



Education & Skills  
Funding Agency

Education and Skills Funding Agency  
Sanctuary Buildings  
Great Smith Street  
London  
SW1P 3BT

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

Ms D Goddard  
Berwick Academy  
Adams Drive  
Spittal  
Berwick-Upon-Tweed  
Northumberland  
TD15 2JF  
Company Number: 07807248

24 February 2020

Dear Ms Goddard

### **Financial Notice to Improve: Berwick Academy**

I am writing to you in your capacity as the Chair of Berwick Academy.

As you know, the Education and Skills Funding Agency (ESFA) has been monitoring the Trust's progress towards meeting the conditions set out in the Financial Notice to Improve issued on 18 December 2018. 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 management and governance at the Trust.

This letter and its annexes serve as a written notice to improve financial management, control and governance at the Trust (Financial Notice to Improve or "the Notice"). It reflects the weak financial position of the Trust and continued concerns regarding governance and oversight of financial management by the board.

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

Being issued with a Notice means that certain delegated authorities, as defined in the AFH, have been revoked. All transactions previously covered by these delegations, regardless of their size, must now be approved in advance by ESFA, specifically:

- special staff severance payments
- compensation payments
- writing off debts and losses
- entering into guarantees, indemnities or letters of comfort

- disposals of fixed assets beyond any limit in the funding agreement
- taking up a leasehold or tenancy agreement on land and buildings of a duration beyond any limit in the Trust's funding agreement
- GAG carry forward from one year to the next beyond any limit in the funding agreement and the pooling of GAG by MATs

If the Trust comes to the ESFA to seek retrospective approval this will be deemed a breach of the AFH. These delegated authorities shall be returned to the Trust once we are satisfied that the requirements of the Notice have been, and will continue to be, complied with to the satisfaction of the Secretary of State. Further details of the approval process will be forwarded to the Accounting Officer upon acknowledgment of receipt of this letter.

We will monitor progress made towards meeting the requirements of this Notice. We will lift the Notice when the requirements set out in the annex have been met in full.

We reserve the right to reissue this Notice and add further specific conditions if required, should the trust fail to make sufficient progress against the original conditions. 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 agreed timescales, we will explore the contractual intervention options available.

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. Depending upon the severity of the breach, this may amount to a breach of the terms of the FA and lead to termination.

If continued non-compliance with the AFH occurs, we may also refer the case to the Charity Commission and/or Insolvency Service for further investigation, as deemed appropriate in the circumstances.

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].

I am copying this letter to the Accounting Officer Tracy Hush, Trust Members Pauline Aitchison and Tim Withnall, and Katherine Cowell the North Regional Schools Commissioner (RSC).

I look forward to hearing from you.

Yours sincerely



**Mike Pettifer**  
**Director, Academies and Maintained Schools Directorate**

CC. Tracy Hush, Accounting Officer  
Katherine Cowell, RSC North  
Pauline Aitchison, Member  
Tim Withnall, Member

**Financial notice to improve**

1. The Education and Skills Funding Agency (ESFA) has decided to issue a Financial Notice to Improve (the 'Notice') as a consequence of Berwick Academy's (the 'Trust')
  - continued concerns of financial management and governance at the Trust.

This notice replaces the notice issued on 18 December 2018 due to breaches under section 2.1, 2.9 and 2.11 of the Academies Financial Handbook 2019. This updated notice includes additional conditions in light of the continued concerns around financial management and governance.

**Conditions**

2. The Trust is required to:
  - a) Comply with the funding agreement requirement to submit all audited financial statements to the ESFA on time and without qualification.
  - b) Submit the Budget Forecast Return Outturn (BFRO) by the deadline required by the ESFA.
  - c) The Trust is required to submit the Budget Forecast Return (BFR) by the deadline required by the ESFA.
  - d) Contact the ESFA at an early stage if it believes it is not able to follow is falling behind the schedule set out in their Trust financial plan.
3. The Trust is required to increase the board to a minimum of 9 Trustees with specialist expertise in finance, governance and education. The Trust should ensure there is sufficient independence to offer robust challenge and hold the Accounting Officer to account for the management of the budget/finances.
4. The Trust is required to implement the recommendations made in the May 2019 governance review.
5. The Trust is required to commission a progress and impact review from a National Leader of Governance (NLG) to assess progress and to identify next steps in the improvement of governance.
6. The Trust is required to undertake an Integrated Curriculum Financial Planning (ICFP) and financial processes review, with an ICFP expert funded through the Opportunity North East programme.
7. The Trust must ensure robust processes are in place to monitor financial performance and risk to its financial operations.
8. The Trust must demonstrate that every possible economy is being made to achieve a balanced budget. This must include consideration to joining a Multi-Academy Trust.

9. The Trust must produce a revised and accurate 5 year recovery plan, demonstrating when the Trust will return to a cumulative surplus position.
10. The Trust must submit monthly management accounts by the 10<sup>th</sup> of each month.

