



Education & Skills  
Funding Agency

# **Framework and guide for external auditors and reporting accountants of academy trusts**

**March 2021**

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## Part 1: Introduction

### How the framework and guide should be used

- 1.1 ESFA's overall assurance framework is informed by the work of academy trust external auditors and reporting accountants. It is therefore essential that external auditors and reporting accountants understand ESFA's requirements and expectations of them.
- 1.2 This Framework and Guide for External Auditors and Reporting Accountants of Academy Trusts (the "framework and guide") is applicable to all external auditors and reporting accountants who are engaged to provide statutory audits and regularity reviews to academy trusts. Its purpose is to support:
  - external auditors with their obligations to issue an audit opinion as to whether the financial statements present a true and fair view, and
  - reporting accountants with their report on regularity.
- 1.3 The document may also be of interest to trustees, accounting officers and chief financial officers to help them understand the requirements, roles and responsibilities of external auditors and reporting accountants.

### The status of the framework and guide

- 1.4 This framework and guide comes into force on the date of publication and applies until it is replaced. It is the first edition and is based on the requirements and guidance for external auditors and reporting accountants, previously included in the [Academies Accounts Direction](#) ("the Direction"). The document should be read in conjunction with the Direction and any related requirements and guidance published by ESFA.
- 1.5 Within this document, the following terms are exclusively used when ESFA is communicating its requirements or guidance to external auditors or reporting accountants:
  - "Must" - states requirements from ESFA and this term is used only for reporting accountants. As described in paragraph 2.15 below, ESFA is bound into the terms of engagement between the reporting accountant and the academy trust for their report on regularity and, as a result, reporting accountants must adhere to the requirements set out in this document.
  - "Should" – describes good practice from ESFA. ESFA expects that

external auditors and reporting accountants should adhere to good practice contained in this document to facilitate a consistent approach to the delivery of assurance to academy trusts.

- 1.6 In addition to the above, supplementary content has been included, which sets out certain actions or processes to be followed by external auditors and reporting accountants. This content is drawn from either International Standards on Auditing (UK), the Companies Act 2006, other legislation, requirements or best practice relevant to the external audit of financial statements. This content has been included to provide wider context to the work performed and is not requirements set or guidance issued by ESFA.
- 1.7 The framework and guide does not aim to direct an auditor or reporting accountant to reach a particular judgement. They should use their professional judgement to apply the document to the circumstances that exist at each academy trust.

### **What has changed?**

- 1.8 This document incorporates the following changes to the requirements and guidance for external auditors and reporting accountants, previously included in the Direction:
  - The introduction of a new part explaining the roles and responsibilities of the academy trust, the external auditor and the reporting accountant ([Part 2](#))
  - the inclusion of feedback provided by ESFA to academy trusts on compliance with the Direction, which external auditors should make themselves aware of ([paragraph 3.10](#))
  - reference has been made to the themes arising from ESFA's latest assurance reviews ([paragraphs 3.12](#) and [4.1](#))
  - clarification of the requirements and guidance for external auditors and reporting accountants (paragraphs 1.6 and 1.7 above). The terms "must" and "should" are used exclusively to describe actions or processes which derive from ESFA. This means that some sections now use these terms. However, the substance and intent of each section has not changed (paragraphs [4.7](#), [4.8](#), [4.11](#), [4.14](#), [4.20](#), [4.60](#))
  - reference has been made to the most common issues regarding related party transactions from ESFA's approval and review process ([paragraph 4.9](#))
  - the emphasis for reporting accountants to notify ESFA and the National Audit Office ("NAO") when they modify their report ([paragraph 4.23](#)) has been changed from guidance ("should") to a requirement ("must")

- clarification that academy trusts and reporting accountants must adopt the terms of engagement for regularity reviews set out in Annex A. Any substantial changes must not be made without ESFA's prior written consent ([paragraph 4.75](#))
- revision to the model letter of terms of engagement for regularity reviews to remove the references to a particular year ([Annex A](#)).
- revision to the model letter of terms of engagement for regularity to amend references from the Academies Accounts Direction to this Framework and Guide for External Auditors and Reporting Accountants of Academy Trusts.

### **Supplementary bulletin**

- 1.9 ESFA intends to publish a supplementary bulletin to this document and the Direction, which separately covers matters relating to the reporting and auditing of financial transactions relating to COVID-19 for academy trusts. This bulletin will be published as soon as practicable. In the meantime, auditors may wish to consider external guidance already published, such as the guidance on the [Financial Reporting Council](#) website.

## **Part 2: Responsibilities**

- 2.1 This section explains the responsibilities of each party involved in the delivery of assurance by the external auditor and the reporting accountant.

### **External audit**

#### **The academy trust**

- 2.2 Academy trusts are responsible for preparing accounts in accordance with applicable legislation and documents, as set out in paragraph 1.2 of the Direction, and having the financial statements audited by an independent registered auditor. Financial accounting and reporting requirements include those set out in the Companies Act 2006, financial reporting standards (including FRS 102), the Charities SORP and the Direction.
- 2.3 Trustees must ensure appropriate action is taken within a reasonable period of time to address any findings in the reports issued by the external auditor once their work is complete.

## External auditor

- 2.4 External auditors are responsible for fulfilling their duties as required by the Companies Act 2006 and by the International Standards on Auditing (ISAs).
- 2.5 The external auditor will set out their responsibilities as well as the scope and objectives of their work in their letter of engagement to the academy trust.

## Regularity review

### The academy trust

- 2.6 The accounting officer must prepare a statement of regularity, propriety and compliance, which will form the basis of the work of the reporting accountant and must include it in the academy trust's accounts (see paragraphs 2.49 to 2.63 of the [Direction](#)). The academy trust is responsible for arranging an independent review of regularity at the academy trust and including an independent reporting accountant's report on regularity in the accounts.
- 2.7 Specific responsibilities of the academy trust are set out in the ESFA's terms of engagement in [Annex A](#). In addition to these responsibilities, trustees must ensure appropriate action is taken, within a reasonable period of time, to address any findings in the regularity report issued by the reporting accountant.

