



Education & Skills  
Funding Agency

# **Investigation report:**

## **Learning Academy Partnership (South West)**

**June 2020**

# Contents

Glossary	3
Executive summary	4
Background	6
Objectives and scope	7
Findings	8
• Wellbeing conference	8
• Governance arrangements and structure	9
• Procurement	11
• Procurement card expenditure	13
• Expenses	14
• Recruitment and selection	16
• Budgetary control	17
• Staff restructuring	18
Conclusion	20
Annex A	21

## Glossary

Title	Name of individual
Chair of Trustees	Ryan Hewitt
Accounting Officer / Chief Executive Officer	Lynn Atkinson
Chief Financial Officer (AFH)	Karen Barnett

## Executive summary

1. Allegations were received by ESFA on 9 April 2019 in relation to Learning Academy Partnership, (hereafter referred to as the trust). The allegations were wide ranging but raised concerns about financial management and governance arrangements at the trust. As a result, the Education & Skills Funding Agency (ESFA) commissioned a fact finding visit to assess the validity of these concerns. Whilst onsite this was escalated to an investigation.

2. The ESFA review identified a number of failures to comply with trust policy/procedures, and therefore weaknesses in financial management and control. Also, the review found breaches of the Academies Financial Handbook (AFH) 2018, validating the concerns raised. Key findings the investigation identified, include:

- an overnight **wellbeing conference** was booked for 11 senior members of staff at a hotel in Dartmouth and paid for out of trust funds demonstrating poor value for money when using public funds. In addition, the invoice presented to ESFA officers and the trust's auditors is not a VAT invoice (paragraphs 9 to 12 refer)
- **governance arrangements**; at the time of the visit the trust had 3 members, the Department's strong preference is for trusts to have 5 members. The trust has told us that it is taking steps to address this. Also, there is a lack of independence between the board and the finance/audit committee, as demonstrated by its membership (paragraphs 13 and 14 refer)
- sample testing identified that **procurement** practices in operation do not on all occasions comply with the trust's scheme of delegation or its Financial Procedures Manual and therefore AFH requirements. From a sample of 7 suppliers and 13 individual invoices:
  - of 3 invoices between £10,000 and £75,000, 2 were not compliant with obtaining 3 quotes and the other had quotes which were not prepared on a like for like basis
  - of 4 invoices under £10,000 where best value should be demonstrated, one had not been re-quoted and in total exceeded the £10,000 limit, one did not disclose the full value of the service and best value cannot be determined for another
  - 2 of the 13 invoices did not have an order(paragraphs 19 and 20 refer)
- some of the items paid for using the trust's **procurement cards** do not have an adequate audit trail, confirming their approval and that they represent value for money (paragraphs 22 and 23 refer)

- sample testing of 10 **expense claims**, identified that 5 have not been processed and approved in accordance with the trust's Financial Procedures Manual (paragraphs 25 and 26 refer)
- sample testing of 4 appointments identified that **recruitment and selection** processes in operation are not applied consistently, in accordance with the trust's Recruitment and Selection Policy or best practice, in respect of a fair and open competition. This applied to 2 of the 4 selected
  - we also found that the board did not appoint the Chief Financial Officer (CFO) as required by the AFH (paragraphs 28 and 29 refer)
- a consolidated trust wide variance report is not being produced, to aide **budgetary control** (paragraphs 31 to 32 refer)
- during **staff restructuring**, non contractual/non statutory redundancy payments had been made where contemporaneous evidence of a business case, seeking appropriate legal advice and following the ESFA guidance and submission template, was not available (paragraphs 33 to 34 refer)

## Background

3. Learning Academy Partnership was incorporated on 21 July 2011 and is a multi-academy trust (MAT) comprising of 8 primary academies. This is made up of 6 Church of England converter academies (one in 2011, 2 in 2015 and 3 in 2017), one Church of England new provision (01/04/2012) and one converter academy (01/01/2018). At the time of publishing the report 7 of the academies are rated by OFSTED as good and one has yet to be inspected post conversion.

4. The trust reported an in year deficit of £185,000 in their 2017/18 audited accounts and an in year deficit of £167,000 in 2016/17. Resulting in a decrease in reserves from £879,000 to £694,000.

