



Education & Skills  
Funding Agency

# **Financial management and governance review**

**Bolton University Technical College**

**September 2017**

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## Executive summary

1. In May 2017, the Education and Skills Funding Agency (ESFA) received anonymous allegations about Bolton University Technical College (UTC – hereafter referred to as the trust), raising concerns about financial management and governance. The ESFA commissioned an on-site visit between 10 and 13 July 2017.

2. The ESFA review identified a number of significant failings and weaknesses in governance arrangements that breach the Academies Financial Handbook (AFH) and validate the concerns raised. Key findings of the review have confirmed:

- the trust board failed to set up clear leadership structures and adequate governance frameworks. The board also failed to hold senior leaders to account and demonstrate economy, efficiency and effectiveness over key decisions with financial impacts. This represents a breach of the AFH 2016 s1.5.10.
- internal (financial) control arrangements at the trust are inadequate, breaching the AFH 2016 s2.3. This includes the trust not having an audit committee or any formal internal control checks.
- the trust's current operating model of directly using connected / related parties to provide key functions, without following a proper procurement and contracting process, is inherently irregular and breaches the AFH, the trust's own current procurement policies, and EU procurement regulations.
- directors were unable to fully demonstrate they were solely acting in the interests of the trust. This was due to inadequate management of conflicts of interest between the trust and connected parties. Total value of connected / related party expenditure to date is estimated at £920,152.

## Background

3. Bolton UTC opened in September 2015 and has capacity for 600 pupils aged 14-19. There are currently 244 pupils on roll. The trust was incorporated in November 2012 and its funding agreement signed in September 2014.

4. The trust is sponsored by the University of Bolton and is located within the university campus. During the ESFA review, the accounting officer (AO) stated that the sponsor has made donations / contributions to the UTC. The trust procures key services from the sponsor, including HR, finance, CEO services (15/16), IT services and facilities management.

5. The trust was rated inadequate by Ofsted after a visit in February 2017. The Ofsted report, published 25 April 2017, highlighted a number of findings around governance including:

- the relationship between leaders at the highest level in the college began to break down
- staff are not clear about the roles of the CEO and other most senior leaders.
- over the first year (15/16), governors failed to hold the post holder of CEO to account for the college's poor performance
- Ofsted judged leadership and management to be inadequate.

6. At the time of the ESFA visit, the trust governance committees in place were a board of trustees, a resources and estates subcommittee, a curriculum and standards subcommittee and an industrial board. The trust also had 13 directors listed at companies' house.

7. In May 2017 the ESFA received allegations relating to financial management and governance at Bolton UTC. As a result, an ESFA team undertook an on-site review of the allegations over the course of 3 days between 10 and 13 July 2017.

## Objectives and scope

8. The objective of this review was to establish whether the allegations received by the ESFA were evidence based and in doing so, identify whether any non-compliance or irregularity had occurred with regard to the use of public funds. Specifically, the allegations related to:

- procurement and value for money concerns
- non-compliant related party transactions
- oversight and challenge of senior leaders
- governance at board level.

9. The scope of the work conducted by the ESFA in relation to the allegations, included assessing the adequacy and effectiveness of governance, risk management and control, including propriety, regularity, and value for money. This included:

- review of relevant documentation, including governing body minutes and supporting policies
- testing of financial management information, specifically in relation to the allegations received
- interviews with key staff and trustees.

10. In accordance with ESFA investigation publishing policy (August 2014) the relevant contents of the report have been cleared for factual accuracy with Bolton UTC.

# Findings

## Leadership structures and governance

11. Between September 2015, when the UTC opened, and December 2016 the trust had a Chief Executive Officer (CEO), a principal and also bought in support from the principal at Greater Manchester UTC. The ESFA review was unable to evidence a clear and strong rationale for these 3 roles in a UTC which was less than half full (241 funded students). The cost of these 3 roles for this period, as confirmed by the trust, was £297,507. Without a robust and approved business case setting out the rationale for this approach, the trust is unable to demonstrate this arrangement represented value for money. This is a breach of the AFH 2016 s1.5.11 around trustee responsibilities and s3.1.3, spending decisions representing value for money.

