Education & Skills Funding Agency

Investigation Report:

Learning Link Multi Academy Trust

July 2021

Contents

Key positions at the trust

Title / role	Name of individual
Former chair (of trustees), November 2017 to August 2018	Arthur Thompson
Chair (of trustees), September 2018 to June 2020) (referred to as chair or current chair)	Grenville Earney
Accounting officer AO (AFH term) / chief executive officer CEO (incorporation till February 2021)	Paul Harrison
Chief operating officer (COO), September 2018 to April 2019	Jonathan Taylor
Acting accounting officer / chief executive officer from January 2020 to January 2021 (Acting CEO). Also, previously School Improvement Officer (contracted role through AVT Associates)	Claire Thompson
Former chief financial officer CFO 1(AFH term), from incorporation till January 2019	Rebecca Fisher
Former chief financial officer CFO 2 (AFH term), March 2019 to June 2019	Aidan Stevens
Chief financial officer CFO 3 (AFH term), August 2019 to January 2021	Alex Richardson
Trustee 1	Christopher Rodwell

Executive summary

1. In July 2019, the Educational and Skills Funding Agency (ESFA) received allegations regarding Learning Link Multi Academy Trust (hereafter referred to as the trust). The allegations centred around a lack of financial management, related party transactions and payments made to the chief executive officer (CEO). Additionally, a number of related issues had been raised by the external auditors in their 2017/18 management letter. Consequently, the ESFA conducted visits commencing 28 October 2019.

2. The ESFA investigation identified significant failings and weaknesses in financial management and governance that breach the Academies Financial Handbook (AFH) and other frameworks, and validate the concerns raised.

3. Key findings of the review are:

CEO payments

- the CEO's salary and working hours were increased from 2.5 to 4 and then 5 days per week, without formal board approval. This contravened his own contract of employment and breached the AFH

- whilst receiving a salary for 4 days per week, the CEO's company received payment for an additional day of consultancy. This related party transaction was not formally approved by the trust board and breached the trust's financial regulations and the AFH

- in November 2018, the trust entered into an enhanced contract of employment with the CEO which provided significant additional benefits over his existing contract. These benefits included provision of a leased car costing the trust up to £11,400 per annum, plus £5,000 lease deposit and £3,000 health care package per annum. The contract was not formally approved by the trust board, although the chair signed the contract on behalf of the trust. The enhanced benefits were backdated to start from March 2018. The car leasing allowance was paid to the CEO, despite no evidence that a car had been leased. The ESFA deems the £38,250 paid for the car leasing allowance as irregular and a misuse of public funds

- there was inadequate independent board oversight over these enhanced contract arrangements. The trust was unable to demonstrate that decisions benefiting the CEO, were made independently of the CEO and that the inherent conflicts of interests had been adequately managed. This a breach of the AFH and the trust's articles of association

Related party transactions and procurement

- from 2017, the trust purchased services potentially totalling £100,467 from 5 companies (one unregistered) which are classed as related parties. Breaches of the AFH and the trusts financial regulations were identified regarding these transactions. These included no evidence of procurement, inadequate board oversight / approval and no evidence of the management of conflicts of interest. In addition, these payments breached the trust's articles of association. At least £15,600 of these payments should have obtained ESFA prior approval given their novel and contentious nature

- the trust submitted a related party declaration to the ESFA in October 2019, confirming certain conflicts had been managed and compliance with the AFH at cost policy. Findings of this investigation confirm the declaration was inaccurate

- the ESFA investigation reviewed a sample of contractors who were providing the services of senior staff at the trust and identified £292,989 worth of expenditure that had no evidence of procurement, inadequately evidenced / no board approval and some unmanaged conflicts of interest. These transactions breached the trust's financial regulations and multiple aspects of the AFH (including off payroll provisions) and are deemed contentious and improper

Governance failings

- the trust was issued with a Financial Notice to Improve (FNtI) in January 2020 due to a deficit financial position and inability to produce a set of audited financial statements

- a number of other governance concerns were identified, including a lack of evidence to support open and competitive recruitment for trust senior staff, and lack of a functioning audit committee

- the ESFA investigation team encountered significant delays obtaining basic trust records that should have been part of the trust's regular operation and readily available for review. The investigation team was unable to obtain significant key records. Staff, when questioned, were unclear on trust documents and process

4. The investigation findings and breaches of frameworks represent a failure of the trust board to ensure regularity and propriety in the use of trust funds, compliance with the AFH and trust funding agreement. The chair failed to adequately hold the CEO, as accounting officer, to account and to exercise reasonable care, skill and diligence. The CEO failed to demonstrate high standards of probity in the management of public funds and management of significant conflicts of interest. Both the chair and CEO have breached their responsibilities under the AFH, as charitable trustees and company directors.

Background

5. The trust was incorporated on 9 October 2017. The trust comprises 4 primary academies within Dudley, all within a 2 miles radius of each other. These are Sledmere Primary School, Kates Hill Primary School, Netherbrook Primary School and Dudley Wood Primary School. Prior to incorporation, the 4 schools were maintained by Dudley Metropolitan Borough council but had formed a collaborative group and received assistance through a company, Learning Link Trust, which was dissolved when the trust became operational.

6. The number of pupils on roll at the time of the ESFA visit was 2,055 across the 4 schools, all within the 3 -11 age range. At that time none of the schools had been inspected since conversion to the trust. However, pre conversion all were rated by Ofsted as good. The trust was also subject to a school resource management adviser (SRMA) review in September 2019

7. The board of trustees was originally a shadow board before the opening of the trust and included chairs of governors from the original 4 maintained schools. Upon incorporation, Companies House data confirms 6 directors at the trust.

8. At the time of the visit, the central team consisted of a full time CEO, who was also the accounting officer. The rest of the central team was composed of part time staff including an interim chief finance officer (CFO), a deputy CEO / schools improvement officer (SIO), a senior systems officer, a senior strategic project manager, an estates manager, a risk trajectory manager, a financial controller and a PA to the CEO.

