



Education & Skills
Funding Agency

The Rodillian Multi Academy Trust

**Financial management and governance
review**

June 2017

Contents

Executive summary	3
Background	4
Objectives and scope	5
Findings	6
Accounting Officer expenses	6
Deteriorating financial position	6
Procurement and expenditure	7
Contract management	8
Finance leases	9
Governance	9
Conclusion	11
Annex A	12
List of findings	12

Executive summary

1. The Education and Skills Funding Agency (ESFA) received allegations of potential financial irregularity in February 2017, regarding the Accounting Officer (AO) staying at a local 5 star hotel several nights a week, for the last two to three years, despite living within travelling distance of all schools within the trust.

2. The ESFA's Provider Risk and Assurance team were commissioned to investigate the allegations and undertook a review of financial management and governance at the trust on 23-24 March 2017.

3. The ESFA review identified a number of significant failings and weaknesses in governance arrangements that breach the Academies Financial Handbook (AFH). Key findings of the review were:

- between 12 August 2015 and 3 May 2016 £7,827 was reimbursed to the AO to cover the cost of 78 nights stay at a hotel close to the Rodillian Academy despite there being no approved travel and subsistence policy in operation across the trust
- in June 2016 the trust entered into a rental agreement on a flat for the AO at a cost of £875 per month, the annual cost being £10,500 plus administration costs of £240. This is non-contractual and could potentially be classed as an ex-gratia and novel and/or contentious payment where approval should have been sought from the ESFA
- the trust entered into a 5 year contract to provide alternative and vocational opportunities in education for students, who may otherwise have been excluded from mainstream provision to the value of £1.45 million. No evidence was provided to the audit team that a procurement exercise was undertaken by the trust
- the trust does not have an up-to-date Financial Regulations Manual. The version presented to the audit team was dated July 2012. Our review of this document concluded that it is not fit for purpose in its current form.
- the trust does not have standard policies/procedures in place for procurement or authorising payments to be made to its suppliers. Testing undertaken identified that in 7 out of 15 instances the trust has, at the time of writing, been unable to evidence that the payments had sufficient authorisation to be made. In one of these cases the trust has also been unable to evidence that any procurement procedures had been undertaken.

Background

4. The Rodillian Multi Academy Trust (MAT) comprises of 4 secondary academies, consisting of The Rodillian Academy, The Featherstone Academy, BBG Academy and Brayton Academy. The academies have a combined pupil capacity of 4,258 and 2,992 pupils on roll as per the autumn 2016 census. The trust also provides school-to-school support to John Smeaton Academy and Swallow Hill Academy.

5. The trust also has a trading company called Southway providing alternative and vocational opportunities in education for students at KS3 and KS4, who may otherwise have been excluded from mainstream school. Southway arranges alternative provision for Rodillian academies and a range of schools from across Leeds and neighbouring authorities.

6. In February 2017, the ESFA received allegations relating to irregularities in expenditure at the trust that could be classed as novel and/or contentious, leading to breaches of the AFH.

7. Following background checks and review of the allegations, it was agreed that a review of financial management and governance was required at the trust due to concerns over how the trust is achieving value for money in its expenditure of public funds and issues identified in the trust's financial statements.

Objectives and scope

8. The objective of the review was to seek assurance that no financial irregularity had occurred and that the trust is compliant with the AFH 2016 and its Funding Agreement regarding financial management, internal financial control and governance.

9. The scope of the review was to; assess the financial controls and management within the trust; to assess the adequacy and effectiveness of governance, risk management and control, including propriety, regularity, and value for money.

10. ESFA's approach to the review included:

- reviews of all relevant trust policies and procedures, particularly those pertinent to financial management and financial controls, including the financial procedures manual, scheme of delegation and staff policies
- review of relevant trust information, including the Funding Agreement, Governing Body and relevant committee minutes, financial management information, including bank statements, credit card statements, procurement documentation and the gifts and hospitality register
- interviews with members, directors and the senior management team of the trust

11. The testing performed was aimed at ascertaining whether the allegations made by the complainant warranted further action by the ESFA, as well as reviewing financial management and governance at the trust.