12. The trust did not have clarity on the roles and responsibilities of members, directors, the CEO and the principal. Review of trust documentation and interview with the chair of the board and chair of the resources subcommittee could not identify any scheme of delegation used at the trust. This breaches the AFH s2.1.4

13. In addition, discussion with the current chair of the board and review of the trust 2015/16 audited financial statements confirm the principal was the trust accounting officer during 2015/16, despite the CEO holding a more senior position. A review of trust information on Edubase shows that the CEO was listed as the AO from 01/09/15 to 01/03/17, further demonstrating the lack of clarity around senior roles. The AFH 2016 s1.5.19 clarifies that, "The accounting officer should be the senior executive leader of the trust".

14. Review of the trust 2015/16 financial statements confirmed that 2 of the 3 trust members were also directors. This was not in line with best practice requirements set out in the AFH 2015 p6 which states "Whilst members can also be trustees, retaining some distinction between the two layers ensures that members, independent of trustees, provide oversight and challenge." A review of trust data on Edubase confirms members are now no longer also company directors. However, it was noted that the list of directors at companies house does not accord with the list of trustees on Edubase, including still showing the CEO as a trustee on Edubase. Not keeping Edubase updated is a breach of the AFH 2016 s4.7.4.

## Staff recruitment and performance management

15. The trust CEO was seconded by the sponsor and a trust member, without a competitive recruitment exercise for this post. The CEO was employed by the sponsor and recharged to the UTC at an annual cost of £139,953, as confirmed by the AO in an e mail to the ESFA team. The February 2017 Ofsted visit recommended the governing body improve its capacity to hold leaders, including the CEO, rigorously to account. As a

consequence of the Ofsted criticism, the CEO stood down and reverted to a university post.

16. At the time of the review, no evidence of any performance management was available for the CEO in his role at the trust, and there was no agreement or contract which confirmed the CEO's role and responsibilities, which may have helped guide the CEO or hold the CEO to account. In addition, a review of 13 other staff personnel files found no evidence of any documented performance management, aside from a single 3-month probationary review. Interview with the chair of the board and the University of Bolton director of HR did not highlight any other evidence of performance management.

17. The trust 2016 governance plan specifies that one of the responsibilities of the governing body is to ensure all UTC staff receive a regular appraisal of their performance. Failure to provide evidence of regular performance management activity at the time of our review potentially breaches the trust's own governance requirements.

18. Findings in paragraphs 15 to 17 represent a failure of the board (and a breach of AFH s1.5.10 – trustee responsibilities) to set leadership structures, clarify expectations of senior leaders and hold senior leaders to account.

## Staff payments

19. During 2015/16, the trust paid [REDACTED] relocation expenses of £6,493. The documentation submitted by [REDACTED] suggested the relocation was [REDACTED], a distance of around 20 miles. The trust was unable to provide any HR policy or procedures which would have applied to this issue at the time.

20. In December 2016, [REDACTED] left Bolton UTC. November 2016 and January 2017 board minutes record no detailed review, oversight or approval over [REDACTED] departure. The chair confirmed during interview that he managed the departure of [REDACTED] along with the vice chair and the director of HR from the sponsor. Board minutes of 13 January 2017 record the chair explaining to the board that a compromise agreement had been reached with the now [REDACTED] [REDACTED] and the chair was therefore unable to discuss the details of his departure. Despite the importance of [REDACTED] role, board members did not raise any further significant questions, clarifications or challenges regarding the sudden departure. The chair was also unable to confirm if the trust had any HR policy or procedures which would have applied to this specific issue at the time of [REDACTED] departure.