9. The trust's external auditors resigned in October 2019. New auditors were appointed and draft financial statements for 2018/19 (provided to the ESFA in August 2020) show the trust's overall financial position as a cumulative deficit of (£394,082) as at the end of August 2019. The trust was issued with a Financial Notice to Improve (FNtI) by ESFA on 2 January 2020 for concerns including its deficit position and inability to provide final audited financial statements. The trust 2018/19 audited financial statements were available at Companies House on 25 March 2021.

10. The review team initially visited the trust's registered office between 28 October and 30 October 2019 but were informed by staff that they could not provide the documentation required as staff were unable to access trust records. The team subsequently visited Sledmere school on 13 and 14 November. The CEO was interviewed but was unable to access any material on his laptop and cited ongoing IT problems at the school in relation to internet provision. Between 14 and 16 January 2020 further interviews were conducted with the current and former chair of trustees and the acting CEO. Although a request had been made to the trust to conduct a further interview with the CEO, after careful consideration due to concerns raised by the trust, it was decided not to proceed with this interview.

Objectives and scope

11. The objective of this investigation was to establish whether the concerns received by the ESFA were evidence based and in doing so, identify whether any non-compliance or irregularity had occurred regarding the use of public funds. The scope of the investigation work included the following areas:

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

12. In accordance with ESFA investigation publishing policy (September 2020) the relevant contents of the report have been shared with Learning Link Multi Academy Trust to allow for representations and confirm factual accuracy.

Findings

CEO contract of employment

13. Allegations were received that a new enhanced contract of employment was created for the CEO in November 2018, which was backdated to 17 March 2017, to provide him with significant extra allowances over his existing contract. When interviewed, the CEO stated an original contract was discussed within the trust but never finalised and he continues to maintain that opinion. The chair also stated he was unaware of a finalised contract in place prior to November 2018.

14. The CEO indicated the enhanced contract put in place in November 2018 was to rectify the issue of him not having a finalised contract of employment.

15. The CEO also stated prior to the enhanced contract he was paid through payroll from November 2017, but this was not through an employment contract, rather an independent contractor agreement between the trust and iED (UK) Ltd. Overall the ESFA encountered a significant lack of clarity at the trust regarding the nature of the CEO's employment for parts of 2017 and 2018.

CEO's first contract

16. ESFA review of trust documents and discussions with relevant persons found sufficient evidence to conclude that an employment contract for the CEO had been in place prior to November 2018. This earlier contract did not include the additional enhancements added later and confirmed the CEO was contracted for between 2 to 2.5 days per week. Evidence to support this conclusion includes the items below,

- the company which was contracted to assist the trust with its academy conversion (S4S), were contacted by ESFA to confirm the sequence of events. Staff at S4S who were working on this project confirmed the details of the CEO's contract were finalised on 22 June 2017, a copy of the contract printed out on that date and the hard copy then delivered to the shadow trust

- the ESFA investigation team also located a copy of this original contract at trust premises in CEO personnel records

- CFO1 also provided a copy of this original contract

- the trust's former chair also provided a copy of the same original contract

- December 2018 member minutes record a member expressing surprise when finding out that the CEO was working more than 3 days a week

- the independent contractor agreement between the trust and iED (UK) Ltd, which the CEO stated he was paid through via payroll, only makes reference to payments paid via invoice on an agreed daily rate. No mention is made of payments via payroll

17. The original trust CEO contract specified work up to 2.5 days per week and this would be kept under ongoing review. The contract also excludes the payment of overtime other than in exceptional cases, where planned overtime is approved by the board of trustees. By November 2018, the CEO had moved up to 4 and then 5 days per week (per salary data). There was no evidence of formal board approval for these increases. This unapproved increase in salary expenditure is deemed contentious and improper use of funds by ESFA.

CEO's enhanced contract

18. The ESFA investigation identified a number of significant concerns and breaches of frameworks, concerning the CEO and chair implementing an enhanced and backdated contract of employment for the CEO. This includes,

- lack of clarity at the trust regarding the finalised original contract in place for the CEO. Both the CEO and chair stated a finalised original contract had never been put in place

- the CEO moved onto an enhanced contract from November 2018 – this contract was backdated to March 2017 with enhanced benefits backdated to March 2018. There was no formal documented board approval for this enhanced contract and associated enhanced benefit arrangements when the trust entered it, although the contract was signed by the chair on behalf of the trust

- the enhanced backdated benefits were paid in July 2019 totalling £20,200. After this date, an additional payment of £950 per month was made (this expenditure is considered irregular)

- evidence confirms the CEO was involved in the process to set up his own contract and terms. There was no evidence that the trust or the CEO considered the appropriateness of this, or that it was in breach of frameworks including the AFH and trust articles of association. Trust board minutes record a number of instances where the CEO did not absent himself when brief discussions around his contract and remuneration took place

- there was no evidence that the trust had adequately considered relevant factors when arranging this enhanced contract, including value for money, compliance with relevant frameworks and the AFH

19. The November 2018 enhanced contract and supporting documentation were reviewed and the following additional benefits and relevant items were noted,

- the enhanced contract was backdated to March 2017

- the additional benefits were to be paid from March 2018

- additional benefits included

- a car allowance which will provide a vehicle through the trust to the equivalent of up to £950 per month. This will also cover business insurance, valid MOT certificate and necessary servicing
- up to £5,000 initial rental car leasing sum
- a health care package covering immediate family to a limit of £3,000 per annum

20. Trust auditors within their 2017/18 management letter also raised issues (based on their testing) around poor record keeping for contracts of employment at the trust. A number of personnel files checked did not include contracts of employment or did not have a signed copy.

