



Education
Funding
Agency

The Education Fellowship Trust

**Review of financial management and
governance**

April 2014

Contents

Executive Summary	3
Background to the Trust	5
Findings	6
Governance	6
Risk and Financial Control Framework	7
Purchasing	8
Recruitment	9
Trustee and Staff Expenses	10
Irregular / Improper Expenditure	11
Credit Cards	11
Conclusions	12
Next Steps	13
Annex 1	14
Credit card expenditure, staff expenses and purchasing	14
Annex 2	16
Recommendations	16

Executive Summary

1. This report sets out the findings from our fact finding review into the issues identified during an Education Funding Agency (EFA) review of The Education Fellowship (TEF) Trust's financial statements for the period ended 31 August 2013. The review of the financial statements highlighted a number of highly unusual and potentially significant issues, including:

- The chairman of the Trust was paid more than £90k in respect of his role as chairman, but apparently not as a trustee;
- The [REDACTED] received £28k in respect of rent and insurance for a property;
- There are related party transactions with companies in which the chairman has a controlling interest; and
- Two governors claimed £45k in expenses and other supplies and services.

2. The following scope of our visit was designed to provide assurance over these issues and also consider the wider governance arrangements in order to:

- Gain an understanding of the structure of the Trust;
- Consider the rationale for payment of the chairman;
- Review procurement processes;
- Review governor and staff expense claims;
- Consider related party transactions; and
- Test compliance with mandatory financial management and governance requirements.

3. We found an absence of oversight by the board of trustees and control at the Trust level. The Board of trustees is responsible for the proper stewardship of the Trust's funds and for ensuring economy, efficiency and effectiveness in their use. It must also ensure that it takes into account any and all relevant guidance on accountability or propriety. The Education Fellowship Trust as a Multi-Academy Trust (MAT) has been operating since October 2012. In this time it would be expected that the Trust should have created an internal control framework. However the components of a robust management and control framework were lacking; including no scheme of delegation, no formal policies and procedures and limited internal audit/responsible officer work undertaken.

4. We also identified a number of significant breaches of the Companies Act 2006, Charity Commission regulations and the Academies Financial Handbook (AFH). In particular the following are the more significant issues that have arisen as part of this review:

- TEF has not complied with its Articles of Association. In particular the chairman being an employee (Article 82);
- TEF has breached its Article 6.8(f) which requires that no more than 50% of the Board may receive benefit from the Trust. This is a Charity Commission requirement;
- TEF has not complied with the AFH. For example, it has not reported an identified fraud to the EFA, has not created an adequate system of internal control or created a separate audit committee;
- TEF has not developed a suite of policies and associated procedures in order to provide an appropriate internal control framework;
- TEF has appointed family members of trustees and senior members of staff at Head Office without any due process;
- TEF has not complied with some of the policies it has in place; for example, its expenses policy;
- TEF has not been able to demonstrate openness and transparency in accordance with the Nolan standards of public life;
- TEF is unable to demonstrate it is obtaining value for money; and
- TEF has incurred some expenditure which the EFA considers to be irregular.

5. TEF re-organised itself with effect from 1 September 2013. This restructure resulted in the then Chief Executive Officer (CEO) stepping down and the deputy CEO taking on the role. It was noted that the MAT has only 5 trustees. For a growing multi-academy trust this places a high workload on only a small number of trustees.

6. The current CEO is committed to improving the performance of the academies within the Trust and displayed a high level of commitment when talking about improving the life chances of pupils within the Trust. He stressed that he is committed to putting in place appropriate governance structures and controls and felt that the review will act as a catalyst for considerable change within the Trust.

Background to the Trust

7. The Education Schools Trust was incorporated on 15 November 2011. It was sponsored by The Education Fellowship Limited, a private profit making company with shareholders.
8. In June 2012, The Education Schools Trust Board agreed to accept the transfer of staff from The Education Fellowship Limited. The Education Fellowship Limited has since been in effect a dormant company.
9. In September 2012 The Education Schools Trust name was changed to The Education Fellowship Trust (TEF). The CEO and Deputy CEO were subsequently elected to The Education Fellowship Board by the existing trustees. The CEO was also appointed to the position of chairman with effect from the closure of the meeting on 28 September 2012.
10. With effect from 31 August 2013 the chairman stepped down as CEO to be replaced by the deputy CEO. However the former CEO has remained in a salaried post undertaking the role of chairman of the TEF Development Board which reports to the TEF Executive Director Board.
11. TEF Trust currently comprises of 12 academies, the first of which converted to be part of the Trust on 1 October 2012.