21. The chair was unable to provide any formal documentation to confirm whether the £45,000 (gross) compensation payment made to [REDACTED] represented value for money, including any business case and documented professional advice on the case to help demonstrate the trust had chosen the best option. There was no evidence of board oversight or approval regarding this payment.

22. The trust 2016 governance plan specifies responsibilities of the governing body, including deciding whether any payment should be made in respect of dismissal, or to secure the resignation of a member of staff and the amount of any such payment. As the decision for payment was not made by the board, it also breaches the trust's own governance requirements.

23. Findings in paragraphs 20 to 22 represent a failure of the current chair, and the board in their trustee responsibilities (breach of AFH s1.5.11).

## **Internal control**

24. The trust does not have a committee which performs the functions of an audit committee. This is a breach of AFH s2.4.2 which requires all academy trusts to "establish a committee, appointed by the board of trustees, to provide assurance over the suitability of, and compliance with, its financial systems and operational controls". A properly functioning audit committee provides internal scrutiny and delivers objective and independent assurance.

25. The trust "Information on Governance" document dated March 2017 on the trust website refers to the different trust committees and their terms of reference. However, no mention is made of an audit committee or a committee fulfilling its function. A review of the 2016 terms of references for all trust committees did not include any mention of an audit committee.

26. Interviews with the chair of the board and chair of the resources subcommittee, along with a review of the resources subcommittee minutes, could not evidence any formal internal control checks at the trust. This is a breach of AFH s2.4 which requires the trust to have in place a process for checking its financial systems, controls, transactions and risks.

27. Our review of the whistleblowing policy, provided at the time of our visit, deemed it inadequate as it only contained a procedure for contacting the AO, not the chair or any regulatory bodies. This is a breach of AFH s2.3.5. which confirms academy trusts must have appropriate procedures in place for whistleblowing.

## **Procurement**

28. The trust did not have an approved scheme of delegation and procurement policy until 2017 despite opening in September 2015. This is a breach of the AFH s2.1.4 and s3.1.3. The latest draft procurement policy provided during the visit was brief and requires further detail, including procedures for obtaining quotations, tendering and ensuring value for money.



29. During the review of procurement at the trust, 6 suppliers were selected, highlighted in table one. Three of these suppliers are classed as connected and/or related parties. The review work identified that since September 2015:

- there was no evidence of a formal procurement exercise for any of the 6. There was also no evidence of consideration of OJEU requirements. To date, expenditure with University of Bolton exceeds the OJEU threshold for services. This breaches the AFH s3.1.3 regarding observation of OJEU thresholds.
- board minutes do not record the final decision and supporting rationale on how the suppliers were selected and approved.
- 5 of the 6 did not have a signed contract in place. The remaining contract was brief and did not include adequate detail to allow the contract to be managed appropriately.
- 3 of the suppliers are connected and/or related parties but the trust was unable to evidence adequate management of conflicts of interest, breaching the AFH s3.1.13.
- the trust was unable to evidence compliance with the “at cost” policy for all 3 connected and/or related parties, given the lack of adequate contractual documentation. This a breach of the AFH s3.2.14. It is acknowledged that draft contracts for various services with the University of Bolton did include reference to “at cost” although the cost assurance statement was unsigned.
- the trust was unable to evidence adequate contract management for all 6 suppliers, including verification of service delivery and invoiced charges. This was due to either not having a signed contract in place or contractual documentation not being sufficiently detailed to include charging structures. Hence services provided and costs charged could not be compared to agreed items.

30. The findings in paragraph 29 also represent a breach of the AFH s3.1.3 which confirms trusts must ensure that:

- spending decisions represent value for money and are justified as such
- a competitive tendering policy is in place and applied.

<b>Supplier</b>	<b>Connected / Related Party</b>	<b>Expenditure with the trust since Sept 2015 £</b>
University of Bolton	Yes	658,922
Bright Tribe Education Services Ltd	Yes	209,862
Greater Manchester UTC	Yes	51,368
Catering Academy	No	88,122
Andrea Atkinson Ltd	No	13,852
All together	No	58,498

**Table 1 supplier expenditure**

## Conclusion

31. Following concerns raised with the ESFA with regard to Bolton UTC a review of financial management and governance was undertaken. The ESFA review identified a number of significant failings and weaknesses in governance arrangements that breach the AFH and validate the concerns raised.