21. The record of discussions held at trust meetings were generally poor, with limited detail captured around: budgetary discussions including trust financial position, ad hoc notification of conflicts and limited evidence of critical challenge on financial matters. In addition, some minutes did not record who attended. From 2018 there were at least 2 instances (October 2018 and December 2018) where the trust clerk would provide minutes which were then subject to extensive changes (including by the chair, the CEO and CFO), creating inherent conflicts of interest, with no clear record of the final version.

22. Concerns regarding potentially inaccurate changes being made to trust minutes (including board and member) meetings were also raised separately with the ESFA by different trust stakeholders.

23. December 2018 member minutes, and in particular October 2018 board minutes, have been significantly amended after the clerk produced these. The ESFA was unable to place full reliance on sections, especially where the CEO added amendments relating to his own contract and remuneration arrangements, given the direct conflict of interest this creates. In addition, trust minutes show a number of instances where the CEO's contract, performance and remuneration were discussed but there was no evidence of the CEO removing himself from discussions, or of other trustees and the chair highlighting this issue / potential conflict, as would be expected when holding the CEO to account. Trustee minutes from October 2018 onwards also show the trust did not have a clear grasp on whether board meetings were quorate.

24. The December 2018 member minutes record discussion around the trust auditors raising issues regarding related party transactions. This includes reference to the CEO previously being paid for 4 days work a week through the trust and billing separately through his consultancy for a fifth day. This arrangement was described in the minutes as questionable "when viewed by the ESFA." The minutes confirm that the CEO was now on payroll for all 5 days work per week. One member "expressed surprise" in the same meeting as he was not aware the CEO was working more than 3 days and that he expected notification.

25. The ESFA investigation team reviewed trust minutes and found no evidence of the enhanced contract and its associated enhanced benefit arrangements being formally reviewed and approved by the trust board. This included no indication of detailed consideration of relevant factors such as managing conflicts of interest, value for money assessment or ensuring compliance with relevant frameworks.

26. In addition, trust board minutes do not record formal approval for changes to the CEO working pattern in 2017 and 2018, from his (original) contracted 2.5 days per week to 4 days per week salaried, then to bill an extra day through his consultancy service and then to move to 5 days per week salaried. Trust payroll records for 2018/19 confirm CEO salary moved from 4 days in October to 5 days in November 2018. The trust was unable to provide detailed payroll records for 2017/18.

27. Discussions around the enhanced CEO benefit arrangements carried on into 2019, including a subset of trustees discussing how the enhanced benefits would work. Reservations were also expressed as to how the trust's weak financial position could afford these benefits. The purpose of these discussions was unclear as the trust had already entered into the enhanced contract in November 2018.

28. The CEO (AO) not absenting himself during trust meetings where discussions took place about his contract and remuneration arrangements is a breach of trust articles of association (6.8) which require a trustee to absent themselves from part of any meeting at which there is discussion of:

- his or her employment, remuneration or any other matter concerning the contract, payment or benefit; or

- his or her performance in the employment, or his or her performance of the contract; or

- any proposal to enter into any contract or arrangement with him or her or to confer any benefit upon him or her that would be permitted under Article 6.7

29. Email correspondence between the CEO and trust solicitors, was provided and examined. The CEO sent the solicitors a draft of the enhanced contract for their consideration on 7 November 2018. The CEO explained that he would like this to be dealt with so that there was a contract in place for the auditors visit which was taking place the following week and that he wanted to present his contract to the chair prior to this visit. This is an example of part of the process which should have been managed by the chair or trustees independently, given the conflict of interest in the CEO being involved in setting up his own contract.

30. In the same email the CEO also sent a copy of a letter which purports to be from the chair (Grenville Earney) writing to the CEO on behalf of the trustees to offer him the role of CEO effective from 1 March 2017. The letter is dated 17 February 2017. However, the chair, had not been introduced to the trust at the time this letter is dated. Grenville

Earney was appointed as a trustee in February 2018 and succeeded Arthur Thompson as chair of trustees in September 2018, 19 months after the date on the letter. The CEO states in the email that the original letter was issued in March 2017 but that the trust had failed to provide a contract. The chair's name is typed on the letter, but it is not signed. The chair also confirmed he was not aware of any such letter to the solicitor. A statement of written particulars was included at the end of this letter, specifically including health insurance for the CEO and his family and a leased car allowance. The findings of the ESFA investigation confirmed (paragraph 16) the original CEO contract did not include these benefits.

31. The CEO should have considered the accuracy of the document he was providing, and his conflict of interest. This represents a failure of the CEO's personal responsibility under the AFH to ensure high standards of probity and his duties as a company director to ensure reasonable care, skill and diligence and to avoid conflicts of interest.

32. The chair was interviewed during the investigation. He stated that the CEO's November 2018 contract was put in place because, he was not aware the CEO had an existing finalised contract in place. However, in an email to trustee 1 on 10 June 2019, the chair writes, "We all agree the original contract was poorly written with too little thought being given to its provision."

33. The chair also stated that he had signed the latest contract without reading it properly, was unaware of the term relating to a car leasing allowance and health insurance, and on reflection considered the car leasing allowance contentious.

34. June 2019 minutes with a subset of trustees (not board minutes) record the chair confirming he is aware these additional benefits are included within the CEO contract. These minutes also record the chair discussing these benefits in detail and how they can be delivered. The minutes do not record any confirmation that he was unaware of their inclusion in the CEO enhanced contract he had signed or that he felt the benefits were contentious and should not be paid. Trust board minutes prior to June 2019 also show no evidence of the chair raising when he became aware of these enhanced benefits, as would have been expected.

35. The chair emailed CFO 2 on 19 June 2019 confirming trustees were satisfied with the veracity of information relating to car payments for the CEO over the last 15 months. It was unclear what evidence was reviewed when considering veracity as no lease car had been provided by the trust. In addition, trust board meetings to June 2019, show no evidence of the chair raising the issue of payment of benefits (including the lump sum lease payment) to the board for review and approval. This represents a significant failure of the chair's responsibilities under the AFH, as detailed later.

