



Education
Funding
Agency

Education Funding Agency
Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

Tel: 0370 000 2288
[efa-enquiry-form](#)

01 November 2016

Mr Stephen Robinson
The Giles Academy
Church End
Old Leake
Boston
PE22 9LD

Dear Mr Robinson

Financial notice to improve: The Giles Academy

I am writing to you in your capacity as the Chair of Trustees at The Giles Academy (“the Trust”).

Firstly, I want to thank you for the positive actions the Trust has taken since appointing a new Accounting Officer in April 2016. I recognise the cooperation and extensive discussions that have already taken place between the Trust and officials and the changes you have already made to strengthen accounting and internal financial controls. However, my concerns remain in relation to the Board of Trustees’ weak financial oversight, lack of control and direction and poor internal scrutiny.

As you are aware, the Trust purchased an area of agricultural land to be converted into additional playing fields for the Giles Academy. The Trust failed to seek advance approval from the Education Funding Agency (EFA) and financed the purchase by negotiating a four-year repayment term from the vendor, placing a legal charge over the Trust’s existing land. Paragraph 3.8.1 of the Academies Financial Handbook clearly states that academy trusts **must** seek and obtain prior written approval from EFA for acquiring a freehold of land or buildings.

Paragraph 3.4.1 of the Academies Financial Handbook clearly states that academy trusts **must** seek EFA’s prior approval for borrowing (including finance leases and overdraft facilities) from any source, where such borrowing is to be repaid from grant monies or secured on assets funded by grant monies, and regardless of the interest rate chargeable.

In addition to the serious breaches of the Academies Financial Handbook relating to the land purchase, there are a number of further instances of non-compliance with the Academies Financial Handbook which are detailed in Annex A.

This letter and its Annex consequently serve as a written notice to improve financial management, control and governance at the Trust. It reflects the continued concerns regarding the governance and oversight of financial management by the Board.

The Trust is required, pursuant to the provisions of the Academy Financial Handbook (AFH) and the Funding Agreement (FA), to comply with the terms of this Financial Notice to improve ("the Notice"). These terms are set out in Annex A.

Upon receipt of this Notice, all of the delegated authorities as identified in the AFH (sections 3.6-3.10) will be revoked, and all transactions by the Trust previously covered by these delegations (regardless of size) must come to the EFA for approval. These delegated authorities shall be returned to the Trust providing that the terms set out in the Notice have been complied with to the satisfaction of the Secretary of State.

We will monitor progress made towards meeting the requirements associated with this Notice. We will lift the Notice when the requirements set out in the Annex have been met. In the event that the Trust fails to meet the requirements of this Notice, to the satisfaction of the Secretary of State, the Trust will be considered to have failed to comply with the terms of the AFH. As a result of this breach of the AFH, and therefore also of the FA, the termination process in the FA may be triggered. Depending upon the severity of the breach, this may be considered a material breach of the terms of the FA and lead to termination.

I should be grateful if you would acknowledge receipt of this letter by email within three working days of the date of this letter to [REDACTED].

I am copying this letter to, Ian Widdows the Accounting Officer of the Trust and Jennifer Bexon-Smith, the Regional Schools Commissioner for East Midlands and the Humber.

I look forward to hearing from you.

Yours sincerely,



Mike Pettifer
Director: Academies and Maintained Schools Group

CC. Ian Widdows
Jennifer Bexon-Smith

Financial notice to improve

1. The Education Funding Agency (EFA) has decided to issue a Financial Notice to Improve (the 'Notice') as a consequence of The Giles Academy ('the Trust'):
 - failing to seek prior approval from the EFA to acquire freehold land as required in the Academies Financial Handbook (AFH) paragraph 3.8.1
 - failing to seek prior approval for borrowing from any source where such borrowing is to be repaid from grant monies or secured on assets funded by grant monies, and regardless of the interest rate chargeable, as required in the Academies Financial Handbook (AFH) paragraph 3.4.1
 - failing to publish on its website relevant business and pecuniary interests of members, trustees, local governors and accounting officers as required in the Academies Financial Handbook 2016 paragraph 3.1.20
 - failing to appoint a chief financial officer (CFO) to replace the former CFO who retired in April 2016, as required by Academies Financial Handbook 2016 paragraph 2.1.10
 - failing to publish on its website up-to-date details of *all* its governance arrangements in a readily accessible format as required Academies Financial Handbook 2016 paragraph 2.5.2

