



Education & Skills  
Funding Agency

# **Financial management and governance review**

**Silver Birch Academy Trust**

**February 2018**

# Contents

Contents	2
Executive summary	3
Background	4
Objectives and scope	5
Findings	6
Governance structure	6
Internal controls	6
Business interests of members and trustees	7
Executive team and salaries	8
Recruitment of the DCEO and assistant school business manager	10
Procurement	11
Purchasing by the schools	12
Refurbishment of property	13
Trips abroad	14
Conclusion	15
Annex A	16

## Executive summary

1. Multiple allegations were received on 10 December 2017 in relation to Silver Birch Academy Trust, (hereafter referred to as ‘the trust’), raising concerns about financial management and governance. The ESFA commissioned an on-site visit to take place between 5 and 9 February 2018.

2. The ESFA review identified a number of significant failings and weaknesses in financial management and governance arrangements that breach the Academies Financial Handbook (AFH) 2017 and validate the concerns raised. Key findings of the review have confirmed:

- during 2016-17, all members of the trust were also trustees. This is not in line with best practice guidance set out in the AFH (page 7) which confirms the department’s view that “the most robust governance structures will have a significant degree of separation between the individuals who are members and those who are trustees”. We acknowledge that the structure has now been revised
- the trust does not have a separate audit or finance committee in operation, although some finance matters are discussed during board meetings. This is a breach of the AFH 2.4.2 to 2.4.7
- the trust has appointed an audit provider to undertake responsible officer (RO) checks but the trust could not provide us with any evidence that the RO’s work has been agreed by the board. We also identified that their work does not extend to the trust and its functions. This is a breach of the AFH 2.4.4
- members’ and trustees’ pecuniary interests have not been fully declared and published, this is a breach of the AFH 2.5.2 and 3.1.20
- the trust does not have a permanent Chief Finance Officer (CFO) in post, the appointment of a consultant to the senior finance post was not approved by the board and the arrangement may be a breach of the AFH 3.1.22, in respect of the tax arrangements for senior employees
- the financial information being presented to the board has been insufficient to allow appropriate oversight, this is a breach of the AFH 2.1.10
- the trust does not have a recruitment and selection policy in place and its performance management processes are not sufficient to demonstrate a clear assessment of the overall performance of staff
- poor procurement practices are in operation, the trust does not have a procurement policy in place and their scheme of delegation does not confirm the internal delegated limits, this is a breach of the AFH 3.1.3

## Background

3. The trust consists of 4 primary schools situated across two London boroughs and has a capacity of 1687 pupils which are oversubscribed, with 1949 currently on role.
4. The founding school, Chingford Hall, converted to academy status in 2012 and Whittingham joined the trust in 2013. Longshaw joined the trust in 2016 as a sponsored academy and in 2017; Winston Way joined the trust as a converter academy.
5. Chingford Hall was inspected by Ofsted prior to conversion and was graded outstanding. Winston Way and Longshaw have not been inspected since converting but were previously graded as good and inadequate. Whittingham was graded as good in 2016.
6. At the time of the ESFA visit, the trust did not have a separate audit or finance committee in place and the trust had 4 directors listed at Companies House.
7. In December 2017, the ESFA received allegations relating to financial management and governance at the trust. As a result, an ESFA team undertook an on-site review of the allegations over the course of 5 days between 5 and 9 February 2018.

## Objectives and scope

8. The objective of this review was to establish whether the allegations received by the ESFA were evidence based and, in doing so, identify whether any non-compliance or irregularity had occurred with regard to the use of public funds. Specifically, the allegations related to:

- integrity/compliance with the ‘Nolan Principles’
  - falsified documents presented to the Department for Education (DfE), including misinformation submitted to the department to support a significant change request
- financial controls
  - poor procurement and other financial controls including irregularities such as excessive executive salary and expense payments; non-payment of invoices, unreasonable salary deductions
  - declaration of pecuniary interests not completed for all staff
- governance
  - inappropriate appointments of board members and trustees without due regard to the AFH and the trust’s Funding Agreement
- recruitment and Human Resource
  - inappropriate recruitment of staff (without DBS clearance) including allegations of nepotism and dismissal of staff without due regard
  - inappropriate performance appraisals systems in place

9. The scope of the work conducted by the ESFA in relation to the allegations, included assessing the adequacy and effectiveness of governance, risk management and control, including propriety, regularity, and value for money. This included:

- review of relevant documentation, including governing body minutes and supporting policies
- testing of financial management information, specifically in relation to the allegations received
- interviews with key staff and trustees

10. In accordance with ‘ESFA investigation publishing policy’ (August 2014)<sup>1</sup> the relevant contents of the report has been cleared for factual accuracy with Silver Birch Academy Trust.

