



Education
Funding
Agency

Review of financial management and governance at Barnfield Federation

Final report

February 2014

Contents

Executive summary	3
Table 1 Breaches of the Academies Financial Handbook, the Funding Agreement, Charity Commission regulation and the Companies Act 2006.	4
Governance	9
BES – Shared Services Company	10
Financial Position – academies	10
Duplicate Funding of Learners	11
Background to the review	12
Barnfield Federation history	12
Fact-finding review approach	13
Findings	15
Governance arrangements	15
Overall	15
BEPT	15
BAT	15
Barnfield Education Services	17
Service Level Agreements	18
Compromise payment to the former Director General on resignation	20
Allegations of profligate / inappropriate expenditure	21
Consultancy procurement	22
Financial position	23
Possible Duplicate Funding of Learners	24
Annex A: Federal Structure	26

Executive summary

1. On 23 August the Skills Funding Agency (SFA) received serious allegations of fraud and financial irregularity at the Barnfield Federation, specifically the College and the academy trusts. Following a meeting with the complainant on 3 September the allegations were passed to the Education Funding Agency (EFA) on 4 September. These included specific allegations relating to: i) learner and funding issues and ii) governance and accountability.

2. This report sets out our findings into these allegations. The review has been carried out jointly between the SFA, the EFA and the Department for Education (DfE).

3. The Barnfield “soft” Federation is complex. The full structure is detailed at Annex A, but the key components of the Federation are:

- Barnfield College
- Barnfield Education Partnership Trust (BEPT), a separate sponsor company which is wholly owned by the college and oversees the academy trusts
- Barnfield Academy Trust (BAT) a multi-academy trust, comprising three academies: Barnfield South, Barnfield West and Barnfield Vale
- Moorlands Free School
- Barnfield Business & Enterprise Studio School, known as Barnfield Skills Academy
- Barnfield Education Services (BES), which delivers the core in house shared services across the federation
- Barnfield Shared Services (BSS), which is set up as a teckal company and a VAT shared procurement vehicle

4. Our approach has involved a review of key documents and detailed testing of areas within the allegations. We have also carried out a number of interviews including with the Chair of the College, Acting Chair of BAT, the interim CEO of the College, the interim CEO of BAT, various senior post holders, the Principals of the College and the academies and the former Director General of Barnfield Federation.

5. This report focuses on issues affecting the academy trusts (the Barnfield Academy Trust (BAT), Moorlands Free School and Barnfield Skills Academy). The SFA are producing a separate report focussing on issues affecting the College.

6. The review has found evidence of significant financial irregularity together with breaches of the Academies Financial Handbook, the Funding Agreement, Charity Commission regulation and the Companies Act 2006. These are detailed in Table 1 and are underpinned by substantial concerns on overall governance and accountability.

Table 1 Breaches of the Academies Financial Handbook, the Funding Agreement, Charity Commission regulation and the Companies Act 2006.

The Handbook is developed annually and continuously improved. For ease, we have referred to the paragraphs in the latest Handbook, the 2013 version, although the requirements are consistent with the 2012 version unless otherwise stated.

Breaches of Academies Financial Handbook 2013			
Paragraph No	Paragraph Detail	Breach by	Examples of Breach
1.4.6 and 1.5.14	As public bodies, academy trusts must ensure regularity, propriety and value for money in their management of public funds. The essence of the (Accounting Officer) role is a personal responsibility for regularity, propriety and vfm.	Trustees Accounting Officer	<ul style="list-style-type: none"> A compromise agreement was agreed by the College Board for the CEO on receipt of ██████ resignation. It was agreed in principle by the acting Chair of the BAT Board at the meeting in May that ██████ of this was to be funded by BAT (in parallel with advising the Corporation on the Termination Agreement). An email requesting the College to raise an invoice for the amount was sent by the interim CEO in November. Approval was not sought from the EFA. Although a BAT Board was held in August it was not raised with the BAT Board until the meeting on 18 December. Therefore the intent to pay the ██████ is clear, no consideration was given of seeking EFA approval and there has been a substantial delay in presenting this to the BAT Board.
2.4.40 and 2.6.10	Novel payments ...are outside the range of normal business activity. Contentious transactions are those which might give rise to criticism by the public or the media.		<ul style="list-style-type: none"> Significant salary increases were awarded to senior members of staff in Barnfield Education Services (BES) by the former Director General of the Federation, with no independent oversight or appropriate authority. In one case the increase resulted in the salary paid being in excess of the contract value.
2.5.2	The academy trust must ensure that		<ul style="list-style-type: none"> Shared services costs to the academies are high – partly in

	<p>spending has been for the purpose intended.</p>		<p>anticipation of growth in the Federation – and have not been agreed by the Accounting Officers for two of the trusts. There are no service level agreements formally agreed that specify the services and therefore value for money cannot be determined by the trusts.</p> <ul style="list-style-type: none"> • Some items of academies’ expenditure, as specified in the report, were irregular and improper, not for the purpose intended and do not provide value for money of public funds. • Papers provided indicate that the cost of activities undertaken by ██████████ ██████████ ██████████ in ██████████ role as CEO / Academy Trust Ambassador in 2011/12 was approx. £132,000 although the service level agreements relating to this for the three Academy Trusts totalled approx. £195,000.
1.5.9	<p>The members of the board of trustees of the academy trust should be aware of their statutory duties as company directors, which are set out in sections 170 to 177 of the Companies Act 2006. These comprise the duties to:</p> <ul style="list-style-type: none"> • act within their powers; • promote the success of the company; • exercise independent judgment; • exercise reasonable care, skill 	Trustees	<ul style="list-style-type: none"> • The BEPT Board has made decisions on behalf of other entities within the Federation. Examples include a decision made in June 2013 to implement a bank of policies across the Federation with no formal evidence that these were reviewed and approved by the individual entities’ Boards. • The BAT Board acts as one board for the five academies, not just those within BAT, and has made decisions for all academies. • The acting Chair of BAT (who was previously Vice-Chair) is a ██████████ in a local firm of ██████████ who carry out work for the academies, value in 2011/12 of ██████████. This work was not subject to procurement procedures. The acting Chair of BAT’s connection to the firm is not disclosed in the academy trust’s latest audited statement of accounts for year ended 31