5. In April 2019, 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 between 10 and 13 June 2019.

## Objectives and scope

6. The objective of this review was to establish whether the concerns received by 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 concerns related to:

- irregular expenditure
- producing inaccurate receipts
- governance
- breaching finance policies and procedures
- recruitment

7. The scope of the work conducted by the ESFA in relation to the concerns, included assessing the adequacy and effectiveness of governance, risk management and control, including propriety, regularity, and value for money. In particular 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

8. In accordance with ESFA investigation publishing policy (November 2019) the relevant contents of the report have been shared for factual accuracy with Learning Academy Partnership

# Findings

## Wellbeing conference

9. Allegations were received in respect of the trust's senior leaders attending a wellbeing conference that included an overnight spa break at a hotel in Dartmouth, which was paid for with trust funds. Also that additional spa treatments were added to the booking and had been paid for with trust funds. It was further alleged that the invoices from the hotel had been amended to remove detail such as the costs for additional spa treatments. Also, the trust's auditors identified that the VAT had not been reclaimed back on the invoices. Our initial findings in relation to this allegation were:

- the trust provided us with 2 copies of an invoice, one attached to the card statement for the event deposit where £630 was paid. The other was attached to the statement for the final payment where £1,830 was paid, these were both dated 5 March 2018
- the invoice refers to 10 delegates
- the invoice is not itemised to provide full details of the expenditure and, although there is a VAT registration number recorded, a breakdown of the net, tax and gross amounts are not shown. Although the trust requested a VAT invoice before the conference, there is no evidence that the trust has since sought to obtain one
- there was a further invoice for additional costs of £22.50
- all 3 payments had been made with one of the trust's charge cards
- the trust provided us with an agenda for the event. It outlines a full day conference with use of spa facilities prior to an evening meal at 7:30pm on day one and on day 2, breakfast at 8:00am and agenda items from 9:00am to 4:00pm

10. Enquiries were made with the hotel by ESFA, which identified the following:

- the hotel supplied the trust with a booking confirmation, outlining:
  - a one night mid-week spa break, bed and breakfast, a 3 course dinner, one x 30 minute spa treatment per delegate, with an additional 30 minute spa treatment over and above the treatment included, for 11 delegates
  - a check in time of 3:00pm and a check out time of 10:30am the following morning, a half day conference on day 1 and 2
  - the confirmation contained a request for the trust to book their spa treatments



11. The hotel further confirmed:

- a pro forma invoice showing the deposit paid had been requested by the trust's current Chief Financial Officer (CFO), Karen Barnett, the trust was informed that the hotel could not generate a full invoice before the event occurred
- the pro forma provided shows 11 delegates at £229 per person, the deposit paid and the remaining balance of £1,889. This invoice is dated 3 January 2018
- as a gesture of good will, due to one delegate not attending, the hotel reduced the 2 half day delegate rates by one delegate but charged the full cost for the room rate and additional spa treatment
- the trust was provided with 2 invoices during their stay, one was for the remaining balance of the booking
- the second invoice was for the £22.50 additional costs. The hotel confirmed that these were for coffees and soft drinks charged to a room. All other bar bills were settled at the till

12. In summary, 10 trust senior members of staff, including the CEO and current CFO, stayed overnight at a hotel in Dartmouth. This was paid for using trust funds, at a cost of £2,482.50. This included incurring additional costs of £330.00 for extra spa treatments over and above the hotel's spa break package rate. The invoice provided by the trust to their financial statement auditors and to ESFA officers is not a VAT invoice and it does not provide full details of the expenditure incurred. There is no documented rationale or approval by the board, for this expenditure. ESFA has significant concerns in respect of value for money being demonstrated by spending a total of £2,482.50 of public money on this activity, which includes £330 being spent on additional treatments. The AFH states in respect of this, at 2.4.1, that the academy trust must ensure that:

- spending has been for the purpose intended and there is probity in the use of public funds

## **Governance arrangements and structure**

13. Prior to our visit, we reviewed the governance structure in operation at the trust as identified in the 2017/18 audited accounts. This was compared to records on the trust's website, Companies House and Get Information About Schools (GIAS). We identified that the trust comprised of 3 members, one of which is also the chair of governors. While this is not a breach of the AFH the Department's strong preference is for trusts to have at least 5 members, as this:

- provides for a more diverse range of perspectives
- ensures members can take decisions via special resolution without requiring unanimity

We understand that the trust has contacted Academy Ambassadors to rectify this.

14. Our review of the finance/audit committee minutes, identified that:

- the CEO is listed as a trustee present and therefore a member of the committee, rather than being in attendance
- this was further verified in the trust board minutes which confirm that this committee consists entirely of trustees and the CEO
- the trust has stated in their response that for a meeting to be considered quorate, 3 members of the committee are required. However, the terms of reference for this committee outline that quoracy is achieved when there are 2 trustees present, plus the CEO (or representative)
- it is not clear therefore from the minutes dated 01/07/17 and 29/11/18 who the representative was, as the CEO was not present
- the minutes for the meetings of 28/02/18 and 28/06/18 show that only 2 trustees plus the CEO were present
- the trust has stated in their response that although the CEO was in attendance during the above meetings, she did not participate when 'audit' was discussed
- it is not clear from the minutes, who the chair of this committee is

15. The AFH states at 2.9.3, that employees should not be members of an audit committee but the accounting officer and other relevant staff should routinely attend to provide information and participate in discussions. Where the trust operates a combined finance and audit committee, employees may be members but should not participate as members when audit matters are discussed; they may remain in attendance to provide information and participate in discussions.