---

<sup>1</sup> 2014 EFA investigation publishing policy: <https://www.gov.uk/government/publications/efa-investigation-publishing-policy>

# Findings

## Governance structure

11. The trust's governance structure was revised in January 2018, where previously the majority of members were also trustees. It now comprises, four members, one of which is also a trustee and the acting chair of governors, plus three other trustees. Following the resignation of the chair, on 3 January 2018, the former vice chair was the acting chair at the time of the review.

12. Through discussions with the acting chair, the chief executive officer (CEO) and review of the board minutes, we established that the trust does not have a separate audit or other committee fulfilling the functions of an audit committee. Whilst certain finance matters are discussed during board meetings, this represents a breach of the AFH 2.4.2 to 2.4.7, which confirms that:

- 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

13. Our review of the board meeting minutes also identified that the now acting chair attended and participated in a board meeting during a period of time where he had resigned. The acting chair should have, on this occasion, been recorded as an observer rather than a contributor to the meeting in question.

## Internal controls

14. The trust has appointed an audit provider to undertake responsible officer (RO) checks although the trust could not provide us with any evidence that the RO's programme of work has been agreed. It was confirmed that we would require access on arrival to this document, in the terms of reference accompanying the letter issued to the trust on 24th January 2018. Evidence of the approval to appoint the RO was also requested in an email to the acting COO, dated 8th February 2018. We also identified that the RO's work does not extend to the central functions of the trust and only includes key financial controls work at school level. This is a breach of the AFH, which states at 2.4.4, the committee's work must focus on providing assurances to the board of trustees that all risks are being adequately identified and managed with particular regard to:

- reviewing the risks to internal financial control at the trust
- agreeing a programme of work to address, and provide assurance on, those risks

## Business interests of members and trustees

15. Prior to visiting the trust, we reviewed the members and trustees declared pecuniary (business) interests 2016/2017, as published on the website and compared this to Companies House records. Initial findings were:

- all members have declared that they had no pecuniary interests for the academic year 2016/2017
- all trustees have declared that they have no other trusteeships or directorships or other relevant shareholdings or other remuneration, with the exception of the CEO and a staff trustee

16. During our visit, the trust provided us with copies of the forms completed by the members and trustees. We identified that:

- the form provided for the acting chair was signed and dated on 05/02/17, which was during the period of time he had resigned
- we were not provided with forms for one current member and the six members who had resigned in the last 12 months
- we were not provided with forms for one current trustee and the four trustees who had resigned in the last 12 months
- for two of the six members who had resigned (and had also been trustees), interests were listed on the former member's section of the trust's website. However, the disclosure for one was incomplete and only refers to one of the two current appointments

17. This is a breach of the AFH at 3.1.20, which states that trusts must publish on their websites relevant business and pecuniary interests of members, trustees, local governors and accounting officers. This is also a breach of 2.5.2, which states that, in the interests of transparency, an academy trust must publish on its website up-to-date details of its governance arrangements in a readily accessible format. This must include:

- for each member and trustee who has served at any point over the past 12 months, their full names, date of appointment, date they stepped down (where applicable), and relevant business and pecuniary interests including governance roles in other educational institutions

18. In addition, one member has declared an interest in [REDACTED]. However, this should read [REDACTED]. This organisation appears on the trusts purchase ledger, as well as their contract register but has not been disclosed in the trusts list of related party transactions. This is a breach of the AFH 3.1.14 which requires trusts to "maintain sufficient records, and make sufficient disclosures in their annual accounts, to evidence that transactions with these parties, and all other connected parties, have been conducted in accordance with the high standards of accountability and transparency required within the public sector".

19. The AFH 3.1.12 states that academy trusts must be able to show that public funds have been used as intended by Parliament. They must ensure the following principles are applied:

- that they are even-handed in relationships with connected parties, and ensure goods or services provided by individuals or organisations connected to the trust are provided at no more than cost beyond the limits specified in the handbook
- that no member, trustee, local governor, employee or related individual or organisation uses their connection to the academy trust for personal gain

20. The academies accounts direction 2016-17 also states at 7.6.1:

- FRS 102 requires all transactions with related parties to be disclosed in accounts so that users of the accounts can gain a full understanding of them, and of issues that might have influenced them. Disclosure provides accountability and transparency to the public and demonstrates that potential conflicts of interest are being identified and reported
- 7.6.2 of the SORP states that the disclosure of related party transactions is an important element of transparency in financial reporting because:
  - related parties may enter into transactions that unrelated parties would not
  - transactions between related parties may not be made at the same amounts or on the same terms as those between unrelated parties
  - the existence of the relationship may be sufficient to affect the transactions of the charity with other parties