### DfE and ESFA

- 2.8 The Chief Executive of ESFA is its accounting officer and is responsible and accountable to Parliament for how ESFA uses its funds. ESFA's accounting officer is also personally responsible for the regularity and propriety of all expenditure of its funds and for ensuring value for money.
- 2.9 To discharge these duties, ESFA's accounting officer must be satisfied that:
- an academy trust has appropriate arrangements for sound governance, financial management, securing value for money and accounting
  - the way the academy trust uses public funds is consistent with the purposes for which the funds were voted by Parliament.
- 2.10 Therefore, ESFA's accounting officer will place reliance on the statement on regularity, propriety and compliance made by the academy trust's accounting officer and the reporting accountant's assurance report on regularity.

## The tripartite relationship

- 2.11 To allow ESFA to draw assurance from the reporting accountant's regularity report, ESFA must be bound into the contract between the academy trust and the reporting accountant. Whilst the academy trust and their reporting accountant will continue to be party to a letter of engagement in the normal way, to avoid bureaucracy there is no expectation that the engagement letter would also be signed by ESFA. Instead, the terms of reference ESFA has adopted as a party to the regularity engagement are set out in [Annex A](#).
- 2.12 Additionally, a standard paragraph listed in [paragraph 4.73](#) of this document must be included within the letter of engagement between the academy trust and the reporting accountant that acknowledges their duty to ESFA.
- 2.13 The cap for liability in respect of the regularity engagement is set within the standard terms at £1 million per academy within each academy trust. Trusts with multiple academies, therefore, will have a liability of £1 million multiplied by the number of academies, capped at £5 million in aggregate.

## The reporting accountant

- 2.14 The reporting accountant is required to review and report on the statement on regularity, propriety and compliance prepared by the accounting officer. This review will be informed by their testing of the financial statements. The reporting accountant must be the external auditor who is conducting the 'true and fair' audit of the financial statements.
- 2.15 The reporting accountant must provide an assurance report on regularity addressed jointly to the academy trust and to the Secretary of State through ESFA, in accordance with section 4.15 of the [Academies Financial Handbook](#) ("the Handbook").
- 2.16 Further information on the responsibilities of the reporting accountant is contained in ESFA's terms of engagement set out in [Annex A](#).

## Principles

- 2.17 In carrying out their work external auditors and reporting accountants will also apply the following principles:
- 2.18 **Integrity and objectivity** – the external auditor and reporting accountant will carry out their work with integrity and objectivity. Auditors will also comply with applicable ethical frameworks, along with any additional requirements set out

by relevant regulatory, recognised supervisory and other relevant bodies. This includes, amongst other documents, the recently revised Ethical Standard published by the Financial Reporting Council on Independence, which, as explained in paragraph 3.20 of the Handbook, means that a firm providing external audit to an entity shall not also provide internal audit / scrutiny services to it.

**2.19 Professionalism** – the external auditor and reporting accountant will carry out their work in compliance with standards issued by relevant regulatory bodies.

**2.20 Professional scepticism** - the external auditor and reporting accountant will exercise professional scepticism. This means they will obtain and document the information and explanations they consider necessary to provide sufficient, appropriate evidence to support their judgements. They will meet the requirements of professional standards, where applicable.

**2.21 Proportionality** - the external auditor’s work will be risk-based and proportionate. It will be designed to meet the auditor’s statutory responsibilities, applying the auditor’s professional judgement to tailor their work to the circumstances in place at the academy trust and the audit risks to which they give rise. The auditor will also consider carefully the practical and resource implications for the academy trust when framing recommendations arising from their work.

**2.22 Appropriate knowledge and skills** – the external auditor and reporting accountant will ensure that they have the necessary skills and knowledge to discharge their functions effectively and have arrangements in place to ensure that staff have sufficient knowledge of the relevant financial reporting, regulatory and legislative frameworks. They will ensure that audit teams comply with statutory and other relevant requirements relating to the security, transfer, holding, disclosure and disposal of information, particularly personal information received or obtained during the course of their work.

## **Part 3: External audit**

3.1 External auditors conduct their audits of financial statements in accordance with International Standards on Auditing (UK). They will also comply with the Financial Reporting Council’s Ethical Standards.

### **Audit opinion**

3.2 They will issue an audit opinion in accordance with *International Standard on Auditing (UK) 700 Forming an opinion and reporting on financial statements*,

which states that the auditor has conducted the audit in accordance with the applicable law and ISAs.

3.3 The audit opinion will state whether:

- the financial statements the auditors have reviewed give a true and fair view of:
  - the state of the academy trust's affairs at 31 August,
  - its incoming resources and application of resources, including its income and expenditure, for the period then ended, as well as,
- the financial statements have been prepared in accordance with relevant legislation.

(See also paragraphs 2.72 to 2.78 of the [Direction](#))

**Communication with those charged with governance**

3.4 There is also a responsibility to communicate with those charged with governance matters arising from the audit in accordance with *ISA (UK) 260 Communication with Those Charged with Governance* and *ISA (UK) 700, Forming an Opinion and Reporting on Financial Statements*. Auditors are required to communicate:

- their responsibilities in relation to the audit
- the planned scope and timing of the audit, and
- the significant findings from the audit.

3.5 External auditors are required to report:

- their views about significant qualitative aspects of the academy trust's accounting practices, including accounting policies
- accounting estimates and financial statement disclosures
- significant difficulties, if any, encountered during the audit
- significant matters, if any, arising from the audit that were discussed, or subject to correspondence with management and the written representations the auditor is requesting
- other matters, if any, arising from the audit that, in the auditor's professional judgment, are significant to the oversight of the financial reporting process.

3.6 The external audit is not a substitute for the academy trust's own responsibility for putting in place proper arrangements around financial control, management and governance.

## The role of the NAO

3.7 The role of the NAO is set out in section 4.9 of the Handbook. Academy trust external auditors should notify [NAO](#), as group auditor, as soon as they become aware, where there is:

- a qualified audit report on the academy trust's financial statements, or
- a modified regularity report.

3.8 However, before notifying NAO, auditors should discuss fully the issues leading to the qualification or modification with the academy trustees and should also inform [ESFA](#).

3.9 As part of their role, NAO may wish to speak to individual academy trust auditors to understand the audit process. Information on NAO's role as group auditor is in their publication [Communication with Academy Auditors](#)<sup>1</sup>.

## ESFA feedback

3.10 External auditors should make themselves aware of the feedback provided to the sector on compliance with the Direction in paragraphs 1.20 and 1.21 of this year's Direction, and which has been replicated below for ease of reference. Auditors should continue to encourage and support their clients to comply with all the requirements of the Direction.

