Education
Funding
Agency

The Education Fellowship Trust

Investigation report

July 2016

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Executive summary

1. In April 2016, the Education Funding Agency (EFA) received allegations regarding the governance and legal framework at The Education Fellowship Trust ('the Trust'). The concerns related to the overall long-term financial health and ways of working within the Trust.

2. The EFA conducted a fact finding visit on 11 and 12 May 2016 to review the concerns that were raised and the overall financial management and governance arrangements at the Trust. The review covered:

- the full nature of relationships across the Trust and The Education Fellowship Ltd (TEFL)
- how services have been procured and approved
- the financial health of the Trust
- the employment arrangements and remuneration of the individuals that are linked to the multi-academy trust and to TEFL

3. This report sets out the findings from the EFA visit to the Trust in May 2016.

Summary report

Background

4. The Trust was formerly called The Education Schools Trust but changed its name in September 2012. The Education Fellowship Trust is a multi-academy trust comprised of 12 academies, the first of which converted to join the Trust on 1 October 2012. They are responsible for the education of approximately 6,500 students. Nine of the academies are based in Northamptonshire, 2 in Wiltshire and 1 in Maidenhead, Berkshire.

5. The Education Schools Trust was incorporated on 15 November 2011. It was sponsored by TEFL, a private profit-making company with shareholders. In June 2012, The Education Schools Trust board agreed to accept the transfer of staff from The Education Fellowship Limited.

6. In February 2014 the EFA visited the Trust to conduct a financial monitoring and governance review. The findings of this review are published on GOV.UK. Following the report, the Trust was issued with a Financial Notice to Improve (FNtI).

7. The FNtI was lifted on 27 March 2015, once it was confirmed that the conditions had been met.

8. The EFA is grateful for the courtesy extended to the visiting team.

Objectives and scope

9. The EFA's Provider Risk Assurance (PRA) team was commissioned to undertake a review of the concerns raised. The objective of the review was to establish the factual accuracy of the allegations and assess compliance with the Academies Financial Handbook.

Investigation methodology

10. Following receipt of the allegations the EFA collated and reviewed background information relating to financial data, and key individuals at the Trust.

11. A visit was arranged with the Trust and took place on 11 and 12 May 2016 at the Trust's main premises, The Old Dairy, Grange Road, Islip, Northamptonshire NN14 4JB.

12. In undertaking this visit the EFA met and conducted interviews with the Chief Executive Officer and Chief Operating Officer.

13. While onsite, the EFA reviewed the following documentation:

- Past and current financial performance information

- Records of related party transactions
- Governance structure
- Procurement/Contract records
- Purchase orders/supplier payments
- Bank reconciliations/statements
- Payroll records

Detailed findings

Relationships between the Trust and TEFL

14. Following discussions with the Chief Executive Officer (CEO); Chief Operating Officer (COO) and a review of transactions; the review established that the commercial company, TEFL, was not currently active. It was established at the time of incorporation as the principal sponsor but does not receive income or benefit from the Trust. However, within the existing structure although TEFL is the purported vehicle for a co-ownership model, there is the possibility that this structure could be used to benefit the directors.

15. A review of the documentation established that the Trust is the employer of the staff, the admissions authority and the owner or the lessee of the land and buildings at each academy. The Education Fellowship is made up of three layers as identified in the agreed Articles of Association.

16. The review further confirmed that TEFL is a commercial company registered at Companies House and is the holding company of the Trust. TEFL directs and instructs, as the owner of the Trust, for the Trust to operate the academies as at the date of incorporation.

17. TEFL is the owner and holds shares which are held in trust for co-ownership, and the Trust manages the academies for TEFL. TEFL appoints the trustees of the Trust and ultimately approves the appointment of the Trust's CEO. The directors of TEFL at the time of our visit were J E Kane (Chairman), E J Rowe (Deputy Chairman) and Dr R Townsend (Director).

18. The on-site review and dialogue with the CEO established the current arrangements were not fit for purpose and would need amending. The stated aim of the CEO and the Chairman of TEFL was to set up a co-ownership model giving employees a voice in the running and decision making of the organisation. However, this was not transparent from the existing governance framework. This appears complex and is vested in a few directors with overlapping membership and potential conflicts of interest. It includes a legacy deed which referenced the net worth of the Trust and powers to borrow against this (although these were not exercised).

19. The CEO had been working with lawyers to set up a new arrangement incorporating a different co-ownership model. He stated that the current arrangements reflected the Articles of Association. He accepted that the three layers were not following best practice, but were a legacy issue from the original formation of the Trust.

20. Our review revealed a willingness to change the structure, including winding up the commercial company for transparency reasons. However, it was also clear that this had not received sufficient attention because of other issues, including various reviews of

activity. The suggestion of using the model multi-academy trust articles was put to the CEO and he resolved to discuss this with the lawyers.

