

## Terms of Reference for Directors

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### Hamwic Education Trust (the "Trust")

#### *Statement of Intent*

The Directors recognise the Trust ethos is built upon the creation of local communities of schools working together through the establishment of Partnership Boards.

The Directors undertake to work with Partnership Boards and Local Governing Bodies to protect, as far as they are able and is within their control, this aspect of the Trust's ethos.

#### **1 Introduction**

In order to support the effective operation of the Trust and the academy trusts within the Trust's group (the Group) this document summarises the role and responsibilities of the Trust's board.

The Board shall review annually this document.

#### **2 The Board**

The Board has overall responsibility for the Trust and delegates a number of responsibilities to its committees, officers and staff. In delegating its responsibilities to its committees, the Board expects members of its committees to possess the relevant skills; and that members appointed to the Board with such specialist skills are expected to sit on the relevant Committee. However, it retains the ultimate responsibility for all actions taken in the Trust's name.

The role of the Board is to set the overall aims and objectives of the Trust and to ensure that the organisation is meeting these and keeping within its legal and moral obligations. The Board is also responsible for ensuring the financial well-being of the Trust.

#### **3 Powers, functions and responsibilities of Directors**

The Directors are responsible for the governance and supervision of the Academy Trust, its committees (including the Partnership Boards and the Local Governing Bodies (**LGBs**)).

The Directors have a number of duties and responsibilities relating to the governance of the Academy Trust and its finances. In summary, the Directors are responsible for:

- establishing the vision, mission and values for the Academy Trust;
- carrying on the Academy Trust in accordance with the objects of the Academy Trust as set out in the Articles of Association and safeguarding the assets of the Academy Trust;
- designing strategy and structure for the operation of the Academy Trust;
- the delegation of the running of the Academies and the direction of the education, pastoral care, financial and other policies of the Academies to the Executive Team;

- ensuring sound management and administration of the Academy Trust by the Executive Team, and ensuring that the Executive Team is equipped with the relevant skills and guidance;
- financial controls and the financial management of the Academy Trust in accordance with the provisions of the Academies Financial Handbook, which sets out in detail provisions for the financial management of the Academy Trust;
- setting standards of conduct and values, monitoring performance and the achievement of objectives, and ensuring that plans for improvement are acted upon;
- risk management, that is identifying, quantifying and devising systems to minimise the major risks affecting the Academy Trust; and
- ensuring the Academy Trust and the Academies are conducted in compliance with the general law.

In particular, the Board is responsible for the functions set out in the Scheme of Delegation.

#### **4 Accountability of Directors**

The Directors are chiefly accountable to:

- the beneficiaries of the Academy Trust (pupils at the Academies, their parents and the local community) for the quality of education and pastoral care at the Academies, for matters of health and safety and for safeguarding and promoting the welfare of the pupils;
- the Department for Education, the Education and Skills Funding Agency and specifically the Secretary of State under the terms of the Funding Agreement;
- the Secretary of State (in his or her role as principal regulator in respect of charity matters) for operating the Academy Trust for the public benefit, for the prudent management of the Academy Trust and its financial efficiency, and for compliance with legislation including charities legislation;
- the employees of the Academy Trust for their working environment, and for compliance with the contract of employment and employment law requirements and matters of health and safety; and
- other regulatory authorities for compliance with regulated responsibilities to which the Academy Trust and the Academies are subject.

#### **5 Conducting Directors' business**

The Directors are required to:

- act together and in person and not delegate responsibility of the Academy Trust to others;
- act strictly in accordance with the Articles;
- act in accordance with the Academy Trust's code of practice for Directors;
- act in the Academy Trust's interests only and without regard to their own private interests;
- manage the Academy Trust's affairs prudently;
- not take personal benefit from the Academy Trust unless expressly authorised by the Articles or the Charity Commission; and
- take proper professional advice on matters on which they are not themselves competent.

The Directors should also hold the Executive Team to account. They should offer support, constructive advice, be a sounding board for ideas, a second opinion on proposals and help where needed, but will also challenge, ask questions, seek information and improve proposals where appropriate and at all times act in the best interests of the Academy Trust.

The Directors shall have regard to the framework for inspecting schools in England under section 5 of the Education Act 2005 (as amended) issued by the Office for Standards in Education, Children's Services and Skills (**Ofsted**).

The duties and responsibilities of Directors are explained in further detail in *The essential Trustee: what you need to know, what you need to do (CC3)* (Charity Commission, July 2015).

The Directors shall have regard to the Academies Financial Handbook, which shall be circulated to all Directors.

## **6 Chair of Directors**

The Board shall appoint an individual from among their number to act as Chair. A change of Chair will require a notification to be made to the DfE, including a Disclosure and Barring Service (**DBS**) disclosure form to be submitted via the DfE.