	<p>and diligence;</p> <ul style="list-style-type: none"> • avoid conflicts of interest; • not to accept benefits from third parties; and • declare interest in proposed transactions or arrangements. 		August 2012.
1.5.17	The accounting officer must advise the board of trustees in writing if, at any time, in his or her opinion, any action or policy under consideration by them is incompatible with the terms of the Handbook or FA.	Accounting Officers	<ul style="list-style-type: none"> • No evidence that this has occurred particularly in the context of the Accounting Officers breaches identified in this table.
2.1.2	The principal or chief executive should be appointed as accounting officer, under the guidance of the board, and must ensure that there is appropriate oversight of financial transactions. In doing so, they must keep full and accurate accounting records.	Trustees Accounting Officer	<ul style="list-style-type: none"> • The Accounting Officers for the academy trusts have not ensured proper financial oversight on shared services costs as these are allocated on a percentage of turnover rather than based on the value of services received. • The academy budget forecast returns were not submitted to the EFA by the due date. • Proper procurement processes were not always followed and procurement documentation was not maintained by the academies.
2.1.3	The board and appropriate committees must meet at least once a term and conduct business only when the meeting is quorate.	Trustees	<ul style="list-style-type: none"> • No evidence of formal Board meetings or budget approvals for two of the academy trusts since September 2012; Moorlands or the Skills Academy.

2.2.1	The board of trustees of the academy trust must approve a balanced budget for the financial year (usually to 31 August), which may draw on unspent funds brought forward from previous years.		
2.2.2	The accounting officer of the EFA is required to provide assurance that the bodies that the EFA funds on behalf of the Secretary of State are in sound financial health. For this reason, the trust must submit to the EFA a copy of that final budget in a form specified by the EFA by a date to be notified.	Trustees	<ul style="list-style-type: none"> The budget forecast returns for 2013/14 for the three academy trusts, to be submitted to EFA on 31 July 2013, were not submitted by the due date. A single budget forecast incorporating all three academy trusts was submitted in November 2013. However the requirement to submit individual forecasts remains outstanding as at January 2014.
Breaches of Funding Agreement			
	To hold an Annual General Meeting	Trustees Company Secretary	<ul style="list-style-type: none"> Failure by the academy trusts' Boards to hold formal AGMs in a timely manner e.g. Moorlands and Studio School financial year end 31 August 2012 held on 18 December 2013.
Breaches of Charity Commission Requirements (not covered above)			
	Membership of the Board of Trustees exceeds a membership of 50% who have received payment from the charity	Trustees Company Secretary	<ul style="list-style-type: none"> Skills Academy (57%) and Moorlands (67%).
	Trustees not to be remunerated for their role as Trustee	Trustees Company	<ul style="list-style-type: none"> A former Trustee of the academies, [REDACTED] [REDACTED]

		Secretary	<p>██████████ had a salary increase in 2008, an element of which was to reflect ██████████ involvement with the academies. It is unclear exactly what the increase for the academies was in connection with. As this individual's salary has been partially reimbursed to the College by the academy trusts via service level agreements there is a possibility that ██████████ may have been paid for ██████████ role as a Trustee. This issue needs to be referred to the Charity Commission for their opinion.</p>
Breaches of Companies Act 2006			
	Change of company name	Trustees Company Secretary	<ul style="list-style-type: none"> Barnfield Business & Enterprise Studio School had its name changed to Barnfield Skills Academy but we have not seen the minutes of the resolution by the members or any other documentation signed by directors of the company approving this name change nor does it match the Companies House record.

Governance

7. These breaches are underpinned by significant concerns on governance and accountability across the Federation.

8. A fundamental aspect of the findings is that there are a number of examples of Boards within the structure making decisions beyond their legal responsibilities:

- although there are three academy trusts they have operated as one organisation. BAT has made decisions for all three legal entities, BAT, Moorlands and Barnfield Skills Academy. Since 1 September 2012 there is no record of any formal meetings of the Board of Trustees for either Moorlands or the Skills Academy. All decisions are made by the BAT Board, an example being the BAT Board approving a combined budget.
- the BEPT Board (the sponsor) is making decisions on behalf of other entities within the “soft” Federation with no evidence of ratification of these decisions by the respective entities. Examples include the decision to implement a bank of policies across the Federation with no formal evidence that the individual entities’ Boards approved these.

9. Prior to August 2013, the governance structure involved the FE College Senior Leadership Team being the majority on the sponsor Trust, Barnfield Education Partnership (BEPT), Barnfield Education Services (BES) and the academy trusts. This was somewhat improved in August 2013 with the addition of the Acting Chair of BAT and College governors to the BEPT Board.

10. There are examples of payments made without any oversight or approval:

- For shared services in 2012/13 there were no service level agreements formally agreed specifying the services to be delivered. For 2013/14 there was a draft unapproved Service Level Agreement, but no record has been found within the minutes of the academy trusts to show any formal approval or discussion of these charges. The Accounting Officers of the Trusts had also not agreed these as at the end of November 2013. The shared services costs are allocated on a percentage of turnover rather than based on the value of services received and have significantly increased from the business case for core services with an additional charge for managed services, to as much as a total cost of 16% (9.8% and 6%) of the academies’ income (£3.5million). Comments from [REDACTED] [REDACTED] during our meetings indicate that [REDACTED] consider the quality of services to be good but costs to be high. This has also been acknowledged by the newly formed Federal Operating Board.
- a number of significant salary increases were awarded to staff in BES by [REDACTED] [REDACTED] [REDACTED] with no independent oversight or appropriate

authority. In one case the increase resulted in the salary being considerably above the contract value.