32. The trust needs to take urgent action to resolve the issues, including regularising procurement and expenditure with connected and/or related parties. This includes submitting a business case to the ESFA on its procurement model which demonstrate how it will comply with all applicable frameworks and regulations. Annex A includes a table of findings, breaches of frameworks and specific recommendations for the trust.

33. Along with implementing the specific recommendations in Annex A, the trust should engage an independent review of finance and governance to fully identify all issues (including compliance issues with all applicable frameworks) which need to be resolved. The review commissioning process, terms of reference and scope should be agreed with the ESFA in advance.

## Annex A

The following table lists the review findings, breaches and specific recommendations for the issues.

	Finding	Breach of AFH	Recommendation
1	The list of directors on companies' house does not accord with the list of trustees on Edubase, including still showing the CEO as a trustee on Edubase. <b>Para 14</b>	Not keeping Edubase updated is a breach of the AFH 2016 s4.7.4.	The trust should ensure its board structure is in line with best practice set out in the AFH 2017 page 6 et seq. This includes ensuring all required reporting is accurate and up to date AFH 2.5.2, 4.7.4
2	There was no evidence of any performance management for the CEO or contract which confirmed the CEO's role and responsibilities. A review of other staff personnel files found no evidence of any documented performance management, aside from a single 3-month probationary review. <b>Para 16</b>	This represents a breach of AFH s1.5.10 – trustee responsibilities - to set leadership structures, clarify expectations of senior leaders and hold senior leaders to account.	The trust should ensure compliance with its own governance arrangements to ensure “all UTC staff receive a regular appraisal of their performance”. It should also ensure performance management procedures provide clarity on expectations and enable the trust to hold senior leaders to account.
3	Between September 2015, when the UTC opened, and December 2016 the trust had a Chief Executive Officer (CEO), a principal and also bought in support from the principal at Greater Manchester UTC. The ESFA review was unable to evidence any board review or approval of a detailed and robust business case or rationale on why these three roles were needed for a UTC	Findings represent a breach of AFH s1.5.11, s3.1.3 and the trust's own governance procedures.	The trust must ensure all key decisions comply with trust governance documents / delegated authorities and trustees can robustly demonstrate appropriate oversight and compliance with their responsibilities / the AFH.  The trust must also ensure key spending decisions represent value for money and are justified as such. This includes ensuring all key

	Finding	Breach of AFH	Recommendation
	<p>which was less than half full (241 funded students). The cost of these three roles for this period was in the region of £306,000. Without a robust and approved business case, the trust is unable to demonstrate this arrangement represented value for money. <b>Para 11</b></p> <p>The trust CEO was appointed by the sponsor and a trust member, without a competitive recruitment exercise. The CEO was employed by the sponsor and recharged to the UTC at an annual cost of £139,953. <b>Para 15</b></p> <p>The trust paid [REDACTED] relocation expenses of £6,493. The trust was unable to provide any HR policy or procedures which would have applied to this issue at the time. <b>Para 19</b></p> <p>In December 2016, [REDACTED] left Bolton UTC. November 2016 and January 2017 board minutes record no detailed review, oversight or approval over [REDACTED] departure. The chair confirmed during interview that he managed the departure of [REDACTED]</p>		<p>appointments are made using a competitive and open recruitment exercise.</p> <p>The trust should also ensure adequate HR processes and procedures are in place and complied with.</p>