36. The enhanced contract was signed by the chair and CEO on 9 November 2018 but backdated to commence on 17 March 2017. The former chair, who had also been a founding member and involved in arranging the CEO's original contract, stated during

interview that there was never any discussion by him, the shadow board, or subsequent board of trustees when he was chair, of the CEO receiving a car allowance and health insurance as part of his contract and that he would not have agreed to these terms.

37. The enhanced contract confirms the car allowance was in relation to a car being leased through the trust to a value of £950 per month rather than being a cash allowance. However, there is no evidence of a car being leased by the trust for the CEO. The CEO stated that he regarded this an additional payment and an uplift on his salary and agreed that no car had been leased with this allowance. The chair also stated in interview that he anticipated a car had been leased but took no action to check this was the case and had relied upon the CFO 1 to ensure that a car was being leased.

38. Trustee 1 advised the chair in an email of 6 June 2019 that “the contract says to the equivalent of £950 per month (exc VAT). We are not mandated to pay £950 per month, the CEO can lease a vehicle to that amount. As I said in the meeting it would be useful to know how much the CEO has actually spent. Evidence will need to be submitted in my opinion”. The chair in the email trail confirmed he would speak to the CEO to seek confirmation of the amounts paid in the trustees meeting the following day, the 7 June 2019.

39. On 19 June 2019 the chair emailed CFO 2 and instructed him to make the required payments. The car allowance arrears, which became payable from March 2018, were paid to the CEO as a lump sum of £20,200 via his payroll in July 2019. This comprised 16 months allowance at £950 per month and the £5,000 which under the contract, was the maximum amount paid for a car lease initial payment.

40. The trust has continued making these monthly payments for the car allowance directly to the CEO. The cost of these payments, since the payment of £20,200, as of 1 February 2021 is an additional £18,050 for 19 months.

41. In summary, the findings in this section represent significant failures of the trust board, the chair and the CEO. Key failings and breaches (but not all) are detailed below:

The trust and the board of trustees

- The failings and issues demonstrate inadequate functioning of the board around holding executive leaders to account, ensuring adequate standards of governance and regularity and propriety in the use of trust funds (breach of AFH s1.3)

- The trust cannot demonstrate that it has ensured its decisions about levels of executive pay follow a robust evidence-based process, that they are reflective of the individual’s role and responsibilities and that the CEO was not involved in deciding his remuneration, breaching the AFH s2.4

The chair of trustees

- the trust chair has failed to ensure the effective functioning of the trust board and to set adequate standards of governance (breach of AFH s1.3)

- the chair failed to exercise reasonable care, skill, diligence and independent judgement in dealing with the CEO enhanced contract. The chair also acted outside of his powers when he signed the enhanced contract on behalf of the trust, without formal board approval (breach of AFH s1.3 and company director / charitable trustee duties). Furthermore, the chair failed to raise the enhanced contracts, associated benefits and lump sum payment to the board and acted outside of his powers when approving the lump sum of £20,200 on behalf of trustees

- the ESFA considers the £38,250 (£20,200 plus £18,050) car allowance paid to the CEO (not in accordance with his contract of employment and without evidence of any lease costs) as wholly irregular and a misuse of ESFA funding. The chair’s involvement in this irregular arrangement also breached his duties under the AFH, company and charity law

The chief executive officer / accounting officer

- the CEO, as accounting officer, is unable to assure the ESFA and Parliament of a high standard of probity in the management of trust funds (breach of AFH s1.5). In addition, the findings demonstrate a lack of selflessness and integrity in managing the process for his contracts and remuneration, including not managing inherent conflicts of interest. This also breaches multiple frameworks including the 7 principles of public life and his duties under Company and Charity Law

- the CEO must take personal responsibility for assuring the board that there is compliance with the funding agreement and handbook. Given the failings and breaches identified within this report, the CEO failed to routinely consider relevant frameworks, breaching his personal responsibility

Connected / related party transactions and conflicts of interest

42. Allegations were made that the trust had transacted with related and / or connected companies in breach of framework requirements, including failure to manage conflicts of interest. Our findings in respect of this allegation are detailed below.

Register of interests

42. The trust does not maintain a register of interests which captures all relevant business and pecuniary interests of its members, trustees, local governors of academies within the trust and senior employees. ESFA review of relevant documentation confirmed,

- the trust has not published 2018/19 relevant business and pecuniary interests of members, trustees, local governors and accounting officers (until 2021)
- the trust did not maintain an annual register of interests for all senior staff
- the trust auditors 2017/18 management letter highlights a significant risk, where declarations of interest were not available for 5 of the trustees who served in the year
- there was ad hoc notification of interests by trustees at the commencement of some trustees' meetings. This was not a standing agenda item for all trust meetings including a number of board meetings in 2019
- there were some register of interest forms submitted by staff and trustees at various times. However, there was no coherent system in place to ensure completeness

43. These findings represent breaches of the AFH in respect of maintaining a register of interests, managing conflicts and being open and transparent over reporting relevant information on the trust website.

Companies linked to trustees / directors

44. The trust has transacted with 5 companies where there is a connection to a trustee and these are classed as connected / related party transactions, which need to comply with the AFH at cost policy. These transactions are summarised in table 1 below.

45. A number of significant concerns and breaches of relevant frameworks were identified with the way the trust has transacted with these companies linked to trustees. The potential value of purchases with these companies was up to £100,467, although there was a lack of clarity over the exact amounts.

Invoiced organisation	iED Care	iED (UK) Ltd	API Innovation Ltd	Mint Business Services	INCO
Total expenditure with the trust (to end September 2020 (*invoice copies) (** invoiced per transaction reports)	£15,600*	£14,040*	£14,400*	£12,907**	£19,200**
Contract in place (at start of service provision)	✗	✓	✗	✓	Unknown
Conflicts of interest managed, including use of a competitive procurement exercise	✗	✗	✗	N/a	✗
Contract formally approved by trust board	✗	✗	✗	✗	✗
Full compliance with AFH at cost policy	✗	✗	✗	✗	✗
Invoices adequately detailed	✗	✗	✓	None available	Unknown

Table 1 – expenditure with organisations directly linked to trustees

46. iED (UK) Limited is registered as a management consultancy. It has 2 directors, the CEO and his wife (at time of fieldwork, per Companies House data). The CEO's wife is a social worker and provides services which are invoiced under the trading name iED Care; these 2 organisations are the same legal entity as the invoices raised by both are paid into the same bank account and invoices use the same company number (08765510).