11. There are conflicts of interest in the structure. An example of this is the acting Chair of BAT, who is a [REDACTED] in a local firm of [REDACTED] that carry out work for the Federation. In 2011/12 the value of work undertaken for the academies amounted to [REDACTED]. This work was not subject to procurement processes. Such interests are required to be disclosed in the relevant statement of accounts within a “Related Party Transaction” (RPT) disclosure note. We noted that the audited statement of accounts for 2011/12 includes an RPT disclosure but that the acting Chair of BAT’s interest is not disclosed.

BES – Shared Services Company

12. BES was set up from September 2012 to deliver shared services across the Federation, for example marketing, human resources, finance, payroll and ICT.

13. There are no formal Service Level Agreements (SLAs) that specify the services to be delivered and therefore value for money cannot be determined by the trusts. During our meetings with the [REDACTED] [REDACTED] [REDACTED] confirmed that the SLAs for 2013/14 had not yet been formally agreed. No records are kept of services actually delivered and no year end reconciliation was performed as at the date of our visit.

14. BES charges to the academies are high – although partly based on anticipated growth of the Federation – and are not agreed by the Accounting Officers for two of the Trusts. The shared services costs are allocated on a percentage of turnover rather than based on the value of services received. Total charges for 2012/13 represent 12% of income, £2.2 million of the academies’ budget. For 2013/14 the figure is 16% or £3.5million. Officers at Barnfield calculate the core services to equate to 9.8% of academies’ budgets. Although it is difficult to confirm whether the shared services offerings are the same as other trusts, the costs for the shared services are considered high when compared to a sample of other trusts which range from 2% to 7%. Comments from the [REDACTED] during our meetings indicate that [REDACTED] consider quality of services to be good but costs to be high. This has also been acknowledged by the Federal Operating Board

Financial Position – academies

15. The financial position of the academies appears to be sustainable, although there remains uncertainty on the treatment of the shared services charges.

16. The unaudited forecast financial outturn for 2012/13 now shows a surplus of £400,000, and brought forward cumulative reserves at 31 August 2012 of £985,000.

17. The submitted budget information for 2013/14 indicates a less positive position with a latest in year deficit of £345,000 with only one academy predicting a surplus. However the period two management accounts for 2013/14 incorporates a recalculation of the shared services recharges resulting in a revised outturn of an £88,000 deficit. This is covered by brought forward cumulative reserves.

Duplicate Funding of Learners

18. Barnfield academies' 6th formers have undertaken short courses at the College and been funded with EFA funding. This is a breach of the funding guidance and the College have agreed a refund to EFA of £18,144.97. The College will be invoicing the academies for £18,144.97 for providing these courses. Other concerns in relation to success rates and practises at the College were raised during the review and, whilst these are not necessarily breaches of EFA funding, EFA will pass the concerns to Ofsted and SFA.

19. The funding audit carried out by the SFA identified a total of £ 941,000 worth of ILR Data errors (£477,000 in the Adult Skills Budget and £464,000 in the EFA 16-18 funding). The EFA operates a lagged funding system, this means this data has not yet been used to calculate funding and would ordinarily not be used until the 2014/15 funding round. The EFA will review the errors as part of the process to set the 2014/15 16-18 allocation.

Background to the review

20. The SFA received a number of serious allegations from a whistle-blower relating to learner and funding issues at Barnfield College and issues relating to governance and accountability within the Federation.

21. EFA and the SFA agreed to undertake a joint review which commenced on 23 September 2013. SFA engaged KPMG to undertake the on-site work.

22. Our objectives were to undertake a fact-finding review of the detailed allegations.

Barnfield Federation history

23. The Barnfield “soft” Federation is complex and is illustrated at [Annex A](#). It was established in 2007 as a federal model pulling together a successful Further Education College and two challenging schools. At this point Barnfield College was the sponsor of the two academies.

24. As the Federation has evolved the College created a wholly owned company, Barnfield Education Partnership Trust (BEPT) (formerly Barnfield Sponsor Trust) to which the responsibility of being the sponsor transferred with DfE agreement.

25. The Federation is not a legal entity, rather a “soft” Federation which includes Barnfield College, Barnfield South Academy, Barnfield West Academy, Barnfield Moorlands Free School, Barnfield Vale Academy and the country’s first FE sponsored studio school Barnfield Business & Enterprise Studio School (now known as Barnfield Skills Academy).

26. In September 2012 DfE approval was given to establish a formal multi academy trust including Barnfield South, West and Vale, known as Barnfield Academy Trust (BAT). The Skills Academy and Free School have remained as separate legal entities although for reporting purposes, including financial reporting within the Federation, they are treated as one entity.

27. The Federation wishes to expand and has been planning to bring on board Putteridge High School, St George’s Lower School, and Sandy Upper School.

28. The Director General of the College, [REDACTED], resigned with effect from 1 September 2013. Interim arrangements were put in place whereby the Executive Director Federal Partnerships, [REDACTED] became Interim CEO for BAT, and the Executive Director Federal Projects, [REDACTED], became Interim CEO of the College and Shared Services.