	Finding	Breach of AFH	Recommendation
	<p> <span style="background-color: black; color: black;">[redacted]</span> along with the vice chair and the director of HR from the sponsor. Board minutes of 13 January 2017 record the chair explaining to the board that a compromise agreement had been reached with the now <span style="background-color: black; color: black;">[redacted]</span> and the chair was therefore unable to discuss the details of his departure. Despite the importance of <span style="background-color: black; color: black;">[redacted]</span> role, board members did not raise any further significant questions, clarifications or challenges regarding the sudden departure.         </p> <p>           The chair was also unable to confirm if the trust had any HR policy or procedures which would have applied at the time of <span style="background-color: black; color: black;">[redacted]</span> departure. <b>Para 20</b> </p> <p>           The chair was unable to provide any formal documentation to confirm whether the £45,000 (gross) compensation payment made to <span style="background-color: black; color: black;">[redacted]</span> represented value for money, including any business case and documented professional advice on the case to help demonstrate the trust had chosen the best option. There was no evidence of board         </p>		

	Finding	Breach of AFH	Recommendation
	oversight or approval regarding this payment. <b>Para 21</b>		
4	<p>The trust does not have an audit committee or any committee which performs the functions of an audit committee. <b>Para 24</b></p> <p>Interview with the chair of the board and chair of the resources subcommittee, along with a review of the resources subcommittee minutes, could not evidence any formal internal control checks at the trust. <b>Para 26</b></p>	<p>This is a breach of AFH s2.4.2 which requires all academy trusts to “establish a committee, appointed by the board of trustees, to provide assurance over the suitability of, and compliance with, its financial systems and operational controls”.</p> <p>Also a breach of the AFH s2.4.4 which confirms the audit committee’s work must focus on providing assurances to the board of trustees that all risks are being adequately identified and managed with particular regard to:</p> <ul style="list-style-type: none"> <li>• reviewing the risks to internal financial control at the trust</li> <li>• agreeing a programme of work to address, and provide assurance on, those risks</li> </ul>	<p>The trust must establish a committee, appointed by the board of trustees, to provide assurance over the suitability of, and compliance with, its financial systems and operational controls. Members of this committee should be independent from the trust board and have adequate skills/qualifications to understand its role fully.</p> <p>The trust must have in place a process for checking its financial systems, controls, transactions and risks.</p>
5	The trust whistleblowing policy is inadequate as it only contains a procedure	This is a breach of AFH s2.3.5. which confirms academy trusts	The trust should review its current policy to ensure it is fit for purpose and meets the requirements of the AFH 2.3.5.

	<b>Finding</b>	<b>Breach of AFH</b>	<b>Recommendation</b>
	for contacting the AO, not the chair or any regulatory bodies. <b>Para 27</b>	must have appropriate procedures in place for whistleblowing	
6	<p>The latest draft procurement policy provided during the visit was brief and requires further detail, including procedures for obtaining quotations, tendering and ensuring value for money. Review of procurement of 6 suppliers identified significant failings, including failure to comply with OJEU requirements, poor, or no, contractual arrangements, failure to demonstrate compliance with the “at cost” policy for connected and/or related parties, failure to manage conflicts of interest, failure to demonstrate and ensure service delivery and poor value for money. <b>Para 29</b></p> <p>The trust did not have clarity on the roles and responsibilities of members, directors, the CEO and the principal. This included not having a scheme of delegation in place. Review of trust documentation and interview with the chair of the board and chair of the resources subcommittee could not identify any scheme of delegation used at the trust. <b>Para 12</b></p>	<p>Breach of the AFH s3.1.3 which confirms trusts must ensure that</p> <ul style="list-style-type: none"> <li>• spending decisions represent value for money and are justified</li> <li>• a competitive tendering policy is in place and applied</li> </ul> <p>Breach of the AFH s2.1.4 which confirms the board must approve a written scheme of delegation of financial powers that maintains robust internal control arrangements.</p>	<p>The trust must review its existing policy and procedures to ensure the identified failings are addressed and robust controls over procurement, contracting and contract management are in place and complied with.</p> <p>In addition a written scheme of delegation must be in place and applied.</p>







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