



Education & Skills
Funding Agency

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

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

22 January 2020

Ms Bulmer
Lubavitch Multi-Academy Trust
107-115 Stamford Hill
London
N16 5RP

Company Number: **11211005**

Dear Ms Bulmer

Financial notice to improve: Lubavitch Multi-Academy Trust (LMAT)

I am writing to you in your capacity as the Chair of LMAT. As you know, the Education and Skills Funding Agency (ESFA) has been monitoring the trust's progress towards meeting the conditions set out in the Financial Notice to Improve (FNtI) Warning Letter issued to the trust on 5 August 2019. I recognise the co-operation and extensive discussions that have taken place between the trust and the ESFA, and the changes you have started to make to strengthen accounting and internal financial controls. However, my concerns remain in relation to the weak financial management and governance arrangements at the trust.

This letter and its annex serve as a written notice to improve financial management, control and governance at the trust. It reflects the deteriorating financial position of the trust and continued concerns in respect of 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 and B.

Upon receipt of this Notice, all of the delegated authorities as identified in the AFH (sections 5.6 – 5.30) will be revoked, and all transactions previously covered by these delegations, regardless of their size, must now be approved in advance by the ESFA, specifically:

- special staff severance payments
- compensation payments
- writing off debts and losses
- entering into guarantees, indemnities or letters of comfort

- disposals of fixed assets beyond any limit in the funding agreement
- taking up a leasehold or tenancy agreement on land and buildings of a duration beyond any limit in the trust's funding agreement
- GAG (General Annual Grant) carry forward from one year to the next beyond any limit in the funding agreement and the pooling of GAG by MATs

If the trust comes to the ESFA to seek retrospective approval this will be deemed a breach of the AFH. 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 for Education. Further details of the approval process will be forwarded to the Accounting Officer upon acknowledgement of receipt of this letter.

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 full.

We reserve the right to reissue this Notice and add further specific conditions if required, should the trust fail to make sufficient progress against the original conditions. 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 agreed timescales, we will explore the contractual intervention options available.

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. Depending upon the severity of the breach, this may amount to a breach of the terms of the FA and lead to termination.

If continued non-compliance with the AFH occurs, we may also refer the case to the Charity Commission and/or Insolvency Service for further investigation, as deemed appropriate in the circumstances.

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].

I am copying this letter to the Accounting Officer, Helen Freeman, Trust Members (Lord Polak, Rabbi Efune, Rabbi Angyalfi, Ms Tallis, and Mr Holledge), and Sue Baldwin, the Regional School Commissioner (RSC) for East of England and North East of London.

I look forward to hearing from you.

Yours sincerely



Mike Pettifer
Director, Academies and Maintained Schools Directorate

Financial notice to improve

The Education and Skills Funding Agency (ESFA) has decided to issue a Financial Notice to Improve (the 'Notice') as a consequence of Lubavitch Academy Trust ('the Trust'):

- Failing to provide sufficient assurances that there is robust financial management and governance in place to ensure the trust remains financially viable in future years and that it is in compliance with the Academies Financial Handbook (AFH).

Conditions

1. The trust is required to:
 - a) Comply with the funding agreement requirement to submit all audited financial statements to the ESFA on time and without qualification.
 - b) Submit the Budget Forecast Return Outturn (BFRO) by the deadline required by the ESFA.
 - c) The Trust is required to submit the Budget Forecast Return (BFR) by the deadline required by the ESFA.
 - d) Contact the ESFA at an early stage if it believes it is not able to follow is falling behind the schedule set out in their Trust financial plan.
2. The trust requests approval from the ESFA, in advance, for any actions under the revoked freedoms in part 5 of the AFH. These requests should be sent using the esfa-enquiry-form. Retrospective approval will be deemed as a breach of the AFH, until the FNtl is lifted.
3. The trust must make repayments of the advance of GAG as scheduled on the financial plan.
4. The trust must ensure that it carries out all cost saving measures on time, identified in the financial plan of 14 January 2020.
5. The trust must ensure it achieves in-year surplus positions from year 2020/21 and a cumulative surplus position from 2022/23 as per the financial plan of 14 January 2020.
6. The trust must ensure that all necessary trustee contact details are up to date on the Get Information About Schools (GIAS) site.
7. In line with the Related Party Transaction requirement of the AFH (5.41), the trust must seek ESFA's prior approval for service level agreements (SLA) with the Lubavitch Foundation and any other contracts or service that exceeds £20,000 per year. The trust must submit their SLA, for approval, by 31 March 2020.

