



Education  
Funding  
Agency

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## **Dear Accounting Officer**

From time to time I write specifically to accounting officers about matters concerned with our duties to manage the taxpayers' money that is entrusted to our care with due diligence and a clear focus on value for money. These are matters for which I am accountable to the Public Accounts Committee of Parliament and for which every academy trust accounting officer also has a personal responsibility, in addition to their duties and responsibilities to the academy trust itself.

Your responsibilities as an accounting officer are described in the Academies Financial Handbook and these responsibilities cannot be delegated. You should make sure that you are familiar with the handbook's requirements when it comes to governance, financial control and audit.

I want in this letter to draw to your attention some important points that have arisen from the EFA's recent work and from recent hearings of the Public Accounts Committee. Finally, I wish to ensure you are aware of the online training EFA is offering to support you in understanding and following the requirements of the financial framework.

## **Fraud and irregularity**

Accountability for academies is substantially stronger and tougher than for maintained schools. The elements of this framework are:

- **independent audit** with a specific focus on whether public money was used for the purposes intended – unlike for maintained schools where local authorities will only carry out limited internal audit work on a rolling programme
- **published accounts** – for which there is no equivalent in maintained schools
- **academy trustees** who have clear legal duties to safeguard academy funds, underpinned by your personal responsibility as **accounting officer**
- **EFA investigate** swiftly if fraud or irregularity is suspected and we automatically refer any cases of fraud to the police for them to assess whether a prosecution should be brought
- **investigation reports are published**, so others can learn from mistakes – making it less likely that they will be repeated

**Fraud or irregularity in academies remain rare** but the transparency of the system we operate means that there can be an intense media focus on published investigations. You can read our publishing policy and see recent [investigation reports](#) and [financial management and governance reviews](#) on the GOV.UK website. You might find it useful to set up an [automatic email alert](#) so you are aware when we publish new cases and information. You can opt for immediate, daily or weekly updates.

I have drawn up a list of questions, based on the experience of our investigation reports, which I recommend that you and trustees consider to minimise the risk of fraud or irregularity. I attach the list at Annex A.

### **Transactions with connected parties**

There will be circumstances when your trust may wish to buy goods or services from people who are connected to it, such as members, trustees or employees, and individuals or organisations connected to them. However before making a decision you should consider your responsibilities, as accounting officer, for regularity, propriety and value for money, and be satisfied that any spending can be defended on these grounds. You should also be aware of restrictions the Academies Financial Handbook places on these transactions. From November 2013 trusts have not been permitted to enter into new transactions with connected parties unless they can be satisfied that those transactions are “at cost” ie the connected party is not making any profit from their relationship with the trust.

There are some questions at Annex B that you should consider. Your trustees have statutory duties, as company directors, to avoid conflicts of interest and so I recommend that you share these questions with them.

As public bodies, academies must also be transparent about their spending. You must ensure that transactions of this nature are properly disclosed in the trust’s annual accounts and that sufficient information is provided to demonstrate that the trust has been even-handed in its affairs. Every year, we publish information in the [Academies Accounts Direction](#) about disclosure requirements and your auditors should be able to ensure that this is done correctly.

**Whilst the number of inappropriate connected party transactions is small, they do considerable damage to the trusts concerned and to the wider sector.** Parliament and the media have been particularly interested in transactions of this type; and at the recent hearing of the Public Accounts Committee, committee members asked the Department for Education to consider whether further restrictions are needed. My staff have been reviewing all such transactions from the last set of academy financial statements and we will be publishing an overview report later this term, as well as considering our response to the committee’s views.

### **Special payments**

From time to time, transactions by public bodies may fall outside their usual planned range of activity, and may exceed statutory and contractual obligations. The Treasury refers to these transactions as special payments and they are subject to greater control than other

payments. You will find information about them in section 2.4 of the 2013 [Academies Financial Handbook](#). They include staff severance payments, compensation payments and ex-gratia payments.