## Executive team and salaries

21. The trust has in post a CEO who is also the accounting officer (AO), a deputy chief executive officer (DCEO), an acting chief operating officer (COO) and an acting finance director (FD). The acting posts are being covered by consultants, who work for [REDACTED]. During discussion, the trust confirmed they planned to appoint permanent staff to these posts once expansion was confirmed. We understand that these posts were recently being advertised on the trusts website.

22. We requested and obtained the job descriptions for the CEO and DCEO posts, neither of which are dated. We also obtained the Executive Pay Policy, which is dated January 2018, the policy specifies the agreed minimum and maximum pay bands for the two posts as:

- CEO £180,000 - £261,000
- DCEO £144,000 - £208,000

23. The policy states that the finance committee will make recommendations to the trust in respect of the CEO's salary and that the DCEO's will be decided by the finance committee and ratified by the board. It also confirms that the trust will follow the salary ranges in the School Teacher's Pay and Conditions Document (STPCD) for the

leadership pay range and that this will be starting point for pay ranges for the executive group.

24. A review of the STPCD identified that the CEO's and DCEO's salaries are significantly higher than the leadership minimum and maximum salaries for inner London, which are £46,814 to £116,738. In addition, the wages report was reviewed and we identified that the salary the CEO receives is higher than the one agreed on the 'change to salary' form we were provided with. Her actual salary consists of a slightly higher amount of the first agreed element of her increased salary plus additions of:

- back pay
- three additional payments, specified as non-pensionable

25. The DCEO's salary consisted of:

- main salary
- "r and r" allowance (as documented on the report with no clarity regarding the "r and r" reference)
- one additional payment

26. The trust did not provide us with the performance review paperwork for the DCEO and the paperwork provided for the CEO was not sufficient to confirm they had complied with AFH at 2.3.5, that the board of trustees must ensure that their decisions about levels of executive pay follow a robust evidence-based process and are reflective of the individual's role and responsibilities. The trust was informed we would require access to personnel files on arrival in the terms of reference accompanying the letter issued to announce the visit. Executive team performance management documentation was specifically re requested in an email to the acting COO on 8th February 2018.

27. The trust does not have a permanent CFO in post. The posts of the COO and FD have been filled by consultants, whose appointments have not been approved by the Board. Discussions with both the CEO/AO and Acting Chair of the board demonstrated a poor understanding of the current financial situation of the trust. Neither could explain the in year deficit that the trust incurred and did not show any understanding of what an in year deficit was.

28. Additionally, the financial information being presented to the board has been insufficient to allow appropriate oversight. Trustees have not been provided with information that would allow them to see budgeted income and expenditure vs actual. Whilst the AFH does not specify the format for preparing monthly budget monitoring reports, it does state that the internal control framework must include the production of these. The minutes of the 29 November 2017 board meeting show the Chair requesting a breakdown of external consultancy costs to date. He was informed that he would be provided with this information at the next meeting, scheduled for March 2018, i.e. in four months' time. Had monthly reports been sufficient and available, the

Chair would not have needed to request this information and would not have to wait four months to receive it. In addition, the interim Chair and CEO would be aware, during our discussions, that the trust would be incurring an in year deficit.

29. This is a breach of AFH at 2.1.10, which states that the academy trust must have a CFO, appointed by the trust's board, who is the trust's finance director, business manager or equivalent, to lead on financial matters. The CFO should play both a technical and leadership role, including ensuring sound and appropriate financial governance and risk management arrangements are in place, preparing and monitoring of budgets, and ensuring the delivery of annual accounts.

30. This is also a potential breach of AFH at 3.1.22, which states that academy trusts must ensure that their senior employees' payroll arrangements fully meet their tax obligations and comply with HM Treasury's guidance about the employment and contract arrangements of individuals on the avoidance of tax, as set out in HM Treasury's Review of the Tax Arrangements of Public Sector Appointees. Failure to comply with these requirements can result in a fine by HM Treasury.

31. This is also a breach of AFH 2.1, which states that trustees and managers must have the skills, knowledge and experience to run the academy trust.

32. The trusts internal control framework must also include the production of monthly budget monitoring reports.

## **Recruitment of the DCEO and assistant school business manager**

33. In respect of the appointment to the post of the DCEO, our review of the board minutes identified that at the meeting of 14 July 2016, it was agreed to make the then temporary post holder, a permanent member of staff. The minutes indicated that this addition to pay costs would be funded from the surplus of Longshaw and Winston Way.

