



Education  
Funding  
Agency

# **Review of financial management and governance at Westfield Academy**

**August 2014**

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## Executive summary

The Education Funding Agency (EFA) received allegations during January 2014 and March 2014 regarding aspects of financial management and governance at Westfield Academy, Hertfordshire. These allegations related to appointments to senior positions, inappropriate use of pupil premium funding, conflicts of interest in the award of contracts and the payments of a service agreement.

In response to the allegations, the EFA's Risk Analysis Division (RAD) visited the academy in June 2014 to conduct a review of financial management and governance. The review found some weaknesses in financial management and governance processes at the academy. However, the review did not find major concerns in respect of any of the allegations.

The academy will be required to submit an action plan that responds to the recommendations outlined in this report and set out how they will address the weaknesses identified in the review. The EFA will monitor this action plan.

## Introduction

1. The EFA received correspondence from three separate complainants during January 2014 and March 2014 regarding various aspects of financial management and governance at Westfield Academy, Hertfordshire. The specific allegations were that:
  - i. Having departed the school in December 2012, the former principal was reappointed to a newly created post of CEO and this appointment was made without the post being openly advertised. It was also alleged that that the CEO has a personal friendship, as well as past business dealings, with the Chair of Governors (CoG), and that this relationship was exploited to her benefit in securing the role.
  - ii. After the CEO left the school in December 2012 the Vice-Principal acted up as Principal, and was later permanently promoted to this position without the position being publicly advertised.
  - iii. A teacher was paid ██████████ to leave their employment after a period of 18 month's suspension on full pay.
  - iv. Pupil premium may not have been spent in the way described on the school's website.
  - v. A conflict of interest may have occurred with preferential use of a taxi firm connected to the CoG.

- vi. A conflict of interest may have occurred when procuring the services of consultants.
  - vii. There may be a conflict between duties of the business manager as the trust secretary and a school governor.
4. RAD was commissioned by the EFA Deputy Director for Academies South to undertake a review of the allegations. The scope of the review was limited to allegations pertaining to the period following Westfield's conversion to academy status (1 September 2013).
  5. RAD visited Westfield Academy for four days commencing 9 June 2014.

## Background

6. Westfield Academy, formerly the maintained school Westfield Community Technical College, is based in Watford, Hertfordshire and converted to academy status on 1 September 2013.
7. Prior to conversion the school was in a deficit position and had been for a number of years. The school successfully reduced the deficit year on year and converted with a surplus of £448k.
8. The school underwent its latest Ofsted inspection in November 2012 and was given a rating of 'good' - having previously been rated as 'satisfactory'.
9. The academy is part of a rebuild Priority Schools Building Programme.
10. The academy is planning to expand to Multi Academy Trust (MAT) status, however the EFA have not yet received a formal request for this change.

## Findings

### Governance Overview of Westfield Academy

11. A representation of the full governance structure of Westfield Academy is at Annex A.
12. We reviewed the governance arrangements of the academy during our visit. The academy operates under a three tier governance structure which is more common to a MAT despite Westfield being a single academy trust. Westfield's three tier structure comprises:
  - (i) The three members of the trust who are the signatories to the Memorandum of Incorporation.
  - (ii) The Board of Directors (BoD) which comprises of the three members above and additionally, the Acting Headteacher /Accounting Officer of the academy trust (AT). All members of the BoD are registered as directors of the academy trust with Companies House, and this board functions as the de-facto governing body of the Academy having ultimate decision making power.
  - (iii) The BoD delegates certain responsibilities to the Board of Governors (BoG). This board is analogous to a local governing body or an advisory body common in MATs. The BoG is composed of the four directors above, as well as 2 staff, 2 parent governors and 2 other governors, none of which are registered with Companies House as directors of the AT. Two committees report into the BoG: the Finance and Resources Committee (FRC); and the Achievement and Attainment Committee (AAC).
13. Although the BoD is ultimately accountable for the direction and management of the AT, there is a scheme of delegation which sets out certain responsibilities that are delegated down to the BoG. These delegated responsibilities include: budget approval; virements over £20k; authorising contracts and purchases over £20k; key personnel appointments; appointing and reviewing the work of external auditors; monitoring a register of business interests for all governors and senior staff; and informing EFA where it is necessary in line with Academies Financial Handbook (AFH) requirements.
14. We discussed the rationale for the governance structure with the AO, CoG and Strategic Business Manager (SBM) on 9 July. The rationale presented was that the BoD's remit is to make decisions only regarding the strategic direction of the academy not day to day matters, and that a small group of directors is preferred to allow for rapid decision making.
15. The BoG remit covers all operational aspects of finance, education and management at the academy. There does not appear to be a written Terms of Reference for this board as none could be produced when requested. Review of minutes of the BoD showed that it has only met on two occasions since conversion; on 8 November 2013 and 5 December 2013. We noted from our