Fact-finding review approach

29. This review has considered:

- governance, transparency and accountability
- payment to the shared services company for services provided to the academies
- compromise payment to the former CEO on his resignation
- credit card payments
- alleged profligate expenditure by the Federation
- alleged use of relatives or friends for investigation or consultancy work
- financial position of BAT and the academies
- possible double funding of learners at the sixth form and attending short courses at the College
- budget setting and financial monitoring arrangements
- possible irregular expenditure

30. The review involved the following on site work:

- Review of key documents for example:
 - structure charts
 - management accounts
 - financial regulations
 - board and sub-committee minutes
 - contracts of employment
 - service level agreements

Detailed review and testing of:

- payments from the purchase ledger over £1k
- governance
- the use of corporate credit cards
- a sample of procurement activity
- shared services costs and recharges
- learner files relating to possible double funding

- academy trust financial position
- a sample of HR files
- termination package for the former Director General

Interviews with the following:

- [REDACTED], Chair of Barnfield College Corporation
- [REDACTED], Chair of the Finance and Employment Committee
- [REDACTED], acting Chair of Barnfield Academy Trust
- [REDACTED], Clerk to the College
- [REDACTED], Interim CEO College / Barnfield Education Services Ltd
- [REDACTED], Interim CEO Barnfield Academy Trust
- [REDACTED], Executive Director Group Finance
- [REDACTED], former Vice Principal
- [REDACTED], Clerk to BAT and Executive Director Group Legal
- [REDACTED], Barnfield College Principal
- [REDACTED], Director Human Resources
- [REDACTED], MIS Manager
- Principals of the five academies
- [REDACTED], Former Director General of Barnfield Federation

Findings

Governance arrangements

Overall

31. The overall federal structure is complex and is illustrated at Annex A. Barnfield Education Partnership Trust (BEPT), formerly Barnfield Sponsor Trust (BST) is the official sponsor of the academies and is wholly owned by Barnfield College.
32. The Boards of all the entities, with the exception of the College, were populated in the majority by members of staff from the College Senior Leadership Team.
33. Our review of minutes identified that all of the non-executive members of the BAT Board have been appointed as Governors of the College Board.

BEPT

34. The structure document at Annex A indicates that BEPT 'wholly owns' all of the academy trusts. From its creation until its meeting on 29 November 2012 the BEPT Board was wholly formed by members of the College's Senior Leadership Team. Therefore there was no non-executive oversight from the College within the Sponsor vehicle.
35. A review of BEPT minutes identified a number of instances where the BEPT Board has made decisions on behalf of other entities within the "soft" Federation with no evidence of ratification of these decisions by the respective entities. Examples include implementing a bank of policies across the Federation with no formal evidence that the individual entities Boards approved these.
36. We also identified a decision on 11 November 2010 to reinvest £2m of College funds in an 18 month bond with interest credited to the Barnfield Sponsor Trust to meet the cost of the service level agreements in respect of the proportion of the senior staff salaries charged to the Sponsor Trust. As the endowment funds were not received by the Sponsor Trust until the period 1 August 2011 and 31 July 2012 they would not have the funds when this decision was made. There is a lack of clarity around the timing of decision-making and the reinvestment of the endowment funds.

BAT

37. The BAT governance arrangements have changed since the departure of the former Director General. In August 2012, as per Companies House records, the BAT Board had a large majority of executive management in a ratio of 6:3. Of the six executive members, four were College staff and two academies' staff. Five of these

directly reported to the former Director General with the sixth being the former Director General. The three non-executive members were appointed by the sponsor, BEPT, with the Chair of BEPT being the former Director General. Since the departure of [REDACTED], and other members of the senior leadership team having left the employment of the College, arrangements have improved.

38. The three academy trusts (BAT; Moorlands free school; and Barnfield Skills Academy) operate as one organisation despite being separate legal entities with a different membership on their Boards. Decisions are being made by the BAT Board, for example approving the budget, resulting in Trustees of the other Boards not exercising their responsibilities.

39. Charities legislation provides that it is a condition of the statutory power for charities to pay trustees for goods or services provided to the charity that the total number of trustees who are either receiving payment or who are connected to someone receiving payment are in a minority.

40. Our review of the academy Boards as at September 2013 indicates that the membership of individuals who have received a pecuniary benefit, either directly or indirectly, is high as illustrated in table 2 below. The table indicates that two of the three Trusts are in breach of the statutory power.

Table 2 Members of Boards receiving pecuniary benefits				
Academy Board	Number receiving / have received benefits	Number with no benefits	Percentage with benefits	Breach
BAT	5	5	50%	No
Studio School	4	3	57%	Yes
Moorlands	4	2	67%	Yes

41. In 2008 [REDACTED] [REDACTED] [REDACTED] had a salary increase which, according to minutes, included an element for acting as Trustee of the academies. Papers behind the decision state [REDACTED] of this related to “market supplement and cost of living allowance for the additional academy work”. It is unclear exactly how much of this increase related to [REDACTED] involvement with the academies and what the increase for the academies was in connection with. As this salary has been partially reimbursed to the College by Barnfield West, Barnfield South and the Skills Academy via service level agreements there is a possibility that [REDACTED] may have been paid for [REDACTED] role as a Trustee. The EFA will refer this point to the Charity Commission for their opinion.

42. In 2012, a routine Financial Management & Governance review was undertaken at Barnfield South Academy by the EFA. This review identified that the “soft” Federation had a high volume of Service Level Agreements (SLAs) in place for services being provided by the College for the academies. This was discussed at the time and the business case submitted to DfE for implementing the MAT included the establishment of a Shared Services company within the Federation providing services for the College and academies.

43. The Articles of BES state that the members of BES shall nominate the directors of BES. BAT is a member of BES and therefore is entitled to make a nomination for a Director of BES. However no reference was identified within the BAT minutes of a nomination being made.