Findings

12. Findings from the review identified a number of specific issues, including breaches of the trust's Articles of Association, non-compliance with the AFH and significant weaknesses in governance arrangements. These will need to be addressed to ensure there is a sufficient framework of internal control to manage the trust moving forward.

Accounting Officer expenses

13. The trust reimbursed £7,827 to the AO to cover the cost of 78 nights stay at a hotel close to the Rodillian Academy despite there being no approved travel and subsistence policy in operation across the trust.

14. During interview, the previous Chair stated the reason for the trust allowing this was due to the AO working late to support the academies in the trust and that this was discussed informally. No records or minutes were provided to the audit team to show that this arrangement was approved by the full board nor the justification being set out and recorded to show that this was a good use of public funds.

15. In June 2016, the trust entered into a rental agreement on a flat for the AO at a cost of £875 per month, the annual cost being £10,500 plus administration costs of £240. No supporting documentation was provided to show that this had been agreed at board level. The Chair stated that this arrangement would be cheaper than covering the cost of hotel stays. However, no evidence was provided that trustees had evaluated whether the requirement to cover such costs was warranted or even needed based on the initial rationale for doing so.

16. The payments by the trust to cover the costs of a flat for the AO are non-contractual and could potentially be classed as an ex gratia payment and a novel and/or contentious payment where approval should have been sought from the ESFA as set out in the AFH s3.7.15 and s3.3.1.

17. ESFA review of staff expense claims also identified that the trust currently reimburses the cost of car travel at differing rates across its academies, the rate ranges from the HMRC approved rate of 45p per mile to 65p per mile. A travel and subsistence policy should be agreed to ensure a consistent approach to the reimbursement of travel expenses across the trust and value for money.

Deteriorating financial position

18. The trust's financial position deteriorated significantly during 2015/16. Its cumulative revenue position fell from a surplus of £695k at the end of 2014/15 to £264k at the end of 2015/16. Cash balances fell from £1,532k to £1,032k with net current assets falling from £1,077k to £585k during the same period.

19. At the time of formally setting its 2016/17 budget the trust was not forecasting to be in a cumulative revenue deficit position by the year end. At that time there was no requirement for the trust to inform the ESFA of the forecast in-year revenue deficit. The trust submitted its Budget Forecast Return in July 2016 and this forecast a cumulative surplus position of £284k at the end of 2016/17.

20. However, in August 2016 the previous FD had incorrectly accounted for the trust's advance of funds, previously received for Featherstone Academy, as additional income. In addition, the Brayton Academy, which was forecasting a significant in-year deficit for 2016/17, joined the trust.

21. Following these developments, the trust did not formally revise its 2016/17 budget, although the trust was aware of the significant risk that it was moving into a cumulative deficit position by the end of 2016/17. The trust did not notify ESFA of the revised position. The ESFA considers the issues leading to the submission of an inaccurate Budget Forecast Return and the failure to recognise the inaccuracies in accounting to be a breach of the principles of AFH s2.2.4.

Procurement and expenditure

22. The procurement procedures in place vary between the academies within the trust and there are no standardised procedures to place orders, confirm receipt of goods and authorise payments to be made.

23. In 7 out of 15 items of expenditure tested the trust was unable to evidence that sufficient authorisation was in place prior to the payment being made. At the time of the visit, the trust could not provide supporting documentation for one item of expenditure tested, which had a total value of £790.

24. The trust has no central register of contracts, therefore reducing its ability to consolidate its approach to procurement in order to drive efficiencies in expenditure. The trust should ensure that information relating to all live contracts is collated centrally and reviewed to ensure that the combined purchasing power of the MAT can be used to obtain better value for money in future contracting arrangements.

25. The trust's recently updated scheme of delegation sets out how the differing levels of procurement should be dealt with but does not include reference to EU procurement requirements.

26. One item of expenditure tested, with a value of £362.60, related to the purchase of train tickets for two members of the trust's senior management team to attend Cheltenham races, hosted by one of the trust's suppliers. This expenditure had not been authorised as the trust indicated that these costs were to be reimbursed by the supplier. The visit took place during normal school hours and during term time. To date the trust

has been unable to evidence that the expenditure has been reimbursed, as such this expenditure is deemed irregular and represents a breach of AFH s3.1.3.