16. Audit matters, for which the CEO should not participate as a member are detailed in paragraphs 2.9.4 and 2.9.5 of the AFH but essentially, are to provide assurance over the suitability of, and compliance with, the trust's financial systems and operational controls and to manage risks. The minutes do not demonstrate whether the CEO abstained from participating as a member during such discussions.

17. The trust should also be mindful of HM Treasury guidance, referenced in the AFH, the audit committee handbook, which sets out at 3.1, an effective Audit and Risk Assurance Committee must have members who are both independent and objective. The board and accounting officer should be supported by an Audit and Risk Assurance Committee with no executive responsibilities, comprising at least 3 members. The chair of the committee should be a Non-Executive Board Member (NEBM) with relevant experience. There should be at least one other NEBM on the committee; the committee may need to seek further independent, non-executive membership from sources other than the board in order to ensure an appropriate level of skills and experience.

## Procurement

18. The trust provided us with a list of spend by supplier, extracted from their purchase ledger. We combined the expenditure report provided, representing expenditure incurred from 2016/17 to 2018/19 and selected a sample of transactions to test compliance with the trust's Financial Procedures Manual, which contained the procedures for procurement, to be adopted by the trust. Our findings were as follows:

19. We selected a sample of 7 suppliers whose invoices totalled £71,240.05 and were coded to services and Service Level Agreement's (SLAs) and noted the following:

- Over £10,000 and up to £75,000, where 3 quotes should have been obtained:
  - £30,435.38 has been invoiced by [REDACTED] the policy schedule is for £31,785, there were no other quotes on file, where there should have been 3. The trust has since provided us with board minutes for 20/10/16, which state this was a 2 year contract i.e. 16/17 and 17/18 only. The minutes provided, also state that a full tender exercise will be completed in 18/19. The invoice referred to is for the renewal of the policy for 18/19, the narrative states "Combined Sch Policy 18/19", confirming that this was not retendered for in 2018/19. The trust has stated that the board were misinformed in respect of the duration of the contract and believed it to be for 2 years rather than 3. The trust has also provided us with an email from [REDACTED], dated 24 October 2016, stating the trust had signed up to a 3 year contract with the option to break after 2 years with no penalty
  - An HR Services SLA for £11,805 per annum was on file, there were no other quotes
  - £4,671.63 has been invoiced by [REDACTED]. There is an SLA on file with a maximum value of £10,374. There were no other quotes on file. The trust has since provided us with pricing information which was not provided during the investigation and is not prepared on a like for like basis. [REDACTED] quotes are for £66.50 to £70 per hour. The information provided for Babcock and Torbay is not a quote but has been extracted from their websites and states that Torbay charge £400 to £500 per day. There is also no price quoted in relation to Babcock but an estimate of £530 a day has been handwritten on the estimate. The trust also provided an undated 'summary of options' document. The costings are not based on the same number of days/hours, as demonstrated below:

Name	Price	Summary of options costings	Comparison based on the same days (assuming the same no. of hours)
██████████	£66.50 to £70.00 per hour, based on a 6 hour day	£10,374 based on 156 hours or 26 days	£10,374
Babcock	No price per day quoted but handwritten estimated cost £530 per day	£33,920 based on 64 days at £530	£13,780
Torbay	£400 per day – Torbay £500 per day – outside of Torbay	£32,500 based on 65 days at £500	£10,400 inside of Torbay £13,000 outside of Torbay

- Up to £10,000 where a best value approach should be adopted:
  - £9,696.80 has been invoiced by ██████████ for software renewal and no other information was on file. The paperwork subsequently provided was for £23,200 and for the 'bespoke' software for a one year period. It does not therefore cover or account for the renewal fee which is what the trust has been invoiced for (as per agreement). The original decision was based on the initial fee but the renewal fees were not factored into this. The quotation review document does not include the full cost to the trust for this software and the minutes provided approving this expenditure do not disclose the value of the ongoing licence fee
  - £7,738.69 has been invoiced by ██████████ the trust has a no maximum value quote only, and there is no other information on file. The trust has confirmed that this expenditure relates to a number of transactions with this supplier, totalling this amount. However, there is no evidence of cost comparisons, in the instances where other options were available, to ensure that best value has been secured
  - £7,500.00 has been invoiced by ██████████ there was no other information on file. The trust has since provided a tender document, which was not on file at the time of the investigation
  - £6,531.05 has been invoiced by ██████████ for internet services and the SLA is for £6,351 per annum. There is no other information on file. The trust has since stated that this service was procured by Warberry School before it joined the trust, however, Warberry School joined the trust in 2015 and invoices for 2016/17, 2017/18 and 2018/19 have been paid. We would have expected the trust to retender after the initial contracted period. The combined total of the invoices exceed £10,000