34. The trust recently recruited an assistant business manager through an expression of interest exercise and a personal recommendation from the interim finance director. Whilst we requested all recruitment evidence for this post, the trust only provided the post holders expression of interest letter, the recommendation note and an undated job description.

35. The trust does not have its own recruitment and selection policy but does have a safer recruitment policy statement, which links to the guidelines set out by the London Safeguarding Children Board. However, from the evidence reviewed for the appointment of the DCEO and the assistant school business manager, there is little evidence that the trust is following this process. Also, there was no evidence to suggest that the process was open and fair.

36. The trust must ensure that its recruitment processes comply with the statutory guidance, keeping children safe in education and the requirements to carry out the

necessary pre-employment checks. Any offer of appointment made to a successful candidate, must be conditional on satisfactory completion of the necessary pre-employment checks.

37. The trust must also ensure that its recruitment and selection processes do not discriminate, in line with the Equality Act 2010.

## Procurement

38. The trust does not have a current approved procurement policy in place and its scheme of delegation is incomplete. Internal delegated limits are not specified, which in turn, conflicts with the finance policy. We also identified instances of poor procurement practices in operation. Which cast doubt over the adequacy of the arrangements in place, the level of assurance provided and the appropriateness of financial oversight by the trust with regard to spend.

39. The trusts Scheme of Delegation, dated June 2017 states that the trust board will:

- adopt a trust-wide procurement policy
- set the delegated levels of authority for contracts
- approve contracts with a value above £XXX,000 (TBC)
- approve contracts which constitute related party transactions

40. Further, it refers to a finance and audit committee who will:

- advise the trust board in relation to the procurement and development of central services

41. That the executive team will:

- enter into contracts up to the limits of delegation and within an agreed budget
- procure buildings and related insurance and make proposals to the trustees

42. The trusts recently approved finance policy also refers to a finance committee and their responsibilities, which appear to conflict with the CEO's and the boards responsibilities in terms of authorising/approving contracts. The policy states the following:

- the CEO is responsible for approving in conjunction with the board all contracts worth more than £181,302
- the responsibility for the board in this respect has not been specified as they are recorded as 'assisting' the CEO to approve contracts between £5,000 and £100,000
- the finance committee however, are also recorded as authorising the award of contracts and purchases over £181,302 per annum

43. We obtained and reviewed the trusts contracts register and identified that 4 of the contracts listed, were recorded as direct purchase – consultancy. The organisations and spend to date being:

- [redacted] [redacted] £126,995
- [redacted] [redacted] £75,400
- [redacted] [redacted] £72,875
- [redacted] [redacted] £50,774

44. We were informed that the trust had not tendered or tested the market for these services and had appointed them ‘directly’ to undertake consultancy services. The trust could not provide us with any evidence that the decision to use these consultants had been documented or that they could confirm they represented value for money. This is a breach of the AFH 3.1.3 which states academy trusts must ensure that:

- spending has been for the purpose intended and there is probity in the use of public funds
- spending decisions represent value for money, and are justified as such
- internal delegation levels exist and are applied within the trust
- a competitive tendering policy is in place and applied, and Official Journal of the European Union (OJEU) procurement thresholds are observed

45. We selected a sample of 11 of the largest value contracts, equating to £4,251,000 of expenditure and requested copies of the contracts or service level agreements (SLA’s) and the invoices representing the total spend to date. Our findings were:

- signed contracts were not in place for 6 of the 11 services being provided. This represents £3,256,000 of trust expenditure
- one contract was in the name of the contractor rather than her company

46. We were provided with a proposed purchases process flowchart, which is entitled [redacted] [redacted], indicating that it might not be the trusts document. Whilst this process refers to a decision making process, obtaining quotes and monitoring the progress of procured services, this is not the current system in operation that ESFA evidenced.