27. The trust does not have a policy and register on the acceptance of gifts, hospitality, awards, prizes or any other benefit which might be seen to compromise their personal judgment and integrity, contrary to the guidance in AFH s3.5.1. The trust is expected to comply with s3.5.1 or have an alternative approach that better suits the trust's circumstances. As the trust has neither complied with s3.5.1 nor had an alternative approach in place, it has failed to meet the minimum standards of good practice.

Contract management

28. In July 2016, the trust entered into a 5 year contract with The Works to provide alternative and vocational opportunities in education for students, who may otherwise have been excluded from mainstream provision. No evidence was provided to the audit team that a procurement exercise was undertaken by the trust, the value of the contract over the term is £1.45 million.

29. No evidence was made available to suggest consideration of Official Journal of the European Union (OJEU) procurement requirements for The Works contract, including whether an OJEU tender was required given the contract value exceeded the threshold. Academy trusts must ensure that a competitive tendering policy is in place and applied, and OJEU procurement thresholds are observed, failure to do so is a breach of AFH s3.1.3.

30. The trust's current financial regulations dated 2 July 2012 confirm that expenditure over £20,000 must be subject to a formal tendering process and over the EU procurement thresholds subject to an OJEU tendering process. Therefore, a failure to follow a formal procurement process is also a breach of the trust's own financial regulations.

31. The services procured through The Works relate to provision provided to Southway, the trust's subsidiary. The contract in effect extends the number of pupils Southway can cater for by 20. The contract should have been signed between the Southway, subsidiary company, and The Works to limit the liability on the trust in the event of financial difficulties. No clear rationale was provided for why the contract was entered into with the trust and The Works.

32. A review of the contract also raises concerns in relation to its duration and exit terms. The contract specifies that the termination will be effected by giving one term's notice following the initial term, with the initial term being 5 years.

33. Documents the team reviewed indicate that the initial term would be 3 years and could be exited at this point, with a 6 month prior notice period. However, the final signed contract does not reflect this.

34. The budget setting process for the forthcoming financial year notes the liability for the contract for 3 years only, not the 5 the contract suggests. The liability under this contract may be understated in the trust's forward financial planning.

Finance leases

35. The Rodillian Academy entered into a lease for desktop computer equipment and laptops in September 2014 with a total value of £139,674 (ex. VAT) over the 3 year contract. Due to the lease period representing the major part of the economic life of the assets and the trust bearing substantially all the risks and rewards of ownership, this agreement is judged to be a finance lease. The trust has failed to provide evidence of any procurement procedures undertaken in regards to this lease.

36. The trust entered into a lease for smart boards that commenced in September 2016 due to the present value of the minimum lease payments being higher than the fair value of the leased equipment. The trust's external auditors deemed this to indicate a finance lease.

37. Failure to seek prior approval from the ESFA to enter into such arrangements is a breach of the AFH s3.4.1.

Governance

38. A number of additional procedural breaches, instances of non-compliance with the regulatory framework and weaknesses in internal controls were identified during the course of the audit. These specific issues are set out below.

39. The trust entered into an agreement for the Chair of the Directors to provide services to the trust as the Director of Governance, as documented in a meeting held on 14 April 2014. The trust's Articles of Association allow for directors to provide services but this does not extend to members - clause 12 of the articles states the Chair is a member.

40. Where a trust's Articles of Association do not allow for a member to provide services, permission must be sought from the Charities Commission as outlined in guidance note – Trustees' Expenses and Payments (CC11) s6.2. No evidence was provided to the audit team to show that such permission had been sought.

41. Guidance note CC11 also states that conflicts of interest should be managed and sets out a list of requirements to comply, one being that the trustee to benefit (directly or indirectly) will play no part in decisions about the arrangement and withdraw from discussions. A review of the meeting notes show that this did not occur.

42. The ESFA team notes that in February 2017 the Chair resigned his position, removed himself as a member and instructed the trust's representatives to formalise these changes.

