

**New College Durham Academies Trust**

**Code of Conduct for Directors  
and Local Governing Body Members**

Approved by the board on 3 July 2018

# **New College Durham Academies Trust ('the Trust')**

## **Code of Conduct for Directors and Local Governing Body Members**

### **1. Introduction**

This document applies to and refers to New College Durham Academies Trust and its Directors and Members of the Local Governing Bodies.

- 1.1 This Code is intended as a guide, to indicate the standards of conduct and accountability which are expected of Directors and Local Governing Body Members, to enable them to understand their legal and ethical duties and to assist them both in carrying out those duties and in their relationship with the Trust board, Local Governing Bodies and the Academy Principals. This Code therefore is aimed at promoting effective, well informed and accountable academy governance, and is not intended to be a definitive or authoritative statement of the law or good practice.
- 1.2 In addition to this Code, Directors and Local Governing Body Members are recommended to familiarise themselves with the source documents listed in the Schedule.

This Code should not be read as an exhaustive statement of duties, powers or provisions and Directors and Local Governing Body Members should refer to the source documents listed in the Schedule. If in doubt about the provisions of this Code or any of the source documents, the Company Secretary should be consulted and, if necessary, professional advice should be obtained. However, ultimate responsibility for the appropriateness of conduct as a Director or Local Governing Body Member and for any act or omission in that capacity rests with the individual Director or Local Governing Body Member.

- 1.3 This Code applies to every committee or working party of the Trust board, including the Local Governing Bodies.
- 1.4 By accepting appointment to the Trust board or a Local Governing Body, each Director and Local Governing Body Member agrees to accept the provisions of this Code.

## 1.5 Interpretation

In this code:

‘Academy’ means any school which is established and maintained by New College Durham Academies Trust;

‘Agency’ means the Department for Education

‘Funding Agreements’ means the Master Funding Agreement and the Supplemental Funding Agreements between the Trust and the Department for Education.

‘Trust Board’ means the Board of Directors of New College Durham Academies Trust;

‘Director’ means a Director of the Board of Directors;

‘LGB’ means the Local Governing Body, a committee of the Trust Board, established for the purposes of overseeing the operation of an Academy;

‘LGB Member’ means a Member of the Local Governing Body;

‘the Trust’ means New College Durham Academies Trust.

## 2. Aims and Values

2.1 Directors and LGB Members are expected to promote the core purposes and aims of the Trust.

### **Inclusion**

To support individuals of all abilities and aspirations to fulfil their potential through learning.

### **Progression**

To provide opportunities for all to flourish and achieve as they travel along their learning journey.

### **Excellence**

To achieve and maintain the highest standards in everything that we do.

### **Our Mission**

To provide outstanding learning and training for individuals and be recognised as a leading provider of Secondary Education.

- 2.2 The Trust Board recognises its obligations to all those with whom it and/or the Academies have dealings, including students, employees, suppliers, other educational institutions and the wider community. In particular, the Trust Board is committed to:
- having close regard to the voice of the learner;
  - combating any discrimination within the Academies on the grounds of the characteristics protected by the Equality Act 2010; and
  - engaging with the community which the Academies serve in order to understand and meet its needs.
- 2.3 The Trust Board is also committed to ensuring that it conducts its business in accordance with the highest ethical standards as set out in more detail in this Code.
- 2.4 Public service values are at the heart of the education service. High standards of personal and corporate conduct based on the principles set out in Appendices 1 and 2 of this Code, and the recognition that students and other users of the Academies' services come first, are a requirement of being a Director or LGB Member, and should underpin all decisions taken by the Trust Board and Local Governing Bodies.