21. The CEO recognised that more independent trustees with the necessary skills and expertise were required to strengthen the existing arrangements and provide further challenge and ideas. The CEO requested that the Trust be allowed to resolve the structure first before seeking new trustees.

22. Having reviewed the current structure, and whilst acknowledging the history of the different structure, it is clear that the Trust needs to move to the model set of multi-academy trust articles. It can no longer be regarded as compliant with best practice and needs to be brought into line with other multi-academy trusts and their funding agreements.

Procurement

23. The review looked at the procurement of services and a sample of spending was selected from the head office supplier list. It was found that a scheme of delegation was in place and we were informed there was a policy on procurement that had been submitted to the Trust board for approval. The required supporting framework was therefore in place. Of the sample selected there had been evident competition for capital works and the supporting tender reports were reviewed for completeness. The principal finance officer sought to ensure adequate reasons and documentation were properly returned for audit purposes.

24. Where there was no evidence of a tendering process, the COO explained that recruitment consultants and head hunters had been used because they were best in class. However, it was agreed that for transparency purposes a consolidated report to the board itemising the tenders and contracts let, including any exemptions, would add to the overall scrutiny and challenge. This would also ensure value for money was being achieved at the board level. A process would be put in place for this to happen, to ensure the Trust is fully compliant with the Academies Financial Handbook. In addition, it was agreed that a current list of consultants in use should be compiled and regularly presented to the board for completeness and to ensure compliance with HMRC rules.

Financial health of the Trust

25. In preparation for the visit, the EFA team carried out a desk-based assessment of the financial returns made by the Trust. This assessment identified a risk to the Trust that a number of the academies were running in-year deficits, acting as a drain on the free reserves. Whilst a balanced budget was set across the Trust, the CEO agreed during the visit that this trajectory was unsustainable if allowed to continue. He was confident that this would be rectified as the pupil numbers increased in the future and the proposed

savings package came into operation. The EFA has, in correspondence with the Trust, requested more details of the savings package, but has not received them to date.

26. The Trust's external auditors have compiled a note in support of the projections and savings. The latest projection for August 2016 points to a net £344k in-year Trust deficit, further drawing on the free reserves of £1.1m at August 2015. Key schools of concern were Desborough, Clarendon, Wrenn, Blackthorn, Pembroke and Windmill. Greater scrutiny of the projections, in particular their basis in expected pupil numbers and anticipated resultant spending, is required.

27. Based on an estimated monthly salary of circa £2,257k, representing some 86% of GAG and 80% of total income, the Trust is vulnerable given the trajectory of recent years. The reserves position at August 2015 left only 2 months of staff costs and less than 2 months of total running costs. The situation is expected to deteriorate further by August 2016, with total reserves representing circa 6 weeks of staff costs.

28. During the course of the visit, the CEO and Principal Finance Officer acknowledged that a three-to-five year forecast is required. This is being developed as part of the full centralisation of finance which is underway.

29. The Trust had increased financial scrutiny as a result of the budget deficits, and had taken steps to introduce benchmarking and defined budget spends, with no offsets in individual academies. However, the staff cost ratios for 2014/15 at three academies were above 80% with five other academies above 75%. These statistics indicate an unsustainable staffing level at a number of the academies. If these ratios are to reduce in two thirds of the Trust's academies, close monitoring will be required, as well as potential staff reductions to allow for sustainable balanced budgets at a Trust level.

30. The savings proposals mentioned by the CEO will require close monitoring at Trust and individual school level, although we acknowledge that head office has undertaken a number of initiatives in recent times to bring budgets in line. As noted in paragraph 25, these proposals have not yet been received.

31. The EFA requires the Trust to establish a robust internal audit function. The external auditors have been used for the internal audit function and providing financial advice on budgets and management accounts. These additional duties have resulted in an extra spend in these areas. The CEO has been content with the service provided, but it is our view that these arrangements should not continue as they do not comply with best practice and are not risk-averse. The level of fee income to the auditor is already at a level of dependence that professional guidance and standards may construe as unacceptable. The Trust state they have ensured that audit independence has been maintained by having a separate team responsible for their management accounts with no involvement in the external audit function. They suggest that the auditors' management accounts involvement was a short term solution, and that they will notify the EFA of revised arrangements as soon as possible.

32. The Trust acknowledged that it has an outstanding decision to be taken on whether it was in the interest of the Trust to register for VAT, noting that this may maximise income generation and improve financial controls.

Employment Arrangements

33. The EFA review included a test on the adequacy and completeness of all declarations of interest and any potential connected party trading. All relevant policies were checked, to ensure that they were in place, with appropriate board approval. The review involved company searches but did not point to any material issues or transgressions.