review that, while the minutes did present a summary of the discussion, they lacked detail on the nature of the discussion taken in order to reach decisions.

## Creation and recruitment of the CEO and Acting Head Positions

16. The circumstances surrounding the creation, advertising and recruitment of the CEO position were discussed with the AO, CoG and the Strategic Business Manager (SBM), on 9 June. It was explained that the initial proposal to create the role was discussed only at the BoD, with the BoG not being aware until after the appointment was made. The rationale given for the role was that it was deemed necessary by the BoD to support development of the MAT, hence why it was discussed only by the BoD. We reviewed minutes of the BoG which confirm that this board was not informed of the proposal until after the appointment had been made on 11 February 2014.
17. The AFH (section 1.5 refers) sets out that it is the personal responsibility of the academy's accounting officer to ensure value for money in the academy's activities. With regard to contracts of employment, section 2.6.8 of the AFH states that salaries should be appropriate to the individual's skills and experience and rates paid in the wider market.
18. We reviewed minutes of the BoD to clarify to what degree creation of this post had been discussed and challenged and what consideration has been given to value for money. The minutes show that creation of the post was approved on 5 December 2013 but there is no evidence that the need for the post was discussed or challenged. No business case was evident despite the post representing a significant annual cost of approximately £145k to the academy.
19. It was established that the post was advertised on the academy's website on 8 November 2013; with a letter of interest received from the sole applicant on 15 November (the closing date for applications was 16 November). The candidate was interviewed on 18 November and was appointed the following day on 19 November by a panel comprising the CoG, the SBM, a member / director and an HR representative.
20. The candidate was initially appointed as CEO designate (with a view to becoming CEO following successful conversion to MAT status) but would, in the interim, be the AT's Director of Schools Improvement. Following the role becoming operational on 1 January 2014, the newly appointed CEO designate subsequently tendered their resignation on 25 February 2014 and left the position on 21 April 2014.
21. RAD reviewed the recruitment file to understand details around the recruitment process and discussed this with the CoG, AO and SBM. The file included a job description produced prior to advertisement of the role, a person specification and details of the notes taken by the panel during the interview process. The file includes documents to show that references were sought from 2 previous employers as well as the standard DBS checks being undertaken.

22. The timeline and scope of the recruitment process was questioned by RAD and challenged on the basis of not ensuring a genuinely open recruitment process proportionate to the associated costs of the role. It was acknowledged that the candidate had, on the advice of the CoG, effectively been 'headhunted' to the post given her past experience of working at the academy, knowledge of the school and understanding of surrounding schools.
23. The appointment of the Acting Head occurred before conversion to academy status and thus was outside the scope of this review. We discussed with the CoG the academy's plans for filling this position permanently and it was set out that this would be done through a fully open process. Minutes of the BoG meetings confirm this intention. Minutes of the March 2014 meeting record that a recruitment company has been appointed to manage the recruitment and an intention to advertise the role in the Times Educational Supplement is set out.

