



Education & Skills
Funding Agency

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

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

15 June 2018

Anna Layman
Chair of Trustees
The Silver Birch Academy Trust
68 King William Street
London
EC4N 7HR

Dear Ms Layman

Financial notice to improve: The Silver Birch Academy Trust

I am writing to you in your capacity as Chair of The Silver Birch Academy Trust (“the trust”). This is further to our report on the governance and financial management of the trust which raised a number of significant concerns.

I recognise the trust’s cooperation and extensive discussions that have taken place between the trust and officials in addressing the recommendations highlighted in the report. However, I remain concerned about the leadership and management of the trust and am not convinced that it can effectively address the breadth of governance and financial management issues identified.

Therefore this letter and its annex serve as a written notice to improve financial management, control and governance at the trust. It reflects our continued concerns regarding the governance and oversight of financial management by the Board.

The trust is required, pursuant to the provisions of the Academies 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 the Annex.

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 first come to the ESFA for approval. These delegated authorities shall be returned to the trust providing that the terms set out in the Notice have been complied with and continue to be 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 only when all 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 return to [REDACTED].

I am copying this letter to the copy recipients below and to Sue Baldwin, the Regional Schools Commissioner (RSC) for East of England and North East London. I look forward to hearing from you.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M. Pettifer', written over a light blue horizontal line.

Mike Pettifer

Director: Academies and Maintained Schools Group

Copy list: Mirella Lombardo – acting Accounting Officer for The Silver Birch Trust
RSC's Office: Grainne McQuillan and Claire Mycock

Financial notice to improve

1. The Education and Skills Funding Agency (ESFA) has decided to issue a Financial Notice to Improve (the 'Notice') as a consequence of significant weakness found in the 'ESFA Financial and Governance Review' at The Silver Birch Academy Trust (the 'ESFA review') – the report as published on 15 June 2018:
 - This identified include several breaches of the Academies Financial Handbook (AFH), including poor procurement practices, questionable recruitment and selection processes and instances of potential novel, contentious and irregular expenditure
 - The report also required the trust 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 Accounting Officer

Conditions

2. We require the trust to:
 - i. Approve the appointment to its Board of three further independent trustees with the appropriate skills and experience as agreed with ESFA and the RSC's Office – by close 18 June 2018
 - ii. Adopt the latest model articles – by 29 June 2018
 - iii. Commission an independent investigation into the role of the executive and board members for the issues identified in the 2018 ESFA review and ensure the scope; terms of reference and timetable, as well as personnel are agreed with ESFA – by 29 June 2018
 - iv. Agree interim executive arrangements, including during the trust's internal investigations, with the ESFA and RSC's office – by 29 June 2018
 - v. Provide an action plan that identifies improvement actions to address all of the issues identified in the ESFA review and the additional conditions noted in this Notice. Plan to be provided by 20 July 2018
 - vi. Complete a two stage, independent review of the trust's structure and governance arrangements. The first stage should be a look at the trust's role and structure going forward and consider all options for change. The second stage should review the trust's governance structures and processes. The scope, terms of reference and timetable of both stages, as well as review personnel, to be agreed with ESFA by 20 July 2018
 - vii. Review the current levels of executive costs and the trust's pay and performance management policies. The scope and terms of reference; and the timetable for completing this review must be agreed with ESFA – by 30 September 2018

viii. Provide monthly management accounts by the 22nd of each month, with the first report due 22 July 2018, in a format to be agreed with ESFA. This should include:

- Cashflow forecast
- Progress with the above conditions

Financial management requirements

3. The trust is responsible for its own financial management, control and governance and is expected to take appropriate action to strengthen the weaknesses identified.
4. The trust should take all appropriate actions to ensure an action plan is fully implemented.
5. The ESFA must be satisfied that the trust is doing everything it can to rectify the weaknesses identified.

Monitoring and progress

6. The trust is required to meet the specific conditions outlined above to enable the ESFA to monitor compliance and progress.
7. 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 ESFA will begin to consider and explore the contractual intervention options available.

Compliance and the end of the notice period

8. Compliance with this Notice will be demonstrated when:
 - The trust board has appointed three additional trustees and amended its Articles of Association and agreed these changes with ESFA.
 - All reviews have been completed in accordance with scope, terms of reference and timetable agreed with ESFA, and subsequent actions have been implemented to satisfaction of ESFA.
 - The action plan addressing issues by the ESFA report has agreement from the local authority for the safeguarding matters for which it has statutory responsibilities.
 - The trust requests approval from the ESFA for any actions under the revoked freedoms in Part 3 and Annex B of the AFH. These requests should be sent us using the ESFA-enquiry-form .
 - The ESFA receives the Budget Forecast Return, by 31 July 2018.
 - The ESFA receives audited financial statements with an unqualified audit opinion by 31 December 2018.
 - The ESFA receives the auditors' management letter which does not raise concerns by 31 December 2018.

- The ESFA receives notice of all board meetings, including extra-ordinary meetings; and that the agenda and draft minutes (including confidential notes) are forwarded to the ESFA as soon as they are available).
9. When the trust meets the conditions outlined in this annex, the ESFA will write to the trust to confirm that the Notice has been lifted.