



Education & Skills
Funding Agency

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

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

27 July 2020

Mr Robert Fielden,
Herts & Essex Multi Academy Trust
The Hertfordshire & Essex High School,
Warwick Road,
Bishop's Stortford,
CM23 5NJ

Company Number: 08704162

Dear Mr Fielden

Financial Notice to Improve: Herts & Essex Multi Academy Trust

I am writing to you in your capacity as the Chair of Herts & Essex Multi Academy Trust.

As you are aware, ESFA has been working closely with the Trust to address weaknesses in its financial position. As a result of this work, a number of issues relating to financial reporting and control, as well as governance, have been identified.

The Trust has evidenced significant weaknesses in the control of their cashflow and the monitoring of their financial position. On multiple occasions they have requested urgent financial support, only to withdraw or delay the request at the last minute. They have failed to produce a consistent, accurate and consolidated trust cashflow to justify their requests. The Trust has therefore not applied discipline in financial management, which is a formal requirement of the Trust's funding agreement as set out in paragraph 2.7 of the Academies Financial Handbook ("AFH"):

*The control framework **must**: (...)*

- *apply discipline in financial management, including managing debtors, creditors, cash flow and monthly bank reconciliations*

The Trust has reached such a weak financial position as a result of the incorrect use of revenue funds to support a capital project. This is a breach of paragraph 2.28 of the AFH:

*The academy trust **must** ensure:*

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

The format of the Trust's management accounts is not compliant. They do not include cash flow forecasts, balance sheets, or sufficient details on the variances and changes in forecast position. This is a formal requirement of paragraph 2.21 of the AFH:

*The format of management accounts **must** include an income and expenditure account, variation to budget report, cash flows and balance sheet.*

The budget forecasts for the current year and beyond are not compiled accurately. The budget does not incorporate all of the Trust's assets and is inconsistent with both the trust's financial plan and the latest forecasts shown in the management accounts. This is a formal requirement of paragraph 2.11 of the AFH:

*The board **must** ensure budget forecasts for the current year and beyond are compiled accurately, based on realistic assumptions including any provision being made to sustain capital assets, and reflect lessons learned from previous years.*

The current budget is not balanced, with the Trust forecasting an end of year cumulative deficit position of £532,335 for 2019/20. This is breach of paragraph 2.10 of the AFH:

*The board of trustees **must** approve a balanced budget, and any significant changes to it, for the financial year to 31 August, which can draw on unspent funds brought forward from previous years. The board **must** minute its approval.*

The lack of discipline in financial management and weak financial reporting highlights a potential lack of technical skill and experience in the finance team. This is a breach of paragraph 1.36 of the AFH:

*The CFO and their finance staff **must** be appropriately qualified and/or experienced. Trusts **must** assess whether the CFO, and others holding key financial posts, should have a business or accountancy qualification and hold membership of a relevant professional body, dependent on the risk, scale and complexity of financial operations.*

In addition to the weak financial reporting, the Trust does not share a consolidated cashflow with the Board. Instead, they view the cashflow at school level and this does not include subsidiaries. Therefore, they do not have oversight of the trust as a whole. This is a breach of paragraph 2.1 of the AFH:

*Trustees and managers **must** maintain robust oversight of the academy trust.*

Whilst we do not wish to place additional burdens on trusts at this time, the Trust's breaches of the AFH are considered sufficiently serious to justify the issuing of this letter.

This letter and its annexes serve as a written notice to improve financial management, control and governance at the Trust (Financial Notice to Improve or "the Notice"). It reflects the weak financial position of the Trust and continued concerns on 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 Notice. These terms are set out in Annex A.

Being issued with a Notice means that certain delegated authorities, as defined in the AFH, have been revoked. All transactions previously covered by these delegations, regardless of their size, must now be approved in advance by 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 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 once we are satisfied that the requirement of the Notice have been, and will continue to be, complied with to the satisfaction of the Secretary of State. Further details of the approval process will be forwarded to the Accounting Officer upon acknowledgment of receipt of this letter.

We will monitor progress made towards meeting the requirements of 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]. In line with the requirements set out in ESFA's publishing policy, the Trust has 10 working days to offer any final comments on factual accuracy before publication.