### **3. Duties**

- 3.1 As the Trust is a company limited by guarantee with charitable status, the Directors are the legal trustees of the charity. This confers certain obligations upon the Directors to protect the assets, property and good name of the charity. Directors must also act in accordance with company law and owe a fiduciary duty to the Trust. This means that they must show it the highest loyalty and act in good faith in its best interests. A summary of Directors' duties under company and charity law is set out in Appendix 3.
- 3.2 Each Director and LGB Member should act honestly, diligently and (subject to the provisions appearing in paragraph 7 of this Code relating to collective responsibility) independently. The actions of Directors and LGB Members should promote and protect the good reputation of the Trust and its Academies and the trust and confidence of those with whom it deals.
- 3.3 Decisions taken by Directors at meetings of the Trust board and its committees must not be for any improper purpose or personal motive. Decisions taken must always be for the benefit of the Trust, its

Academies, its students and staff and other users of the Academies and must be taken with a view to safeguarding public funds. Accordingly, Directors and LGB Members must not be bound in their speaking and voting by mandates given to them by other bodies or persons (including but not limited to the bodies that elected/nominated them).

- 3.4 Directors must observe the provisions of the Trust's Memorandum and Articles of Association and in particular the duty to give immediate notice to the Company Secretary should they become disqualified from continuing to hold office and also the responsibilities given to the Directors as set out in Appendix 4.
- 3.5 Directors and LGB Members should comply with the Standing Orders, schemes of delegation and terms of reference of the Local Governing Bodies and other committees to ensure that the Trust conducts itself in an orderly, fair, open and transparent manner. Directors must keep those Standing Orders, schemes of delegation and terms of reference under periodic review.
- 3.6 Directors and LGB Members should also have regard to the different, but complementary, responsibilities given to the Academy Principals. Whereas it is the Trust board's function to decide strategic policy and overall direction and to monitor the performance of each Academy, it is the Academy Principals' role to implement the Trust board and Local Governing Body decisions, and to manage the Academies' affairs within the budgets and framework fixed by the Trust board. The Academy Principals' have delegated powers and functions in respect of internal organisation, management and control of the Academies, the implementation of all policies approved by the Trust Board and for the direction of teaching and the curriculum. Directors, Local Governing Body Members and the Academy Principals, should work together so that the Trust, the Local Governing Bodies and the Academy Principals perform their respective roles effectively.
- 3.7 Directors and LGB Members should refer to the Company Secretary for advice relating to governance functions and have regards to the Company Secretary's independent advisory role.

#### **4. Statutory Accountability**

- 4.1 Directors are collectively responsible for observing the duties set out in the Funding Agreements which the Trust board has entered into with the Agency as a condition of receiving public funds.
- 4.2 The Trust is required to operate in accordance with all applicable laws including the Academies Act 2010, the Education Acts, the Companies Act 2006, the Charities Acts and the general law.

## **5. Skill, Care and Diligence**

- 5.1 A Director and LGB Member should in all his or her work for the Trust and its Academies exercise such skill as he or she possesses and such care and diligence as would be expected from a reasonable person in the circumstances. Directors and LGB Members should be careful to act within the terms of reference of any committees on which they serve.

## **6. Conflicts of Interest**

- 6.1 Like other persons who owe a fiduciary duty, Directors and LGB Members should seek to avoid putting themselves in a position where there is a conflict (actual or potential) between their personal interests and their duties to the Trust and its Academies. They should not allow any conflict of interest to arise which might interfere with the exercise of their independent judgement.
- 6.2 Directors and LGB Members are reminded that under the Trust's Articles of Association and its policy on Conflicts of Interest and the general law they must disclose to the Trust any direct or indirect financial interest they have, or may have, in the supply of work or goods to or for the purposes of the Trust, or in any contract or proposed contract concerning the Trust or its Academies, or in any other matter relating to the Trust or any other interest of a type specified by the Trust in any matter relating to the Trust, or any duty which is material and which conflicts or may conflict with the interests of the Trust Board or Local Governing Body.
- 6.3 If an interest of any kind (including an interest of a spouse/partner/close relative of the Director/LGB Member) is likely or would, if publicly known, be perceived as being likely to interfere with the exercise of a Director's or LGB Member's independent judgement, then
- 6.3.1 the interest, financial or otherwise, should be reported to the Company Secretary;
  - 6.3.2 the nature and extent of the interest should be fully disclosed to the Trust Board or LGB before the matter giving rise to the interest is considered;
  - 6.3.3 if the Director or LGB Member concerned is present at a meeting of the Trust Board, or any of its committees, at which the supply, contract or other matter constituting the interest is to be considered, the Director or LGB Member should:

- not take part in the consideration or vote on any question with respect to it and shall not be counted in the quorum for that meeting; and
- withdraw from that board or committee meeting where required to do so by a majority of the members of the board or committee present at the meeting.

