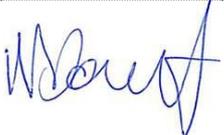




# Use of Consultants Policy

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**November 2018**

<b>Signed (Chair of Trustees):</b>	
<b>Date:</b>	<b>November 2018</b>
<b>Date of Review:</b>	November 2019

*The Arbor Academy Trust reviews this policy annually. The Trustees may, however, review the policy earlier than this, if the Government introduces new regulations, or if the Trust receives recommendations on how the policy might be improved. This document is also available in other formats e.g. e-mail and enlarged print version, on request to the School Offices and is displayed on the schools' websites.*

## **1. Statement of Intent**

The purpose of this policy is to set out how Arbor Academy Trust works with consultants providing services to us and how Arbor Academy Trust supports other organisations as Consultants. We are committed to ensuring income is maximised in line with the principles of the Trust and that consultancy services benefit all parties. All staff, trustees and governors are required to comply with this Consultancy Policy, which sets out the framework within which the MAT both receives and carries out consultancy services. All parties concerned are expected to be aware of their responsibilities with regard to consultancy. The implementation of the following practices and procedures will ensure that both time and funds are efficiently used to enhance students' education.

## **2. Aims**

- All services offered will provide value for money.
- All income is identified, and all collections receipted, recorded and banked promptly.
- All services will promote good practice and enhance the reputation of the MAT.
- All services should be provided with the overall aim to improve educational achievement.

## **3. Responsibilities**

### **3.1. Trust Board**

The Trust Board has overall responsibility for the management of the Trust's finances, including setting consultancy fees, deciding how revenue is distributed and making sure the delivery of services is reflective of the Trust's educational objectives. It will:

- review all financial information provided to them to make sure spending is in line with forecasted income and expenditure.
- consider advice from the Executive Team and relevant consultants with regard to consultancy matters.
- consult with the Executive Team, in agreeing prices for consultancy services and which services may be undertaken and by whom.

### **3.2. Finance and Resources Committee**

The Trust Board has delegated responsibilities to the Finance & Resources Committee in the following areas of financial consultancy:

- review consultancy services offered and received by the Trust
- the cost of such services and
- the overall impact on the Trust of offering the services.

### **3.3. The Executive Team**

The Trust Board has delegated responsibilities to the Executive in the following areas of financial consultancy:

Consultancy received:

- Assisting in the decision of who to engage, for which services and advice and determining how much funding is paid based on market value and Best Value principles.
- Reviewing a Consultants suitability to the role, services and/or advice they are engaged to supply.

- Reviewing the impact and outcomes of the consultancy throughout the duration and final impact.

Consultancy offered:

- Assisting the Trust Board in setting fees, deciding which services will be offered and determining how much income is paid directly into the Trust central account.
- Recommending suitable members of staff for consultancy.
- Reviewing the impact on the members of staff carrying out the consultancy regarding overall workload management.

#### **4. Pricing**

All services are charged at a rate agreed by the Trust Board on the advice of the Executive Team. When establishing the costs of services, the following must be taken into consideration:

- Value for money.
- Time taken for delivery.
- Number of consultants required.
- Software/training packs developed that remain the intellectual property of the Trust.
- Cost of equivalent services from outside organisations (benchmarking).
- Annual review of rates charged.
- Reimbursement of travel expenses and allowances.
- Benefits to Trust employees as well as the Trust from engaging in consultancy work on behalf of the Trust.

#### **5. Services**

##### **5.1 Services received:**

Consultancy services will only be engaged where there is a clear advantage to the Arbor Academy Trust and the service received outweighs the cost of the consultant being appointed.

All consultancy services provided to Arbor Academy Trust must be agreed prior to delivery with the consultant and scrutiny of the fees or charges agreed by the Finance Director prior to formal engagement.

A clear process of evaluation should be agreed at the onset of the consultancy, which should state the intended outcomes and impact on the MAT. If the consultant does not provide a brief or agreement to negotiate with the pro-forma attached to this policy should be used and adapted to need.

##### **5.2 Services offered:**

Consultancy services will only be offered where there is a clear advantage to the MAT receiving the service that outweighs the cost of the consultant being absent from their MAT for the duration of the service. Consultancy services offered will change throughout the academic year and will usually be tailored to the need. Agreement to any consultancy must always be agreed prior to delivery and scrutiny for fees charged agreed by the Finance Director. A clear brief for the consultancy services must always be agreed prior to delivery by the Senior Leadership Team or other member of staff and a consultancy agreement signed. A pro-forma is attached to this policy.