47. The trust was unable to provide a clear evidence trail of all expenditure with iED (UK) Ltd (including iED Care). Trust 2017/18 financial statements state the value of expenditure as £33,200, however the trust was only able to provide invoices totalling £17,880. Transaction reports provided by the trust suggest the value of expenditure was £11,220.

48. Similarly, for 2018/19, draft financial statements state an expenditure value of £17,300, however the trust was only able to provide invoices totalling £11,760. Transaction reports provided by the trust suggest the value of expenditure was £20,760.

49. The trust confirmed there were no transactions with iED (UK) Ltd in 2019/20.

50. This represents a breach of the AFH and a failure of trustees and the CEO / accounting officer to maintain full and accurate accounting records.

iED Care

51. When asked for the contract / agreement to support iED Care invoices, the trust provided an independent contractor agreement dated September 2018. Under the agreement iED Care were to provide the professional services as chief wellbeing officer (CWO) at a rate of £500 per day. CFO 1 was named as the contact officer for the trust and the CEO's wife as contact officer for iED Care. CFO 1 stated she had never seen this agreement before. In interview, the chair stated that he was unaware of these payments. Trust board minutes show no review or approval of a contract for iED care.

52. The invoices all relate to reports and investigations connected to children's social care. The reports include a proposal for iED Care and the trust to embark on a project which would include the CEO, chair and the trust's social work lead (CEO's wife) visiting Finland and Sweden. This included an application for funds from What Works Centre for Children's Social Care. The total budget of the proposed project was £240,000. The application included a proposal that a "lead consultant – social work qualified project management" - be appointed at a fee of £60,000 (100 days at £600 per day) and recommended iED Care for this role stating, " iED Care has suitable capacity to support the management of the project alongside the willing input of key staff across the LLMAT." The trust was paying IED Care to write an application, which if successful and the recommendation accepted, would have resulted in iED Care being awarded a significant contract potentially in the region of £120,000. The CEO was involved in the preparation and submission of this bid, his wife wrote the application on behalf of their company and the CEO was named as the contact.

53. Trust payments to iED Care breach the trust articles around trustee remuneration. All payments are required to have been authorised by the trustees at a meeting where the CEO was not present and any services provided, must be at cost. The trust was unable to evidence this occurred. The trust has also not publicly declared these related party transactions in 2018/19 (until 2021). The trust CEO was also inherently conflicted in this process and no evidence was available to show this conflict of interest had been managed.

54. The use of trust funds to fund a social care proposal which would include overseas visits is considered contentious use of public funds and would have required prior approval from the ESFA which was not gained.

iED (UK) Ltd

55. Regarding transactions with iED (UK) Ltd, the trust provided an independent contractor agreement dated February 2017 which purports to have been signed by Arthur Thompson and authorises Paul Harrison to perform the role of CEO as a consultant via his company iED (UK) Ltd.

56. There are discrepancies in the accounts provided by the CEO, Arthur Thompson, the original chair, and CFO 1, over the agreement covering these transactions. The invoices refer to them being in respect of an associated independent contractor agreement. The CEO refers to this as being the basis upon which he initially provided his services as CEO. The CEO also confirmed, in support of his view that an original contract of employment was not finalised, that he was paid through payroll through this independent contractor agreement, until his enhanced contract of employment was finalised in November 2018.

57. When the independent contractor agreement was presented to Arthur Thompson, during the investigation, he stated he had never seen it before. This was disputed by the CEO who provided an unsubstantiated extract from an email trail suggesting Arthur Thompson was aware of this agreement in February 2017 (the ESFA has requested an original copy of this and other emails, but these have not been received).

58. Once the trust became an academy on 9 October 2017 the AFH requirements became applicable. In accordance with the trust's articles, all payments to the CEO were required to have been authorised by the trustees at a meeting where the CEO was not present and any services provided, must have been at cost. The trust was unable to evidence this occurred. Payments made under the independent contractor agreement also breach the AFH at cost policy, as the agreement makes no reference to at cost, there was no statement of assurance, the service was not procured at arm's length etc.

59. On the 10 May 2018 iED (UK) Ltd invoice, the charges were £550 per day. Subsequent invoices show the rate had risen to £600 per day without any explanation or approval for the increase.

APi Innovation Ltd

60. APi Innovation Ltd is registered as providing Information technology consultancy activities amongst other activities. It has 2 directors (at time of fieldwork per Companies House data), the CEO and [redacted] ([redacted]). The CEO explained that this company was set up to provide 4MAT which is an information and performance management system which has elements of coaching administered and provided by him, and an online IT aspect which is administered by [redacted]. 4MAT is used at the trust and is mentioned in the trust 2017/18 audited accounts.

61. APi Innovation Ltd submitted 3 invoices to the trust. The first was dated 15 May 2019, the same date of the order form, but for services provided from November 2017 to November 2018 and from December 2018 to May 2019. The second invoice dated 14 August 2019 was for services provided between June to August 2019 and the third invoice dated 4 September was for services from September to November 2019. The total amount charged under these invoices was £14,400. The trust has also not publicly declared these related party transactions (2018/19 transactions were eventually declared in 2021).

62. The trust could not evidence a contract with API Innovation Ltd in place when delivery of services started (contract dated May 2019) and no formal procurement exercise was evidenced. The payments also breached the trust articles, the AFH at cost policy and there was no evidenced management of conflicts of interest.