### **Financial management requirements**

11. The Trust is responsible for its own financial management, control and governance and is expected to take appropriate action to strengthen the weaknesses identified.
12. The Trust should take all appropriate actions to ensure an action plan is fully implemented.
13. The ESFA must be satisfied that the Trust is doing everything it can to rectify the weaknesses identified.

### **Timescales**

14. The BFR return is due to the ESFA by 31 July 2020. The 2019/20 audited accounts are due to the ESFA by 31 December 2020.
15. The Trust must increase the number of Trustees to 9, with specialist expertise in finance, governance and education by 31 March 2020.
16. The Trust must implement the recommendations from the May 2019 governance review by 30 April 2020.
17. The Trust must commission a progress and impact review from NLG by 30 September 2020.
18. The Trust must undertake an ICFP and financial processes review by 31 May 2020.
19. The Trust must have robust processes in place to monitor financial performance and risk by 31 March 2020.
20. The Trust must demonstrate every possible economy is being made to achieve a balanced budget by 31 March 2020.
21. The Trust must submit a revised and accurate 5 year plan to the ESFA by 31 March 2020.
22. The Trust must submit monthly management accounts to the ESFA by the 10<sup>th</sup> of every month, commencing March 2020.

### **Monitoring and progress**

23. The Trust is required to meet the specific conditions outlined above to enable the ESFA to monitor compliance and progress.

24. 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.

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

25. Compliance with this Notice will be demonstrated when:

- the Trust has requested approval from the ESFA for any and all actions under the revoked freedoms in Part 5 of the AFH. These requests should be sent using the [ESFA-enquiry-form](#)
- ESFA receives the Budget Forecast Return, by 31 July 2020 and each year until the Notice is lifted
- ESFA receives audited financial statements with an unqualified audit opinion by 31 December 2020 and each year until the Notice is lifted
- ESFA receives the auditors' management letter which does not raise further concerns relating to any of the issues highlighted within this Notice by 31 December 2020
- the Trust has increased the number of Trustees to a minimum of 9, with specialist expertise in finance, governance and education -the Trustee should have been recruited from Academy Ambassadors and all newly appointed Trustees should have no previous connections to the Trust
- the Trust must produce an action plan detailing how each recommendation from the External Review of Governance will be implemented and an anticipated timescale for these - this should be shared with the ESFA and provide regular progress updates
- the Trust should share the outcome of any external reviews undertaken with the ESFA and RSC
- the Trust must undertake a full ICFP review and a financial processes review - the Trust must report any savings to the ESFA which will be achieved following this review and provide evidence of the implementation of this review
- following this review, the Trust should demonstrate to ESFA that strong processes are in place to adequately monitor financial performance and the financial risks to its operations
- the Trust must produce relevant documentation from board meetings
- the Trust must manage internal audit, ensuring risks are adequately identified and managed
- the board must meet at least 6 times a year
- the Trust must demonstrate that it has made use of available School Efficiency and Financial Health tools
- the Trust must evidence consideration of National Deals and implement where appropriate
- the Trust must include the savings identified by the SRMA in the recovery plan it submits to ESFA.

- the Trust must produce a revised recovery plan and submit this to ESFA by 31 March 2020
- the Trust must make ESFA aware of any threats to its recovery at the earliest opportunity
- the Trust must submit monthly management accounts showing income and expenditure and providing the following information:
  - The budget for the current academic year to date
  - A narrative explaining any significant variances for the year to date
  - The latest forecast for the current full academic year
  - A narrative explaining any significant variances for the current full academic year
  - all necessary Trustee contact details are up to date and all specified fields are completed in Get Information About Schools for each individual

26. The conditions compliance table in Annex B advises the Trust of the evidence required and timescales given for the Trust to be deemed compliant with this Notice.

27. When the Trust meets all the conditions outlined in this annex, is fully compliant with the AFH and no other breaches have been identified, ESFA will write to the Trust to confirm that the Notice has been lifted.

**Table of conditions**

The table below summarises the conditions that have been placed upon Berwick Academy (“the Trust”). It sets out the evidence the Trust must provide, and the timescales the Trust must meet, to show that they have complied with the Financial Notice to Improve (“the Notice”). All conditions set out in the table must be met before the Notice can be lifted.

<b>Condition</b>	<b>Evidence required to show compliance with the notice</b>	<b>Timescale</b>
<p>1. The trust is required to:</p> <ul style="list-style-type: none"> <li>a) Comply with the funding agreement requirement to submit all audited financial statements to the ESFA on time and without qualification.</li> <li>b) Submit the Budget Forecast Return Outturn (BFRO) by the deadline required by the ESFA.</li> <li>c) The Trust is required to submit the Budget Forecast Return (BFR) by the deadline required by the ESFA.</li> <li>d) Contact the ESFA at an early stage if it believes it is not able to follow is falling behind the schedule set out in their Trust financial plan.</li> </ul>	<p>The ESFA receives audited financial statements by 31 December each year until the FNtl is lifted.</p> <p>The ESFA receives BFRO by date required, each year until FNtl is lifted.</p> <p>The ESFA receives BFR by date required, each year until FNtl is lifted.</p> <p>Returns show recovery in line with the Trust financial plan.</p>	<p>Submit audited financial statements by 31 December each year until the FNtl is lifted.</p> <p>Submit BFRO by 31 May each year until FNtl is lifted.</p> <p>Submit BFR by date 31 July each year until FNtl is lifted.</p>
<p>2. The Trust requests approval from the ESFA, in advance, for any actions under the revoked freedoms in Part 3 and Annex B of the AFH. These requests should be sent using the esfa-enquiry-form. Retrospective approval will be deemed as a breach of the AFH.</p>	<p>The Trust must submit a request for approval for any actions relating to the delegated freedom revoked under the terms of the FNtl.</p>	<p>Until the FNtl is lifted.</p>