**Purchasing by the schools**

47. The individual schools and the trust purchase items directly and through various methods. As there is no clear policy on how items should be procured, the level of evidence to support purchases varies. We identified that:

- SBAT – the file provided contains bank statements and receipts for items purchased on the accounts debit card and includes:
  - 2 meals which included alcohol, amounting to £90.95
  - 4 surface pro laptops £4,916.00 for SLT

- Chingford Hall – the file contains loose receipts/requests for items purchased using the schools debit card, to include:
  - £ 1,064.15 for the [REDACTED] [REDACTED], two rooms, two nights, no receipts for breakdown of dinner etc. (includes £506.95 for a no show room)
  - a [REDACTED] [REDACTED] de humidifier £499.99
- Longshaw – file contained bank statements and accompanying receipts/purchase authorisations, purchases included:
  - a work permit
  - an [REDACTED] [REDACTED] £1,102.50
  - a [REDACTED] [REDACTED] de humidifier £499.99
- Whittingham – file contained receipts/invoices and authorisations to purchase, however these weren't dated, purchases included:
  - £9,834.15 spent on Facebook adverts in connection with the 'Roseberry application' (we understand this is a proposed all through school the trust are aspiring to create) no invoices were available although limited detail receipts were provided; the authorisation form stated up to £10,000
- Winston Way – file did not contain listings to reconcile invoices to the charge card payments, although there were invoices on file, these had not been reconciled

48. Our testing identified transactions, which could be considered novel or contentious, such as:

- meals which included alcohol
- a high cost hotel bill, which includes 'no show' fees, no breakdown of costs and no rationale for the spend
- high cost IT and electrical products, purchased from department stores, which may not ensure best value can be demonstrated
- in excess of £9,000 spent on Facebook adverts

49. The AFH 3.3. states novel, contentious and/or repercussive transactions must always be referred to ESFA for explicit prior authorisation.

- 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

## Refurbishment of property

50. The trust paid £99,000 to refurbish the caretaker's house and bring it back to standard following the departure of the previous occupant, the former caretaker. The following works were undertaken, as five projects and the procurement methods were identified as:

- obtained 4 quotes for the repair works and second cheapest chosen (£57,850 cheapest was £55,324)
- windows (and doors) 3 quotes obtained went with the cheapest (£27,895)

- blinds, 2 quotes obtained and went with the cheapest (£3,350)
- additional work, not specified what this actually was (£6,994) no quotes were obtained
- decorating paid (£3,500) no quotes were obtained

51. We were provided with the tenancy agreement for the property, which was signed by the tenant and the CEO on 2 September 2016. The start date of tenancy was 3 September 2016 and the end date 31 August 2018. Conditions stated that £29.72 monthly rent would be deducted from the salary of the tenant. We checked the salary for the tenant, who is a member of staff, and no such deductions are being made.

## **Trips abroad**

52. The CEO and DCEO visited Shanghai and New Zealand in October 2015. The purpose of the trip was to provide insight into international curriculum. In particular, looking at how:

- mastery in the curriculum was being adopted in Shanghai
- how the New Zealand curriculum was being delivered and how it was contributing to pupils' outcomes

53. The trip was estimated to cost £7,500, the actual cost was £12,117, to include additional hotel costs of £1,585, trip costs of £8,979 and expenses of £1,533. The trust received National Leaders of Education funding in 2015/16, towards the trip totalling £6,000. The net cost to the trust was therefore £6,117. Although the trust provided us with a brief trip rationale, to include reporting and evidence post visit, this does not confirm that the trip represents value for money or that probity over the use of public funds can be demonstrated.

## Conclusion

54. A number of significant findings and breaches of the AFH have been identified. Including, poor procurement practices, questionable recruitment and selection processes and instances of potential novel, contentious and irregular expenditure.

55. The trust needs to take urgent action to resolve the issues, including greater consideration given to the robustness of financial management and governance arrangements by the board and AO. Annex A includes a table of findings, breaches of frameworks and specific recommendations for the trust.

56. Along with implementing the specific recommendations in Annex A, the trust should commission an independent review of financial management and governance covering the entire trust to fully identify any further issues (including compliance issues with all applicable frameworks) which need to be resolved. The review commissioning process, terms of reference and scope should be agreed with the ESFA in advance.

## Annex A

The following table lists the review findings, breaches and specific recommendations for the issues.

	Finding	Breach of AFH	Recommendation
1	The trust does not have a separate audit or other committee fulfilling the functions of an audit committee in place.	This is a breach of the AFH, which states at 2.4.2 to 2.4.7, that: 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. Taking into account the differing risks and complexity of their operations: trusts with an income of less than £50 million, have the flexibility to establish either a dedicated audit committee, or to include the functions of an audit committee within another committee	The trust 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. Members of this committee should be independent from the trust board and have adequate skills/qualifications to understand and undertake their role fully.
2	Our review of the board meeting minutes also identified that the now acting chair attended and participated in a board meeting during a period of time where he had resigned.		The acting chair should have, on this occasion, been recorded as an observer rather than a contributor to the meeting in question.
3	The trust has appointed an audit provider to undertake responsible officer (RO) checks, the trust could not provide us with any evidence that the RO's programme of work has been agreed. We also identified that	This is a breach of the AFH, 2.4.4, which requires the audit committee's work to focus on providing assurances to the board of trustees that all risks are being adequately identified and managed with particular regard to:	The trust must have in place a process for checking its financial systems, controls, transactions and risks, to include at trust level.