34. During our visit, reference was made to a payroll review being undertaken by the external auditors. A copy of this review has been requested and will be reviewed for accuracy and completeness. The notes of the audited accounts highlight that 18 staff across the Trust (including in the academies) were being paid in the pay bands above £60k. Four members of staff were paid over £100k.

35. A head office internal audit review was last completed in August 2015 highlighting areas for improvement, which need to be revisited as part of the review scheduled for June 2016. An ongoing programme of internal reviews should be submitted to the audit committee for consideration, and outstanding matters should be resolved.

36. Two staff had a leased car on the approved leased car scheme brought in following the previous review which questioned the expenditure on fuel costs. The CEO stated that the leased car scheme was introduced by the Trust in response to the previous EFA review, which questioned fuel cost expenditure. The FNtI referred to a full review of the Trust’s operation to ensure that best value was being obtained through all possible economies of scale. There was no direct recommendation about leased cars; the CEO stated that he would be content not to renew the scheme as it was administratively burdensome. Our review was not clear that these cars provide any greater value for money than the previous arrangements, so the value-for-money case must be made if the scheme persists.

Conclusions

37. There was no evidence of transactions with the limited company TEFL. Although the Trust has shown willingness to simplify the existing structures and arrangements, the current organisational model is not acceptable and does not conform to the latest model Articles of Association required for multi-academy trusts. It fails to provide assurance to the Secretary of State that resources are managed in an effective and proper manner.

38. The financial position is vulnerable with free reserves reducing at an unsustainable rate. A high proportion of the Trust's spending goes towards teaching costs; in addition, the top slice is higher than the normal parameters for a multi-academy trust. However, the CEO was confident that the savings plans and revised projections based on a rising roll will rectify this situation over the coming years. Close monitoring will be required to seek further assurances on this given the current trajectory.

39. No material transactions with related parties that caused concerns were identified as part of the review and analysis.

Recommendations

40. The Trust's legal and governance framework needs to be updated and the commercial company ceased at the earliest opportunity. The complex and overlapping set of directors needs to be simplified and a new model agreed with the Department for Education (DfE) as the co-ownership model is not something the DfE will consider.

41. More independent trustees need to be sourced to join the new Trust board at the earliest opportunity and facilitate the proposed review of the governance structure.

42. The Trust board should receive regular updates on all major procurement spends, including any exceptions, the tender process followed and outcomes implemented.

43. The Trust must prepare a central list of consultants to share with the board, including checking their employment status and ensuring value for money is achieved.

44. The Trust's latest financial projections need close monitoring by the board.

45. The Trust should develop a longer term financial forecast for a three-to-five year period, including recovery plans for individual academies and projected pupils on roll at academy level.

46. The Trust need to make a decision on VAT registration by mid-September 2016.

47. The Trust board should commission a review of central operations expenditure, including the use of the leased car scheme, to assess whether it continues to provide best value in travel arrangements for staff. Evidence of this should be presented to the board by October 2016.

48. The external auditors should report on their review of payroll arrangements and any compliance issues by October 2016, and the Trust should provide a copy to the EFA.

49. The services of the external auditor should be reviewed, by October 2016, as part of a broader consideration over the role and capacity of the finance department, especially in light of the current dependency on their services and related income.

50. The latest head office internal audit scheduled for June 2016 should be shared with the EFA by September 2016.

Annex A – Summary of standard tests

Area	Review
Past and current financial performance (including medium term financial strategy)	This is a review of the financial health of the multi-academy trust and consideration of the impact of any plans.
Related party transactions	Consideration of goods or services provided by individuals or organisations connected to the Trust, to ensure they comply with the Academies Financial Handbook. This area included a review of the register of interests and the implications of declarations (with reference to the 'at cost' policy).
Capacity and capability of the finance function	This assessed the expertise of the Finance Department that manages the academies sponsored by the multi-academy trust and a review of internal audit reports to identify any internal control issues.
Financial management and governance	This area is designed to obtain a detailed understanding of the structure of the Board (including the background and expertise of the trustees), its sub-committees and Senior Management Team. Reviewing the minutes of the Board and relevant sub-committees is also a key area.
Procurement / contracts	This test is designed to ensure all contract payments are appropriate, in accordance with the procurement policy and scheme of delegation
Purchase orders / supplier payments	This test is designed to ensure all purchase orders and payments are made in accordance with financial regulations, are subject to authorisation within delegated limits and achieve best value for money.
Bank reconciliations / bank statements	This test is to ensure bank reconciliations have been carried out and are appropriately authorised and that bank payments are in accordance with financial regulations and are subject to authorisation.
Payroll	This test is to ensure payroll is subject to authorisation and that correct procedures have been followed for joiners and leavers.

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