If your trust intends to make a staff severance payment or a compensation payment, with a non-statutory or non-contractual element of **£50,000 or more** then you must obtain written consent in advance from the EFA. We have published [guidance on severance payments](#). Under your funding agreement, ex-gratia payments (other voluntary payments that the trust is not contractually, legally or administratively obliged to make) **of any amount** require prior EFA consent. Regardless of the amount, such payments should only be made where justified, after careful appraisal of the facts, taking legal advice where relevant and ensuring that value for money will be achieved.

Whilst there are occasions when confidentiality will be important in any settlements you reach with staff, any confidentiality clauses must allow current, or former, members of staff to raise concerns with the appropriate authorities.

There have been occasions where payments in excess of £50,000 have been made without prior consent. You should be aware that we are likely to require trusts to reimburse the EFA in cases where consent has not been obtained and retrospective consent is not provided.

### **Online training**

To support you in understanding the latest changes to the financial accountability framework, and completing your financial returns, we are launching a series of [online narrated presentations and interactive webinars](#). You can [register now and submit questions](#) for webinars taking place in May, June and July and I would encourage you to take part. You can find more information on the financial returns academy trusts need to complete in our [online guide](#).

I would be grateful if you would share this letter with your trustees.

Yours sincerely



**Peter Lauener**  
Chief Executive, Education Funding Agency

## Annex A: Fraud and irregularity

- **Authority** – Do you have a written scheme of delegation, approved by the trustees, so that individuals are clear about their levels of financial authority?
- **Purchasing** – Are you confident you are procuring all goods and services in an open, competitive and transparent way?
- **Payroll** – Do you have robust controls for payroll including checks that payments are for the right amounts and paid to bona fide employees?
- **Oversight** – Do you ensure that financial reports are produced that fairly reflect the activity at the trust, that they are properly reconciled at least monthly and are shared regularly with the trustees for formal review?
- **Cash management** – Are your bank accounts reconciled at least monthly?
- **Assets** – Is all of the trust’s property under proper control and measures in place to prevent loss or misuse?
- **Segregation** – Do you have appropriate separation of responsibility in your finance team? And are you providing proper management support to your finance staff to help them to operate in a role where they are well-placed to provide you with a “first line of defence” in terms of upholding propriety, regularity and value for money in the use of public funds?
- **Records** – Do you have robust procedures for recording, documenting, evidencing and monitoring information and especially the reasons for entering into major spending commitments?
- **Scrutiny and audit** – Do you have properly constituted arrangements for internal review (such as a responsible officer or internal auditor) to give you and trustees a further safeguard that the trust’s financial systems and controls are operating effectively and efficiently? Does the trust debate, and agree how to act upon, recommendations arising both from these internal reviews and from the work of its external auditors?
- **Risk** – Do you have an effective process for identifying and responding to the major risks that the trust faces?

## Annex B: Connected parties

- **Declarations** – Have all members, trustees and senior employees completed the register of business interests?
- **Procurement process** – Has a proper and transparent procurement or selection process been carried out, and documented, that has sought competition and applied pre-determined and objective criteria for selection?
- **Conflict of interest** – Has any person identified as a party connected to the procurement been excluded from the selection process, and can this be evidenced?
- **Not for profit requirements** – Where the outcome of the procurement process has determined that a contract for goods or services should be awarded to one of the connected parties described in section 2.6 of the 2013 Academies Financial Handbook, have you obtained satisfactory assurance from the supplier that they are providing the goods or services ‘at cost’?
- **Avoidance of gain** – Overall are you confident that members, trustees and staff are not gaining any private or personal commercial or financial benefit as a result of their position, other than under their contract of employment?
- **Consultancy** – Are you confident that your academy trust is not being exploited for personal or private benefit and that any fees for consultancy work by employees are, where appropriate, being properly remitted to the academy trust rather than to the individuals?