- In some cases, the Coketown model accounts provide example text which, if relevant and appropriate to the trust, would meet the requirements in sufficient detail. Unless the Direction requires that this specific text must be included without exception or amendment, it should only be copied into an academy trust's accounts where it is reflective of the trust's circumstances. Academy trusts should modify such wording in the Coketown model to fairly reflect their circumstances and performance and are encouraged to do so.

This point is applicable throughout the accounts. An example ESFA often comes across is where an academy trust has significant governance, control or financial management issues (perhaps also raised in the external audit report), yet the relevant sections of the annual report paint a conflicting picture of the academy's performance because the text provided in the model accounts has been copied without amendment.

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<sup>1</sup> Content to be updated in early 2021

- Where the Direction and/or the model accounts state points that must be covered, the trust should not omit these sections. We have identified the following requirements of the Direction where not all academy trusts produce content.

<b>Section of the accounts</b>	<b>Sub-heading/section</b>	<b>Requirements omitted</b>
Governance statement	Governance	Key changes in the composition of the board of trustees.
Governance statement	Governance	Coverage of the board's work.
Governance statement	Governance reviews	Details of actions taken to review the effectiveness of the board through a governance review.
Governance statement	Governance reviews	Where the board have met less than 6 times in the year, details of how effective oversight has been maintained.
Governance statement	The risk and control framework	Details of how the internal scrutiny function has been delivered, how the system of internal control has been reviewed for its effectiveness including which areas informed their review.
Governance statement	The risk and control framework	Details of remedial actions taken or proposed to deal with any significant control issues identified.

- 3.11 External auditors should also note the updated [good practice guide](#) on going concern published by ESFA in October 2020. This guide is aimed primarily at academy trust leaders but is also relevant to academy trust external auditors.
- 3.12 ESFA oversees the arrangements that provide Parliament with assurance that academy trusts operate to high standards of propriety and regularity. Each year it reviews academy trust accounts, external audit management letters and internal scrutiny reports as part of its role in providing that assurance. External auditors should note the [themes](#) arising from ESFA's assurance work summarised in paragraph 1.22 in the [Direction](#) and reproduced here for ease of reference.

“The percentage of qualified financial statements for the 2018 to 2019 year was 0.7% (2017 to 2018: 1.2%). The main reasons for the qualified opinions were the accounting treatment of land and buildings, land and buildings valuations and LGPS actuarial valuations.”

## Part 4: Reporting accountant’s regularity review

### Regularity and the Academies Financial Handbook

#### Irregularity within academy trusts’ accounts

4.1 ESFA’s [analysis of irregularity](#) within academy trust accounts identified a number of common themes, which accounting officers and reporting accountants should consider. The themes are:

- management accounts not shared with the board with sufficient frequency, and/or being of poor quality
- board approvals not obtained where necessary and concerns over maintenance of risk registers
- ESFA deadlines not met
- concern about the issues discovered by internal scrutiny
- concerns over the robustness of internal scrutiny processes
- weak internal controls, including no independent checks.

4.2 There have been other occasional incidents of irregularity and impropriety which the accounting officer and reporting accountant should be alert to, and ESFA [investigation reports](#) highlighting these have been published. The areas include:

- use of public funds for personal benefit
- lack of appropriate authorisation for expenditure, including failure to obtain ESFA approval where appropriate
- inappropriate authorisation, Chair of Governors and / or the Accounting Officer acting beyond powers to authorise contracts / payments
- irregular expenditure which includes:
  - any excessive gifts including those purchased from unrestricted funds (see paragraph 5.31 of the Handbook)
  - alcohol purchased from trust funds bought for consumption outside of religious services (see paragraph 2.35 of the Handbook)

## **Transactions with related parties and not for profit principles**

- 4.3 Sections 5.34 to 5.58 of the Handbook set out requirements relating to goods or services provided by individuals or organisations connected to the academy trust.
- 4.4 For transactions with related parties, section 5.57 of the Handbook requires trustees to ensure that agreements to supply goods or services to the academy trust are subject to proper procurement, supported by a statement of assurance and are on the basis of an open book agreement.
- 4.5 'At cost' must not include an element of profit. However, it can include:
- directly attributable materials and labour
  - a proportionate share of fixed and variable overheads.
- 4.6 The Handbook grants a specific annual de minimis limit of £2,500 in respect of 'at cost' transactions.
- 4.7 For reporting accountants the focus should be on confirming trustees have met their obligations in respect of these requirements rather than reviewing whether the objective of the Handbook requirements is achieved. Reporting accountants are not required to audit information provided by the related party.
- 4.8 If the reporting accountant does not believe the requirements have been met this will lead to a modified conclusion including full disclosure of those matters within the assurance report. If the reporting accountant is uncertain whether the requirements have been met, they should consider whether this is a limitation in scope.
- 4.9 Sections 5.40 to 5.42 of the Handbook outline the requirements for reporting and seeking approval of related party transactions in advance of the contract or agreement commencing, which applies to all such transactions from 1 April 2019. Particular issues noted by ESFA regarding transactions submitted for approval are failure to:
- follow the trust's own procurement policy in relation to related party transactions
  - report related party transactions to ESFA before the contract start date
  - maintain sufficient records to demonstrate accountability and transparency in agreeing related party transactions

4.10 Institute of School Business Leadership (ISBL) has produced a [guide](#) that academy trusts can use to ensure they are complying with the at cost principles.

## **Subsidiaries**

4.11 Where a subsidiary is consolidated into academy trust accounts the regularity assurance report must extend to this. As such, the engagement terms set out in [paragraph 4.75 onwards](#) will be for group reporting.

4.12 Where a subsidiary is not consolidated, the only transactions in scope are distributions received and intra-company transactions.

4.13 Where an academy trust has passed money to the trading subsidiary the funds must be from unrestricted income, as General Annual Grant (“GAG”) is not allowed to be used for this purpose.

4.14 In instances where the subsidiary has not been consolidated but the reporting accountant deems the entity to be in the scope of the Handbook due to “control and influence from the academy trust trustees”, this must be reported in the audit findings report.

## **Reporting on regularity**

4.15 The reporting accountant is required to review and report on the statement on regularity, propriety and compliance prepared by the accounting officer. This section aims to assist the reporting accountant in undertaking the regularity engagement.