63. The ESFA investigation team were notified by the trust in May 2020 of a transaction entered into by the CEO in October 2018 to purchase legal protection employment indemnity insurance at a cost of £172,800 for 3 years. Included within documentation was a confirmation that another individual (the co-director of APi Innovation Ltd) known to the CEO would be paid a 5% referral fee as part of this transaction. Total estimated value of this referral fee is £8,640.

64. It was unclear what procurement and approval route was undertaken for this transaction and the chair confirmed he had only just become aware of it. There was no declaration made by the CEO on the trust register or in board minutes regarding the payment of a referral fee to a connected party and the exact value of the referral was not confirmed (or how it was paid).

Mint Business Services

65. Transaction reports show the trust paid £12,907 to Mint Business Services which is operated by the wife of trustee 1 as a non-incorporated business. The trust was unable to provide copies of invoices for services from this supplier. Mint Business Services provided services including the trustee's wife's time as a personal assistant (PA) to the CEO and also services for one other consultant. These services were provided through a letter of engagement dated 29 January 2019. Trustee 1, applied to be a trustee on 13 February 2019 and attended meetings from 14 February 2019, hence at this point transactions with MINT became a related party transaction and the AFH at cost policy applied. However, the letter of engagement was not revised to factor in AFH requirements e.g. at cost (both trustee 1 and his wife indicated they were unaware of the at cost policy).

66. The same restrictions on trustees receiving benefits are extended to the spouse of a trustee under 6.9 b of the trust articles of association and further confirmed by the AFH 2018 s3.10. This conflict of interest was not recognised and declared in trust minutes

until the trustees' meeting of 11 June 2019. Also, there was no evidence of any procurement conducted for these services, breaching the trusts own financial regulations and the AFH.

INCO

67. Transaction reports show invoiced transactions totalling £19,200 with a supplier referred to as INCO (possibly also called INCO education per the trust website). These transactions were flagged to the ESFA late in the investigation. INCO appears to be an unincorporated entity and appears to provide website support services to the trust.

68. The CEO has declared INCO on his November 2018 interests form and open-source information suggests it is linked to the co-director of API Innovation Ltd. As previously, there was no evidence of formal approval, procurement, management of conflicts of interest etc.

69. ESFA concerns around transactions with iED care, iED (UK) Ltd, API Innovation Ltd, Mint Business Services and INCO are summarised below:

- the trust did not have an adequate signed contract covering these services which was approved by the trust board (in advance of services being provided). This includes contracts being non-compliant with the AFH at cost policy. (Multiple breach of AFH 2017 s3.2, 2018 s3.10 and 2019 s5.34 trading with connected or related parties)

- often there was insufficient detail provided on invoices (where invoices were available). Invoices for iED (UK) Ltd did not mention what work had been performed aside from the word "consultancy"

- the trust was unable to demonstrate any significant checks on invoices / payments made to confirm satisfactory delivery. Adequate performance checks may not have been possible given the limited information contained with the contracts / agreements and on the invoices (where invoices were provided)

- there was no formal procurement exercise conducted and no evidence of management of conflicts of interest regarding procurement and contract management. Also, there was no evidence of an independent "review of need" by the board to determine whether these services were actually needed and to what degree

70. The transaction to purchase insurance which included a referral fee was not handled per the AFH given the connections between the CEO and [redacted].

71. These finding demonstrate multiple breaches of the AFH (2017 s3.2, 2018 s3.10 and 2019 s5.34 trading with connected or related parties) including,

- the board of trustees must ensure that the requirements for managing connected / related party transactions are applied across the trust. The chair of the board of trustees and the accounting officer (as senior executive leader) must ensure that their capacity to control and influence does not conflict with these requirements. They must manage personal relationships with connected / related parties to avoid both real and perceived conflicts of interest, promoting integrity and openness in accordance with the 7 principles of public life

- the trust must maintain sufficient records, to evidence that transactions with these parties have been conducted in accordance with the high standards of accountability required within the public sector

- trusts must be even-handed in their relationships with connected / related parties by ensuring that trustees understand and comply with their statutory duties as company directors to avoid conflicts of interest, not to accept benefits from third parties, and to declare interest in proposed transactions or arrangements

- trusts must ensure that any agreement with a related party to supply goods or services to the trust is properly procured through an open and fair process and is supported by a statement of assurance and on the basis of an open book agreement

- these payments breached the trust articles (6.8) regarding payments to a trustee

72. In addition, the level of documentation and explanations provided around these transactions was inadequate. Example breaches include AFH 2017 s3.1.14, 4.6, 2018 s3.10.3, 4.7, 2019 s5.39, 6.5.

73. These findings represent a failure of trustees, the chairs and the accounting officer to ensure compliance with the funding agreement, AFH, trust articles and to ensure high standards of probity in the management of public funds.

Inaccurate declarations to the ESFA

74. The AFH 2019 s5.40 requires trusts to report all contracts and agreements with related parties using the ESFA's online related party form. In October 2019 the trust submitted a related party notification form to the ESFA concerning APi Innovation Ltd, signed off by CFO 3. On this form, it was declared that,

- conflicts of interest had been managed in line with policy guidelines
- the transaction complied with the at cost policy
- the transaction was at arm's length

75. The findings of this investigation confirm these declarations were not accurate, as there was no evidence around the management of conflicts of interest, the transaction did not comply with the at cost policy and no evidence was available to confirm it was conducted at arm's length.

76. Providing inaccurate information to the ESFA represents a failure of the accounting officer, trustees and CFO 3 to ensure compliance with the funding agreement, the AFH and to ensure high standards of probity in the management of public funds.

Procurement of other contractors

77. The trust scheme of delegation and procurement policies had differing procurement thresholds. The scheme of delegation required 3 written quotes to be obtained for expenditure over £2,500, while the procurement policy required 3 quotes for expenditure over £3,000.