### **Suspension and severance payment – former teacher**

24. During the visit RAD reviewed the processes around the alleged payment of a severance payment of [REDACTED] to a former teacher.
25. Section 2.4.13 of the AFH 2013 sets out the circumstances under which academy trusts may pay special severance payments. The AFH sets out that if an academy trust is considering making a staff severance payment above the statutory or contractual entitlements, it must consider the following issues:
  - (i) Whether such a payment is justified, based on a legal assessment of the chances of the academy trust successfully defending the case at tribunal.
  - (ii) If the settlement is justified, the trust should consider the level of settlement. This must be less than the legal assessment of what the relevant body (e.g. an Employment Tribunal) is likely to award in the circumstances.
  - (iii) Where the non-contractual element of any such payment is £50k or more, prior approval from HM Treasury, via EFA, must be sought.
26. A breakdown of the special payment was presented to RAD. The breakdown showed a total payment of [REDACTED] was made to the employee, of this [REDACTED] was contractual and [REDACTED] was non-contractual. As the non-contractual element was within the £50k threshold, HM Treasury approval was not required as academies are entitled to self-approve such transactions.
27. RAD assessed the legal advice taken by the academy prior to approval to make the payment. The advice received was that settlement would be less than a potential award following an employment tribunal. The solicitor had referred to the AFH provisions throughout the correspondence, especially the £50,000 limit.



28. The RAD review therefore found the academy complied with the AFH in agreeing the payments. However, we did note that approval for the payment was given by the BoD, dated 11 February 2014, outside any minuted meeting. The payment was not discussed by the BoG despite the Scheme of Delegation delegating such matters to this board. The reason given was that it was such a long standing item, of at least 18 months, that all the members of BoG were fully aware of the facts and the settlement.

## Review of taxi companies used

29. RAD discussed the allegation around preferential use of a connected taxi firm with the AO, CoG and SBM, and undertook some transactional testing. The allegation was that that the academy is preferentially using a taxi company of which the son of the CoG is a driver.
30. Section 2.5 of the AFH sets out the requirements to ensure that no organisation gains from their position by receiving payment under terms that are preferential. The Accounts Direction sets out the disclosure requirements to ensure that any transactions with related parties are reported in the academy's financial statements.
31. On assessment of the academy's Register of Contracts it was confirmed that no contract exists with this, or any other, taxi company. We met with the academy's Finance Manger to undertake some transactional testing. An extract from the academy's ledger from the 'travel' cost centre showed that year to date expenditure on taxis had been split between three firms (anonymised results summarised below with Firm 2 being the one in which the son of the CoG is a driver). The ledger extract shows that, of the 3 firms, the connected taxi company had received business totalling £715.50, less than half that of Firm 3 but more than Firm 1 showing that over the course of the year the connected company was not the preferred provider. However, there was some suggestion that Firm 2 had, since September, increased its share of business. On discussion with the academy it was stated that Firm 2 offers the best service in terms of price and punctuality.

Name of Company	2013/14 Year to Date Spend
Firm 1	£14.40
Firm 2	£715.50
Firm 3	£1,739.60

## Review of consultants used

32. The allegation that the academy had not applied fair and open competition when appointing consultants, and that conflicts of interest in these appointments may have occurred, was discussed with the AO, CoG and SBM. RAD also reviewed a summary report submitted by the academy's finance manager from the ledger, showing balances against the consultancy account code as well as the supporting invoices.

33. The total spend on consultancy to date during 2013 / 14 is set out below and has been anonymised:

<b>Consultant</b>	<b>Details of Service</b>	<b>2013/14 Year to Date Spend</b>
Consultant 1	Business improvement	£2,500
Consultant 2	Interim head of maths – vacant post	£31,950
Consultant 3	Mentoring and staff training	£29,969

34. In respect of Consultant 1, RAD noted that this individual has a close family connection with the candidate that was appointed to the CEO role. The supporting invoice demonstrated that these services were provided before the recruitment process for the CEO role had commenced. This, combined with the relatively low value of the services provided, suggests a low risk of any material conflict of interest.
35. Consultant 2 was appointed to fill the position of interim Head of Maths until the role is filled on a permanent basis. RAD asked what other means of recruitment had been considered and it was explained that this route was chosen as a means of quickly filling a key leadership position. Given that the individual does not have any connection to the academy (other than his role as an interim teacher) this appointment is not considered to be a conflict of interest.
36. RAD also queried the procurement of the services of Consultant 3. On discussion with the AO it was established that there is a contract in place for Consultant 3 to provide training for the senior leadership team and other academy staff. The contract was signed by both parties on 24 April 2013 and the value of this contract is £35,100. Examination of the ledger showed that £29,969 had been paid to date in respect of this contract.
37. RAD discussed the approach to procurement of this contact and it was confirmed that no formal tendering process had been undertaken. This is despite guidance within the academy's own finance manual stating that contacts exceeding £20,000 should undergo a formal tendering process. Section 2.5 of the AFH states that academies must have in place a competitive tendering policy and that this policy is applied. Therefore, although Westfield does have a competitive tendering policy in place, it is unclear whether it is always followed.
38. In addition to the assessments relating to the three consultant above, RAD also undertook a review of the academy's Register of Contracts and cross checked this with Companies House records to understand whether any of the contracts in place are with connected companies and therefore of risk of representing a conflict of interest. A sample of 38 of the 50 suppliers were looked at, and no potential conflicts of interest found.