43. The proportion of trustees that are in receipt of remuneration currently stands at 38%, the trust's Articles of Association clause 50b states that no more than 1/3 can receive payment from the trust.

44. Interviews with trustees indicated that the finance committee, which is responsible for financial oversight of the trust, only met once during 2015/16 due to trustees lacking faith in the financial reports being presented to them. The finance committee failed to meet regularly enough to discharge its required duties; this is a breach of AFH s2.2.4.

45. Since incorporation the trust has not had an audit committee, or a committee that fulfils the functions of an audit committee. This is a breach of AFH s2.4.1.

46. Until 6 November 2016 the trust had not recognised and managed its present and future risks to ensure its effective and continued operation through maintaining a trust wide risk register. This is a breach of AFH s2.3.7.

47. The internal controls testing function is currently provided by an independent party. Whilst the resulting output is comprehensive, a review of the trust's records does not show that a schedule of works has been agreed by the board. Trustees should direct the work performed by the external party and align to the key operational risks.

Conclusion

48. Following concerns raised with the ESFA in relation to potential financial irregularity at The Rodillian MAT a review of financial management and governance was undertaken to establish whether those concerns were valid.

49. Our work on site identified a number of significant failings and weaknesses in financial management and breaches of the AFH. A number of improvements are required to strengthen financial management and governance arrangements at the trust and to ensure compliance with the regulatory framework.

50. The issues identified in this report need to be addressed urgently to ensure internal control arrangements within the trust are operating effectively and assure the safeguarding of public funds.

51. Trustees must undertake a wider review of governance arrangements across its constituent academies alongside the issues highlighted during our work and confirm in an action plan to ESFA how the required improvements will be managed.

Annex A

List of findings

Ref	Finding	Issue
1	<p>The trust reimbursed £7,827 to the AO to cover the cost of 78 nights' stay at a 4 star hotel close to the Rodillian Academy despite there being no approved travel and subsistence policy in operation across the trust.</p> <p>In June 2016, the trust entered into a rental agreement on a flat for the AO at a cost of £875 per month, the annual cost being £10,500 plus administration costs of £240. No supporting documentation was provided to show that this had been agreed at board level.</p>	<p>Breach of the AFH 2015 and 2016 paragraph 3.7.15 “Ex gratia transactions must always be referred to EFA for prior authorisation. HM Treasury approval may also be needed dependent on the nature of the transaction. If trusts are in any doubt about a proposed transaction they should seek prior advice from EFA.”</p> <p>Breach of the AFH 2015 and 2016 paragraph 3.3.1 “Novel payments or other transactions are those of which the academy trust has no experience, or are outside the range of normal business activity for the trust. Contentious transactions are those which might give rise to criticism of the trust by Parliament, and/or the public, and/or the media. Novel and/or contentious transactions must always be referred to EFA for explicit prior authorisation.”</p>
2	<p>The trust submitted its Budget Forecast Return in July 2016 and this forecast a cumulative surplus position of £284k at the end of 2016/17. However, in August 2016 the previous FD had incorrectly accounted for the trust's advance of funds, previously received for Featherstone Academy, as additional income. In addition, the Brayton Academy, which was forecasting a significant in-year deficit for 2016/17, joined the trust.</p>	<p>Breach of the principles of AFH 2015 and 2016 paragraph 2.2.4 “The board of trustees, and any separate committee responsible for finance, must:</p> <ul style="list-style-type: none"> • ensure good financial management and effective internal controls • comply with their <u>funding agreement</u> and this handbook • ensure sufficient rigour and scrutiny in the budget management process to understand and address variances between the budget that has been set and actual income and expenditure • receive and consider information on financial performance at least three times a year, and take appropriate action to ensure ongoing viability