	Finding	Breach of AFH	Recommendation
	their work does not extend to the trust's central functions.	reviewing the risks to internal financial control at the trust agreeing a programme of work to address, and provide assurance on, those risks	This checking process should be conducted on a regular basis with reports to the relevant committee, board and AO. Any identified issues should be resolved in a timely manner.
4	<p>The trust provided us with copies of pecuniary interest forms completed by the members and trustees, our findings were:</p> <ul style="list-style-type: none"> <li>the form provided for the acting chair was signed and dated on 05/02/17, which was during the period of time he had resigned</li> <li>we were not provided with forms for one current member and the six members who had resigned in the last 12 months</li> <li>we were not provided with forms for one current trustee and the four trustees who had resigned in the last 12 months</li> <li>for two of the six members who had resigned (and had also been trustees), interests were listed on the former members section of the trust's website. However, the disclosure for one was incomplete and only refers to</li> </ul>	<p>This is a breach of the AFH at 3.1.20, which states that trusts must publish on their websites relevant business and pecuniary interests of members, trustees, local governors and accounting officers. This is also a breach of 2.5.2, which states that, in the interests of transparency, an academy trust must publish on its website up-to-date details of its governance arrangements in a readily accessible format. This must include:</p> <ul style="list-style-type: none"> <li>for each member and trustee who has served at any point over the past 12 months, their full names, date of appointment, date they stepped down (where applicable), and relevant business and pecuniary interests including governance roles in other educational institutions</li> </ul> <p>The AFH at 3.1.14 which requires trusts to "maintain sufficient records, and make sufficient disclosures in their annual accounts, to evidence that transactions with these parties, and all other connected parties, have been conducted</p>	<p>The trust must publish all relevant business and pecuniary interests of members, trustees, local governors and accounting officers on their website.</p> <p>In addition, for each member and trustee who has served at any point over the past 12 months, their full names, date of appointment, date they stepped down (where applicable), and relevant business and pecuniary interests including governance roles in other educational institutions.</p> <p>The trust must be able to demonstrate that goods or services provided by individuals or organisations connected to the trust are provided at no more than cost beyond the limits specified in the handbook.</p> <p>Also, that no member, trustee, local governor, employee or related individual or organisation uses their connection to the academy trust for personal gain.</p> <p>The trust must ensure that it complies with the requirements of FRS 102 reporting requirements.</p>

	Finding	Breach of AFH	Recommendation
	<p>one of the two current appointments. In addition, one member has declared an interest in [REDACTED]. However, this should read [REDACTED]. This organisation appears on the trusts purchase ledger, as well as their contract register but has not been on the trusts list of related party transactions</p>	<p>in accordance with the high standards of accountability and transparency required within the public sector.</p> <p>The AFH at 3.1.12, which states that academy trusts must be able to show that public funds have been used as intended by Parliament. They must ensure the following principles are applied:</p> <ul style="list-style-type: none"> <li>• that they are even-handed in relationships with connected parties, and ensure goods or services provided by individuals or organisations connected to the trust are provided at no more than cost beyond the limits specified in the handbook</li> <li>• that no member, trustee, local governor, employee or related individual or organisation uses their connection to the academy trust for personal gain</li> </ul> <p>The academies accounts direction 2016-17 also states at 7.6.1:</p> <ul style="list-style-type: none"> <li>• FRS 102 requires all transactions with related parties to be disclosed in accounts so that users of the accounts can gain a full understanding of them, and of issues that might have influenced them. Disclosure provides accountability and transparency to</li> </ul>	

	Finding	Breach of AFH	Recommendation
		<p>the public and demonstrates that potential conflicts of interest are being identified and reported.</p> <ul style="list-style-type: none"> <li>• 7.6.2 The SORP states that the disclosure of related party transactions is an important element of transparency in financial reporting because: <ul style="list-style-type: none"> <li>○ related parties may enter into transactions that unrelated parties would not</li> <li>○ transactions between related parties may not be made at the same amounts or on the same terms as those between unrelated parties</li> <li>○ the existence of the relationship may be sufficient to affect the transactions of the charity with other parties</li> </ul> </li> </ul>	
5	<p>The trust did not provide us with (as requested) the performance review paperwork for the DCEO and the paperwork provided for the CEO was not sufficient.</p>	<p>This is a breach of the AFH at 2.3.5, which states that the board of trustees must ensure that their decisions about levels of executive pay follow a robust evidence-based process and are reflective of the individual's role and responsibilities.</p>	<p>The trust must ensure compliance with the AFH in this area.</p> <p>The trust should ensure that they have a robust performance management process in place.</p>

