trust/school (related-party transactions)	
Immediate/close connections to others in the school/trust	
Any of the above interests in relation to the school/trust held by an immediate/close connection	