The main role of the Chair is to chair meetings of the Board of Directors. He or she also provides leadership to the Directors and acts as the main point of contact between the Directors and the Executive Team

Apart from any special responsibilities or powers given to the Chair in the Articles (e.g. the right to chair meetings of the Board of Directors and to have a second or casting vote in any case of an equality of votes at a meeting of the Board of Directors), the Chair has no special powers or rights over any other Director. If the Chair is to carry out certain specific functions (for example, the power to approve an overspend in a certain area of the budget or the Chief Executive Officer's appraisal) then this must be expressly delegated to him by the Board.

## **7 Meetings of Directors**

There will be at least three meetings of the Directors in every academic year. Meetings are likely to be held more frequently than the minimum and the dates will be published at the beginning of each academic year. Meetings of the Directors shall be convened and conducted as provided by the Articles.

In determining the agenda for Board meetings and committee meetings, the Directors will have regard to the requirement on them to:

- ensure good financial management and effective internal controls;
- comply with the Funding Agreement and the current version of the Academies Financial Handbook (or successor documents);
- receive and consider information on financial performance at least three times a year; and
- take appropriate action to ensure ongoing viability against agreed budgets.

In consultation with the Chair, the Clerk to the Board of Directors shall prepare an annual plan for the meetings of the Directors.

## **8 Delegation of powers of Directors**

Directorship is a personal office of trust and responsibility and this cannot be transferred to another individual. However, in order to ensure the proper management of the Academies, the Directors are able to delegate specific tasks to assist them in carrying out their duties and obligations.

It is for the Board of Directors to determine what decisions it will take for itself, what will be delegated to committees, working groups or individual Directors (e.g. the Chair) and what will be delegated to the Executive Team. The Directors must also consider when and from whom they should take professional advice.

In determining whether delegation is appropriate, the Directors will have regard to the following principles:

- non-executive powers must be exercised by the Directors personally and may not be delegated;
- except when it is impracticable to do so, executive powers should be delegated to the Chief Executive Officer, who may authorise further delegation; and
- every act of delegation is only a delegation of powers and does not relieve the Directors of responsibility.

The Directors must not delegate any of their powers listed in Annex 1 (the **Reserved Matters**).

Delegation can be made to:

- Board committees including the following committees:
  - Finance and Audit;
  - Governance and Ethos; and
  - Remuneration;
- The Partnership Boards;
- the LGBs;
- any Director holding executive office;
- the Executive Team (which in turn may delegate to further individuals).

## **9 Risk management**

The charities statements of recommended practice (the **SORP**) set out requirements for reporting on the risks to a charity.

The Directors' report therefore must include a description of the principal risks and uncertainties facing the Academy Trust and any subsidiary undertakings, as identified by the Directors. The report must also include a summary of the Directors' plans and strategies for managing these risks. The Directors must identify specific risks and describe ways to combat each one, rather than making general statements regarding risk management.

The Directors are therefore responsible for:

- identifying the major risks that apply to the Academy Trust, including:
  - operational risks (employment issues, health and safety, fraud, service quality and development etc.);
  - financial risks (accuracy of financial information, cash flow, reserves, over-reliance on funding sources etc.);
  - external risks (changes in government policy, economic factors, demographic changes, adverse publicity etc.); and
  - regulatory risks (compliance with legislation, changes in policies of the regulators etc.).

- making decisions (based where appropriate on advice from professional advisors) as to how to respond to those risks; and
- making appropriate statements regarding the management of risks in the annual report.

The Finance and Audit Committee, supported by the Executive Team, shall prepare a risk register for approval by the Directors, along with a procedure by which the risk register shall be subject to regular review and made available to all staff. The risk register shall have named individuals assigned to manage each area.

## **10 The management of conflicts of interest**

The Companies Act 2006 imposes a statutory duty on the Directors to avoid situations in which they have or could have an interest, which conflicts (or could conflict) with the interests of the Academy Trust. The duty is to:

- a) declare the nature and extent of any interest in any matter relating to the Academy Trust; and
- b) avoid any conflict of interest between that interest and the interests of the Academy Trust.

In addition, charity law and guidance issued by the Charity Commission confers obligations on the Directors to manage any conflict between a Director's duty to the Academy Trust and their own personal interests or for a Director to be influenced by conflicting duties to the Academy Trust and a third party.

Further details are set out in the Conflicts of Interest Policy with which the Directors are obliged to comply.

## **11 Recruitment of Directors**

It is essential that the Board of Directors has a proper mix of skills and experience. The Directors must therefore be able to identify potential new Directors in order to plan for succession, which combines continuity of experience and expertise with new ideas and energy.

The Board as a whole is responsible for ensuring that:

- the skills of any new Directors fit in with the Academy Trust's requirements in the short, medium and longer term;
- each new Director is not disqualified from acting as a Director by any provision of the Academy Trust's Articles of Association (including the requirement that he is not disqualified as a company director or charity Director);
- there is a system in place which ensures that all relevant checks, including an enhanced DBS check (countersigned by the Secretary of State in the case of a new Chair), are completed before or as soon as practicable after a Director takes up position; and
- the new Director understands the responsibility he / she is taking on and consents to act as a Director.