20. We selected a sample of 13 invoices from the £19,220.99 coded to hospitality and noted the following:

- we requested copies of the orders and invoices for 6 invoices from [REDACTED] of Torbay, 5 were provided and 4 had purchase orders. It was noted that one of the invoices, for £260.00, had no accompanying order and had been coded to trustee expenses. In addition, 2 delivery charges were included on this invoice. The trust has stated that due to time constraints, raising purchase orders is not always possible and that this invoice was for a trustee strategy day. There is no documented reason to show why time constraints applied or it was not practicable to raise an order on this occasion. In addition, the invoice referred to was for 28 people and the event was scheduled for 9:00am to 1:00pm. Being a half day event, the expenditure was unnecessary. A total of £7,708.15 has been spent with this supplier, all of which has been coded to hospitality. The amount spent falls into the 'best value' category of the trust's purchasing procedures. There is no documented comparison of costs to determine if this represents best value, or that the trust considered alternative options. As this caterer is 10 miles away from the trust, delivery costs have also been incurred
- we requested the invoice and order for [REDACTED]. An invoice for £548.35 was provided but no order was provided. There is no documented reason to show why raising an order was not practicable, on this occasion

21. Controls over expenditure are clearly documented in the trust's Financial Procedures Manual. The trust's Financial Policy states that telephone/direct verbal ordering will be permitted only in situations where raising an official order is not practicable. Our testing shows non-compliance with this policy. Not maintaining an audit trail of paperwork to support spending decisions and transactions means that a trust cannot evidence compliance with the AFH, which states in respect of purchasing at 2.4.1, that the academy trust 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
- internal delegation levels exist and are applied within the trust

## Procurement card expenditure

22. We selected a sample of individual transactions from procurement card statements and noted the following:

- 4 hotel stays totalling a cost of £1,999.40 were noted, 2 of which included dinner with no itemisation, the trust has since provided itemisation for one of these, however it was noted that the charge card purchase form records the meal as

being a deposit for the booking

- a one night stay at a hotel in London, for the CEO, director of education and the former CFO, costing £708 was booked in the name of the CEO's husband, who is not a trust employee, his IHG rewards card was also used
- there was no recorded justification or rationale for the level of expenditure incurred on any of these stays. For comparison, the trust has paid for other members of staff to stay in budget hotels
- from the sample reviewed £1,066.89 had been spent at [REDACTED], over 12 transactions. This includes £190 in March 2017. No evidence has been provided to confirm if 10 of the 12 transactions had been preapproved. The trust has since provided us with evidence of who ordered/approved the transactions, stating that the machines are used for conferences. No evidence of this expenditure being recharged has been provided
- a 2 course meal costing £89.25, detailed as a planning meeting and coded to hospitality was paid for and the purpose of the meeting was not documented

23. In addition to 2.4.1 AFH, the trust's Financial Policy says in respect of loyalty cards: Loyalty cards given for any LAP accounts such as Nectar/Tesco club card etc shall not be used for personal use. All cards should be issued in the Learning Academy Partnership name and all benefits obtained from these cards are to be redeemed to benefit the Learning Academy Partnership.

## Expenses

24. We requested a transaction listing of expense claims to select a sample to check compliance with the trust's Financial Procedures Manual. Controls detailed in the manual include requests for re-imbusement to individuals being made via the expense claim form (now claimed online), which must be supported by receipts for the goods/services purchased, being approved prior to the expenditure being incurred and the claim being approved. From our review of the transaction listing and selected sample of expense claims, our findings were:

25. It was initially unclear from the documentation provided if 5 of the 10 claims have been authorised. An approval report, subsequently provided by the trust was reviewed and of the 4 claims made after the introduction of the electronic system, 2 should not have been authorised as one contains a claim for alcohol and the other, an unreadable receipt:

- one receipt, which had been split across 3 claims included 2 glasses of wine

a claim was made using a receipt which was not legible so should not have been approved

- one claim which included alcohol had been rejected
- mileage calculations had not always been recorded:
  - 3 of these claims are pre the revised electronic claim system, one claim had page 2, the mileage form missing and the other 2 had missing/no ordinary commute calculations. Page 2 of the claim has subsequently been provided, however it was noted that the employee and manager signatures are dated before the last 2 claim dates. The trust now uses an electronic mileage calculation
- £141.21 had been coded as hospitality, it is not clear if these items should have been coded as hospitality. The trust's Financial Procedures Manual states hospitality expenses must be pre-approved by a member of the executive team. There was no evidence of pre-approval
- the description for £136.50 of expenditure does not match the expense type. All have the description as taxi, with £81.70 showing expense type train, £38.00 as hotel and £16.80 hospitality