6.4 For the purposes of clause 6.3 ‘close relative’ includes but is not limited to a father, mother, brother, sister, child, grandchild and step-father/mother/brother/sister/child.

6.5 Exceptionally, where it is proposed that the Trust should grant a Director or LGB Member a financial interest (such as a contract for the supply of goods or services) the Trust Board must observe the requirements of the Charities Act 2011. This procedure is reflected in Articles 6.8-6.9 of the Articles of Association, which must be followed if a Director wishes to receive such a payment for him/herself or a connected person. The Trust Board may wish to take legal advice before granting such an interest to a Director or LGB Member.

6.6 Directors and LGB Members must not receive gifts, hospitality or benefits of any kind from a third party which might be in breach of the Bribery Act 2010 or be seen to compromise their personal judgement or integrity. Any offer or receipt of such gifts, hospitality or benefits should immediately be reported to the Company Secretary.

6.7 The Company Secretary will maintain a Register of Directors’ Interests and a separate Register of Local Governing Body Members’ Interests which will be open for public inspection. Directors and LGB Members must disclose routinely all business interests, financial or otherwise, which they or their close relatives may have, and the Company Secretary will enter such interests on the Register. Directors and LGB Members must give sufficient details to allow the nature of the interests to be understood by enquirers. Directors and LGB Members should inform the Company Secretary whenever their circumstances change and interests are acquired or lost. In deciding whether an interest should be disclosed, Directors and LGB Members should have regard to the meaning given to “interest” in paragraphs 6.2, 6.3 and 6.5 of this Code.

## **7. Collective Responsibility**

7.1 The Trust Board and Local Governing Bodies operate by Directors and LGB Members taking majority decisions in a corporate manner at quorate meetings. Therefore, a decision of the Trust Board or Local

Governing Body, even when it is not unanimous, is a decision taken by the members collectively and each individual Director and LGB Member has a duty to stand by it, whether or not he or she was present at the meeting of the board when the decision was taken.

- 7.2 If a Director or LGB Member disagrees with a decision taken by the Trust Board or LGB, his or her first duty is to have any disagreement discussed and minuted. If the Director or LGB Member strongly disagrees, he or she should consult the Chair and, if necessary, then raise the matter with the board when it next meets.

## **8. Openness and Confidentiality**

- 8.1 Because of the Trust Board's public accountability and the importance of conducting its business openly and transparently, Directors should ensure that, as a general principle, students and staff of the Academies have free access to information about the proceedings of the Trust Board and its committees. Accordingly, agendas, minutes and other papers relating to meetings of the Trust Board and its committees are normally available for public inspection when they have been approved for publication by the Chair.

There will be occasions when the record of discussions and decisions will not be made available for public inspection; for example, when the board considers sensitive issues or named individuals and for other good reasons. Such excluded items will be kept in confidential records by the Company Secretary, and will be circulated in confidence to Directors. Some confidential items are likely to be of a sensitive nature for a certain period of time only (for example information relating to a proposed commercial transaction or collaboration with another institution). The Trust Board should specify how long such items should be treated as confidential or, if this is not possible, such items should be regularly reviewed to consider whether the confidential status should be removed or whether the public interest in disclosure outweighs that confidential status and the item made available for public inspection. When considering such issues the Directors must also consider the Trust's publication scheme issued under the Freedom of Information Act 2000.