<p>3. The Trust is required to increase the board to a minimum of 9 Trustees with specialist expertise in finance, governance and education. The Trust should ensure there is sufficient independence to offer robust challenge and hold the Accounting Officer to account for the management of the budget/finances.</p>	<ul style="list-style-type: none"> <li>• The Trust must recruit a further Trustee with educational expertise.</li> <li>• The Trust must consider using Academy Ambassadors to support with the recruitment.</li> <li>• The Trustees appointed should have no previous connections to the Trust.</li> </ul>	<p>31 March 2020</p>
<p>4. The Trust is required to implement the recommendations made in the May 2019 governance review.</p>	<ul style="list-style-type: none"> <li>• The Trust must evidence how each recommendation on the governance action plan as part of the ONE vision programme is being implemented.</li> <li>• The Trust must provide progress updates to the ESFA and RSC.</li> <li>• The Trust should share the outcome of any external reviews undertaken with the ESFA and RSC.</li> </ul>	<p>30 April 2020</p>
<p>5. The Trust is required to commission a progress and impact review from an NLG to assess progress and to identify next steps in the improvement of governance.</p>	<ul style="list-style-type: none"> <li>• The Trust must discuss any recommendations from the review with the board and produce an action plan for achieving these.</li> <li>• The action plan must be shared with the ESFA and RSC.</li> </ul>	<p>30 September 2020</p>
<p>6. The Trust is required to undertake an Integrated Curriculum Financial Planning (ICFP) and financial processes review, with an ICFP expert funded through the Opportunity North East programme.</p>	<ul style="list-style-type: none"> <li>• The Trust must undertake a full ICFP review and a financial processes review. The Trust must report any savings to the ESFA and RSC which will be achieved following this review and provide evidence of the implementation of</li> </ul>	<p>31 May 2020</p>

	<p>this review.</p> <ul style="list-style-type: none"> <li>• Following this review, the Trust should demonstrate to the ESFA that strong processes are in place to adequately monitor financial performance and the financial risks to its operations.</li> </ul>	
<p>7. Ensure robust processes are in place for the Trust to monitor financial performance and risk to its financial operations.</p>	<ul style="list-style-type: none"> <li>• The Trust must produce relevant documentation for board meetings.</li> <li>• The Trust must manage internal audit, ensuring risks are adequately identified and managed.</li> <li>• The board must meet at least 6 times a year.</li> </ul>	<p>31 March 2020</p>
<p>8. The Trust must demonstrate that every possible economy is being made to achieve a balanced budget. This must include consideration to join a Multi-Academy Trust.</p>	<ul style="list-style-type: none"> <li>• The Trust must demonstrate that it has made use of available School Efficiency and Financial Health tools.</li> <li>• The Trust must evidence consideration of National Deals and implement where appropriate.</li> <li>• The Trust must include the savings identified by the SRMA in the recovery plan it submits to the ESFA.</li> <li>• The Trust must continue to work with RSC representatives to explore joining a Multi-Academy Trust.</li> </ul>	<p>31 March 2020</p>

<p>9. The Trust must produce a revised and accurate 5 year recovery plan, demonstrating when the Trust will return to a cumulative surplus position.</p>	<ul style="list-style-type: none"> <li>• The Trust must produce a revised recovery plan and submit this to the ESFA by 31 March 2020.</li> <li>• The Trust must make the ESFA aware of any threats to its recovery at the earliest opportunity.</li> </ul>	<p>31 March 2020</p>
<p>10. The Trust must submit monthly management accounts by the 10<sup>th</sup> of each month.</p>	<ul style="list-style-type: none"> <li>• The Trust must submit monthly management accounts showing income and expenditure and providing the following information <ul style="list-style-type: none"> <li>○ The budget for the current academic year to date</li> <li>○ A narrative explaining any significant variances for the year to date</li> <li>○ The latest forecast for the current full academic year</li> <li>○ A narrative explaining any significant variances for the current full academic year</li> </ul> </li> </ul>	<p>By 10<sup>th</sup> of each month, commencing from March 2020.</p>
<p>11. Ensure that all necessary Trustee contact details are up to date.</p>	<ul style="list-style-type: none"> <li>• All fields specified in Get Information About Schools for the individuals must be completed before the FNtl can be lifted. The trust must ensure its record on Get Information About Schools for the individuals remains up to date.</li> </ul>	<p>Within 4 weeks of each change</p>