26. We found a number of instances of non-compliance with, and inconsistent application of, the trust's Financial Procedures Manual, which set out the procedures for claiming expenses, in relation to staff expense claims and the pre-authorisation of hospitality. Whilst one claim for alcohol was rejected, one had been paid and another claim was paid with an unreadable receipt. The manual does not exclude claiming alcohol, however this should be deemed as irregular expenditure and should not be reimbursed. Section 9.1.21 of the Academies accounts direction 2017/18, refers to common themes identified in respect of irregular expenditure. In addition, the AFH states at 2.4.1, that the academy trust must ensure that:

- spending has been for the purpose intended and there is probity in the use of public funds

27. None of the sampled claims for hospitality had been pre-approved, where the trust's Financial Procedures Manual (August 2018) states that:

- purchasing flowers, gifts or hospitality for staff - Purchase of hospitality for staff is permitted for staff having a working lunch for a specific meeting or undertaking training. This must be authorised by a member of TET. All the above must be run past the TET for approval before any purchase is made

## Recruitment and selection

28. Allegations were raised around the recruitment and selection processes adopted by the trust and that these may not be in line with best practice. The trust has a Recruitment and Selection Policy which appears adequate. We reviewed the recruitment and selection processes, compared to the policy, for 3 members of staff initially but extended our sample to include an additional post. Our findings were:

- the CFO responsibilities were assigned by the CEO and subsequently acknowledged by the board, as demonstrated by the minutes. Where the AFH requires a CFO to be appointed by the board
- page 3 of the confidential minutes of the board meeting of December 2018, show the decision to offer the post of CEO to the director of education, when the current post holder retires without any recruitment or selection activity
  - this appointment was discussed at length during the review, with the trust's HR manager and the CEO. None of the documents subsequently provided by the trust, draft or otherwise, were made available to us during the review
  - minutes subsequently provided demonstrate a draft succession planning document was considered. The final version of this has now also been provided which the trust has now confirmed was signed off in September 2019
  - HR committee minutes for 14 March 2019 show that the role had been offered, following the full board. The 14 April 2019 board minutes do not ratify the appointment, but confirm that the role had been accepted, with the proposed post holder noted as being present
- the personnel file for a recent recruit contained an employment contract and an application but no records of interview or the job being advertised. The section for interview records is missing. Through discussion, it was established that this was a direct short notice appointment suggested by the Director of Education, who it was also noted was a referee for the applicant offered the role. Given that this was the case, good practise would dictate that a full recruitment exercise would have been undertaken to fill the post permanently
- in comparison, the recruitment file for one recent post contained the job advertisement, job description, shortlist of candidates, completed job application form, notes for panel on interview of other candidate, and applications from other candidates

29. The trust has not consistently complied with its own Recruitment and Selection Policy. The trust also cannot demonstrate best practice as defined in the Department's guide to recruitment and selection of a head teacher and other leadership roles. Which is



a guide to help governors and trustees make effective decisions when recruiting and selecting headteachers and other school leaders, in respect of a fair and open process. In addition, the AFH states at 1.6.1, that the trust must have a CFO, appointed by the board.

## Budgetary control

30. The AFH 2017 stated at 2.3.3, that the trust's internal control framework must include:

- preparation of monthly budget monitoring reports

The trust stated that in 2017/18 budget reports were prepared termly and following changes to the AFH, these are now being prepared monthly and are sent to the chair and the finance committee.

31. We reviewed a selection of the budget reports and noted that the structure and format has changed. From September 2018, MAT wide, consolidated budget variance reports with adequate supporting narrative, are not included in the packs provided to the chair and finance committee. They are provided with a high level overall position by school and central, with no discernible key financial performance indicators, along with detailed reports for each school and central, with a brief narrative for some variances. It is difficult to gauge an overall position for key lines of expenditure from these reports. Given that the trust has reported 2 consecutive in year deficits, adequate levels of monitoring and scrutiny should be in place, to ensure financial control.

32. This is a breach of the AFH at 2.3.3, which states that the board of trustees, and any separate committee responsible for finance, must ensure rigour and scrutiny in budget management.

- budget monitoring – The trust must prepare management accounts every month setting out its financial performance and position, comprising budget variance reports and cash flow forecasts with sufficient information to manage cash, debtors and creditors. Managers must take appropriate action to ensure ongoing viability
- the board must ensure appropriate action is being taken to maintain financial viability, including addressing variances between the budget and actual income and expenditure
- the format of management accounts should be adjusted to be suitable for different users, including summaries and supporting narrative as appropriate

- the trust must select key financial performance indicators and measure its performance against them regularly, including analysis in its annual trustees' report as explained in the Accounts Direction

## Staff restructuring

33. The 2017/18 audited accounts were examined and we identified that £75,000 had been spent on staff restructuring. This included non-statutory/non-contractual severance payments totalling £46,494, made to 3 members of staff. Further information, namely the settlement agreements and evidence of any legal advice regarding the value of the severance payment and records of negotiation, was requested for these payments and for any that had been made in the 2018/19 financial year. The packs provided for 2017/18 contained the settlement agreements and pay advice slip for each employee. Other enclosures included brief covering letters and an invoice for the employee's legal advice. No records of negotiation or explanation as to how these amounts were calculated were included.