Ref	Finding	Issue
3	Train tickets to the value of £362.60 were purchased for two members of the trust's senior management team to attend Cheltenham races, hosted by one of the trust's suppliers. This expenditure had not been authorised as the costs were to be reimbursed by the supplier. To date the trust has been unable to evidence that the expenditure has been reimbursed.	Breach of the AFH 2015 and 2016 paragraph 3.1.3 "Academy trusts must ensure that: spending has been for the purpose intended and there is probity in the use of public funds."
4	The trust does not have a policy and register on the acceptance of gifts, hospitality, awards, prizes or any other benefit which might be seen to compromise their personal judgment or integrity. The trust is expected to comply with s3.5.1 or have an alternative approach that better suits the trust's circumstances. As the trust has neither complied with s3.5.1 nor had an alternative approach in place, it has failed to meet the minimum standards of good practice.	Breach of the AFH 2015 and 2016 paragraph 3.5.1 "The academy trust should have a policy and register on the acceptance of gifts, hospitality, awards, prizes or any other benefit which might be seen to compromise their personal judgment or integrity; and should ensure that all members of staff are made aware of this."
5	The trust has provided no evidence that a competitive tendering policy and the OJEU procurement thresholds were observed in relation to The Works contract.	Breach of the AFH 2015 and 2016 paragraph 3.1.3 "Academy trusts must ensure that: a competitive tendering policy is in place and applied, and Official Journal of the European Union (OJEU) procurement thresholds are observed."
6	The trust has entered into 2 finance leases without seeking prior approval from the ESFA to enter into such arrangements.	Breach of the AFH 2015 and 2016 paragraph 3.4.1 "In line with funding agreements, 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."

Ref	Finding	Issue
7	<p>The Chair of the Directors has provided remunerated services to the trust as the Director of Governance. Where a trust's Articles of Association do not allow a member to provide services, permission must be sought from the Charities Commission. No such permission was sought.</p> <p>The Chair also failed to withdraw from discussions and the decision making process around the appointment.</p>	<p>Breach of Charity Commission guidance note – Trustees' Expenses and Payments (CC11) s6.2 "the commission's approval to the employment must be obtained if there is no other express authority for it. Without an express authority, there may be a liability for the employee-trustee to repay earnings to the charity or for the trustees who authorised the appointment to reimburse the charity. This does not occur very often, but it can arise in the event of a legal challenge from a third party (either within or outside the charity), or as the result of a commission inquiry."</p> <p>Breach of Charity Commission guidance note – Trustees' Expenses and Payments (CC11) s6.4 "Withdrawal from discussion: the trustee-employee should take no part in collective discussion or voting on the contractual terms and conditions of the employed post, or in any review of performance relating to it. This also includes any decision on whether it is in the charity's interests to continue with the post. For greater transparency, the commission recommends any withdrawals from relevant meetings by the trustee-employee are clearly minuted. For the most influential posts within a charity, however, this can be problematic as the following case study demonstrates."</p>
8	<p>The proportion of trustees that are in receipt of remuneration currently stands at 38%, the trust's Articles of Association state that no more than 1/3 can receive payment from the trust.</p>	<p>Breach of trust's Articles of Association clause 50b "The total number of Directors including the Chief Executive Officer who are employees of the Company shall not exceed one third of the total number of Directors."</p>
9	<p>The trust's finance committee, which is responsible for financial oversight of the trust, only met once during 2015/16 which is insufficient to discharge its required duties.</p>	<p>Breach of the AFH 2015 paragraph 2.2.4 "The board of trustees, and any separate committee responsible for finance, must: receive and consider information on financial performance at least three times a year, and take appropriate action to ensure ongoing viability."</p>

Ref	Finding	Issue
10	Since incorporation, the trust has not had an audit committee, or a committee that fulfils the functions of an audit committee.	Breach of the AFH 2015 and 2016 paragraph 2.4.2 “Academy trusts must establish a committee, appointed by the board of trustees, to provide assurance over the suitability of, and compliance with, its financial systems and operational controls.”
11	Until November 2016 the trust had not recognised and managed its present and future risks to ensure its effective and continued operation through maintaining a trust-wide risk register.	Breach of the AFH 2015 and 2016 paragraph 2.3.7 “The academy trust should make a considered choice about its desired risk profile, taking account of its legal obligations, business objectives and public expectations. The trust must recognise and manage present and future risks to ensure its effective and continued operation. The trust should maintain a risk register.”



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