



Education
Funding
Agency

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www.education.gov.uk/help/contactus

Date: 6 March 2015

Mr T Cornwall
Chair of Governors
Durand Academy Trust
Durand Academy
Hackford Road
London
SW9 0RD

Dear Mr Cornwall,

Durand Academy Trust – Financial Notice to Improve (FNtl)

I am writing following the exchange of letters between yourself as the Chair of Durand Academy Trust ('DAT') and Peter Lauener about the financial management, control and governance of DAT. I have reviewed the information you supplied to us in your letter of 27 February in response to Peter Lauener's letter of 18 February, in which he confirmed that the Education Funding Agency was minded to issue a Financial Notice to Improve (FNtl) to DAT. I am now writing with a final decision.

In summary, I am pleased that there has been some improvement in the financial management, control and governance of DAT in order to secure high quality education opportunities for the children at Durand Academy. I note in particular that you intend to confirm membership of a finance committee and appoint a permanent and properly qualified business manager or finance director as soon as possible. I also note that you propose to replace Sir Greg Martin as the Accounting Officer in order to reduce conflicts of interest. We welcome this offer and agree this would provide more transparency. However, there remains significant concerns at this time and therefore, I am writing with my decision to issue a Financial Notice to Improve ("the Notice") to DAT. This letter and its annex serve as a written notice for DAT to improve financial management, control and governance.

I would like to be clear that, unless it is explicitly recorded in the annex, I do not consider that DAT's response to this Notice is dependent on the outcome of the inquiry of Durand Educational Trust currently being carried out by the Charity Commission. As such, DAT's response to the requirements set out in the Notice is necessary by 31 March 2015.

Upon receipt of this Notice, all of the delegated authorities as identified in the Academies Financial Handbook (AFH) will be revoked, and all transactions by DAT previously covered by these delegations (regardless of size) must come to the EFA for approval. These

delegated authorities shall be returned to DAT providing that the terms set out in this Notice have been complied with, and continue to be complied with, to the satisfaction of the Secretary of State.

It is therefore the case that whilst I welcome DAT's intention as set out in your letter of 27 February to apply proper process to the procurement of the communications and public relations support, you are required under the terms of this Notice to apply to the EFA for prior approval to commit spending on this contract/s. You should not, therefore, finalise the arrangements you set out in your letter to appoint a new communications and public relations company, until this has been considered by the EFA and consent given.

It is clearly of vital importance to regularise your intentions as a trust towards the appointment of a new Accounting Officer. As the person will have a personal responsibility to Parliament and to the EFA's Accounting Officer for the financial resources under the trust's control, the EFA will need to agree your recommendation before an appointment is confirmed. Whilst we have not made the permanent appointment a requirement of the Notice, it is a requirement to confirm to us your intentions to put in place an interim Accounting Officer, as set out in the requirements at Annex A.

The concerns that were raised as a result of the audited accounts and as set out in Peter Lauener's letter of 18 February are subject to a supplementary investigation by the EFA. Further to your meeting with EFA officials on 3 March 2015, you have agreed to provide further information by 10 March 2015. I will therefore reserve the right to amend this Notice in light of that information.

DAT is required, pursuant to the provisions of the AFH and the Funding Agreement, to comply with the terms of this Notice.


These terms are set out in Annex A. We will monitor progress made towards meeting the requirements associated with this Notice. We will lift the Notice when the requirements set out in the annex have been met. If DAT fails to comply with all the terms of this Notice, the Secretary of State may consider it appropriate to terminate the funding agreement because of such non-compliance.

I am hopeful that the issue of this Notice provides DAT with complete clarity about the set of requirements it must address. Whilst we will not seek to undermine DAT's responsibility for its own financial management, control and governance and therefore the requirement to take appropriate action, we would be pleased to work with you as you do this. If you wish, we would be happy to meet with you on receipt of your action plan.

I should be grateful if you would acknowledge receipt of this letter by email and within three working days of the date of this letter to [REDACTED]

I would be grateful if you would share the contents of this letter with the board of DAT.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Sue Baldwin'. The signature is stylized with a large, looped initial 'S' and 'B'.