34. Of the 2 packs provided for the 2018/19 year, one contained the pay advice slip and settlement agreement only. The other contained the pay advice slip, settlement agreement and very limited without prejudice correspondence between the trust and the members of staff's union representative regarding the settlement. There was no record of any legal advice in relation to the amount or the threatened legal action against the trust.

35. The trust cannot demonstrate that it has complied with the AFH at 3.3.3, which states that if an academy trust is considering making a staff severance payment above statutory or contractual entitlements, it must consider the following issues before making a binding commitment:

- that the proposed payment is in the interests of the trust
- whether such a payment is justified, based on a legal assessment of the chances of the trust successfully defending the case at employment tribunal. If there is a significant prospect of losing the case a settlement may be justified, especially if the costs incurred in maintaining a defence are likely to be high. Where a legal assessment suggests that the trust is likely to be successful, a settlement should not be offered
- if the settlement is justified, the trust would need to consider the level of settlement. This must be less than the legal assessment of what the relevant body (e.g. an employment tribunal) is likely to award

36. This is also a breach of the AFH at 3.3.6, which states that academy trusts should demonstrate value for money by applying the same level of scrutiny to a payment under £50,000 as if it were over the £50,000 delegation and have a business case justifying the settlement. Settlements must not be accepted unless they satisfy the conditions in this handbook and in ESFA's guidance and submission template.

37. The trust has since provided us with retrospective evidence that legal advice was sought and that some discussions over the value of payments were held, however it has been unable to provide a documented business case justifying the settlement or that the payments satisfy the conditions in the handbook or the guidance and submissions template.

## Conclusion

38. A number of significant findings and multiple breaches of the AFH have been identified. These include:

- procurement practices that are not compliant with the trust's scheme of delegation, policy and procedures and therefore, the AFH
- value for money concerns over spending decisions, which include an invoice being presented to ESFA and the trust's auditors in respect of a wellbeing conference, not being a VAT invoice. In addition, the invoice does not disclose the full details of the expenditure incurred
- the governance structure not being in line with the Department's strong preference
- a lack of independence between the board and the joint finance and audit committee, as demonstrated by its membership. There are also inconsistencies concerning quoracy of this committee and its actual membership, to include who chairs this committee
- recruitment and selection processes not being in line with policy and best practice
- a revised budget monitoring reporting format not being sufficient to monitor the trust wide financial position
- documented business cases not in place justifying the statutory/non-contractual severance payments made, demonstrating that value for money has been achieved or that the payments meet the conditions in the guidance and submission template

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

## Annex A

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

	Finding	AFH / framework reference	Recommendation
<b>Wellbeing conference</b>			
1.	10 trust senior members of staff, including the CEO and current CFO, stayed overnight at a hotel in Dartmouth, the trust incurred costs for additional treatments over and above the spa break package rate. The invoice provided by the trust to their financial statement auditors and to ESFA officers, are not VAT invoices, which also, do not disclose the full details of the expenditure.	The AFH states at 2.4.1 that the academy trust must ensure that: <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.</li> </ul>	The trust must ensure that it can demonstrate regularity, propriety, and value for money in the use of the trust's funds.
<b>Governance structure and arrangements</b>			
2.	At the time of our visit we identified that the trust had only 3 members, one of which is also the chair of trustees.	The Department's strong preference is for trusts to have at least 5 members, as this: <ul style="list-style-type: none"> <li>• provides for a more diverse range of perspectives</li> </ul>	The trust has told us that it has taken steps to address this, involving Academy Ambassadors. The trust should confirm to the department when it has 5 members in place.