Conditions

2. The Trust is required to commission an independent review of its governance arrangements which should include a skills audit of the current members and trustees. The Terms of Reference for the review and the CV of the individual or company to be appointed must be agreed with the EFA in advance of the review. The Terms of Reference must be agreed with the EFA no later than 18 November 2016 and the review completed by 23 December 2016. The Trust must share all draft and final reports from the review with the EFA.
3. The Trust must then set out in a governance action plan how it will address any and all skills gaps identified by the review. That action plan must be submitted to the EFA no later than 27 January 2017. The trust must review progress against the action plan and provide quarterly updates to EFA.
4. The Trust is required to commission an independent review of its financial management processes focussing on compliance with the AFH. This includes confirmation that the Accounting Officer can provide assurance to Parliament, and the public, of high standards of probity in the management of public funds, particularly: value for money, regularity, propriety, in line with the AFH (AFH 1.15.19). The Terms of Reference for the review and the CV of the individual or company to be appointed must be agreed with the EFA in advance of the review. The Terms of Reference must be agreed with the EFA no later than 18 November 2016 and the review completed by 23 December 2016. The Trust must share all draft and final reports from the review with the EFA.

5. The Trust must then set out in an action plan how it will address all areas of non-compliance with the AFH. The action plan must include, but not be limited to, the Appointment of a CFO, addressing the issues identified with in the membership structure of the trust, increasing transparency at the trust by publishing all information required by the trust and strengthening internal scrutiny. The action plan must be submitted to the EFA no later than 27 January 2017. The Trust must review progress against the action plan and provide quarterly updates to EFA.
6. The Trust is required to submit the 2017/18 Budget Forecast Return (BFR) by the deadline required by the Education Funding Agency. The 2017/18 Budget Forecast Return must demonstrate that the Trust has approved a balanced budget for the year, showing the Trust's financial position has not and is not forecast to deteriorate.
7. The Trust is required to submit 2015/16 accounts and 2016/17 by the deadline required by the Education Funding Agency. The 2015/16 and 2016/17 accounts and resulting auditor's management letters must not contain reference to any further contentious transactions.

Financial management requirements

8. The Trust is responsible for its own financial management, control and governance and is expected to take appropriate action to strengthen the weaknesses identified.
9. The Trust should take all appropriate actions to ensure an action plan is fully implemented.
10. The EFA must be satisfied that the Trust is doing everything it can to rectify the weaknesses identified.

Timescales

11. The Terms of Reference for the financial management and governance reviews must be agreed with the EFA no later than 18 November 2016 and the reviews completed by 23 December 2016.
12. The resulting action plans must be submitted to the EFA no later than 27 January 2017.
13. The 2015/16 audited accounts are due to the EFA by 31 December 2016. The BFR return is due to the EFA by 31 July 2017.

Monitoring and progress

14. The Trust is required to meet the specific conditions outlined above to enable the EFA to monitor compliance and progress. Should it become evident that the Trust is unlikely to fulfil the conditions and / or requirements set out in this Notice and / or within the above timescales, the EFA will begin to consider and explore the contractual intervention options available.

Compliance and the end of the notice period

15. Compliance with this Notice will be demonstrated when:

- The EFA has reviewed, and is satisfied the Trust is making acceptable progress against its governance and financial management action plans
- The Trust requests approval from the EFA for any actions under the revoked freedoms in Part 3 and Annex B of the AFH. These requests should be sent us using the [efa-enquiry-form](#)
- The EFA receives audited financial statements with an unqualified audit opinion 31 December 2016
- The EFA receives the auditor's management letter which does not raise concerns by 31 December 2016
- The EFA receives the Budget Forecast Return, by 31 July 2017. The 2017/18 Budget Forecast Return must demonstrate that the Trust has approved a balanced budget for the year, showing the Trust's financial position has not and is not forecast to deteriorate

16. When the Trust meets the conditions outlined in this annex, the EFA will write to the Trust to confirm that the Notice has been lifted.