### **The regularity report**

4.16 The mandatory regularity assurance report is included in the model accounts, and is also included in [Annex B](#) for ease of reference. This is in the form of a ‘limited’ assurance report and covers the regularity of both income, expenditure and also governance and control arrangements that oversee it.

4.17 ‘Limited’ assurance is defined by paragraph 12(a)(i)(b) of the International Standard on Assurance Engagements [\(ISAE\) 3000 \(Revised\)](#) ‘*Assurance Engagements Other than Audits or Reviews of Historical Financial Information*’. The reporting accountant will set out “an informative summary of the work performed as the basis for the practitioner’s conclusion; in accordance with paragraph 69(k)(i).

4.18 A regularity report is required where an academy trust has a funding

agreement with the Secretary of State for Education and an open academy at any point during the accounting period. The expectation is that in all other circumstances the Direction is followed.

## **Reporting on potential irregularities and non-compliance**

- 4.19 Issues identified by the reporting accountant will, in the first instance, be raised with the academy trust's accounting officer and chief financial officer and they should be able to demonstrate to the reporting accountant's satisfaction the regularity of the transaction in question.
- 4.20 ESFA should only be consulted where there is significant disagreement between the reporting accountant, trustees and accounting officer.
- 4.21 The reporting accountant will consider the nature and extent of any potential irregularities or non-compliance and will determine the extent to which additional testing on a particular category of transactions is required.
- 4.22 When the reporting accountant concludes that there are matters of material irregularity, by virtue of value or nature of a transaction underlying the accounts, this will lead to a modified conclusion with full disclosure of those matters within the report, including the monetary amounts if known.
- 4.23 Where the reporting accountant has modified their report, they must, as soon as they become aware, notify:
- ESFA, via the [enquiry form](#)
  - NAO, via [academy.groupaudit@nao.gov.uk](mailto:academy.groupaudit@nao.gov.uk)
- 4.24 Issues leading to the modification should be fully discussed with the academy trustees before notifying ESFA and NAO.
- 4.25 The audit findings report will also include reporting of irregularities that are material by nature, but are not in respect of transactions underlying the financial statements.
- 4.26 The audit findings report reports significant matters arising from the statutory 'true and fair' audit of the financial statements and reporting accountants will have regard as to the possibility for issues raised in the reporting accountant's report on regularity to also be reported in the auditor's management letter, and vice versa. This will allow ESFA to have full information for all regularity issues to draw an overall conclusion on the academy trust.
- 4.27 The audit findings report should document the regularity issue as follows:

- issue (including a rating of the risk/importance and financial impact)
- implication/consequence
- recommendation
- management response (including timescale for change).

## **The framework of authorities for academy trusts**

4.28 The conclusion the reporting accountant provides refers to the authorities that govern the academy trust. By planning the separate ‘true and fair’ audit as external auditor, the reporting accountant will already understand what the relevant authorities are, in accordance with the following International Standards on Auditing (ISA):

- *ISA (UK) 250A - Consideration of laws and regulations in an audit of financial statements*
- *ISA (UK) 315 – Identifying and assessing the risks of material misstatement through understanding the entity and its environment.*

4.29 Under [Practice Note 10 \(Revised\) “Audit of Financial Statements of Public Sector Bodies in the United Kingdom](#) regularity is an implied assertion, in addition to those identified in *ISA (UK) 500 – Audit evidence*. In conducting their regularity work, reporting accountants will have regard to this document and in particular the sections dealing with regularity.

4.30 Much of the work relating to regularity will already have been undertaken as part of the statutory audit of the financial statements, though regularity will need further consideration. The authorities include:

- the academy trust’s articles of association
- the academy trust’s funding agreement
- the Handbook
- the Direction
- charities legislation
- Charity Commission guidance
- specific terms and conditions relating to individual elements of funding or funding from other sources.

4.31 The funding agreement is the binding contract between the academy trust and the Secretary of State, outlining the terms and conditions of grant funding. The Handbook sets out the financial duties and obligations arising from the funding agreement. ESFA issues a Handbook each year (normally with effect from 1 September) which clearly establishes the requirements on academy trusts regarding the financial obligations of [‘Managing Public Money’](#). This

document sets out the requirements and guidance for the audit and regularity report.

### **Understanding how the academy trust complies with the framework of authorities**

- 4.32 The accounting officer must provide a statement on regularity, propriety and compliance (see paragraph 2.56 of the Direction). The starting point for the reporting accountant will be the completed statement, together with a report of any issues found. The input from the accounting officer to the statement and depth of analysis and supporting evidence will assist the reporting accountant in performing their planning.
- 4.33 For academy trusts that are preparing their first set of accounts, the Financial Management and Governance Self-assessment (FMGS) will be a useful tool. For existing academy trusts reporting accountants will have knowledge and experience of the academy trust from previous audits, but the School Resource Management Self-Assessment Tool (SRMSAT), which is completed annually by academy trusts, will also be useful.

### **Assessing risk**

- 4.34 In planning the limited assurance engagement on regularity the reporting accountant will use the understanding obtained under *ISA (UK) 315 (Revised) Identifying and Assessing the Risks of Material Misstatement* and *ISA (UK) 250A Consideration of Laws in and Regulations in an Audit of Financial Statements* and make other appropriate inquiries to identify areas where a material irregularity is likely to arise. This will provide the basis for designing and performing the procedures to address the identified areas to obtain limited assurance to support the regularity conclusion, which are likely to be lesser in extent than if reasonable assurance was being given.
- 4.35 The nature, timing and extent of procedures is a matter of professional judgement for the reporting accountant. However, [paragraph 4.61 onwards](#) of this document provides potential tests, which are an interpretation of the framework of authorities, focussing on areas where material irregularity is most likely to arise.
- 4.36 It is likely that a recently established academy trust will have a heightened risk profile. This may be due to controls and procedures not being in place for the full financial period, the accounting officer still developing an understanding of their role and immature or developing governance structures.
- 4.37 Within an established academy trust the following matters may heighten the

risk profile:

- culture (attitude and values) within the academy trust
- a change in accounting officer, chief finance officer or significant changes in the board of trustees
- an expansion of the number of academies within the academy trust
- changes to the scheme of delegation or major accounting systems.

4.38 In determining the areas where material irregularity is more likely to arise, it is imperative to understand how the academy trust itself perceives risk. This can be achieved through review of the audit and risk committee and internal scrutiny findings, together with an analysis of their risk management processes.