		<ul style="list-style-type: none"> <li>• ensures members can take decisions via special resolution without requiring unanimity</li> </ul>	
3.	<p>Our review of the finance (audit) committee minutes identified that the CEO is listed as a trustee present, rather than being in attendance. The minutes are silent on whether the CEO participated as a member during such discussions.</p> <p>There are also inconsistencies concerning quoracy of this committee and its actual membership, to include who chairs this committee.</p>	<p>The AFH states at 2.9.3 that employees should not be members of an audit committee but the accounting officer and other relevant staff should routinely attend to provide information and participate in discussions. Where the trust operates a combined finance and audit committee, employees may be members but should not participate as members when audit matters are discussed; they may remain in attendance to provide information and participate in discussions.</p> <p>Audit matters, for which the CEO should not participate as a member are detailed in paragraphs 2.9.4 and 2.9.5 of the AFH but essentially, are to provide assurance over the suitability of, and compliance with, the trust's</p>	<p>The trust must ensure that its Accounting Officer (AO) does not participate as a member of the joint finance and audit committee.</p> <p>The trust minutes should adequately reflect the membership as detailed in the terms of reference, that quoracy can be demonstrated and that staff members are not participating during audit matter discussions.</p> <p>The trust should also be mindful of HM Treasury guidance, referenced in the AFH, the Audit Committee Handbook, which sets out at 3.1, an effective Audit and Risk Assurance Committee must have members who are both independent and objective. The board and accounting officer should be supported by an Audit and Risk Assurance Committee with no executive responsibilities, comprising at least 3 members. The chair of the committee should be a Non-Executive Board Member (NEBM1) with relevant experience. There should be at least one other NEBM on the committee; the</p>

		financial systems and operational controls and to manage risks.	committee may need to seek further independent, non-executive membership from sources other than the board in order to ensure an appropriate level of skills and experience.
<b>Procurement</b>			
4.	Procurement practices are not on all occasions in line with the trust's scheme of delegation and purchase orders are not always being raised.	<p>The trust's scheme of delegation requires the trust to obtain 3 quotes, demonstrate best value, and use the purchase ordering systems.</p> <p>2.4.1. of the AFH states that the academy trust must ensure that:</p> <ul style="list-style-type: none"> <li>• spending decisions represent value for money</li> <li>• internal delegation levels exist and are applied within the trust</li> </ul>	The trust must ensure that it complies with the AFH requirements to have adequate procurement controls in place. Also, so that it can demonstrate compliance with its Financial Procedures Manual and scheme of delegation.
5.	We selected a sample of individual transactions from procurement card statements, noting that there were a number of transactions where consideration of value for money cannot be demonstrated.	The AFH states at 2.4, that the academy trust must be able to show that public funds have been used as intended by Parliament. At 2.4.1 the academy trust must ensure that:	The trust must ensure it can demonstrate that its spending has been for the purpose intended and that it represents good value for money.

		<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</li> </ul> <p>In addition, the trusts Financial Policy says in respect of loyalty cards: Loyalty cards given for any LAP accounts such as Nectar/Tesco club card etc shall not be used for personal use. All cards should be issued in the Learning Academy Partnership name and all benefits obtained from these cards are to be redeemed to benefit the Learning Academy Partnership.</p>	<p>The trust must ensure that use of loyalty cards is consistent with the trust's Financial Policy.</p> <p>The trust should also provide ESFA with a breakdown of all expenditure incurred with [REDACTED] and details of how this has been recharged.</p> <p>Included should also be details of how these items of expenditure represent value for money and funding being used for its intended purposes.</p>
<b>Expenses</b>			
6.	<p>Sample testing of 10 expense claims identified non-compliance with the trust's financial procedure, to include:</p> <ul style="list-style-type: none"> <li>• one claim authorised containing alcohol and one with an unreadable receipt</li> <li>• 2 claims where mileage calculations were not fully recorded</li> </ul>	<p>The trust's Financial Procedures Manual does not exclude claiming alcohol, however this should be deemed as irregular expenditure and should not be reimbursed.</p> <p>The AFH states at 2.4.1, that the academy trust must ensure that:</p>	<p>The trust must ensure that staff expense claims are made in accordance with their Financial Procedures Manual.</p> <p>Claims should be rejected if they have not been properly authorised, are not supported by legible receipts and contain irregular expenditure, to ensure compliance with the</p>



	<ul style="list-style-type: none"> <li>• one claim authorised prior to the mileage being incurred</li> </ul> <p>We also identified that:</p> <ul style="list-style-type: none"> <li>• £141.21 had been coded as hospitality, where the trust’s manual states this must be pre-approved by a member of the executive team and this was not apparent</li> <li>• the description for £136.50 of expenditure does not match the expense type. All have the description as taxi, with £81.70 showing expense type train, £38.00 as hotel and £16.80 hospitality</li> </ul> <p>The trust’s Financial Procedures Manual is not being complied with and being applied inconsistently, in relation to staff expense claims and the pre-authorisation of hospitality. In addition, whilst one claim for alcohol was rejected, one had been paid.</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>	<p>AFH in relation probity in the use of public funds can be demonstrated.</p>
<b>Recruitment and selection</b>			
7.	<p>A senior post has been filled by direct appointment, without any recruitment and selection activity being undertaken.</p>	<p>The trust has not complied with its own Recruitment and Selection Policy, which sets out the procedure for recruitment,</p>	<p>The trust must ensure that it complies with its Recruitment and Selection Policy, that it has due regard to best practise and that its recruitment and selection processes do not</p>