I am copying this letter to the Accounting Officer Cathy Tooze, Trust Members Simon Loveday, Steve Cox, Sue Brindley and Susannah Dutton, and Dame Kate Dethridge, the Regional Schools Commissioner (RSC) for North West London and South Central.

I look forward to hearing from you.

Yours sincerely



Warwick Sharp
Director, Academies and Maintained Schools Directorate

CC. Cathy Tooze, Accounting Officer
Dame Kate Dethridge – RSC, North West London and South Central
Simon Loveday, Steve Cox, Sue Brindley and Susannah Dutton (Members of the Trust)

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 Herts & Essex Multi Academy Trust (the 'Trust')
 - Failing to apply discipline in financial management, including managing debtors, creditors, cash flow and monthly bank reconciliations as required in the Academies Financial Handbook (AFH) paragraph 2.7;
 - Failing to ensure that spending is used for the purpose intended and that there is probity in the use of public funds as required in the AFH paragraph 2.28;
 - Failing to produce compliant management accounts as required in the AFH paragraph 2.21;
 - Failing to ensure budget forecasts for the current year and beyond are compiled accurately as required in the AFH paragraph 2.11;
 - Failing to approve a balanced budget for the financial year to 31 August as required in the AFH paragraph 2.10;
 - Failing to ensure trustees and managers maintain robust oversight of the academy trust as required in the AFH paragraph 2.1;
 - Failing to ensure that the finance team has the appropriate experience and technical skills as required in the AFH paragraph 1.36.

Conditions

2. 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.
3. The Trust is required to share a copy of the Trust's risk register and fixed asset register with ESFA.
4. The Trust is required to share a copy of the latest internal audit report with updated progress against actions.
5. The Trust is required to share the defects list outlining the remaining expenditure relating to the Sports Centre and the current payment plan.
6. The Trust is required to agree to the deployment of a new School Resource Management Advisor, to take place in the academic year 2021/22.

7. The Trust is required to prepare and submit an updated consolidated financial plan, including a consolidated cash flow. Any request for financial support must be evidenced by the financial plan and with sufficient time for ESFA to review the request. The plan must include:
 - a) Details of the actions they have taken to attempt to implement the improvements identified by the SRMA. The trust may want to incorporate this within an action plan.
 - b) Any findings from an Integrated Curriculum and Financial Planning (ICFP) analysis and a review of budget management forecasting and scrutiny, including using benchmarking and SRM tools.
8. The Trust is required to review its finance structure and complete an audit of finance skills across the finance department. Where there are any gaps in experience or capacity, the Trust should seek further finance support.
9. The Trust is required to review its current governance arrangements to ensure they are clear, including a review of attendance levels of trustees at Board meetings. Following this, the Trust should create an action plan to improve attendance levels and share the Trust scheme of delegation. If any skill gaps are identified, the Trust should also appoint an Academy Ambassador as appropriate.
10. The Trust is required to review and reduce the number of Trust bank accounts to a minimum.
11. The Trust is required to review the production of monthly management accounts to ensure they are in line with ESFA requirements. They must include:
 - a) Revenue income and expenditure report
 - b) Variation to budget report
 - c) A detailed and consolidated monthly cash flow, rolling 12 months ahead
 - d) Balance sheet
12. The Trust is required to submit notice of all board meetings, including extra-ordinary meetings; and ensures that the agenda and draft minutes are forwarded to the ESFA as soon as they are available. This must also include copies of the financial reports which are shared with the Board.
13. The Trust is required to submit the auditors' management letter for 2019-20, which does not raise further concerns relating to any of the issues highlighted within this Notice by the deadline set by the ESFA.
14. The Trust is required to ensure that all necessary Trustee contact details are up to date.