### **Materiality**

4.39 The assessment of materiality, which is the same for a limited assurance engagement as a reasonable assurance engagement, includes both quantitative (value) and qualitative (nature) measures and is a matter of professional judgement for the reporting accountant.

4.40 Some issues of irregularity will relate to specific transactions, while others may be across the academy trust's activities. For the former an assessment of materiality by value will be possible. However, an assessment of materiality by nature will still need to be made and a low value transaction may still be material overall.

4.41 The judgement of materiality will also need to have regard to the number of issues identified. A number of issues that might not be material in isolation may, taken together, be material, and these in turn will need to be reported within the audit findings report and assurance report as appropriate.

4.42 ESFA considers any breach by value of the transactions for which the academy trust has delegated authority through the Handbook to be material.

4.43 Where issues of propriety arise then the assessment of materiality may need to be further considered. Whilst a transaction leading to a personal benefit may be deemed to be material by nature, regardless of value, there may be more scrutiny if the benefit is received by a senior member of staff or trustee.

### **Reliance on internal scrutiny work**

4.44 As set out in [paragraph 4.16](#) above, the reporting accountant has an

obligation to provide a report to ESFA. The reporting accountant should consider whether they can rely on the work of a third party who has performed assurance reviews relevant to the objective of the regularity assurance engagement.

4.45 For example, section 3.17 of the Handbook stipulates that an academy trust must have an independent check in place of the financial controls and systems, whether that is in the form of internal audit, independent checks or peer review.

4.46 It is a matter of professional judgement how much reliance the reporting accountant places on this work. They should assess the independence, objectivity and competence of the function and the nature, scope and subjectivity of the work performed. Where the work is used, the reporting accountant may evaluate and perform testing on that work to determine its adequacy for regularity reporting.

#### **Basis and timing of testing regularity**

4.47 The reporting accountant will determine the extent of procedures that will need to be undertaken to obtain sufficient, appropriate audit evidence to provide the regularity engagement conclusion.

4.48 [ISAE 3000 \(A3\)](#) states that as ‘the level of assurance obtained in a limited assurance engagement is lower than in a reasonable assurance engagement, the procedures...are less in extent’.

4.49 The review of regularity is primarily in relation to internal control procedures and whilst potential tests are suggested in [paragraphs 4.61 onwards](#) of this document, the reporting accountant should have regard to the entity and develop the testing as appropriate.

4.50 The nature and volume of work to be performed should be determined by the reporting accountant and then communicated to the accounting officer.

4.51 For most, if not all academy trusts, it will be more efficient to perform regularity review work in conjunction with and at the same time as the statutory ‘true and fair’ audit. This should enable both cost and time savings as the reporting accountant may then undertake extended testing of a single sample of transactions to support both the audit opinion and regularity conclusion.

#### **Documenting regularity testing**

4.52 ESFA does not require reporting accountants to maintain separate audit files

in respect of the statutory ‘true and fair’ audit and the regularity engagement. As suggested above, sampling can be incorporated into the ‘true and fair’ audit; however, the objectives, method and conclusion will need to be clearly documented. Reporting accountants may, of course, choose to maintain separate files.

### **ESFA access to working papers**

4.53 ESFA does not routinely require access to the reporting accountant’s working papers. As such, there is no reference made to ESFA access within the standard terms of engagement.

4.54 It is likely that ESFA, in its capacity as reviewer and fund distributor, may wish to discuss the conduct and outcomes of the regularity review with both the reporting accountant and accounting officer. This should also inform the development of the regularity review in future years. NAO may also enter into discussions with reporting accountants to clarify the approach in conducting their work.

### **Fraud**

4.55 As part of the true and fair audit, the reporting accountant will address requirements of *ISA (UK) (Revised) 240 The Auditor’s Responsibilities Relating to Fraud in an Audit of Financial Statements*, specifically assessing the risk of fraud.

4.56 As part of the regularity engagement, the reporting accountant will also need to ensure that identified fraudulent transactions over £5,000 have been reported to ESFA. Any unusual or systematic fraud, regardless of value, must also be reported.

### **Reporting to ESFA**

4.57 The requirement, set out in the Charities Act 2011 ([sections 156\(2\)](#), [159](#) and [160](#)), is that auditors have a duty to report matters of ‘material significance’ to the principal regulator. Therefore, auditors must report such matters to ESFA on behalf of the Secretary of State for Education (to whom the Charity Commission discharged their duties). To note that the matters to be reported must include those identified through the external audit and regularity review.

4.58 To assist, the Charity Commission have produced specific [guidance](#), which was reviewed and updated in April 2020.

4.59 The guidance includes a list of nine matters that are always considered

reportable as matters of material significance and sets out more details of each, along with specific examples. This list is included at [Annex C](#). Auditors may decide that other matters not included in this list are, in their judgment, of such a nature that they consider them reportable as a matter of material significance.

4.60 In the first instance of identifying matters of 'material significance' the auditor must contact ESFA via its [enquiry form](#).

## **Evidence to support conclusion on regularity**

4.61 This section assists reporting accountants in determining the types of tests that can be used to provide evidence on the regularity report. The list of tests below is not exhaustive, especially as the form of the report is 'limited' assurance. ESFA has not defined a minimum scope of testing.

### **Delegated authorities**

4.62 Part 5 of the Handbook details the freedoms academy trusts have. As such, consider whether evidence of prior approval from the Secretary of State is available for:

- write-offs over 1% of total income or £45,000 (whichever is smaller)
- acquisitions or disposals of freehold land and buildings
- disposal of heritage assets
- taking up a finance lease
- taking up a leasehold on land and buildings over seven years
- any novel and contentious payments e.g. honorarium payments.

Note that where a lease has been re-evaluated under FRS 102 and subsequently defined as a finance lease this will not lead to a regularity issue, as at the time of take up it was defined as an operating lease.

4.63 If an academy trust has made special payments to staff, including compromise agreements, consider whether there has been regard to the following:

- prior approval has been sought for non-contractual elements of £50,000 or more
- payments are not used as a substitute for taking appropriate action under the academy trust's misconduct or performance management procedures
- payments are in line with the [severance guidance](#) published by ESFA.