	<p>Also, the CFO was not formally appointed by the board.</p> <p>In addition, a referee for one applicant was the person who recommended the applicant for the post</p>	<p>including the requirement for an interview.</p> <p>The trust also cannot demonstrate best practise as defined in the Department's guide to recruitment and selection of a head teacher and other leadership roles. This states that appointers should:</p> <ul style="list-style-type: none"> <li>• Conduct a fair and open process to ensure that staff are recruited on the basis of merits, abilities and suitability for the position</li> </ul> <p>The AFH at 1.6.1 states that:</p> <ul style="list-style-type: none"> <li>• The trust must have a Chief Financial Officer (CFO), appointed by the trust's board,</li> </ul>	<p>discriminate, in line with the Equality Act 2010.</p> <p>The trust must also ensure that the board formally appoints the CFO, as required by the AFH.</p>
<b>Budgetary control</b>			
8.	<p>The trust stated that in 2017/18 budget reports were prepared termly.</p>	<p>The AFH 2017 states at 2.3.3, that the trust's internal control framework must include:</p> <ul style="list-style-type: none"> <li>• preparation of monthly budget monitoring reports</li> </ul>	<p>The trust must ensure that it can demonstrate compliance with the AFH's internal control requirements.</p>

<p>9.</p>	<p>From September 2018, MAT wide, consolidated budget variance reports with adequate supporting narrative, are not included in the packs provided to the finance committee or chair.</p> <p>They are provided with a high level overall position by school and central, with no discernible key financial performance indicators, along with detailed reports for each school and central, with a brief narrative for some variances. It is difficult to gauge an overall position for key lines of expenditure from these reports.</p> <p>Given that the trust has reported 2 consecutive in year deficits, adequate levels of monitoring and scrutiny should be in place to ensure financial control.</p>	<p>The AFH at 2.3.3, states that the board of trustees, and any separate committee responsible for finance, must ensure rigour and scrutiny in budget management:</p> <ul style="list-style-type: none"> <li>• Budget monitoring – The trust must prepare management accounts every month setting out its financial performance and position, comprising budget variance reports and cash flow forecasts with sufficient information to manage cash, debtors and creditors. Managers must take appropriate action to ensure ongoing viability.</li> <li>• The board must ensure appropriate action is being taken to maintain financial viability including addressing variances between the budget and actual income and expenditure.</li> <li>• The format of management accounts should be adjusted to be suitable for different users including summaries and</li> </ul>	<p>The trust must ensure that it can demonstrate appropriate rigour and scrutiny in budget management, to ensure the ongoing viability of the trust.</p>
-----------	---	--	--

		<p>supporting narrative as appropriate.</p> <ul style="list-style-type: none"> <li>• The trust must select key financial performance indicators and measure its performance against them regularly, including analysis in its annual trustees' report as explained in the Accounts Direction.</li> </ul>	
<b>Staff restructuring</b>			
10.	<p>The trust made 3 non-statutory/non-contractual severance payments in 2017/18 and has made 2 further payments in 2018/19. The trust does not have documented business cases in place justifying the settlements and that value for money has been achieved. It also cannot demonstrate how these payments meet the conditions in the guidance and submission template.</p>	<p>The AFH at 3.3.3, states that if an academy trust is considering making a staff severance payment above statutory or contractual entitlements, it must consider the following issues before making a binding commitment:</p> <ul style="list-style-type: none"> <li>• that the proposed payment is in the interests of the trust</li> <li>• whether such a payment is justified, based on a legal assessment of the chances of the trust successfully defending the case at employment tribunal. If there is a significant prospect of losing the case a settlement may be justified, especially if the costs</li> </ul>	<p>The trust must ensure that it can demonstrate compliance with the AFH in respect of making staff severance payments.</p>

		<p>incurred in maintaining a defence are likely to be high. Where a legal assessment suggests that the trust is likely to be successful, a settlement should not be offered</p> <ul style="list-style-type: none"> <li>• if the settlement is justified, the trust would need to consider the level of settlement. This must be less than the legal assessment of what the relevant body (e.g. an employment tribunal) is likely to award.</li> </ul> <p>The AFH at 3.3.6 states that academy trusts should demonstrate value for money by applying the same level of scrutiny to a payment under £50,000 as if it were over the £50,000 delegation and have a business case justifying the settlement.</p> <p>Settlements must not be accepted unless they satisfy the conditions in this handbook and in ESFA's guidance and submission template.</p> <p>The trust has since provided us with retrospective evidence that legal advice was sought and that</p>	
--	--	--	--

		some discussions over the value of payments were held, however it has been unable to provide a documented business case justifying the settlement or that the payments satisfy the conditions in the handbook or the guidance and submissions template.	
--	--	---	--



Education & Skills  
Funding Agency

© Crown copyright 2020

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)

Reference: [000-000-000]



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



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