

# Not for Profit Policy

---



## NOT FOR PROFIT POLICY

<b>Presented to Local Finance Committees:</b>	<b>September 2019</b>
<b>Presented to OLOG Audit &amp; Risk Committee</b>	<b>09/10/19</b>
<b>Presented and Approved by OLOG Board of Trustees</b>	<b>09/10/19</b>
<b>Signature of Chair of Board of Trustees:</b>	
<b>Name of Chair of Board</b>	<b>John Anthony</b>
<b>Date</b>	<b>09/10/19</b>
<b>Version</b>	<b>4</b>
<b>Next review date</b>	<b>October 2020</b>

# Not for Profit Policy

---

This not for profit policy applies to contracts for goods and services agreed on or after 7 November 2013.

The Academy Trusts must **pay no more than 'cost'** for goods or services provided to it by the following persons ('services' do not include services provided under a contract of employment):

- any member or trustee of the academy trust;
- any individual or organisation **connected to** a member or trustee of the academy trust.

The 'at cost' requirement applies to contracts or goods and services from a related party exceeding £2,500, cumulatively, in any one financial year. For these purposes, where contract takes the trust's cumulative annual total with the related party beyond £2,500, the element above £2,500 must be at no more than cost.

In relation to organisations supplying legal advice or audit services to the academy trust, the 'at cost' requirements applies where the organisation's partner directly managing the service is a member or trustee of the trust but not in other cases for those organisations.

In relation to dioceses, the contributions made by an academy trust to its diocese for services it receives associated with securing the academy trust's religious character and ethos, which only the diocese can provide, are regarded as meeting the 'at cost' requirement.

For these purposes the following persons are **connected to** a member or trustee:

- a relative of the member or trustee. 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, parent, spouse or civil partner;
- an individual or organisation carrying on business in partnership with the member, trustee or a relative of the member or trustee;
- a company in which a member or the relative of a member (taken separately or together), and/or a trustee or the relative of a trustee (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 or the relative of a member (acting separately or together), and/or a trustee or the relative of a trustee (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 or trustee of the academy trust; or any body **related to** such individual or organisation;
- any individual or organisation recognised by the Secretary of State as a sponsor of the academy trust; or any body **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); or
- 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 governing body.

# Not for Profit Policy

---

The Academy Trust must ensure that any agreement with the individuals or organisations referred to above to supply goods or services to the trust is properly procured and is:

- supported by a **statement of assurance** from that individual or organisation to the trust confirming that their charges do not exceed the cost of the goods or services; and
- on the basis of 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, and must not include any profit. 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).

Should any staff/personnel of the individuals or organisations referred to above be based in, or work from the premises of, the academy trust the individual or organisation and the academy trust must agree an appropriate sum to be paid to the academy trust for such use/occupation of the premises, save to the extent that they are carrying out work for the academy trust.

The obligations apply to new and renewed contracts for goods and services agreed on or after 7 November 2013. The provisions do not affect contracts in place prior to this date, for which existing Tripartite Agreements will still apply.

Whilst these provisions do not apply to contracts of employment the same principles of securing value for money and using public money properly, including managing conflict of interest, will still apply. Salaries paid should be appropriate to the individual’s skills and experience and the salary rates paid in the wider market.

## Links to other policies

[Best Value Statement](#)

[Financial Regulations](#)

[Conflict of Interest Policy](#)