## **6. Invoicing**

*All cheques are made payable to Arbor Academy Trust and never to the consultant personally.* No personal cheques will be authorised under any circumstances except where specifically agreed. The Trust Board and the Senior Leadership Team have the right to decide how much of the income is paid directly into the MAT fund and how much, if any, is received by the consultant. Any consultancy work undertaken by an employee of Arbor Academy Trust outside of their contract of employment within the education community for payment direct to the employee, can only be undertaken with the consent of the Trust Board or CEO. Consideration to the reputational risk to Arbor Academy Trust will be assessed when making decisions regarding consultancy outside of direct employment. Consultancy work covers unpaid work and representation on other educational bodies in addition to paid consultancy work.

### **6.1. Internal financial controls**

To ensure sound financial control, consultancy fees are to be processed in accordance with the principles below:

- The Budget Holder or Headteacher requiring a service should raise a purchase/internal order.
- The MAT Business Manager processes it and signs up for the receipt of the service.
- The services received are checked against each order by the Budget Holder or person/s requiring them.
- The MAT Business Manager and/or Administrative Team process the invoice and updates accounts.
- All MAT cheques must have two signatures by authorised signatories.
- Accounting records should be securely stored and only authorised staff should have access to them.

## **7. Debt recovery**

The Trust Board has a duty to ensure the MAT receives all the funds to which it is entitled.

### **7.1. The principles**

1. The Finance & Resources Committee will not write off any debt which exceeds £100, debts high than £100 for consultancy must be referred to the Trust Board.
2. A full record will be kept of debts owed to the MAT for 7 years. This will include all letters requesting money, reminders and invoices.
3. The MAT will not initiate legal action to recover debts unless the Finance & Resources Committee agrees such action.

### **7.2. Roles and responsibilities**

The Headteacher and MAT Finance Director will ensure that:

- Letters requesting money are accurately recorded and those records are maintained.
- A signed agreement exists for the consultancy.
- Evidence of the steps taken by the MAT in pursuance of debt is recorded including dates and times of both letters and phone calls.
- A final reminder is sent by recorded delivery to the debtor.
- The level of outstanding debt can be determined at any time.

### 7.3. The Trust Board

The Trust Board:

- Will prescribe and regularly review the arrangements for debt recovery.
- Must approve any legal action taken if the debt is above £500
- Will ensure that when action is approved, it will be recorded in the minutes of the relevant meeting.
- Will adhere to the privacy arrangements.
- May delegate its responsibilities under this policy to the Finance & Resources Committee.

### 7.4. The process for pursuing debts

Full details of debt recovery are contained the Financial Regulations Policy. The process will follow the following:

- **Informal reminder**
- **First reminder letter/email**
- **Second reminder letter/email**

This written communication allows the debtor every opportunity to settle their debt and ensure the MAT can prove all reasonable steps have been taken to recover the debt should the issue proceed further.

- **Final reminder letter/email**

If no response is received following the second communication reminder, the MAT will send a letter to the debtor advising them that they are considering legal action. This letter will be sent by recorded delivery to ensure the debtor has had every chance to respond. At this point the debtor may be advised, at the discretion of the Trust Board, that they will have to pay in advance for certain services in the future and any legal costs incurred in recovering any debts.

- **Legal action**

At this juncture the Arbor Academy Trust will decide whether to take legal action against the debtor.

### 7.5. Waiving of debts

The waiving of debts is at the discretion of the CEO and the Trust Board. A debt may be waived when it is believed the debtor is experiencing serious financial hardship and if all reasonable avenues to recover the debt have been exhausted (including instalments) and it is believed it would not be cost effective to pursue the debt through legal action. The CEO is authorised to waive debts off up to £100. Debts between £101 and £1000 will only be waived with the approval of the Finance & Resources Committee. Debts of £1001 or more will never be waived.

## 8. Links to other Academy/MAT Policies

### Anti-Fraud and Corruption

The MAT has a 'zero tolerance' policy towards fraud, bribery and corruption. We will always investigate and seek to take disciplinary and /or legal action against those who commit, or assist anyone committing, fraud or any other improper activities in our operations.

### Safeguarding

The MAT recognises that it has a fundamental duty of care towards all children where its programmes and operations facilitate contact with children, or have an impact on children. This includes a duty to protect children from harm or risk of harm as a result of misconduct by our staff, consultants or partners, of poor practice or of the poor design or delivery of our programmes and operations. We achieve this through compliance with UK child protection laws and the MAT's Child Protection and Safeguarding Policy.

