



Education & Skills
Funding Agency

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

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

22 June 2020

Mr Richard Hales
Kenilworth Multi-Academy Trust
Leyes Lane
Kenilworth
Warwickshire
CV8 2DA

Company Number: 07700728
By email: R.Hales@ksn.org.uk

Dear Mr Hales

Financial Notice to Improve: Kenilworth Multi-Academy Trust

I am writing to you in your capacity as the interim Chair of Kenilworth Multi-Academy Trust (“the Trust”).

The Trust is undertaking a project to relocate and expand Kenilworth School and Sixth Form from its current sites in Rouncil Lane and Leyes Lane to Southcrest Farm and Knoll House to maximise efficiencies within the school by bringing it onto one new site. As part of that project, the Trust entered into contractual commitments for the acquisition of Southcrest Farm and Knoll House dated 23rd September 2019. The Trust also entered into an agreement with Warwick District Council for the sale of Rouncil Lane on the same date.

The Trust did not obtain prior approval from ESFA for these acquisitions and sales. This is a formal requirement of the Trust’s funding agreement as set out in paragraph 5.22 of the Academies Financial Handbook (“AFH”):

*Academy trusts **must** obtain prior approval from ESFA for the following transactions:*

- *Acquiring a freehold of land or buildings*
- *Disposing of a freehold of land or buildings*

The Trust entered into an agreement with Warwick District Council on 5th February 2019. The Trust did not obtain ESFA’s prior approval for this, which is a formal requirement set out in 5.32 of the AFH:

Academy trusts must obtain ESFA's prior approval for borrowing (including finance leases and overdraft facilities) from any source, where such borrowing is to be repaid from grant monies or secured on assets funded by grant monies, regardless of the interest rate chargeable

In addition, the Trust did not submit the 2018/19 financial statement and auditor's management letter by the due date of 31 December 2019 and its annual accounts return by 20 January 2020. This is a formal requirement of the Trust's funding agreement as set out in the AFH:

4.1 The academy trust must maintain adequate accounting records and prepare an annual report and accounts in line with the Charity Commission's Statement of Recommended Practice (SORP) and ESFA's Accounts Direction.

4.2 The accounts must be audited.

4.3 The accounting period of an academy trust will usually end of 31 August as described in its funding agreement

4.4 The audited accounts must be:

- *Submitted to ESFA by 31 December each year*
- *Published on the trust's website by 31 January*
- *Filed with Companies House under company law, usually by 31 May*
- *Provided to every member (under the Companies Act)*
- *Provided to anyone who requests a copy*

Failure to submit these returns on time is a further breach of your Trust's funding agreement and the AFH.

I am concerned that the Trust has not been able to demonstrate the appropriate governance to be compliant with the AFH.

Whilst we do not wish to place additional burdens on trusts at this time, the Trust's breaches of the AFH are considered sufficiently serious to justify the issuing of this letter.

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 on governance and oversight of financial management by the Board.

The Trust is required, pursuant to the provisions of the AFH and the Funding Agreement, 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 fails to seek ESFA 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 will 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.

Ordinarily, the trust must publish this Notice on its website within 14 of it being issued and retain it on the website until the FNtI is lifted by ESFA. The Notice would also be published on gov.uk. However, the Notice will not be published on either gov.uk or the trust's website until a later date due to Covid-19.

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 Jonathan Gill. In line with the requirements set out in ESFA's publishing policy, the Trust has 10 working days to offer any final comments on factual accuracy before issuing.

I am copying this letter to the Accounting Officer Hayden Abbott, Trustees Paul Harris, Richard Ward, Shirley Whiting, Trust Members Stephen Morales and Stuart Croft, and Andrew Warren the Regional Schools Commissioner (RSC) for West Midlands.

I look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Pettifer', with a large, sweeping flourish at the end.