- 4.64 Consider whether the trust has sought borrowings (in the form of loans, overdraft facilities or finance lease), contravening section 5.32 of the Handbook.
- 4.65 An academy trust may have been issued with a 'minded to' letter from ESFA, which stipulates requirements to be met. These letters are not published. If these are not met, an FNtl is issued. Where an [FNtl](#) has been issued this restricts the freedoms given to an academy trust. In these circumstances, the academy trust must seek prior approval for a wider variety of transactions. Consider whether this has occurred.
- 4.66 Similarly, where an academy trust is funded on an estimate basis the funding agreement requires prior approval for a number of transactions and this will be identified during planning.
- 4.67 Disclosures of the transactions noted above must be in line with the Direction.

### **Transactions with related parties**

- 4.68 In accordance with the academy trust's internal processes and section 5.34 to 5.58 of the Handbook ensure:
- declarations of business interests have been completed (for those in a position to influence the academy trust, including key staff) and published on the academy trust's website
  - contracts with related parties have been procured following the academy trust's procurement and tendering process
  - where contracts are entered into or renewed on or after 7 November 2013, the academy trust has obtained statements of assurance (confirming no profit element was charged) and the academy trust has followed their internal processes in reviewing this
  - the academy trust has requested, under the open book arrangement, evidence that the charges do not exceed the cost of supply
  - governors who provide consultancy services to the academy trust are not receiving a profit for their services and the correct procurement and tendering process is being followed
  - no related party gains from their position by receiving payments under terms that are preferential
  - if employees are providing external consultancy to another organisation, and the work was performed within the academy trust's normal working hours, that the income is being received by the academy trust and recognised in its financial statements

- related party transactions have been either notified to, or approved by, ESFA as appropriate according to the requirements of the Handbook.

## **Governance**

4.69 In relation to governance, consider whether:

- the academy trust has a minimum of three members
- the board of trustees has met at least three times in the year
- where the board has met less than six times a year, there is a description in its governance statement, accompanying its annual financial statements, how it maintained effective oversight of funds
- new academy trusts have reviewed and developed their governance structure and composition of the board
- there is a written scheme of delegation of the board's financial powers that maintains robust internal controls
- management accounts are shared with the chair of trustees monthly, with other trustees six times a year and considered by the board when it meets
- there is a risk register in place
- there is board oversight of capital expenditure and funding, ensuring it is used appropriately for capital purposes
- the academy has established an audit and risk committee whose activities are underpinned by written terms of reference
- provision for internal audit / scrutiny is independent and objective
- the audit and risk committee has received reports on the effectiveness of internal control
- factors determining executive pay are clear and recorded
- there are whistleblowing procedures approved by the trustees
- minutes of the various committees, and management accounts, have been reviewed for indications of irregular transactions
- the board of trustees and accounting officer have given formal representations of their responsibilities
- the board of trustees has appointed the senior executive leader as accounting officer, and a Chief Financial Officer.

## **Internal controls**

4.70 In relation to controls, identify the policies, review their effectiveness and then test their operation. Points to consider include:

- whether the general control environment has regard to the regularity of underlying transactions, including reference to fraud management

- whether significant changes within the control environment have led to potential weaknesses that could impact the regularity of underlying transactions
- whether property is under proper control to prevent loss or misuse
- ensure, through enquiry and sample testing, that gifts and hospitality, such as long service awards and other benefits are given and received in line with the academy trust's policies
- ensure, through enquiry and sample testing, that the use of expense claims or credit cards adheres to internal control principles (and supported by receipts)
- ensure, through enquiry and sample testing, that expenditure does not contravene the funding agreement
- ensure, through enquiry and sample testing, that items claimed on expenses or purchased on credit cards are not for personal benefit.

## Procurement

4.71 In relation to procurement identify the policies, review their effectiveness and then test operation. Points to consider include:

- enquiry and sample testing that the lines of delegation and the limits set both internally and by ESFA have been adhered to
- whether tendering procedures have been administered through *Find a Tender* where appropriate, in accordance with PPN 08/20 <https://www.gov.uk/guidance/public-sector-procurement>.
- whether formal contracts are in place, where required
- whether tendering policies have been adhered to
- whether procurement activity has been in accordance with [Annex 4.6 of Managing Public Money](#)
- ensure that employees have not personally benefitted from any transaction
- whether goods and services have been procured in an open and transparent manner.

## Income

4.72 In relation to income, consider the conditions associated with specialist grant income and whether it has been spent on the purposes intended.

## Letter of engagement

4.73 There is a standard paragraph for inclusion in the letter of engagement between the academy trust and its reporting accountant:

'The Secretary of State for Education acting through the Education and Skills Funding Agency has adopted the Standardised Terms of Engagement included within the extant Accounts Direction. We will report to the Secretary of State for Education, acting through the Education and Skills Funding Agency, in accordance with those Standardised Terms of Engagement for Independent Reporting Accountants' Reports. The Secretary of State for Education, acting through the Education and Skills Funding Agency, will not be required to sign this engagement letter.'

## **Terms of engagement**

- 4.74 The Direction provides the framework and reporting requirements on the statement of regularity, propriety and compliance. The large number of academy trusts in scope of this engagement makes it impractical to have an engagement letter with each individual reporting accountant. Standardised terms of engagement are therefore in place. Amendment to these standardised terms of engagement may only be considered in very rare circumstances. Amendments may cause delay to the reporting accountant's work leading to late submission of the related report and consequent breaches of funding agreements. ESFA is unable to enter into tailored terms of engagement agreements.
- 4.75 Annex A is the pre-agreed terms of engagement on which the Secretary of State for Education, working through ESFA, engages the reporting accountant to perform a limited assurance engagement and report on regularity in connection with the academy trust. ESFA requires that academy trusts and reporting accountants must adopt these terms of engagement and any substantial changes must not be made without ESFA's prior written consent.
- 4.76 In these pre-agreed terms of engagement, references to ESFA shall be read as incorporating references to the Secretary of State for Education.
- 4.77 ESFA accepts that an agreement between the academy trust, its reporting accountant and ESFA on these terms is formed when the reporting accountant signs and submits to ESFA a report as set out in Part 4 in Annex A below. ESFA is not required to sign anything. By publishing this document, ESFA confirms that these pre-agreed terms form its agreement with the academy trust and the reporting accountant.

## **Annex A: ESFA terms of engagement for regularity**

### **1 Introduction**

The academy trust is required to submit to ESFA a regularity report, which provides limited assurance, as part of its audited annual accounts that is signed by a reporting accountant. These terms of engagement set out the basis on which the reporting accountant will sign the report.