**Counter-Terrorism and anti-money laundering**

The MAT is committed to ensuring that no funds are financing or supporting terrorist activity or money laundering and by ensuring all staff, consultants or partners understand their obligations to report any actual or suspected activity and to meet its obligations to report to external authorities where appropriate.

**Equality, Diversity and Discrimination**

The MAT's policies commits us to ensuring that Arbor Academy Trust is an inclusive school where we focus on the well-being and progress of every child and where all members of staff, consultants, partners and community are of equal worth and value. The MAT will work to ensure that we eliminate unlawful discrimination, harassment and victimisation and that there is no unjustified discrimination in the recruitment, retention, training and development of our staff, consultants, volunteers or other partners.

**Upholding Public Trust**

The MAT's Code of Conduct states that every one of us, including consultants has a duty to behave in ways that actively uphold public trust and give people confidence in the integrity of Arbor Academy Trust. No consultant must ever behave, at work or in public, in a manner, which may damage the reputation of Arbor Academy Trust.

## Appendix: PRO-FORMA AGREEMENT

### CONSULTANCY SERVICES AGREEMENT FORM

This contract is between Arbor Academy Trust, and (insert name of consultant and name of consultant service).

The consultant will provide services concerning (insert a brief summary of the type of service that the consultant will be providing).

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Signed: (CEO's signature)

Date:

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Signed: (Consultant's signature)

Date:

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#### **1. Terms and definitions**

##### **1.1 "Central government body"**

- Means a body listed in one of the following sub-categories, as published and amended from time to time by the Office for National Statistics:
  - Government department
  - Non-departmental public body or assembly sponsored public body
  - Non-ministerial department
  - Executive agency

##### **1.2 "Confidential information"**

- Means all information which has been designated as confidential by either party in writing or that ought to be considered as confidential, however it is conveyed or on whatever media it is stored.

##### **1.3 "Consultant personnel"**

- Includes all employees, agents, consultants and contractors of the consultant and/or sub-contractor.

##### **1.4 "Consultancy services"**

- Means all of the activities to be undertaken by or to be performed by the Consultant as described in Schedule 1 as may be amended from time to time.

##### **1.5 "Personal data"**

- Has the same meaning as set out in the Data Protection Act 1998.

##### **1.5 "Subject Access Request"**

- Means a request for information or an apparent request under the Freedom of Information Act or the Environmental Information Regulations.

## **2. Commencement and continuation**

2.1 The consultant shall commence the consultancy services on (insert date) and, subject to the rights of earlier termination set out in this contract, shall complete the consultancy services on or before (insert date).

## **3. Provision of consultancy services**

3.1 The consultant is appointed to undertake the consultancy services specified above. This contract shall not prevent the consultant from undertaking other consultancy or project management services, provided that the undertaking of such services does not cause a breach of contract.

3.2 The consultant shall promptly and efficiently perform the services as and when required, with all due care and skill as may be expected of a person or an organisation with the experience of the consultant and in accordance with this contract.

3.3 The consultant shall keep detailed and accurate records of all activities undertaken in relation to the provision of the services, and shall provide Arbor Academy Trust, with reports at such intervals.

## **4. Charges and terms of payment**

4.1 In consideration of, and subject to, the satisfactory performance by the consultant, the Academy/MAT shall pay the consultant any charges in accordance with the payment provisions, provided that the Academy/MAT receives full and accurate information and documentation, and the work is completed to the satisfaction of the Academy/MAT.

## **5. Changes to requirements**

5.1 Arbor Academy Trust shall notify the consultant of any material change to the requirements under this contract.

5.2 The consultant shall use all reasonable endeavours to accommodate any changes to the needs and requirements of the Academy/MAT provided that it is entitled to payment for any additional costs incurred as a result of any such changes.

## **6. Premises and equipment**

6.1 Unless otherwise agreed, any land or premises made available to the consultant by Arbor Academy Trust, in connection with the provision of the consultancy services, shall be made available to the consultant free of charge and without exclusive possession. Any premise or equipment shall be used by the consultant solely for the purpose of providing the consultancy services. The consultant shall have the use of such land or premises as licensee, and shall immediately vacate the same on the expiry or other termination of this contract.

