



Education & Skills
Funding Agency

Education & Skills Funding Agency
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Email enquiry form:

www.education.gov.uk/contactus/dfe

4 March 2024

Mr Gerard Dufficy
Chair of Trustees
The John Henry Newman Catholic College
Chelmsley Road
Chelmsley Wood
Birmingham
B37 5GA

Company Number: 07414011

Dear Mr Dufficy

Notice to improve: The John Henry Newman Catholic College

We are writing to you in your capacity as the new Chair of The John Henry Newman Catholic College “the Trust”, to inform you that the Education and Skills Funding Agency (ESFA) has assessed that breaches of the Academy Trust Handbook (ATH) relating to financial management are significant enough to warrant a Notice to Improve. On that basis, we are issuing your Trust with a Notice to Improve on financial grounds. We understand that this decision may be disappointing and want to assure you that we recognise the positive action taken to address the concerns, since your appointment as Director on 1 January 2024 and your appointment as Chair of the new Board of Directors on 17 January 2024.

The Trust submitted a Related Party Transaction (RPT) on 12 October 2023 requesting retrospective approval. Submitting RPTs for approval prior to beginning the contract is a formal requirement of the Academy Trust Handbook (ATH). This RPT was the sixth non-compliant RPT totaling £554,000 over a period of almost 4 years. All the non-compliant RPTs were for contracts with the Trust’s then sponsor, Bishop Challoner Catholic College.

The Trust is in breach of paragraphs 5.38, 5.40 and 5.41 of the Academy Trust Handbook 2022.

We acknowledge that following policy changes, in the Academy Trust Handbook 2023 there is no longer a requirement to seek ESFA approval for:

- transactions for the supply of goods or services to a trust by the following establishments:
 - colleges, universities and schools which are sponsors of the academy trust

- state funded schools and colleges, including academies (ATH 2023: 5.42)

However, the combination of behaviors previously demonstrated by the Trust of poor record keeping, decision making, retrospective reporting of RPTs to ESFA for approval have been considered when issuing this letter.

This letter and its annexes serve as a written Notice to Improve financial management at the Trust (Notice to Improve or “the Notice”). It reflects continued concerns on governance and oversight of financial management by the Board.

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

Being issued with a Notice means that certain delegated authorities, as defined in the ATH, are 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
- carry forward of unspent GAG from one year to the next beyond any limit in the funding agreement
- pooling of GAG

If the Trust seeks retrospective approval from ESFA this will be deemed a breach of the ATH. Further details of the approval process will be forwarded to the Trust’s Accounting Officer upon acknowledgment of receipt of this letter. 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.

ESFA will monitor progress made towards meeting the requirements of this Notice and will keep us updated through regular case reviews. A decision to lift the Notice will be taken when we are satisfied the requirements set out in the Annexes have been met in full.

We reserve the right to issue a revised 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.

If the Trust fails to meet the requirements of this Notice to our satisfaction, the Trust will be considered to have failed to comply with the terms of the ATH. Failure to comply will be deemed a funding agreement breach and may lead to termination.

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

We 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], who will be your main point of contact related to this Notice to Improve. Please can you ensure that a copy of the letter is

circulated to all Trustees and Members.

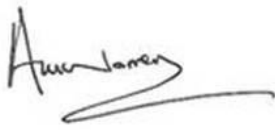
In line with the requirements set out in our publishing policy, the Trust has 10 working days to offer any final comments on factual accuracy to ESFA colleagues before publication. The Trust is required to publish the Notice on its website within 14 days of it being published on gov.uk and retain it on the website until the Notice is lifted.

We look forward to hearing from you.

Yours sincerely



Lindsey Henning (Director, Schools Financial Support & Oversight, ESFA)



Andrew Warren (Regional Director, West Midlands)

CC.

Katherine Clarke (Accounting Officer)

Chris Loughran (Member)

Eric Kirwan (Member)

Peter Vella (Member)

Jaqui Francis (Member)

Jonathan Veasey (Member)

Mark O'Connell (Diocesan Education Service)

Amy Majhu (Diocesan Education Service)

Notice to Improve

This Notice to Improve (the 'Notice') is a consequence of The John Henry Newman Catholic College (the 'Trust')

Failing to manage and keep sufficient records for Related Party Transactions as required in the Academy Trust Handbook (ATH) paragraphs 5.38, 5.40, 5.41 and 5.42.