Findings

Governance

12. Our review of governance arrangements within the Trust has identified some instances of substantive non-compliance with the Articles of Association (Articles), concerns over the way appointments have been made to the Board, the committee structure and a lack of information available to the academies within the MAT for the services to be provided as part of the 'top-slice'.

13. Paragraph 82 of the Articles of TEF Trust state 'A Director who is employed by the Company shall not be eligible for election as the Chairman or Vice-Chairman'. This article was breached from 28 September 2012 with the appointment of the CEO to be also the chairman. This situation is continuing even though the chairman is no longer the CEO, but has another salaried executive role.

14. The Articles allow for the following categories of Director; Sponsor, Academy, CEO, Additional and Parent. When the then deputy CEO was appointed to the Board in September 2012, it is unclear under which category he was elected, as the minutes do not record the category used. Therefore it appears the election of the deputy CEO to the Board was in breach of the Articles. This situation was resolved in September 2013 with the appointment of the deputy CEO to CEO.

15. Paragraph 57 of the Articles state 'The CEO shall be a Director for as long as he remains in office as such'. In September 2013 when the Trust appointed the current CEO to the post, the former CEO's office as director did not terminate with his cessation as CEO. There is no record of his re-election as a director under a different category of director.

16. At the Board meeting on 4 July 2013 it was resolved to remunerate one of their members for undertaking professional architectural services. As the Board consists of five trustees, two of which are salaried, this decision meant that the Board would then have been in breach of Article 6.8 (f) which requires the majority of the Board to have not received benefit, which is also a requirement of the Charity Commission. The AFH also requires the Trust to ensure that no trustee, or related individual, gains from their position as a trustee.

17. The Trust has employed the [REDACTED] of one of the non-executive trustees on a temporary contract. Under Articles 6.7 to 6.9 this constitutes this trustee as having received benefit from the Trust. As the Board consists of 5 trustees, 2 of which are salaried, this appointment means that the Board is in breach of Article 6.8(f) which requires the majority of the Board to have not received benefit from the Trust.

18. The Trust has a turnover in excess of £10m. However it does not have a separate audit committee in accordance with the requirements of the AFH but operates a combined Finance and Audit Committee.

19. The Trust's Finance and Audit Committee comprises of one trustee, the CEO, the finance director and one further executive trustee. As this is a sub-committee of the Board, it should only comprise of Board members and the appropriate members of staff should only be in attendance.

20. The Trust's Finance and Audit Committee has only met once since September 2012. AFH 2.1.3 requires that the appropriate committees must meet at least termly.

21. The annual Declarations of Interest for trustees (AFH 2.5.2) and senior staff were not available at the time of the visit. It was noted that the current agendas for meetings include an item for declarations to be made for each meeting.

22. The audited accounts for the year ended 31 August 2013 do not disclose the engagement of the [REDACTED] and [REDACTED] in the notes to the accounts, as related party transactions.

23. The Trust has to date not held an Annual General Meeting for the 2013/14 financial year.

24. The Trust has a 5% 'top-slice' that it applies to the academies within the Trust. However there are no formal Service Level Agreements in place, to enable each of the academies to identify what services they are receiving for the 'top-slice'.

25. Services which we would have expected to be included in the 5% 'top-slice' such as payroll and HR were being procured centrally, but funded separately from each academy budget. The implication is that the cost of shared services is far greater than the 5% 'top-slice'.

26. The Trust currently operates with a very decentralised approach. There has been minimal advantage taken from centralising various functions across the academies in order to obtain economies of scale.

Risk and Financial Control Framework

27. Our review of the risk management and financial control framework found a fundamental lack of an internal control framework of policies and the associated procedures.