- 8.2 It is important that the Trust Board and its committees have full and frank discussions in order to take decisions collectively. To do so, there must be trust between Directors and LGB Members with a shared corporate responsibility for decisions. Directors should keep confidential any matter which, by reason of its nature, the Chair or members of any



committee of the Trust are satisfied should be dealt with on a confidential basis.

8.3 Directors or LGB Members should not make statements to the press or media or at any public meeting relating to the proceedings of the Trust Board or its committees without first having obtained the approval of the Chair. It is unethical for Directors or LGB Members publicly to criticise, canvass or reveal the views of others which have been expressed at meetings of the Trust Board or its committees.

8.4 Directors should make arrangements for the proper handling and disposal of confidential board papers and it is recommended that these are shredded by the Director when no longer required or are returned to the Company Secretary for shredding.

## **9. Complaints**

9.1 Accountability is at the heart of public service bodies and it is important that the affairs of the Trust and its Academies are conducted in an open and transparent manner. To this end Directors and LGB Members should be aware of the systems in place to deal with employees' grievances and matters relating to their employment. Directors and LGB Members should also be aware of the Trust's complaints procedure.

## **10. Attendance at Meetings**

10.1 A high level of attendance at meetings of the Trust Board and its Committees is expected so that Directors and LGB Members can perform their functions properly.

## **11. Governance Development**

11.1 Directors and LGB Members must obtain a thorough grounding in their duties and responsibilities by participating in the Trust's governance induction and training programmes, and taking other opportunities to extend their knowledge of the Trust, its Academies and the education sector.

11.2 In order to promote more effective governance, the Trust Board and its committees will carry out an annual review of the performance by the respective body of its duties and responsibilities, as part of a continuing and critical process of self-evaluation.

## **12. Review of Code**

12.1 This code shall be kept under review by the Company Secretary and referred to the Trust Board for amendment as required.

## Schedule to Code of Conduct

### List of Source Documents

1. the Trust's Memorandum and Articles of Association;
2. the Standing Orders;
3. the Committee Terms of Reference;
4. the Funding Agreements entered into by the Trust with the Agency;
5. the Scheme of Delegation and Financial Regulations;
6. the governance framework and organisation chart;
7. the Conflicts of Interests Policy and Registers of Directors' and Local Governing Body Members' Interests;
8. the principles laid down by the Committee on Standards in Public Life (Nolan Committee) for those holding public office, namely:
  - selflessness;
  - integrity;
  - objectivity;
  - accountability;
  - openness;
  - honesty; and
  - leadership.

An extract from the report of the Nolan Committee setting out these Principles in more detail is set out at Appendix 1;

9. the Good Governance Standard for Public Services published by the Independent Commission on Good Governance in Public Services (Good Governance Standard);

An extract from the Good Governance Standard setting out the six core principles of good governance is set out at Appendix 2;

### Appendices

- 1 the Seven Principles of Public Life
- 2 Six Core Principles of Good Governance
- 3 Responsibilities of Directors under company and charity law
- 4 Summary of main responsibilities of the Directors under the Articles of Association

## **Appendix 1**

### **The Seven Principles of Public Life**

The following is an extract from the Second Report of the Nolan Committee on Standards in Public Life, May 1996

#### **Selflessness**

Holders of public office should take decisions solely in terms of public interest and not in the interests of themselves their family or their friends.

#### **Integrity**

Holders of public office should not place themselves under any obligation to a third party which might influence them in the performance of their public duties.

#### **Objectivity**

All decisions involving awarding contracts, benefits or rewards should be made on merit.

#### **Accountability**

Holders of public office are accountable to the public for their actions and should submit themselves to the appropriate authority.

#### **Openness**

All decisions taken should be as open as possible.

#### **Honesty**

Holders of public office have a duty to declare any private interests relating to their public duty and resolve conflicts so as to protect the public interest.

#### **Leadership**

Holders of public office should promote and support these principles by leadership and example.