Mike Pettifer

Director, Academies and Maintained Schools Directorate

CC. Hayden Abbott
Andrew Warren
Paul Harris
Richard Ward
Shirley Whiting
Stephen Morales
Stuart Croft

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 Kenilworth Multi Academy Trust (the 'Trust')
 - Failing to submit its audited financial statements and auditor's management letter to the ESFA as required in the Academies Financial Handbook (AFH) paragraphs 4.1 – 4.4.
 - Failing to obtain prior approval from ESFA for the acquisition of the land at Southcrest Farm and Knoll House and the disposal of land at Rouncil Lane as required in the AFH paragraph 5.22
 - Failing to obtain prior approval from ESFA for borrowing, as required in AFH paragraph 5.32

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 submit 2019-20 accounts by the deadline required by the Education and Skills Funding Agency.
4. The trust is required to implement new financial management and monitoring structures and undertake further actions to strengthen challenge in managing the budget and finances. This must include ensuring effective processes are in place for the trust to monitor financial performance and the financial risks to its operation. This will be evidenced by a written report to be submitted by 22 August 2020.
5. The trust is required to supply the following financial information on a monthly basis for a period of 12 months from agreement of the plan for both the trust's operating costs and the relocation project costs. The frequency of reports thereafter will be determined by the ESFA, based on progress against the Trust financial plan:
 - a) Revenue income and expenditure report with a narrative explaining any significant variances for the current full academic year. Income and expenditure classifications in this report should follow those in the Trust financial plan;

- b) A balance sheet showing the position at the end of the last calendar month and forecast to the end of the academic year;
 - c) A detailed monthly cash flow forecast rolling 12 months ahead.
 - d) Details of any further aged creditors, which cause cash flow pressures.
 - e) Provide separate accounting details for any 'central' or 'core' teams within the trust.
6. The trust is required to provide ESFA with notice of all board meetings, including extra-ordinary meetings; and that the agenda and draft minutes (in particular all information relevant to the trust's financial or governance position) are forwarded to the ESFA as soon as they are available.
 7. The trust will appoint any additional Academy Ambassadors nominated by the ESFA to support the Trust's financial recovery at any point in light of progress made to address the recommendations from the governance review.
 8. The trust is required to ensure that proper arrangements are in place, whereby the Trust board has the appropriate skill set and processes in place to challenge and hold to account the Accounting Officer, Finance Officer and other members of the executive management team and evidence this.
 9. The trust should make reasonable endeavours to implement improvements identified by an SRMA.
 10. The trust requests approval from the ESFA, in advance, for any actions under the revoked freedoms in 5.6 to 5.30 of the AFH. These requests should be sent using the esfa-enquiry-form. Retrospective approval will be deemed as a breach of the AFH.
 11. The trust must ensure that all necessary Trustee contact details are up to date.
 12. The Trust is required to comply with the conditions set out in the land consent letter issued by the department relating to the acquisition of Southcrest Farm and Knoll House

Financial management requirements

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

Timescales

16. The Trust must commission the review of financial systems by 22 July 2020 and have completed the review by 22 August 2020.
17. The BFR return is due to the ESFA by 29 September 2020 unless otherwise notified by ESFA. The 2019-20 audited accounts are due to the ESFA by 31 December 2020 unless otherwise notified by ESFA.
18. The Trust must supply revenue income and expenditure report, balance sheet, detailed monthly cash flow, aged creditor report and accounting details for central or core teams within the trust by 14th of each month until further notice.
19. The Trust will appoint any Academy Ambassadors nominated by the ESFA eight weeks from nomination.

Monitoring and progress

20. The Trust is required to meet the specific conditions outlined above to enable the ESFA to monitor compliance and progress.
21. 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

22. 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](#).
- The ESFA receives the Budget Forecast Return, by 29 September 2020 or another date specified by ESFA
- The ESFA receives audited financial statements without a modified audit opinion by 31 December 2020 or another date specified by ESFA.
- The 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 or another date specified by ESFA.
- The ESFA receives the terms of reference for the independent review of financial systems
- The ESFA receives the outcome of the independent review of financial systems
- The trust submits notice of all board meetings, including extra-ordinary meetings; and that the agenda and draft minutes (including confidential notes) are forwarded to the ESFA as soon as they are available).
- Trust appoints nominated Academy Ambassadors by a date specified by ESFA.
- The Trust board are providing the right balance of challenge and have the skills necessary to carry out their duties effectively.

- The trust should provide ESFA with details of the actions they have taken to attempt to implement the improvements identified by the SRMA. The trust may want to incorporate this within an action plan.
- Returns show recovery in line with the Trust financial plan.
- All fields specified in GIAS 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.

23. 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.

24. When the Trust meets all the conditions outlined in this annex, is fully compliant with the AFH and no other breaches have been identified, the 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 Kenilworth Multi-Academy Trust (“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.