28. The AFH paragraph 2.1.2 requires that the principal or CEO is appointed as the Accounting Officer. The Accounting Officer is personally responsible to Parliament, and to the accounting officer of the EFA for the resources under their control, and must be able to assure Parliament and the public of high standards of probity in the management

of public funds. While the CEO has assumed this responsibility it has not been formally ratified by the Board.

29. There is not a Trust-level set of financial regulations and associated procedures.

30. There is not a Trust-level Scheme of Delegation.

31. The management accounts submitted to the Audit and Finance Committee in December 2013 only comprised of income and expenditure accounts for each of the academies. There was not a consolidated Trust account, key performance indicators (KPIs), Trust-level revised out-turn, cashflow forecast, capital account or commentary.

32. There is an absence of Trust-level policies and procedures, such as but not limited to, recruitment, performance management and investments.

33. There is not a Trust-level risk management policy or associated risk register

34. The absence of policies and procedures, as mentioned above, presents a lack of a control environment for the Trust and could result in non-compliance of the requirements of other regulatory bodies. This could result in further inspections, for example, HM Revenue and Customs.

35. The AFH section 3.5 states that 'every Trust must have in place a process for independent checking of financial controls, systems, transactions and risks'. The internal audit/responsible officer work programme was being compiled at the time of the visit. Only minimal work had been undertaken to date, despite the Trust operating since October 2012.

36. In January 2014 one of the academies in the Trust suffered a fraud on their bank account in the region of £38,000. It was stated that this occurred because IT security protection software was not fully up to date, allowing a computer virus to access the academy's bank account and make a transfer. It was further stated that the computer security weakness has been addressed and appropriate HR action taken with the employee concerned and that the Trust expect to be fully reimbursed by the bank concerned. The Trust does not have a formal policy for dealing with fraud and this particular instance was not reported to the EFA as required by the AFH.

37. One of the non-executive trustees has been provided with a laptop for his use. No rationale could be provided for this. This is in breach of the AFH which states that trustees should not benefit from the use of public funds.

Purchasing

38. The Trust does not have an appropriate approved purchasing policy. The policy that is in use was originally compiled for an individual academy.

39. Our review of invoices paid identified that the purchasing policy in place was not being complied with. For example, contracts are being awarded without any market testing.

40. The Trust appointed the company of a [REDACTED] of the chairman to provide financial services support to the Trust. This appointment was approved by the Board. However there was no due process, by way of market testing, to ensure that best value was being obtained.

41. The Trust's current external auditors were appointed without any market testing.

42. The Trust entered in to a premises lease (£24,000 per annum plus insurance) for Head Office accommodation with the [REDACTED] (at the time also [REDACTED]). This was discussed and approved by the Board. There was evidence on file confirming that the lease rental was a fair market price from an estate agent. We believe that alternative accommodation was inspected. However there was no documented evidence provided to record the outcome of the inspections or the basis for the final decision to lease the current accommodation.

43. Attached as Appendix 1 is a list of detailed findings from a review of credit card payments, expenses and purchasing. This list contains all of the points noted during the review, some of which are not included in the main body of this report.

Recruitment

44. We found that a number of the appointed head office staff were family members of either trustees or senior members of staff. The current CEO informed us that in all of the following cases there had not been any competition or advertising of the posts. These include:

- A [REDACTED] was appointed to the position of Director of Communication at a salary of £70,000 per annum plus benefits. The appointment was minuted as confirmed by the Board;
- A [REDACTED] was appointed to provide administrative support on a temporary contract. The equivalent annual salary would have been £22,000. It was stated this was her first employment after leaving university; and
- The [REDACTED] was appointed to provide IT Support services at a salary of £27,000 per annum plus benefits.

45. On reviewing some of the HR files it was found:

- There were not always contracts of employment on file;
- A contract of employment had not been signed at all; and
- A temporary employee did not have a P45 or P46 (a P46 has subsequently been issued).

46. The HR file for the chairman, who was formerly the CEO does not contain:

- A contract of employment;
- A job description;
- A role description;
- Confirmation of what his new job role is; or
- Confirmation of the salary for the new role.