## Review of Pupil Premium

39. The Academy in 2013/14 has budgeted to receive £264,000 pupil premium from EFA and the LA. As at the end of April 2014 the Academy had spent £130,052 but has budgeted to spend a total of £280,000 by the end of August 2014. The main areas of expenditure are: Saturday morning tutorials (£40,000); 1 to 1 teaching assistants (£53,000); the use of an education support service provider (£82,000), who offers pastoral care and support for disruptive pupils; and an isolation room (£16,000).
  
40. During discussions with the Acting Head the lack of spend to date was raised. The Acting Head confirmed that there were plans in place for the remainder of the school year with expenditure to be focused on areas to help improve disadvantaged pupil performance. Academic performance is being monitored by individual pupil, with a brief progress report going to BoG as part of the Principal's report.
  
41. The RAD review found no evidence to suggest that pupil premium had not been used in accordance with DfE guidelines. It was however recommended that a more detailed report of pupil premium expenditure and achievement should be presented to BoG.

## Recommendations

42. In reference to the allegations there was no evidence to suggest major concerns. However, the review did highlight some weaknesses and the following recommendations are made to address these weaknesses.

### *Recommendation 1*

It is recommended that the 3 tier governance structure of Westfield Academy is reviewed to assess whether this structure is still appropriate in the context of Westfield's continuing status as a single academy trust.

### *Recommendation 2*

The BoD is the ultimate decision making body of the academy but meetings do not occur regularly and are not supported with appropriately detailed minutes, agendas or supporting papers. It is recommended that meetings of the BoD occur at least termly and are administrated by an appropriately qualified clerk to ensure that meetings are scheduled and recorded.

### *Recommendation 3*

The AFH (section 1.5 refers) sets out that it is the personal responsibility of the academy's accounting officer to ensure value for money in the academy's activities. With regard to contracts of employment, section 2.6.8 of the AFH states that salaries should be appropriate to the individual's skills and experience and rates paid in the wider market. It is recommended that the academy is better able to demonstrate due regard for these value for money considerations in the creation of any future senior leadership positions. This should include the submission of a business case for consideration by the appropriate Board.

### *Recommendation 4*

Section 2.5 of the AFH sets out the requirements to ensure that no organisation gains from their position by receiving payment under terms that are preferential. The Accounts Direction sets out the disclosure requirements to ensure that any transactions with related parties are reported in the academy's financial statements. It is recommended that the academy liaises with their external auditors to ensure that any related party transactions, including those with taxi firms, are reported in accordance with the Accounts Direction.

### *Recommendation 5*

Section 2.5 of the AFH states that academy should have in place a competitive tendering policy and that this policy is applied. Although Westfield has in place a competitive tendering policy, it is unclear whether it has always been followed, with some purchases going to preferred suppliers. It is recommended that if there are preferred suppliers, or single tenders, the Academy must be able to demonstrate that the relevant criteria are met and decisions can be fully supported.

### *Recommendation 6*

It is recommended that a more detailed report of expenditure and achievement with regard to pupil premium should be presented to BoG.

## Annex 1 Governance Structure – Westfield Academy

Members - three Members

Board of Directors - As the Members, plus the Acting Principal

Board of Governors - as the Board of Directors, plus two Staff Governors, two Parent Governors and the Company Secretary. There are two vacancies for further governors

Finance and Resources Committee  
Three member governors, one parent governor, one staff governor, one further governor and the Acting Principal

Achievement and Attainment Committee  
Three member governors, one staff governor, one further governor, one staff governor and the Acting Principal