8. The trust must submit within two weeks of receiving the FNtl a detailed timeline for carrying out regular internal audits each year.
9. The trust must submit within two weeks of receiving the FNtl a revised code of conduct for the trustees.
10. The trust must confirm in writing to the ESFA by first week of April 2020 that all redundancies are completed by 31 March 2020.
11. The trust must confirm in writing to the ESFA by first week of May 2020, that the planned restructuring and new staff restructure is in place by 1 May 2020.
12. The trust must confirm in writing to the ESFA by first week of March 2020 that it has a permanent CFO in place by 1 March 2020.
13. The trust must ensure it has a permanent CEO in place by 1 May 2020 and that it must provide updates on key stages for the recruitment campaign on a monthly basis until the appointment is secured in May 2020.
14. The trust must confirm in writing to the ESFA by 31 March 2020, that it has appropriate financial systems and processes in place to support the processing of invoices and payments to support financial planning.
15. The trust is to submit by 31 March 2020, the reviewed methodology for apportioning overheads between the Lubavitch Foundation and LMAT and its criteria.
16. The trust must provide within two weeks of receiving the FNtl, confirmation from the Chair that all points raised by the auditors within the management letter and internal audit assessment of the 2018/19 accounts have been addressed and resolved.
17. The trust must provide a clean audit opinion for the current year and beyond
18. A supplier fraud of £22k was highlighted in the audit report. Within two weeks of receiving the FNtl, the trust must confirm that this will not occur again in the future and must provide detailed action that has taken place to resolve and recover the money.

Financial management requirements

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

Monitoring and progress

22. The Trust is required to meet the specific conditions outlined above to enable the ESFA to monitor compliance and progress.
23. Until the FNtl is lifted the trust must submit the following on 15th of each month:
 - Progress against the financial plan dated 14 January 2020.
 - Progress against the internal audit action plan.
 - Progress against the safeguarding action plan
 - Progress against the management letter recommendations.
 - Monthly bank statement for the month gone
24. Until the FNtl is lifted, the trust must inform the ESFA in advance of any future resignations or departures of any members or trustees and must seek permission for any appointments.
25. Until the FNtl is lifted the trust must provide on 15th of each month, management accounts and cash flow forecasts (supported by statements of bank balance).
26. The trust must ensure that its Audit and Finance sub-committee must meet at least 6 times a year and must provide ESFA with copies of the minutes of these meetings.
27. 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

28. Compliance with this Notice will be demonstrated when:
 - The Trust has requested approval from the ESFA for any and all actions under the revoked freedoms in Part 5 of the AFH. These requests should be sent using the ESFA-enquiry-form.
 - The ESFA receives the Budget Forecast Return, by the required deadline by the ESFA
 - The ESFA receives audited financial statements with an unqualified audit opinion by the deadline required by the ESFA.
 - The ESFA receives the auditors' management letter which does not raise further concerns relating to any of the issues highlighted within this Notice by the deadline required by the ESFA
29. The conditions compliance table in Annex B advises the Trust of the evidence required and timescales given for the Trust to be deemed compliant with this Notice.
30. When the Trust meets all the conditions outlined in this annex, is fully compliant with the AFH and no other breaches have been identified, the ESFA will write to the Trust to confirm that the Notice has been lifted.

Table of conditions

The table below summarises the conditions that have been placed upon Lubavitch Multi-Academy Trust (“the Trust”). It sets out the evidence the Trust must provide, and the timescales the Trust must meet, to show that they have complied with the Financial Notice to Improve (“the Notice”). All conditions set out in the table must be met before the Notice can be lifted.