78. The ESFA investigation reviewed a sample of procured contractors and identified at least £292,989 worth of expenditure that had no evidence of any formal procurement or tendering conducted. This was in direct contravention of the trusts financial regulations and procurement policy. The contractors were engaged to fill trust senior staff positions and were paid off payroll, which also breached the AFH 2017 s3.1.21, 2018 s2.4.6, 2019 s2.33. The senior roles paid off payroll are the chief operating officer, school improvements officer, CFO2 and CFO3 as detailed in table 2 below.

Contractor role / service	Company Name	Amount Paid (to August 2020)	Academic year of payments	Evidence of procurement / tendering / approvals	Evidence of managing conflicts of interest
Chief operating officer (COO)	Jonathan Taylor Educational Consultancy	£48,000	2017/18 2018/19	✗	✗
School improvements officer	AVT Associates,	£120,450	2017/18 2018/19	✗	✗
CFO2	Veritas Financial Services	£27,026	2018/19	✗	N/a
CFO3	Millhall Consultants Ltd	£70,093	2018/19 2019/20	✗	N/a
School improvements officer	Up4Success Ltd	£27,420	2017/18	✗	✗
Total		£292,989			

Table 2 – Procurement of other contractors

79. The trust paid £27,420 to Up4Success Ltd and £120,450 to AVT Associates Ltd. The sole director of both companies was the interim acting CEO (January 2020 to January 2021). No evidence was available to confirm a procurement / tendering exercise was conducted or formal board approval sought regarding these services. The director of UP4Success Ltd was known to the CEO previously and there was no evidence that conflicts of interest had been managed.

80. No evidence was found that the board ensured regular checks or scrutiny (e.g. internal audit checks) of its central function were completed, which would have highlighted compliance issues around procurement and potential connected / related party transactions. The trust external auditors did raise issues in these areas on the 2017/18 auditor's management letter. The trust auditors in 2017/18 did also conduct internal audit work, but this was focussed on the individual schools.

81. Procurement practices in operation do not comply with the trust's procurement policy and scheme of delegation. The trust entered into contracts without adhering to documented policy. This is also a breach of the AFH, which states in relation to procurement controls, at AFH 2018 s2.4.1, the academy trust must ensure that,

- spending has been for the purpose intended and there is probity in the use of public funds

- spending decisions represent value for money
- internal delegation levels exist and are applied within the trust
- relevant professional advice is obtained where appropriate

Recruitment

82. From July 2019, 4 members of the central team who were employed at the trust, had previously been engaged as consultants at LLMAT. The minutes of the trustees meeting of 5 March 2019 show the trustees agreed to recruit a number of permanent positions. The positions were for a senior systems officer, senior projects manager, PA to the CEO and school improvement officer. This latter role also included the duties of deputy CEO. This was not mentioned in the job advertisement but later appeared in the contract of employment. The trust stated this was discussed during the interview for this role. The trust confirmed these positions were only advertised on the trust website and no evidence could be provided of a competitive recruitment process. Subsequently the only applicants to these positions and persons interviewed for the roles were consultants already working at the trust.

83. Hence the trust is unable to demonstrate how it recruited the best people available for the roles. In addition, the trust cannot demonstrate best practise as defined in the Department's guide to recruitment and selection of a head teacher and other leadership roles. This is a guide to help governors and trustees make effective decisions when recruiting and selecting head teachers and other school leaders, in respect of a fair and open process.

Governance

1. Per the trust 2017/18 financial statements, the trust had 3 named members. 2 of these members attempted to resign on separate occasions however these resignations were not permitted under article 18 which allows any member to resign provided the number of members is not below 3.

2. A review of the governance structure and trust member details on the Get Information about schools (GIAS) website showed the trust with only 2 members from 2017 till August 2019. In addition, member details on the GIAS website did not accord with details in the trust 2017/18 financial statements.

1. Furthermore, one member is shown on the GIAS and Companies House website as being a member since 1 February 2018 which is the same date that he became a trustee. To become a member, the existing members would have needed to have appointed him but there was no evidence to confirm this occurred. He accepts that he is not a member.

2. The trust only had one documented member meeting (December 2018) in 2017 and 2018 and that meeting only included one individual who was a confirmed and agreed member.

3. The findings above breach the AFH which stipulates that information published on the GIAS website must remain up to date, representing failures of the trust members, board and CEO / accounting officer.

4. It was also noted that in respect of the trust's website that,

- no dates of appointments were shown
- the names of trustees were shown on the website but there was no indication of their attendance at board or committee meetings

1. This is a breach of the AFH 2019 which requires that the trust must publish on its website up-to-date details of its governance arrangements including the names of each member who has served at any point over the past 12 months, date of appointment, date they stepped down (where applicable) and the attendance of trustees at board and committee meetings over the last academic year.

2. The trust also did not have a committee fulfilling the role of audit committee until January 2020. This is a breach of the AFH which specifies that the trust must establish a committee, appointed by the board of trustees, to provide assurance to the board over the suitability of, and compliance with, its financial systems and operational controls, and to ensure that risks are being adequately identified and managed. Trusts with an income of under £50 million, can either establish a dedicated audit committee or include the functions of an audit committee within another committee.

Financial management

3. The trust has had significant issues with its financial management and was issued with a Financial Notice to Improve (FNtI) by the ESFA in January 2020, regarding its deficit position in 2017/18 and 2018/19, in addition to the trusts inability to produce and provide 2018/19 audited financial statements and auditor's management letter.

4. The trust was then providing regular management accounts to the ESFA, but the trust was unable to provide an accurate financial position for the 2018/19 financial year, including its cumulative financial position.

