



Education & Skills  
Funding Agency

Education and Skills Funding Agency  
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London  
SW1P 3BT

Tel: 0370 000 2288  
[ESFA-enquiry-form](#)

23 February 2018

Gavin Jones  
Bay Education Trust  
Paignton Community and  
Sports Academy  
Waterleat Road  
Paignton  
TQ3 3WA

Dear Mr Jones

### **Financial notice to improve: Bay Education Trust**

I am writing to you in your capacity as the Chair of Bay Education Trust (“the Trust”).

As you know, the Education and Skills Funding Agency (ESFA) has been monitoring the Trust’s progress towards meeting the conditions set out in warning letter of 29 September 2017. I recognise the cooperation and extensive discussions that have taken place between the Trust and officials and the changes you have already made to strengthen accounting and internal financial controls. However my concerns remain in relation to the weak financial position and financial management at the Trust.

This letter and its annex serve as a written notice to improve financial management, control and governance at the Trust. It reflects the weak financial position of the Trust and continued concerns on governance and oversight of financial management by the Board.

The Trust is required, pursuant to the provisions of the Academy Financial Handbook (AFH) and the Funding Agreement (FA), to comply with the terms of this Financial Notice to improve (“the Notice”). These terms are set out in Annex A.

Upon receipt of this Notice, all of the delegated authorities as identified in the AFH (sections 3.6-3.10) will be revoked, and all transactions by the trust previously covered by these delegations (regardless of size) must come to the ESFA for approval. These delegated authorities shall be returned to the trust providing that the terms set out in the Notice have been complied with and continue to be complied with, to the satisfaction of the Secretary of State.

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. In the event that the Trust fails to meet the requirements of this Notice, to the satisfaction of the Secretary of State, the Trust will be considered to have failed to comply with the terms

of the AFH. As a result of this breach of the AFH, and therefore also of the FA, the termination process in the FA may be triggered. Depending upon the severity of the breach, this may be considered a material breach of the terms of the FA and lead to termination.

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

I am copying this letter to Stephen Kings, the Chief Executive Officer of the trust, and Lisa Mannall, the Regional Schools Commissioner (RSC) for South West England (SW).

I look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mike Pettifer', written in a cursive style.

**Mike Pettifer**  
**Director: Academies and Maintained Schools Group**

CC Stephen Kings, CEO of Bay Education Trust  
Lisa Mannall, Regional Schools Commissioner for SW England

**Financial notice to improve**

1. The Education and Skills Funding Agency (ESFA) has decided to issue a Financial Notice to Improve (the 'Notice') to Bay Education Trust (the trust) as a result of the trust's:
  - Failure to ensure good financial management and effective internal controls (AFH 2.2.4)

**Conditions**

2. We require the trust to:
  - a. Commission external reviews into governance and financial management to be completed by 27 April 2018. This must include a review of the operational effectiveness of the trust head office and a governance skills audit. The trust should compile an action plan based on the findings of the external reviews to provide a framework for the trust to work through and implement the required changes to ensure compliance and effective governance and financial management.
  - b. Deliver a report on Integrated Curriculum and Financial Planning by 27 April. This should include figures on the number of teaching assistants employed over the last 5 years and projections for the next year.
  - c. Prepare and submit an action plan setting out the steps it will take to address the issues identified in the trust's management letter for 2016/17 including regularising arrangements for senior leaders pay and ensuring procedures are compliant. That action plan must be submitted to the ESFA no later than 20 April 2018.
  - d. Prepare and submit a revised financial recovery plan for the trust. The plan should be externally validated by an independent expert (such as those available at the Association of School and College Leaders, the National Association of Head Teachers or the Institute of School Business Leaders). The plan must be submitted no later than 13 April. The plan must include, as a minimum:
    - i. how the trust will achieve a cumulative surplus position by the end of August 2019, and each year thereafter. This must be supported by robust budget forecasts through to 2021/22 with evidence to support realistic pupil number forecasts
    - ii. a clear efficiency and savings plan setting out specific areas where further savings can be made across the trust
  - e. Implement new financial management and monitoring structures and undertake further actions to strengthen challenge in managing the budget and finances. This must include ensuring effective processes are in place for the trust to

monitor financial performance and the financial risks to its operation. This will be exemplified in a written report to be submitted by 13 April 2018.

- f. Adopt the latest model funding agreement by 13 April 2018.

### **Financial management requirements**

3. The trust is responsible for its own financial management, control and governance and is expected to take appropriate action to strengthen any control weaknesses identified.
4. The trust should take all appropriate actions to ensure the action plan is fully implemented.
5. The ESFA must be satisfied that the trust is doing everything it can to rectify the weaknesses identified.

### **Timescales**

6. The trust must meet the timescales as set out above.

### **Monitoring and progress**

7. The trust is required to meet the specific conditions outlined above to enable the ESFA to monitor compliance and progress. The trust should contact the ESFA at an early stage if it believes that performance is falling behind the schedule set out in the action plan.
8. The ESFA reserves the right to amend and add further specific conditions should they be required. Should it become evident that the trust is unlikely to fulfil the conditions and / or requirements set out in this Notice and / or within the above timescales, the ESFA will begin to consider and explore the contractual intervention options available.
9. We will expect the trust to supply the following financial information on a monthly basis for a period of 12 months from agreement of the plan. The frequency of reports thereafter will be determined by the ESFA, based on progress against the recovery plan:
  - iii. revenue income and expenditure report with a narrative explaining any significant variances for the current full academic year. Income and expenditure classifications in this report should follow those in the recovery plan;
  - iv. A balance sheet showing the position at the end of the last calendar month and forecast to the end of the academic year; and
  - v. A detailed monthly cash flow forecast rolling 12 months ahead.
10. The trust must provide monthly returns on the budget position and the progress on savings initiatives by working day 5 of the relevant month, beginning March 2018.

11. The trust must provide its internal audit report to ESFA by the fifth working day of March 2018.
12. The trust must provide a copy of remuneration committee minutes setting out justification for level of pay- in particular any increases in excess of the rate awarded to teaching staff) by the fifth working day of each quarter.

### **Compliance and the end of the notice period**

13. Compliance with this Notice will be demonstrated when:

- the trust demonstrates compliance with all financial returns required as a consequence of this Notice and as part of the funding agreement
- the Conditions set out above have all been met and we are satisfied that the underlying weaknesses in financial management and governance have been addressed
- the trust requests approval from the ESFA for any actions under the revoked freedoms in Part 3 and Annex B of the AFH
- the ESFA receives audited financial statements with an unqualified audit opinion by 31 December 2018
- the ESFA receives the auditors' management letter which does not raise concerns by 31 December 2018
- financial recovery consistent with the agreed recovery plan is demonstrated as evidenced in the budget forecast return and the audited financial statements for that year
- no late returns, audit qualification, or adverse regularity opinions are recorded in the audited financial statements for the period until this Notice is lifted

14. When the trust meets the conditions outlined in this annex, the Notice will no longer apply and the ESFA will write to the trust to confirm that the Notice has been lifted.