



Education & Skills
Funding Agency

Education and Skills Funding Agency
Sanctuary Buildings
Great Smith Street
London
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Tel: 0370 000 2288
[ESFA-enquiry-form](#)

11 December 2020

Debbie Francis
Penny Bridge CofE Academy
Greenodd,
Penny Bridge,
Ulverston,
LA12 7RQ

Company Number: 08701329

Dear Ms Francis

Financial Notice to Improve: Penny Bridge Church of England Primary School Limited

I am writing to you in your capacity as the Chair of Penny Bridge Church of England Primary School Limited (the Trust).

Firstly, I want to thank you for the positive action you have taken since taking up the position of Chair in June 2020, and recognise the action taken by the trust in the appointment of a new board in June 2020. It is acknowledged that issues outlined in the Financial Management and Governance report occurred prior to your tenure.

The Financial Management and Governance report issued to the Trust 27 November 2020 has identified several breaches of the Academies Financial Handbook (AFH) detailed in Annex A.

The report and its recommendations cite a number of material weaknesses in the Trusts management and accounting practices, and whilst I acknowledge the changes the Trust has made to date, concerns remain around the outstanding issues.

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Being issued with a Notice means that certain delegated authorities, as defined in the AFH, have been revoked.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 requirements 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]@education.gov.uk. 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 Trust Accounting Officer, Trust Members, and the Regional Schools Commissioner (RSC) for the North.

I look forward to hearing from you.

Yours sincerely



Warwick Sharp

Director, Academies and Maintained Schools Directorate

CC:

Accounting Officer, Penny Bridge Church of England Primary School Limited

The Right Reverend James Newcombe

The Venerable Richard Pratt

The Venerable Vernon Ross

RSC, North

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 findings arising from a Financial Management and Governance Report (FMG) regarding Penny Bridge Church of England School Limited (the 'Trust'):
 - Breaching the Academies Financial Handbook (AFH) at 2.10, with a lack of transparency in governing arrangements with significant discrepancies in information previously available online.
 - Breaching the AFH at 4.8.3, with a failure to notify the Department for Education (DfE) of the appointment or vacation of the positions of member, trustee and local governor within 14 days of that change.
 - Breaches of the AFH at 1.4.3 and 1.4.4, as the Trust's previous Chief Financial Officer (CFO) was also Chair of Governors and a Member. This is a breach of the AFH at 1.4.3, which states that employees of the Trust must not be members unless permitted by their articles of association. The current model articles do not allow members to be employees. 1.4.4 states DfE's view is that there should be a significant degree of separation between the individuals who are members and those who are trustees.
 - Breaching the AFH at 2.2.1, which states that the academy Trust must establish a robust control framework. There were no independent checks of financial controls. In addition, management accounts were prepared by the CFO and presented to the Chair of Governors, the same person.
 - A breach of the AFH at 2.1.3, as the Trust's scheme of delegation did not fully demonstrate how financial powers have been delegated, whilst maintaining robust internal controls.
 - Breaching the AFH at 2.9.1 which states that the Trust must establish a committee...to provide assurance to the board over the suitability of, and compliance with, its financial systems and operational controls, and to ensure that risks are being adequately identified and managed. From 2017/18 and to the date of the FMG only the governing body had met, the other committees described in the 2017/18 audited accounts did not operate, including a finance/audit committee.
 - Breaching 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. The financial information being presented was a high level summary and did not incorporate cash flow forecasting or variance analysis.
 - Breaching the AFH at 1.3.4, which states that the trustees must ensure regularity and propriety in use of the Trust's funds. The Trust incurred additional expenditure by changing consultant for a CIF project. There was also no evidence that the services of the other consultant had been procured following an approved process, or that this represented value for money.

- Several breaches of the AFH regarding the awarding of the contract for the school house remodelling CIF project to [REDACTED], despite concerns raised by the appointed consultant. This includes AFH 3.10.12, which states that subject to sections 3.10.17 to 3.10.20 a Trust must pay no more than 'cost' for goods or services provided to it by any individual or organisation related to a member or trustee of the academy Trust. In addition, the AFH at 3.10.3 specifies that the Trust must keep sufficient records, and make sufficient disclosures in their annual accounts, to show that transactions with these parties, and all other related parties, have been conducted in accordance with the high standards of accountability and transparency required within the public sector. The AFH also states at 1.3.3 that the trustees must apply the highest standards of governance and take full ownership of their duties, including a duty to avoid conflicts of interest and declare interests in proposed transactions or arrangements.
- Breaching the AFH regarding weak accounting controls identified in respect of accounting for expenditure incurred by Penny Bridge Nursery (the Nursery). VAT has been reclaimed, invoices have been paid and not recharged, and a fair usage and detailed rationale has not been produced. These breaches include 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, with the Nursery a limited company of its own. 3.10.2 of the AFH states that the board of trustees must ensure requirements for managing related party transactions are applied across the Trust. The Trust's funding agreement also states at clause 53 that GAG paid by the Secretary of State shall only be spent by the academy Trust towards the normal running costs of the academy.
- Breaching the AFH at 3.9.1, which states that the academy Trust should have a policy and register on the acceptance of gifts, hospitality, awards, prizes or any other benefit that might be seen to compromise their judgment or integrity, and should ensure all staff are aware of it. The Trust had spent £150 on flowers as gifts for governors, and the Trust's finance procedures do not include a policy on gifts and hospitality, the scheme of delegation also does not refer to such transactions.