	<b>Finding</b>	<b>Breach of AFH</b>	<b>Recommendation</b>
6	<p>The trust does not have a permanent CFO in post. In addition the appointments to the posts of the acting COO and FD, by consultants has not been approved by the board. Discussions with both the CEO/AO and Acting Chair of the board demonstrated a poor understanding of the current financial situation of the trust and governance. Neither were aware or could explain the in year deficit that the trust incurred. The financial information being presented to the board has been insufficient to allow appropriate oversight. The minutes of the 29 November 2017 board meeting show the Chair requesting a breakdown of external consultancy costs to date. Where he was informed that he would be provided with this information at the next meeting, scheduled for March 2018.</p>	<p>This is a breach of AFH at 2.1.10, which states that the academy trust must have a chief financial officer (CFO), appointed by the trust's board, who is the trust's finance director, business manager or equivalent, to lead on financial matters. The CFO should play both a technical and leadership role, including ensuring sound and appropriate financial governance and risk management arrangements are in place, preparing and monitoring of budgets, and ensuring the delivery of annual accounts.</p> <p>This is also a breach of AFH 2.1, which states that trustees and managers must have the skills, knowledge and experience to run the academy trust.</p>	<p>Members, trustees and the trust SMT must conduct regular comprehensive skills audits to determine skills gaps.</p> <p>Any identified gaps must be rectified in a timely manner.</p> <p>This includes members, trustees and the trust SMT ensuring their own financial skillsets are adequate, in order to provide appropriate oversight, scrutiny and leadership on finance and governance.</p> <p>In addition, the trust must ensure its finance function is adequately skilled and staffed to fulfil its role.</p> <p>The trusts internal control framework must also include the production of monthly budget monitoring reports.</p>
7	<p>The posts of the COO and FD have been filled by consultants, who have been in post in excess of 12 months.</p>	<p>This is a potential breach of AFH at 3.1.22, which states that academy trusts must ensure that their senior employees' payroll arrangements fully meet their tax obligations and comply with HM Treasury's guidance about the employment and contract arrangements of individuals on the avoidance of tax, as</p>	

	Finding	Breach of AFH	Recommendation
		set out in HM Treasury's Review of the Tax Arrangements of Public Sector Appointees. Failure to comply with these requirements can result in a fine by HM Treasury.	
8	The trust does not have its own recruitment and selection policy but does have a safer recruitment policy statement, which links to the guidelines set out by the London Safeguarding Children Board. However, from the evidence reviewed for the appointment of the DCEO and the assistant school business manager, there is little evidence that the trust is following this process.		<p>The trust must ensure that its recruitment processes comply with the statutory guidance, keeping children safe in education and the requirements to carry out the necessary pre-employment checks. Any offer of appointment made to a successful candidate, must be conditional on satisfactory completion of the necessary pre-employment checks.</p> <p>The trust must also ensure that its recruitment and selection processes do not discriminate, in line with the Equality Act 2010.</p> <p>The trust should therefore develop a recruitment policy and procedures that demonstrates statutory guidance is being complied with but also, that they can demonstrate best practice in terms of open and fair recruitment processes.</p>
9	The trust does not have a current approved procurement policy in place and its scheme of delegation is incomplete in terms of specifying the internal delegated limits, which in turn, conflicts with the finance policy.	<p>This is a breach of AFH 3.1.3 which states that academy trusts must ensure that:</p> <ul style="list-style-type: none"> <li>• spending has been for the purpose intended and there is probity in the use of public funds;</li> </ul>	The trust must ensure that their scheme of delegation specifies appropriate internal delegated limits and that these correspond with the finance policies and procedures, which currently conflict.