44. It is important to avoid conflicts of interest as noted in the Academies Financial Handbook. There is a clear conflict of interest for the acting Chair of BAT as [REDACTED] is a [REDACTED] in a firm which is awarded work by the Federation. Disclosure of this interest was not evidenced in minutes of meetings during 2012/13 and no disclosure of this related party transaction was made in the latest audited statement of accounts.

45. [REDACTED] [REDACTED] (currently acting as the Interim CEO of BAT) holds a post within BES. However the contract of employment for this post has not been TUPE'd across to BES and remains in BAT. The rationale for this anomaly was that the postholder wanted to ensure that [REDACTED] remained within the Teachers' Pension Scheme. There has been no discussion or approval of this by BAT despite the implications of this being that the academies have accepted the liability for any potential redundancy scenario.

Barnfield Education Services

46. BES was formerly Barnfield Project Management Team set up on 11 June 2010. It changed its name to BES on 11 July 2011. This was approved by BEPT Board on 30 June 2011.

47. Our review of the Articles has identified a number of concerns. These are around delivery of services, benefits to members and directors and appointment of auditors.

48. Our review has highlighted issues around the approval of salary increases for some BES staff. The College Remuneration Committee approved the initial salary for senior postholders (none currently at the College), and the CEO plus any salary increases or bonuses for the CEO. The BAT Remuneration Committee approved salary and bonuses for Academy Principals. The CEO, [REDACTED] [REDACTED] [REDACTED], set the salary and approved any increases for other staff. Examples of BES employees' significant increases are:

- [REDACTED] [REDACTED], joined [REDACTED] with a contract subject to six months probation with a salary scale of £110,000 to £130,000, paid at £110,000. [REDACTED] was awarded £40,000 increase on 1 April 2013 to give a salary of £150,000, £20,000 above the salary scale. This also equates to [REDACTED] more than the current interim CEO salaries. We have seen no committee approval for this or documentation to authorise it but were informed that the increase was given by [REDACTED] [REDACTED] [REDACTED] to retain [REDACTED] [REDACTED] who had been offered another job. [REDACTED] [REDACTED] subsequently resigned on [REDACTED].
- [REDACTED] [REDACTED], joined on [REDACTED] on a salary of £50,000. [REDACTED] received a bonus of £7,025 in Feb 2013 which we identified from a cost summary we requested for BES. A review of the contract did not indicate that a bonus is relevant and there was nothing on the HR file to support this. A job description provided to us indicates that [REDACTED] grade was £50,000 + up to 10% PRP. This bonus was therefore not appropriate

49. There is also evidence of [REDACTED] [REDACTED] [REDACTED] creating roles for senior management and setting salaries for those roles with no oversight from governors. We were informed that [REDACTED] [REDACTED] [REDACTED] wanted to promote [REDACTED] [REDACTED], to an Executive Director post on a salary of £92,000. However this did not happen as the interview process identified that [REDACTED] was not suitable for an Executive Director role. [REDACTED] [REDACTED] was consequently promoted to an Associate Director post on a salary of £80,000 without governor oversight.

Service Level Agreements

50. Following the 2012 Financial Management and Governance review, BEPT submitted a business case to the DfE outlining a new structure for the Federation including the setting up of a Shared Services company BES. The business case stated that this company was to be funded with a top-slice percentage for core provision, plus additional purchases of 'non-core' provision. Our review of this arrangement has identified issues regarding:

- the arbitrary split of costs across parts of the Federation based on a percentage of turnover rather than using actual costs
- inconsistency in allocating across the Federation
- the lack of demonstration of achievement of vfm

51. For 2012/13, no formal SLA was put in place for services to be provided. Instead, the apportionment of the costs between the academies and the College were split based on turnover, the split being 55:45 between the academies and the College.

52. The new Executive Director Group Finance decided to revisit the recharges and allocate directly where possible. This has resulted in approximately £725,000 to be credited back to the academies for the 2012/13 overpayment of shared services. The residual charge will then equate to approximately 12% of income. Although the Executive Director Group Finance has initiated a review of charges we have identified costs incurred by BEPT with no recharge made to BEPT. We understand that the Executive Director Group Finance is continuing with a “deep clean” of the charges in advance of the external audit of the financial statement but that there are no plans to revisit charges for previous years. Given that the SLA arrangement in place previously was in place for a number of years it is likely that the academies could have been overcharged by the College by a significant sum.

53. The BES statement of accounts as at 31 August 2012 has a cumulative deficit of £287,000. The unadopted minutes of the BES Board on 23 September 2013 record:

- “BES had a deficit carry forward from 2011/12 of £287,000 which was as a consequence of charges made by the College for management and legal services in connection with conversions for BAT but no detail was readily available and therefore further work would need to be undertaken prior to the year end audit was agreed to leave the deficit balance as pending until the year end audit as in principal this deficit would have to be eliminated as it represents cash which the business requires to ensure full funding. The mechanism to achieve this will be agreed with the auditor”.

54. For 2013/14 an unsigned SLA was provided. This states a top-slice of 8%. However we note that the 2013/14 academies budget includes total shared services costs of £3,587,000, representing core and managed services, or 16% of the academies’ total income. This outlines what services will be provided, but the detail of the actual services is not specified. It will therefore be difficult to monitor and assess vfm. However we understand that Barnfield plan to review the BES costs and consider vfm.

55. A comparison of shared service costs across a sample of other Trusts indicates that Barnfield’s are high with others ranging from 2% to 7%. However it is difficult to confirm whether the comparisons relate to similar service offerings.