Financial management requirements

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

Timescales

18. The BFR return is due to the ESFA by 29 September 2020 unless otherwise notified by ESFA. The 2019-20 audited accounts and management letter are due to the ESFA by 31 December 2020 unless otherwise notified by ESFA.
19. The Trust is required to share a copy of the Trust's risk register and fixed asset register by 24 August 2020.
20. The Trust is required to share a copy of the latest internal audit report with updated progress against actions by 24 August 2020.
21. The Trust is required to share the defects list outlining the remaining expenditure relating to the Sports Centre and the current payment plan by 24 August 2020.
22. The Trust is required to agree to the deployment of a new School Resource Management Advisor, to take place in the academic year 2021/22, by 24 August 2020.
23. The Trust is required to submit the updated financial plan by 17 August 2020.
24. The Trust is required to share the findings of the review of its finance structure and audit of finance skills across the finance department by 21 September 2020.
25. The Trust is required to share the findings of the review of governance arrangements, the subsequent action plan to improve attendance levels by 5 October 2020.
26. The Trust is required to submit their scheme of delegation by 5 October 2020.
27. The Trust is required to confirm it has reduced the number of Trust bank accounts to a minimum by 5 October 2020.

Monitoring and progress

28. The Trust is required to meet the specific conditions outlined above to enable the ESFA to monitor compliance and progress.
29. 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

30. 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 29 September 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 further concerns relating to any of the issues highlighted within this Notice by 31 December 2020.
- The ESFA receives a copy of the Trust's risk register and fixed asset register by 24 August 2020.
- The ESFA receives a copy of the latest internal audit report with updated progress against actions by 24 August 2020.
- The ESFA receives the defects list outlining the remaining expenditure relating to the Sports Centre and the current payment plan by 24 August 2020.
- The ESFA receives written confirmation that the Trust agrees to the deployment of a new School Resource Management Advisor, to take place in the academic year 2021/22, by 24 August 2020.
- The ESFA receives the updated financial plan by 17 August 2020.
- The ESFA receives the findings of the review of its finance structure and audit of finance skills across the finance department by 21 September 2020.
- The ESFA receives the findings of the review of governance arrangements and the subsequent action plan by 5 October 2020.
- The Trust submits their scheme of delegation, which evidences clear lines of accountability by 5 October 2020.
- The ESFA receives confirmation of and evidence that the Trust has reduced the number of Trust bank accounts to a minimum by 5 October 2020.
- The ESFA receives compliant monthly management accounts until further notice.
- The ESFA receives submit notice of all board meetings, including extra-ordinary meetings; and ensures that the agenda and draft minutes are forwarded to the ESFA as soon as they are available. This must also include copies of the financial reports which are shared with the Board.
- All fields specified in GIAS for the individuals must be completed before the FNtl can be lifted. The trust must ensure its record on Get information about schools for the individuals remains up to date.

31. 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.

32. 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 Herts & Essex 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
1	The Trust must share a copy of the Trust’s risk register and fixed asset register with ESFA.	- The ESFA receives a copy of the Trust’s risk register and fixed asset register by 24 August 2020.	24 August 2020
2	The Trust must share a copy of the latest internal audit report with updated progress against actions.	- The ESFA receives a copy of the latest internal audit report with updated progress against actions by 24 August 2020.	24 August 2020
3	The Trust must share the defects list outlining the remaining expenditure relating to the Sports Centre and the current payment plan.	- The ESFA receives the defects list outlining the remaining expenditure relating to the Sports Centre and the current payment plan by 24 August 2020.	24 August 2020
4	The Trust must agree to the deployment of new School Resource Management	- The ESFA receives written confirmation that the trust agrees to the deployment of a new School Resource Management Advisor, to take place in the academic year 2021/22, by 24 August 2020.	24 August 2020

	Advisor, to take place in the academic year 2021/22.		
5	<p>The Trust must prepare and submit an updated consolidated financial plan, including a consolidated cashflow. The plan must be submitted no later than 17 August 2020.</p> <p>The plan must include details of the actions they have taken to attempt to implement the improvements identified by the SRMA. The trust may want to incorporate this within an action plan.</p> <p>The plan must incorporate any findings from an Integrated Curriculum and Financial Planning (ICFP) analysis and a review of budget management forecasting and scrutiny, including using benchmarking and SRM tools.</p>	<ul style="list-style-type: none"> - The ESFA receives the updated financial plan by 17 August 2020. - The financial position is consistent with the monthly management accounts. - The financial plan is based on realistic assumptions and reflects the consolidated Trust position. - The financial plan incorporates details of actions taken to implement the improvements detailed by the SRMA. - The financial plan incorporates findings from ICFP analysis and benchmarking. - Any request for financial support is evidenced by the financial plan and with sufficient time for ESFA to review the request. 	17 August 2020
6	<p>The Trust must review its finance structure and complete an audit of finance skills across the finance department. Where there are any gaps in experience or capacity, the Trust should seek further finance support.</p>	<ul style="list-style-type: none"> - The ESFA receives the findings of the review and details of any actions taken, with regular progress updates, by 21 September 2020. 	21 September 2020