6.2 For the purposes of this contract, the following areas and facilities at the MAT premises will be provided free for use by the consultant:

- Toilets
- Cooking facilities
- Heating
- Lighting
- First aid
- Reasonable telephone use

6.3 The MAT shall be under no obligation to provide any premises or equipment to the consultant other than those expressly referred to in this contract.

6.4 The consultant shall provide its own equipment where necessary for the delivery of the services.

6.5 Only IT equipment owned by the MAT may be used to access the MAT's network.

6.6 The consultant shall be responsible for ensuring that its officers, employees, agents and sub-contractors make proper use and take reasonable care of the MAT's facilities and equipment provided.

6.7 In regards to intellectual property rights, the consultant warrants:

- That MAT Trust's intellectual property rights comprise the original work of and were created by or on behalf of the consultant.
- That MAT Trust's intellectual property rights have not and will not be copied wholly or in part from any other work or material without express permission.

**OR**

The consultant accepts that the intellectual property rights comprise of the original work undertaken as set out in this agreement for which payment has been made.

- The consultant agrees that the intellectual property rights relating to this consultancy, have not and will not be copied wholly or in part from any other work or material without express permission.

## **7. Warranty and indemnity**

7.1 The consultant ensures Arbor Academy Trust that the obligations of the consultant, under this contract, will be performed by appropriately qualified and trained personnel to the standard of care and skill as set out by the MAT.

7.2 The consultant warrants and represents that any goods supplied by the consultant forming a part of the services provided will be of satisfactory quality and fit for their purpose, and will be free from defects in design, material and workmanship.

7.3 The consultant shall ensure that it has adequate insurance cover with an insurer of good repute to cover claims under this contract or any other claims or demands which may be brought or made against it by any person suffering any injury, damage or loss in connection with this contract.

## **8. Termination**

8.1 This contract may be terminated by either party giving to the other party at least 30 days' notice in writing.

8.2 Either party may terminate this contract by notice in writing, or where such breach is capable of remedy, the breach is required to be remedied within 15 days of the notice. If the breach has not been remedied within 15 days, the party not in breach may terminate this contract with immediate effect by notice in writing.

8.3 In the event of a material breach of this contract, which is not capable of remedy by either party, the other party may terminate this contract with immediate effect by notice in writing.

8.4 A breach shall be deemed to be capable of remedy when it is capable of performance in all respects other than time for performance, for instance, where time is of the essence.

8.5 This contract may be terminated by MAT Trust with immediate effect by notice in writing if at any time:

- The consultant is convicted of a criminal offence related to the business or professional conduct.
- The consultant commits an act of grave misconduct in the course of the business.
- The consultant fails to fulfil its obligations relating to the payment of social security contributions.
- The consultant fails to fulfil its obligations relating to payment of taxes.
- The consultant fails to disclose any serious misrepresentation in supplying information required by the Arbor Academy Trust in or pursuant to this contract.

8.6 The consultant shall not at any time after the expiry or other termination of this contract represent itself as being a consultant to/of Arbor Academy Trust or as being in any way connected with the Arbor Academy Trust.

## **9. Tax**

9.1 Where the consultant is liable to be taxed in the UK in respect of consideration received under this contract, it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax in respect of that consideration.

9.2 Where the consultant is liable to National Insurance Contributions (NICs) in respect of consideration received under this contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992, including amendments to the Act which were made in 2015, and all other statutes and regulations relating to NICs in respect of that consideration.

9.3 The consultant warrants and represents to Arbor Academy Trust that it is an independent contractor and, as such, bears sole responsibility for the payment of tax and national insurance contributions which may be found due from it in relation to any payments or arrangements made under this contract.

9.4 The consultant will account to the appropriate authorities for any income tax, national insurance, VAT and all other taxes, liabilities, charges and duties relating to any payments made to the consultant under this contract.

## **10. Confidentiality**

10.1 The consultant acknowledges that any confidential information obtained from or relating to Arbor Academy Trust is the property of the Academy/MAT.

10.2 Each party hereby warrants that:

- Any person employed or engaged by this contract shall treat all confidential information belonging to the other party as confidential, safeguard it accordingly and only use such confidential information for the purposes of this contract.
- Any person employed or engaged by this contract shall not disclose any confidential information to any third party without prior written consent of the other party, except where disclosure is otherwise expressly permitted by the provisions of this contract.

10.3 The consultant shall take all necessary precautions to ensure that all confidential information obtained from Arbor Academy Trust is treated as confidential and not disclosed (without prior approval) or used other than for the purposes of this contract.