Trustee and Staff Expenses

47. The total value of trustee expenses declared in the 2012/13 Accounts was £45,332 for 2 trustees. We appreciate the importance of the CEO's and trustees' role in supporting and reviewing academies performance and the level of contact with individual academies this requires. The absence of an approved Trust policy including a regular review of the type and level of expenditure may be contributing to these costs being higher than they might be. For example, an examination of the expenses found that there were very high levels of private car usage, travel and subsistence and accommodation costs incurred for business travel. The CEO has exceeded 10,000 miles in the current financial year. We found no evidence that the Trust had considered whether this was best value for money or whether alternative arrangements, such as using lease cars, would be more cost effective and provide better value for money.

48. The Trust does not have an approved expenses policy for trustees and staff. The policy that is in use was originally compiled for an individual academy. This policy allows for 'moderate consumption' of alcohol. Using public funds to purchase alcohol is deemed to be an improper use of funds. Our review of expense claims identified that items were being reimbursed in excess of the policy that had been adopted by the executive; for example, hotels and meals.

49. It was found that some of the individual academies were paying for business use vehicle insurance for employees using their private cars for business activities, while other employees were required to provide their own cover. This raises a question of inequitable treatment of staff due to the absence of formal Trust policies.

Irregular / Improper Expenditure

50. From a review of expenses claims and purchase invoices the following items of expenditure were identified, some of which are irregular (points 1, 5 and 6) and some, which without transparent supporting policies and approvals by the Board, could be deemed irregular:

- Purchase of Trust Christmas cards; 350 cards with a tailored design for approximately £1,000;
- Purchase of 60 corporate umbrellas primarily for sponsors and donors, but also for headteachers, circa £630;
- Late filing of accounts and HMRC information fines totalling circa £850;
- Alcohol purchases;
- Staff leaving lunches paid for; and
- A research trip to New York for [REDACTED] at an approximate cost of £20,000. Although approved by the Board they were not provided with detailed costings to factor in to that decision. While the benefits to [REDACTED] of the trip were identified, the number of members of staff in the party raises concerns that this may not be best use of public funds. A smaller number undertaking the visit and then disseminating the learning to others may have been more acceptable.

Credit Cards

51. The Trust has one credit card held at each location. They are used for general office purchases when a credit card is the best purchase method.

52. A review of these transactions did not identify any significant points of concern. However there are some points detailed in Annex 1 which should be addressed in a Credit Card Usage Policy.

Conclusions

53. Our conclusions at the time of the visit in February 2014 are that:

- The Trust has not complied with its Articles of Association;
- The Trust has not complied with parts of the Academies Financial Handbook; and
- The Trust does not have an Internal Control Framework.

Next Steps

54. Following receipt of a completed Action Plan to address the recommendations in Annex 2, the EFA will consider what further action will be taken in relation to the findings of the review.

.

Annex 1

Credit card expenditure, staff expenses and purchasing

Observations

1. The staff expense form does not record cumulative mileage to enable a check to be completed as per the policy. Approval is not sought for items claimed, but not covered in the expenses policy.
2. A number of receipts for food expenses have been claimed in excess of the staff expenses policy and it is unclear who is in attendance at the meetings to confirm the level of expenditure eligible to be claimed.
3. Hotel accommodation has been claimed in excess of the staff expenses policy.
4. Staff lunches have been claimed for. This is not an eligible expense under the policy.
5. A number of claims were made that included the purchase of alcohol.
6. Some staff expense claims included reimbursement for broadband and home phone line packages. The policy only covers work calls made.
7. Not all staff expense forms were signed/dated and it is difficult to tell who has authorised the expense form by the signature.
8. A replacement laptop was claimed for a trustee. It was not clear who approved the original laptop purchase or the rationale for the purchase.
9. It was noted that a trip to New York was approved by the Board although no financial information was given at the Board meeting. The exact figure was not confirmed but thought to be around £20k for [REDACTED] people to visit New York for a week. Some educational institutions were visited during the trip. It is questionable if this was the best use of public funds.
10. A significant sum has been paid to a [REDACTED] for the work of a finance manager, charged at £100 per hour. This is in breach of the policy as a formal tender was not completed for this work. It is questionable if the Accounting Officer achieved the best possible value for money.
11. Invoices were queried for business use insurance. There is no overall policy that covers business use insurance.