5. Other significant weaknesses noted include,

- the trust has lacked stability regarding its financial management with 4 separate interim CFOs in just over 3 years. This has meant the trust has also changed its finance system twice in a short space of time

- the trust has not operated a separate finance sub-committee during a period when its financial management has been poor

- the trust has not had an independent trustee with a strategic financial / accountancy qualification or equivalent experience (at time of fieldwork)

- a trust SRMA visit in October 2019 identified that no management accounts have been produced since the interim CFO left in June 2019. It also identified there was no clear picture of the current assets and liabilities of the trust on the balance sheet as the opening balances for 2017/18 were not fully reconciled

- the 2017/18 auditor's management letter identified issues including 4 separate instances where the Sledmere bank account had temporarily gone overdrawn – this represents poor financial management

- March 2019 board minutes have an update from CFO 2 after carrying out a review of finances at each academy. The update includes identified issues and recommendations such as,

    - access to budgets and bank accounts is the most immediate problem because of a lack of signatories

    - the need to restructure financial management and its monitoring

    - interim arrangements were needed for paying suppliers threatening legal action

- April 2019 board minutes also confirm that the current financial outlook has been downgraded, relative to that identified 4 weeks ago. Where it was thought there was a £50,000 hold in reclaimed VAT, this figure is actually closer to £240,000. These minutes also confirm staff had not been appropriately trained in the use of the trusts finance software and therefore basic operations have not been carried out correctly and known balances are incorrect

6. The trust auditors were commissioned to test certain processes at individual academies. Key issues raised (as reported March 2019) included,

- not all transactions were being posted on its finance system and as a consequence bank reconciliations were not always completed on this system

- segregation of duties concerns were noted at Sledmere

- financial procedures were still in draft format

It was also noted there was no testing of processes and transactions over the trust central function.

7. These findings represent significant breaches of multiple aspects of the AFH, including a failure of the board and CEO / accounting officer to ensure robust governance, effective financial management and adequate internal control arrangements.

Trust Records

8. Whilst members of the trust central team have been cooperative, the ESFA review team have been delayed in their enquiries as requested records and documentation have not been provided by the deadlines set. The review team found the trust system of filing and record keeping was not fit for purpose. Trust staff frequently appeared uncertain as to what documents and records existed or where they were retained. They cited that the CEO retained most documents on his laptop to which access was limited. There were specific concerns identified by the ESFA team regarding information management throughout the review process.

9. Following prior notification (including detailed list of documents needed), the ESFA review team attended the Trust central office in Cirencester for a planned review visit on 28 October 2019. The team had been notified in advance that the CEO was on leave that week, but no indication was given regarding any problems with documentation and records. The team found an office comprising 2 mostly bare rooms with 3 desks at which 2 members of the central team were conducting trust work on their laptops. The office did not have a telephone or any records or documented storage of any description. There were no hard copy records and when asked, staff explained the aim was to run a paperless office but that some documents may be retained at Sledmere School, a previous head office location. It was also explained that most trust records were held on the CEO's work laptop, which was not accessible as he was on leave.

10. The review team subsequently attended Sledmere School on 13 November 2019 to conduct an interview with the CEO. During the interview, the review team requested various information believed to be contained on his laptop. However, the CEO stated he was unable to provide the documents due to connectivity issues. Whilst at Sledmere School the review team requested access to trust records controlled by the school business manager. Although some disorganised files and records were viewed and a random collection of documents eventually recovered from a storeroom, the review team concluded there was no coordinated system of record keeping. Key personnel were unaware of exactly what records were available.

11. During the review process the ESFA team made requests for a range of documents, records and policies, including by letter on 21 October and during the visits commencing 28 October and 14 November. There was also an email reminder sent on 19 November 2019 for documents that were still missing. Despite the requests the trust have been unable to provide a number of key documents. This includes trust payroll records for 2017/18 which could not be provided by the trust and the investigation team were advised would need to be provided by the CEO himself. Also, at the time of

fieldwork, the trust was unable to provide a summary report of financial transactions in 2019/20 (from September 2019).

12. The delays and uncertainty surrounding provision of documents, combined with poor management and control of trustees' minutes, the use of typed and scanned signatures, and assertions from former employees and trustees cause concern regarding the veracity and provenance of the documents mentioned in the report's findings.

13. The issue of inadequate record keeping was also highlighted in the trust 2018/19 audited financial statements which include a qualified external audit opinion on the basis of the auditors being unable to obtain sufficient and appropriate audit evidence regarding trade creditors. The accounting officer's statement on regularity, propriety and compliance also confirms a significant number of concerns, including a failure to fully maintain proper accounting records throughout the period.

14. The trust's inability to provide comprehensive, reliable records and documentation in a timely manner when requested by the ESFA team to facilitate a review of trust operations is a breach of the AFH 2019 s4.1, 5.39 and 6.4.

Conclusion

15. A number of significant findings and breaches of the AFH have been identified. As a result, ESFA have serious concerns over the financial management and governance arrangements at the trust. Findings highlight trustees have not complied with their obligations as company directors and charity trustees. These include breaches of the AFH, trust articles, Charity Commission guidance, directors' and trustees' duties. In particular,

- failure by the trustees, chairs and the CEO (AO) to maintain proper stewardship over public funds and to ensure value for money over the use of public funds
- failure by the trustees, chairs and CEO (AO) to ensure their capacity to control and influence did not conflict with their management of related party transactions at the trust
- breach of trustee statutory duties as company directors, to avoid conflicts of interest
- breach of a number of AFH requirements relating to, procurement, connected parties, RPTs and declaration of interests
- breaches of the trust's articles and the AFH in relation to remuneration and / or benefit to trustees, and expenditure with companies connected to trustees

16. In recognition of the concerns regarding the governance structure, the cumulative deficit position and that the 2018/19 audited accounts not submitted to ESFA by the deadline, the trust was issued with a Financial Notice to Improve on 2 January 2020, which was published on 10 January 2020.

17. In July 2020, the Regional Schools Commissioner for West Midlands (RSC WM) issued termination warning notices to the 4 schools in the trust, requiring remedial actions to address the serious breakdown in management and governance of the academies.

18. On 13 October 2020 the RSC WM issued a termination notice to members and trustees of Learning Link Multi Academy Trust, based on a failure to take sufficient action to address concerns.

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