Sue Baldwin
Director, Academies and Maintained Schools Group

Durand Academy Trust

Ref: DATFntI01

The concerns

1. The Education Funding Agency (EFA) has decided to issue a Financial Notice to Improve (“the Notice”), pursuant to paragraph 1.5.6 of the Academies Financial Handbook 2014, as a consequence of concerns on financial management, control and governance by the Accounting Officer and the Directors. Specifically, these relate to Durand Academy Trust’s (DAT) failure to:
 - a) Manage conflicts of interest as required by paragraphs 3.1.11 - 3.1.20 of the Academies Financial Handbook. There remain significant potential conflicts of interest relating to employees of DAT. In particular DAT appears to have failed and is continuing to fail to manage conflicts of interest:
 - i. of the executive head teacher in respect of his former role as director of Durand Education Trust (DET), and his ongoing role in managing the accommodation and leisure facilities through the contract between DET/London Horizons Ltd(LH) and his company, GMG Ltd; and
 - ii. to manage potential conflicts of interest of the primary school head teacher in respect of his role as director of DET and of LH;
 - b) Ensure DAT has an unequivocal long-term right to occupy the Hackford Road and St Cuthman’s sites. It is not in the financial or other interests of DAT for the academy to occupy its sites on the sufferance of DET;
 - c) Ensure adequate oversight of commercial activities of the executive head teacher and other employees of DAT; and
 - d) Ensure adequate financial oversight and financial management of DAT and its assets. For example, under paragraph 3.3.1 of the Academies Financial Handbook the academy trust should not have entered into novel or contentious transactions such as engaging an agent to search for alternative sites for the boarding project on a commission based on the eventual purchase price, without the consent of the Secretary of State.
2. In Peter Lauener’s letter of 18 February he said that he had asked EFA’s Risk Analysis Division (RAD) to visit DAT to examine concerns identified in DAT’s 2013/14 audited accounts. Officers from RAD visited DAT on 3 March 2015. DAT has been asked to provide explanations for: why in the accounts staff costs have risen so significantly, especially supply costs; why governance costs have more than doubled; and an explanation for the relative deterioration in DAT’s overall financial performance. We are expecting a response by 10 March 2015.

The requirements

3. This Notice requires DAT:

- a) to commission, in consultation with the EFA, an independent review of its membership, Board of Trustees and other structures, and effectiveness of the academy trust and share the findings of the review together with an action plan in response to its recommendations with the EFA by 15 May 2015;
- a) subject to the outcome of the Charity Commission's inquiry, to regularise the occupation of the academy trust at the Hackford Road site by negotiating the putting in place of a long lease for the whole site in favour of the academy trust, and by negotiating and putting in place a long lease in favour of the academy trust of the St Cuthman's site in West Sussex;
- b) to immediately take steps to ensure that income generated on sites occupied by the school is secured in the long term for the use of the school including to meet the costs of the free boarding provision in accordance with the requirements of the funding agreement;
- c) to immediately take steps to ensure that any potential conflicts of interest are managed in accordance with paragraph 3.1.11 of the Academies Financial Handbook, and to ensure effective oversight of any commercial interests of employees. This should include managing the conflicts of interest of the executive head teacher and Accounting Officer in respect of the contract between DET/LH and GMG Ltd and ensuring that ending that contract will not result in any termination payments to the executive head teacher, accounting officer of the academy trust or members of his family;
- d) to immediately take steps to manage the potential conflicts arising from the position of Mr Mark McLaughlin as head teacher of the primary school and director of DET and LH. In your letter of 27 February you say that once the Charity Commission's inquiry has concluded you will ask Mr McLaughlin to either stand down as head teacher or as director of DET/LH. This delay is unacceptable. We are not persuaded that Mr McLaughlin should continue to hold positions in both DAT and DET/LH while line managed by Sir Greg Martin who benefits from the GMG contract now held by DET of which LH is a wholly owned subsidiary;
- e) by 20 March 2015 as you set out in your letter of 27 February to establish a finance committee to the governing body to ensure appropriate oversight of financial management;
- f) by 20 March 2015 as set out in your letter of 27 February and in accordance with paragraph 2.1.10 of the AFH to have begun the process of appointing a permanent and properly qualified business manager or chief financial officer via open competition. Your plans and expected completion date for this process should be set out in the action plan to be submitted by 31 March 2015. Before

appointment you must notify the EFA of the name of the proposed appointee together with your reasons for making the appointment; and

g) by 20 March 2015 confirm who you propose to appoint as interim accounting officer for DAT and when this appointment will take effect.

4. In complying with requirements (3a to 3h) above, please note:

a) DAT is responsible for its own financial management, control and governance and is expected to take appropriate action to strengthen the control weaknesses identified;

b) the EFA must be satisfied that DAT is doing everything it can to rectify the weaknesses identified; and

c) if any evidence of further irregularities comes to light the EFA will consider amending the scope of this Notice.

Monitoring and Progress

5. DAT is required to meet the specific conditions outlined above to enable the EFA to monitor compliance and progress.

6. DAT should send by 31 March 2015 an action plan setting out the steps you intend to take in order to meet the requirements of this notice to [REDACTED] you will then be required to submit monthly progress reports on the work undertaken and the improvements and outcomes achieved against the requirements above, and attend monthly or more frequent meetings as required while this Notice is in force.

7. Should it become evident that DAT is unlikely to fulfil the conditions and / or requirements set out in this Notice and / or within the above timescales, the EFA will consider termination of the funding agreement between the Secretary of State and DAT.

Compliance and the End of the Notice Period

8. Compliance with this Notice will be demonstrated when DAT meets all the requirements set out in this Notice and the EFA is able to validate that the new arrangements are being embedded throughout the Trust, including by visiting DAT to conduct testing as appropriate.

9. If DAT meets the conditions outlined in this annex to the satisfaction of the EFA, implements the recommendations from the independent review of governance at paragraph 3(a) above and presents a set of financial accounts which have been given an unqualified opinion and no reported regularity exceptions by the auditors, the Notice will no longer apply and the EFA will write to DAT again to confirm that the Notice has been lifted.