Each new Director will be properly inducted to ensure that he / she understands the nature and extent of his role and responsibilities. It is the duty of a new Director to ensure that he / she is familiar with the Objects of the Academy Trust; its history and ethos and the nature and extent of its activities; and the content of the Academy Trust's Articles.

The Directors shall provide each new Director with:

- these terms of reference; and

- the scheme of delegation;
- the terms of reference for the Executive Team; and
- the conflicts of interest policy.

New Directors should also be provided with copies of the Academy Trust's annual report and financial statements from the previous three years.

New Directors shall be required to sign the declaration set out in Annex 2.

## **12 Training and development of Directors**

The Directors shall ensure that the Board has the skills and experience needed to perform its functions effectively. Directors shall also be kept up to date with developments in the legal and regulatory framework in which the Academy Trust operates.

The Directors must have in place a system for evaluating Directors, with a view to identifying potential gaps in their skills and any requirements for training. Such evaluation shall be carried out annually.

## Annex 1 Reserved matters

The Reserved Matters are:

### Members

(subject to such other consents/ requirements as might be required by law or the Funding Agreement)

- 1 to change the name of the Academy Trust
- 2 to change the Objects (which would require Charity Commission and Secretary of State consent in any event)
- 3 to change the structure of the Board of Directors
- 4 to amend the Articles of Association
- 5 to amend this Scheme
- 6 to pass a resolution to wind up the Academy Trust
- 7 to appoint the auditors (save to the extent that the Directors may make a casual appointment)

### Directors

(subject to such other consents/ requirements as might be required by law or the Funding Agreement)

- 8 to change the name of the Academies
- 9 to determine the educational character, mission or ethos of the Academies
- 10 to adopt or alter the constitution and terms of reference of any committee of the Board of Directors
- 11 to terminate a supplemental funding agreement for an Academy
- 12 to establish a trading company
- 13 to sell, purchase, mortgage or charge any land in which the Academy Trust has an interest
- 14 to approve the annual estimates of income and expenditure (budgets) and major projects
- 15 to appoint investment advisors
- 16 to sign off the annual accounts;
- 17 to appoint or dismiss, the Chief Executive Officer, the Deputy Chief Executive Officer, the Company Secretary or the Clerk to the Directors;
- 18 to settle the division of executive responsibilities between the Directors on the one hand and Chief Executive Officer, the Deputy Chief Executive Officer and the School Leaders on the other hand, and to settle the division of executive responsibilities between those

individuals

- 19 to do any other act which the Funding Agreement expressly reserves to the Board of Directors or to another body (including for the avoidance of doubt, terminating the Funding Agreement or any part of it)
- 20 to do any other act which the Articles expressly reserve to the Board of Directors or to another body
- 21 to do any other act which the Board of Directors determine to be a Reserved Matter from time to time



## Annex 2 Director declaration on appointment

### Hamwic Education Trust (Company)

I confirm that I am willing to act as a director of the Company ("**a Director**"). I further confirm that I am not disqualified from so acting by virtue of any provisions of the Articles of Association of the Company, including, but not limited to, the requirement that I am not disqualified from acting as a charity trustee or director by virtue of section 178 of the Charities Act 2011 (extract included below).

Signed .....

Full name .....

Address .....

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Date .....

Please sign and retain the additional copy of this document with your records.

**Hamwic Education Trust**, a company limited by guarantee.

**Company registration number:** 10749662

**Registered office:** Unit E, The Mill Yard, Nursling Street, Southampton, SO16 0AJ

## **Extract from section 178 of the Charities Act 2011**

### **178 Persons disqualified from being charity trustees or trustees of a charity**

(1) A person (“P”) is disqualified from being a charity trustee or trustee for a charity in the following cases—

#### **Case A**

P has been convicted of any offence involving dishonesty or deception.

#### **Case B**

P has been adjudged bankrupt or sequestration of P's estate has been awarded and (in either case)—

- c) P has not been discharged, or
- d) P is the subject of a bankruptcy restrictions order or an interim order.

#### **Case C**

P has made a composition or arrangement with, or granted a trust deed for, creditors and has not been discharged in respect of it.

#### **Case D**

P has been removed from the office of charity trustee or trustee for a charity by an order made—

- e) by the Commission under section 79(2)(a) or by the Commission or the Commissioners under a relevant earlier enactment (as defined by section 179(5)), or
- f) by the High Court,

on the ground of any misconduct or mismanagement in the administration of the charity for which P was responsible or to which P was privy, or which P's conduct contributed to or facilitated.

#### **Case E**

P has been removed, under section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10) (powers of the Court of Session) or the relevant earlier legislation (as defined by section 179(6)), from being concerned in the management or control of any body.

#### **Case F**

P is subject to—

- g) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/ 3150 (N.I.4)), or
- h) an order made under section 429(2) of the Insolvency Act 1986 (disabilities on revocation of county court administration order).