10.4 Arbor Academy Trust shall ensure that the consultant, and any other parties involved in the provision of the service, is aware of the consultant's obligations under this contract.

10.5 The consultant undertakes to make no reference in any advertising or other promotional material to this contract without the prior written consent of Arbor Academy Trust.

10.6 Any findings and/or contents of reports produced under this contract shall not be disclosed without the permission of Arbor Academy Trust which shall not be unreasonably withheld.

10.7 In order to ensure that no unauthorised person gains access to any confidential information or any data obtained in the supply of the services, the consultant shall maintain adequate security arrangements that meet the requirements of professional standards and best practice.

10.8 The consultant shall, at its own expense, alter any security systems at any time during the contract period at Arbor Academy Trust's request if the Trust reasonably believes the consultant has failed to comply with clause safeguarding measures.

10.9 The consultant will immediately notify the CEO, of any breach of security in relation to confidential information and all data obtained in the supply of the services, and will keep a record of such breaches.

## **11. Data protection**

11.1 The consultant shall:

- Process personal data only in accordance with instructions from Arbor Academy Trust.
- Process personal data only to the extent, and in such manner, as is necessary for the provision of the services or as is required by law or any regulatory body.
- Implement appropriate technical and organisational measures to protect personal data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure.
- Take reasonable steps to ensure the reliability of any consultant personnel who have access to personal data.
- Obtain prior written consent from Arbor Academy Trust in order to transfer personal data to any sub-contractors or affiliates for the provision of the services.
- Ensure that no consultant personnel publish, disclose or divulge any of the personal data to any third party unless directed in writing to do so by Arbor Academy Trust.
- Provide the Academy/MAT with full cooperation and assistance in relation to any complaint or request made

11.2 The consultant shall notify Arbor Academy Trust, within 30 working days, if it receives:

- A Subject Access Request regarding Arbor Academy Trust's data.
- A complaint or request relating to the Arbor Academy Trust's, obligations under the data protection legislation.

11.3 The consultant shall comply at all times with data protection legislation and shall not perform its obligations under this agreement in such a way as to cause Arbor Academy Trust, to breach any of its applicable obligations under data protection legislation.

## **12. Freedom of information**

12.1 The consultant acknowledges that Arbor Academy Trust, is subject to the requirements of the Freedom of Information Act and shall assist and cooperate with the Trust to enable Arbor Academy Trust, to comply with its information disclosure obligations.

12.2 In no event shall the consultant respond directly to a request for information, unless expressly authorised to do so by the Arbor Academy Trust.

## **13. Sub-contractors**

13.1 The consultant shall take all reasonable steps to satisfy Arbor Academy Trust that sub-contractors are suitable in all respects to perform the services required.

13.2 The consultant shall immediately notify Arbor Academy Trust, if it has any concerns regarding the propriety of any of the sub-contractors in respect of services rendered in connection with this contract.

13.3 The consultant or, where applicable, its lawful assignees shall at all times remain responsible for the proper performance of its obligations and for all the acts and omissions of its sub-contractors in connection with this contract.

#### **14. Discrimination**

14.1 The consultant shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation or otherwise) in employment.

#### **15. Safeguarding Declaration**

By signing this agreement the consultant declares that they have never been convicted of any offence involving any type of harm to a child or children, nor have I ever been warned or cautioned in relation to such a matter. The consultant also declares that there are no civil or criminal proceedings of any nature pending against them at the date of this declaration relating to any allegation concerning any type of harm to a child or children.

The consultant authorises Arbor Academy Trust to seek references or approach previous employers for information to verify information on disciplinary offences relating to children.

The consultant accepts that where any Regulated Activity is carried out in connection with the consultancy/project that they (and any member of staff or individual engaged in connection with the consultancy) will be required to undertake an enhanced Disclosure and Barring Service check through the Disclosure and Barring Service (DBS), including a check against the adults' barred list or the children's barred list, as appropriate.

The consultant understands that if they withhold any relevant information, or present false or inaccurate information, that the contract for services for the above mentioned project will be terminated with immediate effect.

In accordance with the UK's Data Protection Act (1998), GDPR (2018) and any other relevant privacy law which applies, this declaration is confidential and is extended solely in order to accredit the consultants suitability to work with children whilst providing services to Arbor Academy Trust; this declaration may not be used totally or partially for any other purpose save that for which it is expressly made.