There are also IR35 concerns over [REDACTED]'s role as [REDACTED] and contractor, in terms of off payroll working rules. Additionally, the Trust have not used PE and sports premium funding for its intended purposes.

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) 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 or is falling behind the schedule set out in their Trust financial plan
3. The Trust must comply with the recommendations set out within the Financial Management and Governance (FMG) report issued to the Trust, providing an action plan that identifies improvement actions to address all of the issues identified in the ESFA FMG review and the additional conditions noted in this Notice. The action plan must be provided to ESFA within 12 weeks of the date of this notice.
 4. The Trust will be required to supply financial information to the ESFA on a monthly basis for a period of 12 months. The frequency of reports thereafter will be determined by the ESFA. These are to be provided to ESFA on a monthly basis, by the 20th each month.
 5. The Trust must implement a robust procurement policy that ensures that the requirements of Paragraph 2.4.1 of the Academies Financial Handbook are complied with. This must be implemented 6 weeks from the date of this Notice.
 6. The Trust must ensure all Related Party Transactions are pre-approved by the ESFA.
 7. The Trust must ensure that all necessary Trust contact details are up to date, within 4 weeks from the date of this Notice.
 8. The Trust must consider joining a strong Multi-Academy Trust (MAT), providing evidence of considerations to the ESFA within 16 weeks from the date of this Notice.
 9. The Trust must complete a self referral to HMRC regarding the IR35 status of [REDACTED], and a self referral regarding the VAT arrangements with the Nursery within 6 weeks from the date of this Notice.
 10. The Trust is required to increase the regularity of board meetings and particularly Audit & Finance Sub-Committees above the minimum of 3 times a year. The Trust must confirm this will occur to ESFA within 4 weeks from the date of this Notice.
 11. The Trust is required to explore and adopt National Deals (Deals for Schools), unless evidence is provided to the ESFA that an alternative (or current) supplier provides better value for money, or evidence is provided that National Deals are already considered and used. Evidence is to be provided to ESFA by no later than 8 weeks from the date of this Notice.
 12. The Trust must implement new financial management and monitoring structures and undertake further actions to strengthen challenge in managing the budget and finances. This must include ensuring effective processes are in place for the Trust to monitor financial performance and the financial risks to its operation. This will be evidenced by a written report to be submitted to the ESFA, by no later than 12 weeks from the date of this Notice.

13. The Trust is required to send the latest documentation on the Trust's internal audit programme, and provide firm dates of when the next internal audit will be carried out and a commitment to send the findings to ESFA within 1 week of its submission to the board.
14. The Trust must request approval from the ESFA, in advance, for any actions under the revoked freedoms in Part 3 and Annex B of the AFH, until the FNtI is lifted.

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 Trust must complete actions referenced by the timescales referred to above and in Annex B. Where timescales for completion will be as agreed with ESFA, ESFA will contact the Trust to discuss appropriate timescales for completion.

Monitoring and progress

19. The Trust is required to meet the specific conditions outlined above to enable the ESFA to monitor compliance and progress.
20. 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

21. 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 specified deadline
 - the ESFA receives audited financial statements with an unqualified audit opinion by the specified deadline
 - 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 specified deadline
 - the Trust has complied with the recommendations set out within the Financial Management and Governance Review (FMG) report issued to the Trust, providing

an action plan to ESFA that identifies improvement actions to address all of the issues identified in the ESFA FMG review

- the Trust has supplied the required financial information to ESFA on a monthly basis as required
- the Trust has implemented a robust procurement policy that ensures that the requirements of Paragraph 2.4.1 of the Academies Financial Handbook are complied with, with this policy provided to ESFA
- any approvals for all Related Party Transactions are received before the transaction takes place, if applicable
- all necessary Trust contact details are up to date. All fields specified in Get Information About Schools for the individuals must remain up to date before the FNtl can be lifted
- the Trust has evidenced consideration of joining a strong MAT
- the Trust has completed a self referral to HMRC regarding IR35 concerns noted by the ESFA and concerns over the VAT arrangements with the Nursery, with evidence of this provided to ESFA
- the Trust submits minutes confirming the scheduling of an increase in board meetings above the minimum of 3 times a year and ensures that agenda and draft minutes are forwarded to the ESFA as soon as they are available
- the Trust confirms it has adopted the use of National Deals (Deals for Schools). This will not be required if evidence is provided to the ESFA that an alternative (or current) supplier provides better value for money, or evidence is provided that National Deals are already considered and used
- the Trust has demonstrated via a written report submitted to ESFA that new financial management and monitoring structures have been implemented, strengthening challenge in managing the budget and finances
- The Trust has provided the latest documentation on the Trust's internal audit programme.