Condition	Evidence required to show compliance with the notice	Timescale
1. Implement new financial management and monitoring structures and undertake further actions to strengthen challenge in managing the budget and finances. This must include ensuring effective processes are in place for the trust to monitor financial performance and the financial risks to its operation. This will be evidenced by a written report to be submitted by 22 August 2020	Submit written report, detailing the actions the trust has taken to strengthen the financial management and monitoring structures, to ESFA by 22 August 2020.	Two months from issuing of FNtl
2. We will expect the trust to supply the following financial information on a monthly basis for a period of 12 months from agreement of the plan for both the trust’s operating costs and the relocation project costs. The frequency of reports thereafter will be determined by the ESFA, based on progress against the Trust financial plan: i. Revenue income and expenditure report with a narrative explaining any significant variances for the current full academic year. Income and expenditure	Trust submits the required information to ESFA on time for a minimum of 12 months and until further notice.	On the 14 th of each month until further notice

<p>classifications in this report should follow those in the Trust financial plan;</p> <p>ii. A balance sheet showing the position at the end of the last calendar month and forecast to the end of the academic year; and</p> <p>iii. A detailed monthly cash flow forecast rolling 12 months ahead.</p> <p>iv. Details of any further aged creditors, which cause cash flow pressures.</p> <p>v. Provide separate accounting details for any 'central' or 'core' teams within the trust.</p>		
<p>3. The ESFA receives notice of all board meetings, including extra-ordinary meetings; and that the agenda and draft minutes (in particular all information relevant to the trust's financial or governance position) are forwarded to the ESFA as soon as they are available.</p>	<p>The trust submits notice of all board meetings, including extra-ordinary meetings; and that the agenda and draft minutes (including confidential notes) are forwarded to the ESFA as soon as they are available).</p>	<p>As soon as board papers are available</p>
<p>4. The members of the trust will appoint any Academy Ambassadors nominated by the ESFA to support the Trust at any point in light of progress made to address the recommendations from the governance review.</p>	<p>Trust appoints nominated Academy Ambassador's by date specified by ESFA.</p>	<p>8 weeks from nomination</p>
<p>5. Ensure that proper arrangements are in place, whereby the Trust board has the appropriate skill set and processes in place to challenge and hold to account the Accounting Officer, Chief Finance Officer and other members of the executive management team and evidence this.</p>	<p>The trust board are providing the right balance of challenge and have the skills necessary to carry out their duties effectively.</p>	<p>4 weeks from issuing FNtl</p>

	<p>The trust state what they done to review and develop their governance structure and the composition of the board.</p> <p>Annual assessment of the review of the board's composition in terms of skills, effectiveness, leadership and impact before 31 December each year.</p>	
6. The trust should make reasonable endeavours to implement improvements identified through the SRMA visit in March 2020.	The trust should provide ESFA with details of the actions they have taken to attempt to implement the improvements identified by the SRMA. The trust may want to incorporate this within an action plan.	Timeframe identified by SRMA.
<p>7. The trust is required to:</p> <p>a) Comply with the funding agreement requirement to submit all audited financial statements to the ESFA on time and without a modified audit opinion.</p> <p>b) Submit the Budget Forecast Return Outturn (BFRO) by the deadline required by the ESFA.</p> <p>c) The Trust is required to submit the Budget Forecast Return (BFR) by the deadline required by the ESFA.</p> <p>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.</p>	<p>The ESFA receives audited financial statements by 31 December 2020 each year.</p> <p>The ESFA receives BFRO by date required each year.</p> <p>The ESFA receives BFR by date required each year.</p> <p>Returns show recovery in line with the Trust financial plan.</p>	<p>Submit audited financial statements by 31 December 2020, each year.</p> <p>Submit BFRO by date required, each year.</p> <p>Submit BFR by date required each year.</p>

<p>8. The Trust requests approval from the ESFA, in advance, for any actions under the revoked freedoms in 5.6 to 5.30 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>9. Ensure that all necessary Trustee contact details are up to date.</p>	<p>All fields specified in GIAS 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, in line with 2.51 to 2.55 in the AFH.</p>	<p>Throughout the duration of the Notice</p>
<p>10. The Trust is required to comply with the conditions set out in the land consent letter issued by the department relating to the acquisition of Southcrest Farm and Knoll House and the disposal of Rouncil Lane and Leyes Lane, and the management of the relocation project</p>	<p>The Trust demonstrates to the department that the conditions in the letter have been complied with</p>	<p>By the dates specified in the land consent letter</p>