## Appendix 2

### Six Core Principles of Good Governance

The following is an extract from the Good Governance Standard for Public Services published by the Independent Commission on Good Governance in Public Services, January 2005

- 1. Good governance means focusing on the organisation's purposes and on outcomes for citizens and service users**
  - 1.1 Being clear about the organisation's purposes and its intended outcomes for citizens and service users;
  - 1.2 Making sure that users receive a high quality service;
  - 1.3 Making sure that taxpayers receive value for money.
- 2. Good governance means performing effectively in clearly defined functions and roles**
  - 2.1 Being clear about the functions of the governing body;
  - 2.2 Being clear about the responsibilities of the non-executives and the executive, and making sure that those responsibilities are carried out;
  - 2.3 Being clear about relationships between the governors and the public.
- 3. Good governance means promoting values for the whole organisation and demonstrating the values of good governance through behaviour**
  - 3.1 Putting organisational values into practice;
  - 3.2 Individual governors behaving in ways that uphold and exemplify effective governance.
- 4. Good Governance means taking informed, transparent decisions and managing risk**
  - 4.1 Being rigorous and transparent about how decisions are taken;
  - 4.2 Having and using good quality information, advice and support;
  - 4.3 Making sure that an effective risk management system is in operation.
- 5. Good governance means developing the capacity and capability of the governing body to be effective**
  - 5.1 Making sure that appointed and elected governors have the skills, knowledge and experience they need to perform well;
  - 5.2 Developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group;

5.3 Striking a balance, in the membership of the governing body, between continuity and renewal.

**6. Good governance means engaging stakeholders and making accountability real**

6.1 Understanding formal and informal accountability relationships;

6.2 Taking an active and planned approach to dialogue with accountability to the public;

6.3 Taking an active and planned approach to responsibility to staff;

6.4 Engaging effectively with institutional stakeholders.

## **Appendix 3**

### **Company Law**

#### **Summary of the duties of Directors under the Companies Act 2006**

- Directors must act within their powers (s171)
- Directors must promote the success of the company (s172)
- Directors must exercise independent judgement (s173)
- Directors must exercise reasonable care skill and diligence (s174)
- Directors must avoid conflict of interest (s175)
- Directors must not accept benefits from third parties (s176)
- Directors must declare any interest in proposed transactions with the company (s177)

### **Charity Law**

#### **Trustees have full responsibility for the charity and must:**

- Act together and in person and not delegate control of the charity to others;
- Act strictly in accordance with the Trust's governing documents;
- Act in the Trust's interests only and without regard to their own private interests;
- Manage the Trust's affairs prudently throughout the life of the Trust;
- Not derive any personal benefit or gain from the Trust of which they are trustees; and
- Take proper professional advice on matters on which they are not themselves competent.

## Appendix 4

### Summary of main responsibilities of Directors under the Articles

Powers and responsibilities of Directors under the Trust's Articles of Association (Articles 93 – 131)

- To manage the business of the Trust.
- To expend the funds of the Trust in such manner as they shall consider most beneficial for the achievement of the Objects.
- To invest in the name of the Trust such part of the funds as they may see fit.
- To enter into contracts on behalf of the Trust.
- In exercising these powers and functions, the Directors may consider any advice given by any executive officers (including the Principals of the Academies).
- Any bank account shall be operated by the Directors in the name of the company and cheques etc shall be signed by at least two signatories authorised by the Directors.
- The Directors may establish any committee, including Local Governing Bodies for each Academy, and should determine constitution, membership, proceedings and terms of reference. Terms of reference to be reviewed annually.
- Directors may delegate to any Director, committee (including Local Governing Body) Principal and any other executive officer, such of their powers or functions as they consider desirable. Delegation may be subject to conditions and may be revoked or altered. To report exercise of that power at next Directors meeting.
- To appoint the Principals of the Academies. Directors may delegate such powers and functions as required by the Principals for the internal organisation, management and control of the Academies (including the implementation of all policies approved by the Directors and for the direction of the teaching and curriculum at the Academies).
- To comply with obligations under the Companies Act and Charities Act with regards to preparation and filing of annual report and accounts and annual return.