56. During our interviews with the [REDACTED] we discussed the quality and costs of the shared service function. The majority view was that good quality services were received particularly compared to those that were received from the local authority, although the recharges were considered high. It was indicated that the reason the costs were high was due to the shared service function being geared up to the expected increase in the number of academies in the Federation and that the [REDACTED] expected [REDACTED] share to reduce as the number of academies in the Federation increases. This supports the view that open academies are paying for costs relating to prospective new academies. The [REDACTED] commented that [REDACTED] had no choice in that [REDACTED] had to use the shared services where a service was offered but [REDACTED]

are able to go outside the shared services to procure some additional services such as education welfare officers as this is not offered. We did note that the contract of one of the [REDACTED] stipulated that 'the Principal will ensure the purchase and implementation of Federal shared services via shared posts, secondments and SLAs'.

57. The Federation is aware that the support service costs are high and acknowledged this at the inaugural meeting of the Federation Operating Board on 22 October 2013 where it is recorded that BES costs have to be reduced; they are providing a less than adequate level of service; and academies need to consider outsourcing of services and not always be dependent overall on BES. This meeting also recorded that historically there were some overcharging by the College.

58. In connection with [REDACTED] [REDACTED] [REDACTED] role as Federation CEO / Ambassador of the academy trust a costed statement of time spent in 2011/12 was submitted. The costed statement was valued at £132,000 whereas the total value of the service level agreements in 2011/12 was £195,000. In 2012/13 this time was recharged to the academy trusts at approximately 50% of the actual cost which is comparable to the actual costed figure in 2011/12. This indicates a potential overpayment has occurred in 2011/12.

Compromise payment to the former Director General on resignation

59. The former Director General resigned on 1 May 2013 and the College Remuneration Committee 4 July 2013 agreed that a compromise agreement should be drafted and detailed the terms of this including that [REDACTED] of the agreement was to be funded by BAT.

60. It appears the decision has only been made by the College. Although the acting Chair of BAT was party to the terms of the compromise agreement the minutes of the College Remuneration Committee state that the acting Chair attended the meeting in an advisory capacity and not in [REDACTED] role as acting Chair of BAT. [REDACTED] [REDACTED] has a conflict of interest as [REDACTED] is a [REDACTED] in [REDACTED] [REDACTED] who were paid for this work. Equally, there is clear conflict of interest in that [REDACTED] is acting Chair of BAT and BAT would need to agree any contribution to the payment. We have been advised that the Interim CEO of the College requested an invoice to be raised for the contribution on 1 November 2013 which was put to the BAT Board meeting scheduled for 18 December 2013 to consider the appropriateness of the contribution and subsequent payment to the College. The BAT Board rejected it. At no time was consideration given to contact the EFA for approval of the Board's intention to pay this contribution.

61. In order to review the compromise payment we asked for sight of the College bonus policy to ensure bonuses should be paid when staff leave. There is no such policy

in place although in practice bonuses have been paid since 1994 implying a contractual obligation. We also confirmed that the former Director General's contract of employment stated he could only carry over five days holiday per year if it was not taken.

62. The former Director General's contract of employment was with Barnfield Further Education College. The post was Principal and Chief Executive with a start date of 1st September 2005.

63. Barnfield have sought to justify the termination payments on the basis that they were concerned about legal challenge and that the former Director General may poach key members of staff. Given that the former Director General resigned we do not understand why a termination payment would be due. [REDACTED] [REDACTED] [REDACTED] confirmed that [REDACTED] considered the termination payments to be generous and significantly above what [REDACTED] had anticipated receiving. Furthermore as the former Director General's contract was with the College we cannot see why BAT would have contributed to the payment. There were substantial delays before the decision was taken to the BAT board. We note that the issue was eventually raised at the BAT Board meeting of 18 December 2013. The BAT Board rejected the payment.

Allegations of profligate / inappropriate expenditure

64. We did not find any expenditure that would be considered profligate. However our review of credit card expenditure and transactions over £1,000 to date has highlighted academy expenditure that is considered irregular and improper. This includes:

- three marble plaques with bespoke engraving "[REDACTED] [REDACTED] [REDACTED] Director General Founder of the Barnfield Federation Knighted on the 15th June 2012 for Services to Further Education & the Academy Movement" at a cost of £590.00 each plus VAT totalling £2,124.00
- plaques installed in two academies at a cost of £5,790.00 plus VAT. The plaques were invoiced on 28 May 2013 with a later purchase order dated 19 June 2013. These followed the former director General's letter of resignation which was dated 1 May 2013 - the former Director General has stated that these were gifts agreed by the academies.
- an annual staff recognition event for staff across the Federation at a cost of approx. £20,000 in March 2013 with contributions from local industry of approx. £4,200. Of the £20,000 £1,199 was spent on alcohol. The event in 2011/12 cost approx. £25,000 with contributions from industry of approx. £3,000. Of the £25,000 £1,928 was spent on alcohol. The total cost specific to the academy trusts in 2011/12 was approx. £10,000. Barnfield consider this event to be valuable as it brings all the Federation staff together and celebrates success.
- incidents of alcohol being purchased for end of term drinks.

65. Our testing of procurement using corporate credit cards for the period August 2010 to August 2013 has raised the following issues:

- credit limits are generally appropriate being between £5,000 and £25,000. However we identified one account used by 4 people with a limit of £75,000, and one used by 7 people with a limit of £100,000. The level of spend on these two accounts is generally between £5,000 and £17,000 a month, indicating that these limits are not required and could be lowered.
- the management control trail for the paperwork supporting the credit card statements does not appear robust. In particular there is little by the way of authorising from 2012 onwards and whilst the majority of transactions were supported by a typed purchase order, they gave little detail on what had been purchased, the purchase orders were not signed and did not have supporting receipts.
- a number of invoices include potentially inappropriate items such as alcohol for “end of term” drinks, significant quantities of chocolate, gifts for staff leaving, getting married, etc.
- there were a number of invoices for the purchase of gift cards
- it is unclear as to whether VAT has been correctly claimed as VAT invoices were not always attached to the documents provided for review.