### **2 The academy trust's responsibilities**

The academy trust is responsible for:

- complying with the requirements of the funding agreement with the Secretary of State for Education, and the extant Academies Financial Handbook
- producing in accordance with the requirements of the extant Academies Accounts Direction an annual report and financial statements (accounts) to 31 August
- having these 'accounts' audited by an independent registered auditor
- submitting the audited accounts to ESFA by 31 December
- ensuring the accounting officer's report has been made without bias
- maintaining proper records complying with the terms of any legislation or regulatory requirements and ESFA's terms and conditions of funding ('the funding conditions')
- providing information to ESFA as required by the funding agreement.

The academy trust's accounts shall meet the requirement of the extant Academies Accounts Direction to include the reporting accountant's report on regularity.

The accounting officer of the academy trust will make available all records, correspondence, information and explanations that the reporting accountant considers necessary to enable the reporting accountant to perform its work. The reporting accountant will seek, and the academy trust's accounting officer shall provide:

- written representations in relation to matters for which independent corroboration is not available
- confirmation that significant matters have been brought to the reporting accountant's attention.

The academy trust and ESFA accept that the ability of the reporting

accountant to perform its work effectively depends upon the academy trust providing full and free access to financial and other records and the academy trust shall procure that any such records held by a third party are made available to the reporting accountant.

The reporting accountant accepts that, whether or not the academy trust meets its obligations, there remains an obligation to ESFA to perform its work with reasonable care. The failure by the academy trust to meet its obligations may cause the reporting accountant to qualify its report or be unable to provide a report.

### **3 Scope of the reporting accountant's work**

The reporting accountant will use professional judgement and take account of the particular circumstances of the academy trust to determine the scope of work to support the conclusion, in accordance with the framework and guide for reporting accountants and the model accounts published by ESFA.

The reporting accountant may communicate with ESFA as part of the planning and delivery of the regularity engagement where they believe there is an issue with a specific academy trust. Any such requests (to include academy trust name, concern and reporting accountant details) may be notified via [ESFA enquiry form](#).

### **4 Form of the reporting accountant's report**

The mandatory report that the reporting accountant will provide, on the assumption that the reporting accountant is able to report in that form, is included in the model accounts.

The reporting accountant's report is prepared on the following bases:

- that ESFA has no right by virtue of regularity engagement to place reliance on the work of the reporting accountant and the opinion they form in respect of their statutory financial statements audit of the academy trust
- the reporting accountant's report is prepared solely for the use of the academy trust and ESFA and solely for the purpose of submission to ESFA in connection with ESFA's requirements within the extant Academies Accounts Direction. It may not be relied upon by the academy trust or ESFA for any other purpose
- neither the academy trust, ESFA nor others may rely on any oral or draft reports the reporting accountant provides. The reporting accountant

accepts responsibility to the academy trust and ESFA for the reporting accountant's final signed reports only

- to the fullest extent permitted by law, except for the academy trust and ESFA, the firm of reporting accountants, its partners and staff neither owe nor accept any duty to any person (including, without limitation, any person who may use or refer to any of ESFA's publications) and shall not be liable for any loss, damage or expense of whatever nature which is caused by any person's reliance on representations in the reporting accountant's reports.

## **5 Liability provisions**

The reporting accountant will perform the engagement with reasonable skill and care and accepts responsibility to the academy trust and ESFA for losses, damages, costs or expenses ('losses') caused by its breach of contract, negligence or wilful default, subject to the following provisions:

- the reporting accountant will not be responsible or liable if such losses are due to the provision of false, misleading or incomplete information or documentation or due to the acts or omissions of any person other than the reporting accountant, except where, on the basis of the enquiries normally undertaken by reporting accountants within the scope set out in these terms of engagement, it would have been reasonable for the reporting accountant to discover such defects
- the reporting accountant accepts liability without limit for the consequences of its own fraud and for any other liability which it is not permitted by law to limit or exclude
- subject to the previous paragraph, the total aggregate liability of the reporting accountant whether to the academy trust or to ESFA or both, arising on any basis, whether in contract, tort (including negligence) or otherwise, arising from or in any way connected with this engagement (including any addition or variation to the work), may be limited to £1 million per academy in each academy trust. For a trust with multiple academies, liability would amount to £1m multiplied by the number of individual academies within the academy trust, limited to £5 million in aggregate for a trust.

The academy trust and ESFA agree that they will not bring any claims or proceedings against any individual partners, members, directors or employees of the reporting accountant. This clause is intended to benefit such partners, members, directors and employees who may enforce this clause pursuant to the Contracts (Rights of Third Parties) Act 1999 ('the Act'). Notwithstanding any benefits or rights conferred by this agreement on any third party by virtue of the Act, the parties to this agreement may agree to vary

or rescind this agreement without any third party's consent. Other than as expressly provided in these terms, the Act is excluded.

Any claims, whether in contract, negligence or otherwise, must be formally commenced within three years after the party bringing the claim becomes aware (or ought reasonably to have become aware) of the facts which give rise to the action and in any event no later than six years after the relevant report was issued (or, if no report was issued, when the reporting accountant accepted the engagement in writing). This expressly overrides any statutory provision that would otherwise apply.

## **6 Fees**

The reporting accountant's fees, together with VAT and out-of-pocket expenses, will be agreed with and billed to the academy trust. ESFA is not liable to pay the reporting accountant's fees.

## **7 Quality of service**

The reporting accountant will investigate all complaints. ESFA or the academy trust has the right to take any complaint to the professional supervisory body governing the reporting accountant.

## **8 Provision of Services Regulations 2009**

The reporting accountant will not be prevented or restricted by virtue of the reporting accountant's relationship with the academy trust and ESFA, including anything in these terms of engagement, from providing services to other clients. The reporting accountant's standard internal procedures are designed to ensure that confidential information communicated to the reporting accountant during the course of an assignment will be maintained confidentially.

## **9 Freedom of Information Act 2000**

If ESFA receives a request under the Freedom of Information Act 2000 for the disclosure of confidential information, it will inform the academy trust promptly of such request and ensure that any representations made by the academy trust or the reporting accountant within a reasonable period of time in relation to such a request are fully taken into account when it responds to the request. However, the decision to release information rests with ESFA.