22. 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.

23. 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 Penny Bridge Church of England School Limited (“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	<p>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) 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. 	<ul style="list-style-type: none"> - The ESFA receives audited financial statements by the deadline specified by ESFA 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 the deadline specified by ESFA until the FNTI is lifted.</p> <p>Submit BFRO by date required, each year until FNTI is lifted.</p> <p>Submit BFR by date required, each year until FNTI is lifted.</p>
2	<p>The Trust must comply with the recommendations set out within the Financial Management and Governance Review (FMG) report issued to the Trust, providing an action plan that identifies improvement actions to address all of the issues identified in the ESFA FMG review and the additional conditions</p>	<ul style="list-style-type: none"> - Evidence as set out per the individual recommendations and as agreed with ESFA - Evidenced via the provision of an action plan to ESFA. 	<p>12 weeks from the date of this Notice</p>

	noted in this Notice.		
3	<p>We will expect the Trust to supply the following financial information on a monthly basis for a period of 12 months. The frequency of reports thereafter will be determined by the ESFA, based on progress against the Trust financial plan:</p> <ol style="list-style-type: none"> a. Revenue income and expenditure report with a narrative explaining any significant variances for the current full academic year. Income and expenditure classifications in this report should follow those in the Trust financial plan; b. A balance sheet showing the position at the end of the last calendar month and forecast to the end of the academic year; and c. A detailed monthly cash flow forecast rolling 12 months ahead. d. Details of any further aged creditors, which cause cash flow pressures. e. Provide separate accounting details for any 'central' or 'core' teams within the Trust. 	- Evidenced via provision of the documentation referenced.	To be provided to ESFA on a monthly basis (by the 20 th each month)
4	Implement a robust procurement policy that ensures that the requirements of Paragraph 2.4.1 of the Academies Financial Handbook are complied with.	- Procurement policy provided to ESFA.	6 weeks from the date of this Notice.
5	All Related Party Transactions must be pre-approved by the ESFA.	- Approval for all RPTs received before transaction takes place. Any transactions requiring retrospective approval would count as a breach of this condition.	As and when necessary

6	Ensure that all necessary Trust contact details remain up to date.	- 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.	As and when necessary
7	Consider joining a strong Multi-Academy Trust (MAT).	- The Trust will be required to provide ESFA with the details of any consideration to join a MAT.	16 weeks from the date of this Notice
8	Complete a self referral to HMRC regarding the IR35 status of ██████████, and a self referral regarding the VAT arrangements with the Nursery.	- The Trust are to provide ESFA with evidence that the relevant referrals have been made to HMRC.	6 weeks from the date of this Notice
9	Increase regularity of board meetings and particularly Audit & Finance Sub-Committees above the minimum of 3 times a year.	- The Trust submits minutes confirming the scheduling of an increase in board meetings above the minimum of 3 times a year and ensures that agenda and draft minutes are forwarded to the ESFA as soon as they are available.	4 weeks from the date of this Notice
10	Explore and adopt National Deals (Deals for Schools), unless evidence is provided to the ESFA that: A) an alternative (or current) supplier provides better value for money. or B) National Deals are already considered and used.	-The Trust provides ESFA with evidence that an alternative supplier provides better value for money as tested through a robust procurement process. or -The Trust adopts "Deals for Schools" where better value can be obtained.	8 weeks from the date of this Notice
11	Implement new financial management and monitoring structures and undertake further actions to strengthen challenge in managing the budget and finances. This must include ensuring effective processes are in place for the Trust to monitor financial performance and the financial risks to its operation. This will be	-Submit a written report, detailing the actions the Trust has taken to strengthen the financial management and monitoring structures, to ESFA by no later than 12 weeks from the date of this Notice.	12 weeks from the date of this Notice

	evidenced by a written report to be submitted by no later than 12 weeks from the date of this Notice.		
12	The Trust is required to send the latest documentation on the Trust's internal audit programme, and provide firm dates of when the next internal audit will be carried out and a commitment to send the findings to ESFA within 1 week of its submission to the board.	- Provision of the latest documentation on the programme of internal audit, and provision of dates in which next internal audit will be carried out.	4 weeks from the date of this Notice
13	The Trust must request 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.	- The Trust must submit a request for approval for any actions relating to the delegated freedom revoked under the terms of the FNtl.	Until the FNtl is lifted.