Consultancy procurement

66. We have selected a sample of consultancy and general supplier payments and have been provided with some documentation. On reviewing this it was clear that the information is incomplete and inconsistent e.g. we did not receive actual contracts or tender documentation as we would have expected for some in the sample. We understand that a master file of contracts (contracts register) is not maintained, which would have facilitated this.

67. It was identified that BES awarded a contract to Schole Education Ltd to undertake project management work to convert Sandy Upper School to academy status for [REDACTED] plus VAT. Schole Education Ltd has a working relationship with the Barnfield Federation as a joint owner of Barnfield Schole Education Trust Ltd. The contract for the work specified the above sum to be paid in four instalments.

68. Barnfield’s financial regulations require:

- Under £2,500 – budget holders have discretion to decide whether or not to obtain quotations
- £2,500 to £10,000 – quotations are required

- above £10,000 – tendering policy must be followed

69. The awarding of the contract to Schole Education Ltd was not in accordance with Barnfield's financial regulations. [REDACTED] [REDACTED] obtained 3 quotes for general Project Management work and noted that Schole offered the most flexible service. Given the value of this contract it should have been subject to tendering processes. This situation raises concerns as to whether this contract represents value for money and whether it should have indeed been let. It is unknown how many other such contracts have been let.

70. As part of the review of procurement we identified some consultancy work undertaken for the College where costs had been assigned to BES, with costs split between College and BAT. The total amount is £26,164 and the details have been given to the Executive Director Group Finance. The Executive Director Group Finance is reviewing the appropriateness of allocations. It is unknown whether or not there are any further instances of this nature.

Financial position

71. An external firm has been engaged to produce the financial statements from management accounts prepared by the Executive Director Group Finance. The unaudited revenue surplus for 2012/13 is £400,000 with three academies making a surplus and two with small deficits. The audited 2011/12 statement of accounts has £985,000 cumulative useable reserves (£890,000 restricted general funds plus £95,000 unrestricted general funds) as at 31 August 2012. The financial position for the academies is sound.

72. The academy trusts did not submit 2013/14 Budget Forecast Returns to the EFA by the 31 July 2013 deadline. This is a breach of the Academies Financial Handbook. We understand that a consolidated budget has subsequently been submitted in November 2013 but the three returns required remain outstanding as at January 2014.

73. However a draft budget presented to the Finance and General Purposes Committee in June 2013 indicated a breakeven position for 2013/14. This assumed that three new academies join the academy trust and a further academy joins Barnfield Incubator Trust (BIT). A revised budget was subsequently prepared and approved by the BAT Board on 8 October 2013. This removed converting schools as the date of conversion is uncertain. They will be treated as exceptions if and when they join the Federation. As a consequence of this the existing academies absorb a larger proportion of the BES charge. The budget for 2013/14 approved on 8 October 2013 shows an estimated £344,000 in year deficit with only one academy predicting a surplus. A significant contributory factor is the shared service recharge of £3,779,000 or 17% of the academies' total income.

74. The recent review of BES charges by the Executive Director Group Finance resulted in a revised budget being prepared which was submitted to the BAT Board meeting of 18 December 2013. This indicates an estimated £88,000 in year deficit with two of the academies predicting a surplus. The shared service recharge has been calculated as £3,587,000 or 16% of the academies total income.

75. Financial management arrangements will be strengthened in 2013/14 as the Executive Director Group Finance has introduced a revised reporting template for each academy which they have said will be in place by the end of November 2013. This now includes an analysis of BES charges and a breakdown of committed expenditure. This will be populated, issued and discussed with Principals monthly. It is planned that finance will meet with Principals termly to review the financial performance of their academy and identify any opportunities to reduce costs or enhance operational efficiencies. We understand that a three to five year business plan is to be prepared for each academy by the end of the academic year.

76. The funds for each of the three academy trusts are accounted for separately. However our review identified that funds relating to the three academy trusts are paid into one bank account. This could lead to inappropriate pooling of funds and internal lending which, although is now permitted within a trust, is not permitted between trusts and would be a breach of the Academies Financial Handbook. So, pooling within BAT is allowable but any pooling between BAT, Moorlands and the Skills Academy would not be allowable. We consider that the current operation is not good practice and would advocate that each legal entity should receive its funds into its own bank account.

77. Following on from issues raised in the 2011/12 external auditors' management letter relating to the endowment fund we requested bank accounts to ensure that funds were held in the appropriate accounts. We have confirmed that as at 29 October 2013 £900,000 plus interest is held in the BAT endowment fund account with £3,100,000 plus interest remaining in the BEPT account. £2,200,000 from the BEPT account may be used to fund the new build of Moorlands.

Possible Duplicate Funding of Learners

78. Students attending Barnfield South and West 6th form have undertaken short courses at the College prior or after the school term starting / ending. The short courses have been added to the College ILR data, increasing the College's success rates and funding. In addition some of the Colleges' course start / end dates overlapped with the school start / end dates. This is a breach of funding guidance, which states at paragraph 62:

- "The EFA will not fund further education (FE) providers directly for learners who are enrolled full time in a school and who wish to follow part of their programme at a FE provider during school hours. In such circumstances, whatever the age of the

learner, this provision should be treated as collaborative or link provision, and the school is expected to meet the costs of this provision”

79. When this breach was raised with the College, they decided to take advice from their legal advisors on whether they could claim for these students through the College. Their legal advice confirmed that the academies learners could not be funded on the College roll. As a result of this advice it was agreed that the College would assess the level of funding over claimed and the impact on success rates.