## **10 Alteration to terms**

Amendment to these standardised terms of engagement may only be considered in very rare circumstances. All additions, amendments and variations to these terms of engagement shall be binding only if in writing and signed by the duly authorised representatives of the parties. These terms do not affect any separate agreement in writing between the academy trust and the reporting accountant.

## **11 Applicable law and jurisdiction**

This agreement shall be governed by, interpreted, and construed in accordance with English law.

The academy trust, ESFA and the reporting accountant irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute (including claims for set-off and counterclaims) which may arise on any basis in connection with the validity, effect, interpretation or performance of, or the legal relationship established by this agreement or otherwise arising in connection with this agreement.

In these terms of engagement:

- 'ESFA' refers to the Secretary of State for Education working through the Education and Skills Funding Agency
- 'academy trust' refers to the academy trust being the organisation that is required to submit the report to ESFA
- 'the reporting accountant' refers to the reporting accountant appointed by the academy trust, the same individual as the external auditor.

## Annex B: Mandatory regularity assurance report

### **Independent Reporting Accountant's Assurance Report on Regularity to Coketown Academy Trust and the Education and Skills Funding Agency**

In accordance with the terms of our engagement letter dated [x] and further to the requirements of the Education and Skills Funding Agency (ESFA) as included in the extant Framework and Guide for External Auditors and Reporting Accountants of Academy Trusts , we have carried out an engagement to obtain limited assurance about whether the expenditure disbursed and income received by Coketown Academy Trust during the period **[insert the start date of the period for which the financial statements have been prepared]** to 31 August 2021 have been applied to the purposes identified by Parliament and the financial transactions conform to the authorities which govern them.

This report is made solely to Coketown Academy Trust and ESFA in accordance with the terms of our engagement letter. Our work has been undertaken so that we might state to Coketown Academy Trust and ESFA those matters we are required to state in a report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than Coketown Academy Trust and ESFA, for our work, for this report, or for the conclusion we have formed.

### **Respective responsibilities of Coketown Academy Trust's accounting officer and the reporting accountant**

The accounting officer is responsible, under the requirements of Coketown Academy Trust's funding agreement with the Secretary of State for Education dated [x] and the Academies Financial Handbook, extant from 1 September 2020, for ensuring that expenditure disbursed and income received is applied for the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

Our responsibilities for this engagement are established in the United Kingdom by our profession's ethical guidance and are to obtain limited assurance and report in accordance with our engagement letter and the requirements of the extant Framework and Guide for External Auditors and Reporting Accountants of Academy Trusts. We report to you whether anything has come to our attention in carrying out our work which suggests that in all material respects, expenditure disbursed and income received during the period **[insert the start date of the period for which the financial statements have been prepared]** to 31 August 2021 have not been applied to purposes intended by Parliament or that the financial transactions do not

conform to the authorities which govern them.

## Approach

We conducted our engagement in accordance with the Framework and Guide for External Auditors and Reporting Accountant of Academy Trusts issued by ESFA. We performed a limited assurance engagement as defined in our engagement letter.

The objective of a limited assurance engagement is to perform such procedures as to obtain information and explanations in order to provide us with sufficient appropriate evidence to express a negative conclusion on regularity.

A limited assurance engagement is more limited in scope than a reasonable assurance engagement and consequently does not enable us to obtain assurance that we would become aware of all significant matters that might be identified in a reasonable assurance engagement. Accordingly, we do not express a positive opinion.

Our engagement includes examination, on a test basis, of evidence relevant to the regularity and propriety of the academy trust's income and expenditure.

The work undertaken to draw to our conclusion includes:

- [X]
- [X]

## Conclusion

In the course of our work, **[except for the matters listed below]** nothing has come to our attention which suggests that in all material respects the expenditure disbursed and income received during the period **[insert the start date of the period for which the financial statements have been prepared]** to 31 August 2021 has not been applied to purposes intended by Parliament and the financial transactions do not conform to the authorities which govern them.

**[Matter 1:**

**Matter 2:]**

State the monetary amounts if known.

**[Signed]**

Reporting Accountant

**[Accountancy Firm Name]**

**[Date]**

## Annex C: The reportable matters of material significance

(Extract from [Charity Commission Matters of Material Significance reportable to UK charity regulators Guidance April 2020](#))

Serial	Title	Each Matter is prefaced by the following statement - 'During the course of an audit/independent examination':
1	Dishonesty & Fraud	matters suggesting dishonesty or fraud involving a significant loss of, or a material risk to, charitable funds or assets.
2	Internal Controls & Governance	failure(s) of internal controls, including failure(s) in charity governance that resulted in, or could give rise to, a material loss or misappropriation of charitable funds, or which leads to significant charitable funds being put at major risk.
3	Money Laundering & Criminal Activity	knowledge or suspicion that the charity or charitable funds including the charity's bank account(s) have been used for money laundering or such funds are the proceeds of serious organised crime or that the charity is a conduit for criminal activity.
4	Support of Terrorism	matters leading to the knowledge or suspicion that the charity, its trustees, employees or assets, have been involved in or used to support terrorism or proscribed organisations in the UK or outside of the UK, with the exception of matters related to a qualifying offence as defined by Section 3(7) of the Northern Ireland (Sentences) Act 1998.
5	Risk to charity's beneficiaries	evidence suggesting that in the way the charity carries out its work relating to the care and welfare of beneficiaries, the charity's beneficiaries have been or were put at significant risk of abuse or mistreatment.
6	Breaches of law or	single or recurring breach(es) of either a legislative

	the charity's trusts	requirement or of the charity's trusts leading to material charitable funds being misapplied.
7	Breach of an order or direction made by a charity regulator	evidence suggesting a deliberate or significant breach of an order or direction made by a charity regulator under statutory powers including suspending a charity trustee, prohibiting a particular transaction or activity or granting consent on particular terms involving significant charitable assets or liabilities.
8	Modified audit opinion or qualified independent examiner's report	on making a modified audit opinion, emphasis of matter, material uncertainty related to going concern, or issuing of a qualified independent examiner's report identifying matters of concern to which attention is drawn, notification of the nature of the modification/qualification/emphasis of matter or concern with supporting reasons including notification of the action taken, if any, by the trustees subsequent to that audit opinion, emphasis of matter or material uncertainty identified /independent examiner's report.
9	Conflicts of interest and related party transactions	evidence that significant conflicts of interest have not been managed appropriately by the trustees and/or related party transactions have not been fully disclosed in all the respects required by the applicable SORP, or applicable Regulations.