Conditions

The Trust is required to comply with all the conditions set out in Annex B.

Financial management and governance requirements

The Trust is responsible for its own financial management, control and governance and is expected to take appropriate action to strengthen the weaknesses identified and return to compliance with the ATH.

The Trust should take all appropriate actions to ensure the action plan agreed with ESFA is fully implemented.

ESFA must be satisfied that the Trust is doing everything it can to rectify the weaknesses identified.

Monitoring and progress

The Trust is required to submit the evidence for the specific conditions to the timescales outlined in Annex B to enable ESFA to monitor compliance and progress.

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 given timescales, ESFA will begin to consider and explore the contractual intervention options available.

Compliance and the end of the notice period

As outlined in Annex B, the Trust is required to submit evidence to demonstrate compliance with the conditions of this notice, which ESFA will use to monitor the Trust's progress. Annex B sets out the detail of the evidence required to fulfil the condition and the timescales to submit this evidence to ESFA.

When the Trust meets all the conditions outlined in this Notice, is fully compliant with the most recent edition of the ATH and no other breaches have been identified, we will write to the Trust to confirm that the Notice has been lifted.

Annex B

The John Henry Newman Catholic College

Table of conditions

The table below summarises the conditions that have been placed upon The John Henry Newman (“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 Notice to Improve (“the Notice”). All conditions set out in the table must be met before the Notice can be lifted.

Condition	Evidence required to show compliance with the notice	Timescale
<p>1. The Trust is required to:</p> <p>a) Comply with the funding agreement requirement to submit all audited reports, accounts and statements to ESFA on time and without qualification.</p> <p>b) Submit an Academies budget forecast return (BFR) by the deadline required by ESFA.</p>	<p>ESFA receives the Trust’s audited financial statements by 31 December each year until the Ntl is lifted.</p> <p>ESFA receives the Trust’s BFR by the date required, each year until Ntl is lifted.</p>	<p>Submit audited reports, accounts, and statements by 31 December each year until the Ntl is lifted.</p> <p>Submit BFR by date required, each year until Ntl is lifted.</p>
<p>2. The Trust requests approval from ESFA, in advance, for any actions under the revoked freedoms in paragraph 6.18 of the ATH 2023. These requests should be sent using the ESFA enquiry form. Retrospective approval will be deemed as a breach of the ATH.</p>	<p>The Trust must submit a request for approval for any actions relating to the delegated freedom revoked under the terms of the Ntl.</p>	<p>Until the Ntl is lifted.</p>
<p>3. Continue working with Our Lady and All Saints Catholic Multi-Academy Company to facilitate the smooth transfer of the trust’s school by 1 September 2024</p>	<p>The academy is transferred out of the trust, by 1 September 2024.</p>	<p>By 1 September 2024</p>

<p>4. All Related Party Transactions must be pre-approved by the ESFA.</p>	<p>Approval for all RPTs received before transaction takes place. Any transactions requiring retrospective approval would count as a breach of this condition.</p>	<p>For the full term of the Ntl.</p>
<p>5. All spend with Bishop Challoner Catholic College, previously the sponsor, must be pre-approved by the ESFA.</p>	<p>Evidence of procurement being followed, evidence of need and value for money.</p>	<p>For the full term of the Ntl.</p>
<p>6. The trust must implement a robust procurement policy that ensures that the requirements of Para 2.28 of the Academy Trust Handbook are complied with.</p>	<p>Documents setting out procurement policy submitted to ESFA.</p>	<p>Provide Procurement Policy within 4 weeks of the date of this letter</p>
<p>7. Ensure that all necessary Trustee contact details are up to date.</p>	<p>All fields specified in Get Information About Schools (GIAS) for the individuals must be completed before the Ntl can be lifted. The trust must ensure its record on Get information about schools for the individuals remains up to date.</p>	<p>Update GIAS within 4 weeks of the date of this letter</p>