80. In view of this the College have agreed a refund of £18,144.97 with the EFA. Impact on success rates was minimal (reductions of 0.01% for all ages for very short courses; 0.04% for all ages and all course durations; 0.06% for 16-18 all course durations).

81. During the review we also had concerns that the College were potentially attempting to manipulate success rates by:

- requiring learners to undertake short courses in advance of the learners’ full time course;
- breaking down Level 2 and 3 courses therefore splitting two year courses over three years (nesting of qualifications); and
- terminating learners’ enrolment within their first six weeks if they did not believe they would be successful in their chosen qualification.

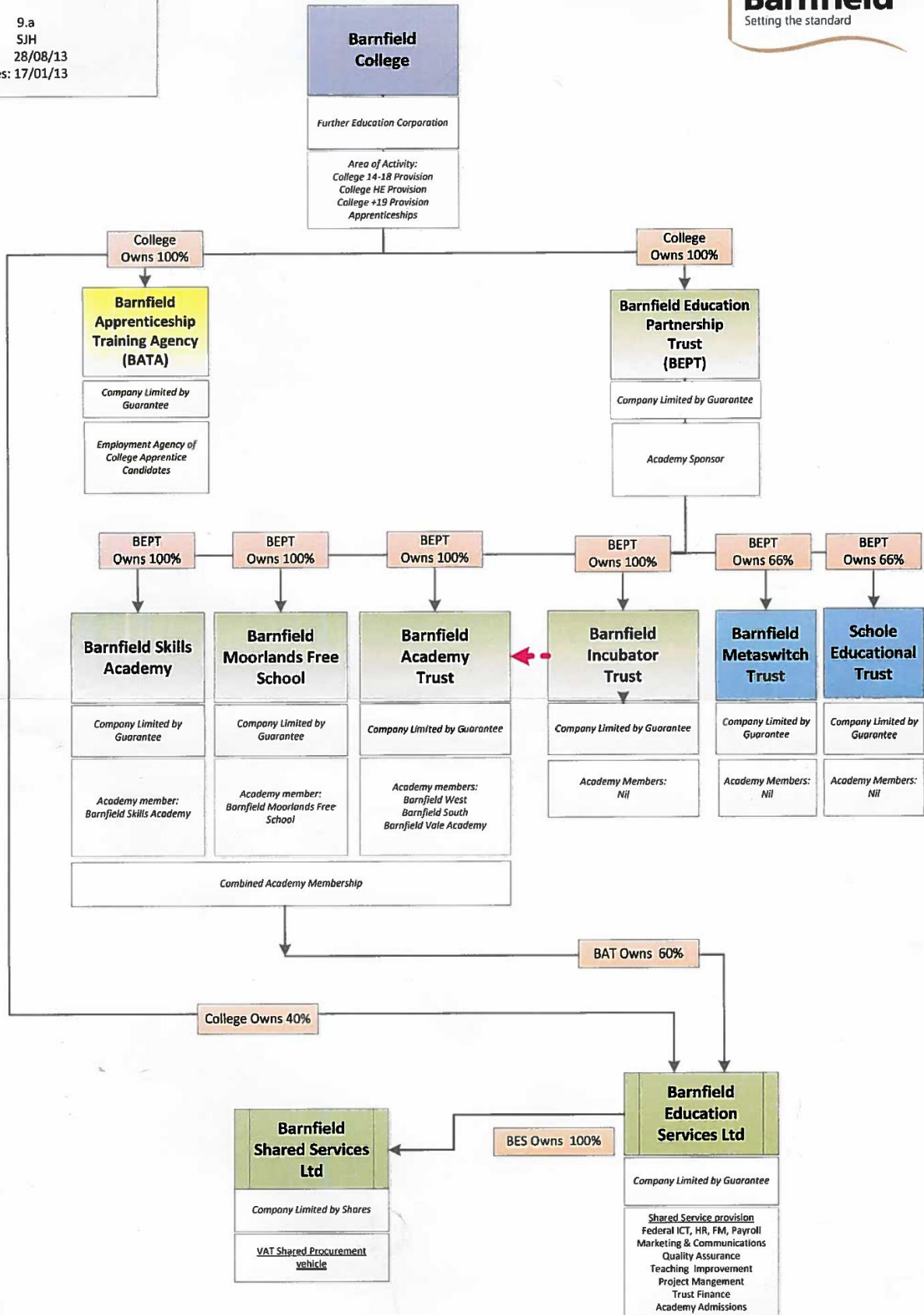
82. Whilst EFA do not consider the above were necessarily technical breaches of the funding guidance the issues will be raised with Ofsted for clarification.

83. We also understand that the Federation were considering requiring College learners to undertake an ‘A’ level at one of the academies. This did not happen as it would have been a breach of the funding regulations. However EFA will undertake an analysis of academy students to ensure there are no duplicate students across the Federation.

84. A further issue was identified in relation to the College claiming funding for the Federation’s own staff taking short courses. As this funding was from SFA the EFA have written to them to alert them to the issue. The SFA have undertaken a review and currently estimate that a total of £350k is to be repaid to the SFA, of which £40,000 relates to staff training courses.

Annex A: Federal Structure

Barnfield Federal Structure
 Version: 9.a
 Author: SJH
 Date: 28/08/13
 Supersedes: 17/01/13





Education
Funding
Agency

© Crown copyright 2014

You may re-use this document/publication (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence v2.0. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/version/2 or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at www.education.gov.uk/contactus.

This document is available for download at <http://www.education.gov.uk/aboutdfe/executiveagencies/efa/efafundingfinance/b00212647/external-assurance/academiesfraud/investigation-reports>