| Condition | Evidence required to show compliance with the notice | Timescale |
|---|---|--|
| <p>1. The trust is required to:</p> <ul style="list-style-type: none"> a) Comply with the funding agreement requirement to submit all audited financial statements to the ESFA on time and without qualification. b) Submit the Budget Forecast Return Outturn (BFRO) by the deadline required by the ESFA. c) The trust is required to submit the Budget Forecast Return (BFR) by the deadline required by the ESFA. d) Contact the ESFA at an early stage if it believes it is not able to follow is falling behind the schedule set out in their trust financial plan. | <p>The ESFA receives audited financial statements by 31 December each year until the FNtl is lifted.</p> <p>The ESFA receives BFRO by date required, each year until FNtl is lifted.</p> <p>The ESFA receives BFR by date required, each year until FNtl is lifted.</p> <p>Returns show recovery in line with the trust financial plan.</p> | <p>Submit audited financial statements by 31 December each year until the FNtl is lifted.</p> <p>Submit BFRO by date required, each year until FNtl is lifted.</p> <p>Submit BFR by date required, each year until FNtl is lifted.</p> |
| <p>2. The trust requests approval from the ESFA, in advance, for any actions under the revoked freedoms in Part 5 of the AFH. These requests should be sent using the esfa-enquiry-form. Retrospective approval will be deemed as a breach of the AFH.</p> | <p>The trust must submit a request for approval for any actions relating to the delegated freedom revoked under the terms of the FNtl.</p> | <p>Until the FNtl is lifted.</p> |
| <p>3. The trust must make repayments of the advance of GAG as scheduled in the financial plan.</p> | <p>To provide update through the monthly management accounts.</p> | <p>As per schedule in the repayment plan.</p> |

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| 4. Ensure the trust carries out all cost saving measures identified on the financial plan and as per the timeline submitted on 14 January 2020. | Confirmed through the financial statement 2019/20, and 2020/21, 2021/22 and BFRs. | July (BFR) and December (financial statement) |
| 5. Ensure the trust achieves in-year surplus positions from year 2020/21 and a cumulative surplus position from 2022/23 as per the financial plan of 14 January 2020. | Confirmed through the financial statements. | By 31 December each year |
| 6. Ensure that all necessary trustee contact details are up to date on Get Information About Schools (GIAS). | All fields specified in GIAS for the individuals must be completed before the FNtl can be lifted. The trust must ensure its record on GIAS for the individuals remains up to date. | 4 weeks |
| 7. In line with the Related Party Transaction requirement of the AFH (5.41), the trust must seek ESFA's prior approval for service level agreements (SLA) with the Lubavitch Foundation and any other contracts or service that exceeds £20,000 per year. Before signing any SLA with the Foundation, the trust must submit their SLA by 31 st March 2020 for ESFA approval. | RPA requirement states that academy trusts are required to seek prior approval from ESFA when a single proposed contract or agreement with a related party exceeds £20k in a financial year. The trust is required to seek ESFA clearance on SLA before signing the document. | By 31 March 2020. |
| 8. Plan for carrying out internal audit for the current year. | Email to confirm when these have been arranged for. | Within two weeks of receiving the FNtl |
| 9. The trust to submit a revised code of conduct for the trustees. | Submit by email to ESFA | Within two weeks of receiving the FNtl. |

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| 10. The trust is required to ensure all redundancies are completed by 31 March. | Provide email confirmation to ESFA. | By first week of April 2020. |
| 11. Restructuring and new staff structure to be in place by 1 May 2020. | Provide email confirmation. | By first week of May 2020. |
| 12. Require the trust to have in place a permanent CFO by 1 March 2020 | Provide email confirmation. | By first week of March 2020 |
| 13. The trust must ensure it has a permanent CEO in place by 1 May 2020 and that it must provide updates on key stages for the recruitment campaign on a monthly basis until the appointment is secured in May. | Progress against timeline to be submitted with monthly management accounts. | By 1 May 2020 |
| 14. The trust must ensure that it has appropriate financial systems and processes in place to support processing of invoices and payments to support financial planning. | Provide email confirmation | By 31 March 2020 |
| 15. The trust is to submit the reviewed methodology for apportioning overheads between the Foundation and LMAT and its criteria. | Provide email confirmation | By 31 March 2020 |
| 16. The trust is required to provide confirmation to ESFA from the Chair that all points raised by auditors within the management letter and internal audit assessment of the 2018/19 accounts have been addressed and resolved. | Provide email confirmation | Within two weeks of receiving the FNtl |
| 17. The trust to provide a clean audit opinion for the current year and beyond. | Confirmation through financial statements. | Confirmation through yearly financial statement at 31 December. |
| 18. A supplier fraud of £22k was highlighted in the audit report. Trust to confirm that this will not occur again in | Provide email confirmation | Within two weeks of receiving the FNtl |

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| the future and must provide detailed action that has taken place to resolve and recover the money. | | |
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