



Education & Skills
Funding Agency

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

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

5 November 2019

Mr A Chohan
The Olive Tree Primary School Bolton
Ltd
Adelaide House
Adelaide Street
Bolton
BL3 3NY

Companies House No: 07956473

Dear Mr Chohan

Financial notice to improve: The Olive Tree Primary School Bolton Ltd

I am writing to you in your capacity as the Chair of The Olive Tree Primary School Bolton Ltd (“the trust”).

As you are aware, the trust was subject to a fact-finding visit by Provider Market Oversight (PMO) to look into allegations received by the Education and Skills Agency (ESFA) about conflict of interests and potential breaches of governance frameworks.

This letter and its annex serve as a written notice to improve financial management, control and governance at the trust. It reflects the concerns identified during the PMO visit relating to governance, oversight of financial transactions and management of conflict of interests 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 2019 (Part 5) will be revoked, and all transactions by the trust previously covered by these delegations (regardless of size) must 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 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] [REDACTED] [REDACTED].

I am copying this letter to Haroon Asghar, Accounting Officer, Vicky Beer, the Regional Schools Commissioner (RSC) for Lancashire & West Yorkshire (LWY) and the Members for the trust.

I look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Pettifer', with a large, sweeping flourish extending to the right.

Mike Pettifer
Director, Academies and Maintained Schools Directorate

CC. Haroon Asghar, Accounting Officer
Vicky Beer, Regional School Commissioner
Mr AA Patel, Member
Mr HG Mahomed, Member
Mr MGH Bobat, Member

Financial notice to improve

1. The Education and Skills Funding Agency (ESFA) has decided to issue a Financial Notice to Improve (the 'Notice') to The Olive Tree Primary School Bolton Ltd ('the trust') as a consequence of:
 - Failure of trustees to manage related party transactions and significant conflicts with its own trustees including a lack of challenge and scrutiny over interests of the chair.
 - Failure of trustees to ensure adequate oversight of key additional business areas through lack of policies and procedures and robust monitoring.
 - Governance concerns resulting in breaches of the Academies Financial Handbook in relation to awareness of governance frameworks, lack of adherence to policies and procedures including procurement and internal control weaknesses.

Conditions

2. The trust is required to:
 - Comply with the recommendations set out in the investigation report and commission an independent review of its financial management and governance arrangements to identify any gaps and recommendations for improvement by 5 December 2019.
 - Provide evidence to the ESFA of improved and robust measures to ensure compliance, including publication of necessary information on the trust's website to ensure compliance with the AFH by 5 December 2019.
 - 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. This should include implementation of new financial management and monitoring structures and undertake further actions to strengthen challenge in managing the budget and finances. Plan to be provided by 5 December 2019.
 - Confirm agreement by 5 December 2019 to the recovery of funds used to pay accommodation for the chair of trustees amounting to £911.87 from the GAG payment on 1 February 2020.
 - Introduce and provide evidence of clear lines of accountability between the Accounting Officer of the trust and the trustees, including effective oversight and support for financial management by 5 December 2019.
 - Ensure that proper arrangements are in place whereby the trust board has the appropriate skill set and processes in place to challenge and hold to account the Accounting Officer, Finance Officer and other members of the executive management team and evidence this by 1 January 2020

- Adopt latest model documents – Funding Agreement and Articles of Association by 1 February 2020.
- The trust will appoint an Academy Ambassador with financial expertise in addition to any additional Academy Ambassadors nominated by the ESFA/RSC to strengthen the trust board by 1 February 2020.
- The trust must consider joining a strong Multi Academy Trust (MAT) by 1 March 2020 and provide evidence of consideration by the board by 1 April 2020.
- The ESFA receives notice of all board meetings, including extra-ordinary meetings; and that the agenda and draft minutes (in particular all information relevant to the trust's financial or governance position) are forwarded to the ESFA as soon as they are available after each meeting.
- All Related Party Transactions must be pre-approved by the ESFA.
- Comply with the funding agreement requirement to submit all audited financial statements and other financial information requested to the ESFA on time and without qualification.
- The trust requests approval from the ESFA, in advance, for any actions under the revoked freedoms in Part 3 and Annex B of the AFH. These requests should be sent using the esfa-enquiry-form. Retrospective approval will be deemed as a breach of the AFH.

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.

Timescales

6. The trust must adhere to the deadlines associated with conditions, monitoring and progress actions and compliance set out in this notice.

Monitoring and progress

7. The trust is required to meet the specific conditions outlined above to enable the ESFA to monitor compliance and progress. The ESFA may introduce FNtl progress meetings to review progress against the conditions.
8. 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

9. Compliance with this Notice will be demonstrated when:

- The ESFA has received an action plan to address all issues identified in the ESFA investigation review and regular progress updates are provided.
- The ESFA receives evidence that all the issues in the investigation report have been resolved satisfactorily.
- The trust has commissioned an independent review of financial management and governance arrangements and provided details of findings within a written report to the ESFA.
- The trust has appointed an Academy Ambassador with required financial expertise and any others nominated by the ESFA/RSC to strengthen the trust board.
- The ESFA has received copies of agenda and draft minutes until the point it is satisfied that the minutes reflect the correct level of challenge and content expected during board meetings.
- The trust has provided details of considerations to join a strong Multi Academy Trust.
- The trust has provided evidence of increased measures to ensure compliance including publication of all necessary information on trust website as detailed in the AFH.
- The trust board are providing the right level of challenge and have provided evidence demonstrating the skills necessary with evidence demonstrating the board has the appropriate skills and processes in place carry out their duties effectively.
- The trust has updated its register of interests as per the requirements of AFH 3.10.8 – 3.10.11 and provided evidence to the ESFA of its processes for managing conflicts of interests and RPTs.
- The trust has published all necessary information on their website as required by the AFH.
- The trust requests approval from the ESFA for any actions under the revoked freedoms in Part 5 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 2020.
- The ESFA receives audited financial statements with an unqualified audit opinion by 31 December 2020.
- The ESFA receives the auditors' management letter, which does not raise concerns by 31 December 2020.
- The trust adopts the latest of model documents; funding agreement and Articles of Association.

10. 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.