	Finding	Breach of AFH	Recommendation
	<p>We identified instances of poor procurement practices in operation, which included:</p> <ul style="list-style-type: none"> <li>consultants being engaged directly with what would be considered high value transactions for the trust</li> <li>contracts and/or service level agreements not being in place for high value services provided</li> </ul>	<ul style="list-style-type: none"> <li>spending decisions represent value for money, and are justified as such;</li> <li>internal delegation levels exist and are applied within the trust;</li> <li>a competitive tendering policy is in place and applied, and Official Journal of the European Union (OJEU) procurement thresholds are observed; and</li> <li>relevant professional advice is obtained where appropriate</li> </ul>	<p>The trust must ensure a detailed and comprehensive procurement policy/procedures are produced and regularly reviewed.</p> <p>Compliance in this area should form part of regular internal control testing.</p> <p>Specifically the trust must ensure:</p> <ul style="list-style-type: none"> <li>consultants or services are not engaged without a robust contract being in place. The contract must ensure fairness in terms and conditions for the trust. If applicable, professional advice should be gained as needed</li> <li>all procurement must comply with trust financial regulations, applicable frameworks including the AFH and also OJEU (where necessary). The trust must be able to demonstrate probity in the management of public funds, including propriety, regularity and value for money; and that there are measures in place to manage conflicts of interest.</li> </ul> <p>The trust should refer to and review the ESFA good practice library in 'ISBL' standards with regard to draft financial procedures manual and a procurement and tendering policy. More information for the 'best practice' library of policies, templates</p>

	Finding	Breach of AFH	Recommendation
			and guidance notes for academies is available at the following link: <a href="https://isbl.org.uk/ESFALibrary.aspx">https://isbl.org.uk/ESFALibrary.aspx</a>
10	Testing of expenditure in the trust and individual schools debit/charge cards identified instances of potential novel or contentious payments.	<p>This is a breach of the AFH which states in this respect at 3.3, novel, contentious and/or repercussive transactions must always be referred to ESFA for explicit prior authorisation.</p> <p>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</p> <p>Contentious transactions are those which might give rise to criticism of the trust by Parliament, and/or the public, and/or the media</p>	<p>The trust should ensure that their procurement policy covers the acceptable use of bank cards, the pre authorisation of purchases and the subsequent reconciliation of the statement to receipts/invoices.</p> <p>The trust must refer novel, contentious and/or repercussive transactions to ESFA for explicit prior authorisation.</p>
11	We were provided with the tenancy agreement for the refurbished caretaker's house, which was signed by the tenant and the CEO on 02/09/16. The start date of tenancy was 03/09/16 and the end date 31/08/18. Conditions stated that £29.72 monthly rent would be deducted from the salary of the tenant. We checked the salary for the tenant and no such deductions are being made.	<p>This is a potential breach of AFH 1.5.22 which states that Accounting Officers must be able to assure Parliament, and the public, of high standards of probity in the management of public funds, particularly:</p> <ul style="list-style-type: none"> <li>value for money – this is about achieving the best possible educational outcomes through the economic, efficient and effective use of resources. A key objective is to achieve value for money not</li> </ul>	<p>The trust should ensure that the rent specified in the tenancy agreement is deducted from the occupant's salary.</p> <p>The trust should also review the tenancy agreement to ensure it offers best VFM.</p>

	Finding	Breach of AFH	Recommendation
		only for the trust but for taxpayers generally	
12	<p>The CEO and DCEO visited Shanghai and New Zealand in October 2015. Although the trip was estimated to cost £7,500, the actual cost was £12,117, to include additional hotel costs of £1,585, trip costs of £8,979 and expenses of £1,533. The trust received national Leaders of Education funding in 2015/16, towards the trip totalling £6,000. The net cost to the trust was therefore £6,117.</p>	<p>Although the trust provided us with a brief trip rationale, to include reporting and evidence post visit, this does not confirm that the trip represents value for money or that probity over the use of public funds can be demonstrated.</p> <p>This is a breach of AFH 3.1.3 which states that academy trusts must ensure that:</p> <ul style="list-style-type: none"> <li>• spending has been for the purpose intended and there is probity in the use of public funds</li> <li>• spending decisions represent value for money, and are justified as such</li> </ul>	<p>The trust should provide a more detailed background and post visit reporting/evidence explanation for the visit and its much higher than expected cost.</p>



Education & Skills  
Funding Agency

© Crown copyright 2018

This publication (not including logos) is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

To view this licence:

visit [www.nationalarchives.gov.uk/doc/open-government-licence/version/3](http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3)

email [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk)

write to Information Policy Team, The National Archives, Kew, London, TW9 4DU

About this publication:

enquiries [www.education.gov.uk/contactus](http://www.education.gov.uk/contactus)

download [www.gov.uk/government/publications](http://www.gov.uk/government/publications)



Follow us on Twitter:  
[@educationgovuk](https://twitter.com/educationgovuk)



Like us on Facebook:  
[facebook.com/educationgovuk](https://facebook.com/educationgovuk)