12. The late filing of accounts with Companies House and HMRC was noted and incurred costs of £850. This is unacceptable and this expenditure should have been avoided.

13. Items have been purchased for academies (a bike and theatre tickets). There did not appear to be formal approval before the purchase and there is currently no policy in place which covers additional school expenditure.

14. It was noted that Christmas cards (350) were designed and printed at a cost of £915 and 60 umbrellas were purchased for the headteachers at a cost of £632. It is questionable if this was the best use of public funds.

Annex 2

Recommendations

No.	Recommendation
1	The Trust must urgently resolve the breach of the Articles of Association whereby the chairman is an employee of the Trust.
2	The Trust must ensure that they comply with the Articles of Association in ensuring that they only appoint trustees under the categories to which they are authorised to appoint to.
3	The Trust must ensure that the Articles of Association are complied with in connection with specific trustee appointment categories, i.e. the resignation as CEO constitutes the resignation of the position as a trustee.
4	The Trust should ensure that they comply with the Articles of Association in ensuring that the majority of the Board has not received remuneration or benefit from the company.
5	The Trust must establish a separate Audit Committee in accordance with the Academies Financial Handbook.
6	The Trust should review the membership of the Audit Committee with a view to it being restricted to non-executive trustees only.
7	The Trust must ensure that the Finance Committee and Audit Committee meet more frequently, at least on a termly basis.
8	The Trust must ensure that the trustees and senior members of staff all complete an Annual Declaration of their Business Interests. These forms should be retained at Head Office.
9	The Trust should ensure that it holds an Annual General Meeting in accordance with the relevant timescales and to ensure that the required business is transacted.
10	The Trust should develop a formal protocol to be agreed with each of the academies within the Trust in order to provide transparency and clarity over what services are to be provided for the 'top-slice'.
11	The Trust should undertake a full review of its operation to ensure that all potential economies of scale are achieved in order to assist with being able to demonstrate that best value is being obtained.
12	The Trust Board must formally ratify the CEO as the Accounting Officer in accordance with the Academies Financial Handbook.
13	The Trust must compile a full set of financial regulations and the associated procedures. Once compiled, they should be formally reviewed and approved by the Board.
14	The Trust must compile a corporate scheme of delegation. Once compiled, it should be submitted to the Board for review and approval.

No.	Recommendation
15	The Trust should review the content and layout of the current management accounts. Consideration should be given to aligning them to current best practice by including sections for: a consolidated trust position, a revised out-turn, key performance indicators, a commentary, a capital account, a revised 12-month cashflow forecast.
16	The Trust must develop a full set of corporate policies that are found in all public sector organisations in order to create an internal control framework. Once developed, they should be submitted to the Board for review and approval.
17	The Trust must develop a risk management policy and associated procedures to ensure it becomes embedded within the organisation. This should include a full risk register. Once compiled, it should be submitted to the Board for review and approval.
18	The Trust should ensure that all financial records, such as bank mandates, are readily available at Head Office.
19	The internal audit/responsible officer work programme should be finalised as soon as possible. Once compiled, it should be submitted to the Audit Committee for review and approval.
20	The Trust should ensure that the requirements of the AFH are incorporated in to the Trust's financial regulations and associated procedures. This will assist with ensuring that the requirements of the AFH are not overlooked.
21	The Trust must develop a purchasing policy and associated procedures. Once compiled, they should be submitted to the Board for review and approval.
22	The Trust should ensure that all bought-in services are market tested to ensure that best value is obtained.
23	The Trust must develop a policy for dealing with fraud to ensure that appropriate action is taken where fraud and irregularity is suspected or identified.
24	The Trust must develop a recruitment policy and associated procedures, ensuring that there is an appropriate and transparent process for recruiting all new staff, and particularly, where there is a family connection.
25	The Trust must ensure that proper and complete employment records are maintained on employees' HR files.
26	The Trust should develop a travel and subsistence policy and associated procedures for staff and trustees. Once compiled, these should be submitted to the Board for review and approval.



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 to download at www.gov.uk/government/publications.



Follow us on Twitter: @educationgovuk



Like us on Facebook: www.facebook.com/educationgovuk