7	<p>The Trust must review its current governance arrangements to ensure they are clear, including a review of attendance levels of trustees at Board meetings. Following this, the Trust should create an action plan to improve attendance levels and share the Trust scheme of delegation.</p> <p>If any skill gaps are identified, the Trust should also appoint an Academy Ambassador as appropriate.</p>	<ul style="list-style-type: none"> - The ESFA receives the findings of the review and the subsequent action plan. - The ESFA receives evidence that attendance levels have improved. - The Trust submits their scheme of delegation, which evidences clear lines of accountability. - If the review identifies any gaps in skills and experience at board level, the Trust must provide evidence of approaching Academy Ambassadors. 	5 October 2020
8	<p>The Trust must review and reduce the number of Trust bank accounts to a minimum.</p>	<ul style="list-style-type: none"> - The ESFA receives confirmation of and evidence that the Trust has reduced the number of Trust bank accounts to a minimum. 	5 October 2020
9	<p>The Trust must review the production of monthly management accounts to ensure they are in line with ESFA requirements. They must include:</p> <ul style="list-style-type: none"> • Revenue income and expenditure report • Variation to budget report • A detailed and consolidated monthly cash flow, rolling 12 months ahead • Balance sheet 	<ul style="list-style-type: none"> - The ESFA receives compliant monthly management accounts until further notice. 	The management accounts must be submitted to the ESFA by 25th of the month until further notice.

10	The Trust must submit notice of all board meetings, including extra-ordinary meetings; and ensures that the agenda and draft minutes are forwarded to the ESFA as soon as they are available. This must also include copies of the financial reports which are shared with the Board.	<ul style="list-style-type: none"> - The ESFA receives notice of all board meetings, including extra-ordinary meetings, and copies of the agenda and draft minutes as soon as they are available. This must also include copies of the financial reports which are shared with the Board. 	Until further notice
11	The Trust submits the auditors' management letter for 2019-20, which does not raise further concerns relating to any of the issues highlighted within this Notice by the deadline set by the ESFA.	<ul style="list-style-type: none"> - The ESFA receives the auditors' management letter for 2019-20, which does not raise further concerns relating to any of the issues highlighted within this Notice by the deadline set. 	31 December 2020
12	<p>The trust is required to:</p> <p>a) Comply with the funding agreement requirement to submit all audited financial statements to the ESFA on time and without qualification.</p> <p>b) Submit the Budget Forecast Return Outturn (BFRO) by the deadline required by the ESFA.</p> <p>c) The Trust is required to submit the</p>	<ul style="list-style-type: none"> - The ESFA receives audited financial statements by 31 December, each year until the FNTI is lifted. - The ESFA receives BFRO by date required, each year until FNTI is lifted. - The ESFA receives BFR by date required, each year until FNTI is lifted. - Returns show recovery in line with the Trust financial plan. 	<p>Submit audited financial statements by 31 December, each year until the FNTI is lifted.</p> <p>Submit BFRO by date required,</p>

	<p>Budget Forecast Return (BFR) by the deadline required by the ESFA.</p> <p>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>		<p>each year until FNTI is lifted.</p> <p>Submit BFR by date required, each year until FNTI is lifted.</p>
13	<p>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.</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>
14	<p>The Trust must ensure that all necessary Trustee contact details are up to date.</p>	<p>- All fields specified in GIAS for the individuals must be completed before the FNtl can be lifted. The Trust must ensure its record on Get information about schools for the individuals remains up to date.</p>	<p>24 August 2020</p>