



Department
for Education

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21 March 2024

Ms Anne Frost
Chair of Trustees
Mowbray Education Trust Limited
John Ferneley College
Scalford Road
Melton Mowbray
LE13 1LH

Company Number: 07796947

Dear Ms Frost

Notice to improve: Mowbray Education Trust Limited

We are writing to you in your capacity as the Chair of Mowbray Education Trust Limited ('the trust'), to inform you the Education and Skills Funding Agency (ESFA) has assessed that the trust's breaches of the Academy Trust Handbook (ATH) relating to financial governance and financial management are significant enough to warrant a Notice to Improve (Ntl). On this basis, we are issuing the trust with a Ntl. We understand that this decision may be disappointing and want to assure you that we recognise the positive action the trust has taken to-date to address the concerns.

As you know, ESFA has been monitoring the trust's progress towards meeting the actions set out in Kevin Sumpth's letter of 28 March 2023. We recognise the cooperation and extensive discussions that have taken place between the trust and colleagues from the ESFA and Regions Group, including providing assurances on the trust's wider governance as well as its preparations for the conversion of Buckminster Primary School. However, as new breaches of the ATH have been identified, our concerns remain in relation to the financial governance and financial management at the trust.

We consider the breaches relate to the following sections of the ATH, which state:

- **2.25** The academy trust must ensure:
 - spending has been for the purpose intended and there is propriety in the use of public funds including in relation to any actual or perceived conflicts of interest.

- **5.6** Novel, contentious and/or repercussive transactions must always be referred to ESFA for approval, and the request must be made to ESFA before the transaction occurs.
 - Novel transactions are those of which the academy trust has no experience, or are outside its range of normal business
 - Contentious transactions are those that might cause criticism of the trust by Parliament, the public or the media
 - Repercussive transactions are those likely to cause pressure on other trusts to take a similar approach and hence have wider financial implications.
- **5.39** Trusts must recognise that some relationships with related parties may attract greater public scrutiny, such as:
 - transactions with individuals in a position of control and influence, including the board chair and accounting officer
 - payments to organisations with a profit motive, as opposed to those in the public or voluntary sectors
 - relationships with external auditors beyond their duty to deliver a statutory audit.
- **5.41** Trusts must report all contracts and other agreements with related parties to ESFA in advance of the contract or agreement commencing or being renewed, using ESFA's related party on-line form.
- **5.44** Novel, contentious and/or repercussive related party transactions are subject to separate arrangements. Trusts must obtain ESFA's prior approval for any contracts and other agreements with related parties that are novel, contentious and/or repercussive, regardless of value. Approval must be sought using ESFA's related party on-line form. Trusts should carefully consider the impact of this requirement and its relevance to transactions involving the board chair and/or the accounting officer.
- **5.58** Academy trusts must ensure any agreement with an individual or organisation referred to in section 5.49 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 from that individual or organisation to the trust confirming their charges do not exceed the cost of the goods or services, and
 - on the basis of an open book agreement including a requirement for the supplier to demonstrate clearly, if requested, that their charges do not exceed the cost of supply.

This letter and its annexes serve as a written notice to improve financial governance and financial management at the trust. It reflects continued concerns regarding 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 Ntl. These terms are set out in Annex A and Annex B.

Being issued with an Ntl 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 Ntl 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 the Ntl and will keep us updated through regular case reviews. A decision to lift the Ntl will be taken when we are satisfied the requirements set out in the Annexes have been met in full.

ESFA will support the trust as it implements the required changes through regular contact and clear routes of escalation to resolve any questions or queries you might have. However, if the trust is unable to deliver the necessary improvement and fails to make sufficient progress against the conditions, we reserve the right to issue a revised Ntl and add further specific conditions. Should it become evident that the trust is unlikely to fulfil the conditions and / or requirements set out in this Ntl 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 the Ntl to our satisfaction, it 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, ESFA may also refer the case to the Charity Commission and/or Insolvency Service for further investigation, as deemed appropriate in the circumstances.

The trust will need to make an appropriate comment in their Statement of Regularity in their Financial Statements for year ending 31 August 2024.

We should be grateful if you would acknowledge receipt of this letter by 9 April 2024 to [REDACTED], who will be your main point of contact related to this Ntl. 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. Given the Easter break, we have allowed an extension for you to submit final comments by 18 April 2024. The trust is required to publish the Ntl on its website within 14 days of it being published on GOV.UK and retain it on the website until the Ntl is lifted.

We recognise that this may be an uncertain time for the trust and its staff. We are mindful of creating additional pressures on individuals involved. Therefore, we ask the trust to ensure appropriate provision is in place to support all its staff, as necessary. You may find the Education staff wellbeing charter (<https://www.gov.uk/guidance/education-staff-wellbeing-charter>) helpful.

ESFA will continue to keep clear and regular lines of communication open with you. As such, [REDACTED] will be in contact shortly to answer any questions you may have, and to discuss the next steps in more detail including any support the trust may require as you work through this process, and to drive the necessary improvements.

We look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'KC & CG', with a long horizontal flourish underneath.

Kate Copley and Carol Gray
Regional Directors for East Midlands Region, DfE

A handwritten signature in black ink, appearing to read 'L Henning', with a long horizontal flourish underneath.

Lindsey Henning
Director, Schools Financial Support & Oversight, ESFA

CC. Christine Stansfield - Accounting Officer, Mowbray Education Trust Limited
Conroy Godber – Trust Member, Mowbray Education Trust Limited
Elaine Welsh – Trust Member, Mowbray Education Trust Limited
Dawn O’Higgins – Trust Member, Mowbray Education Trust Limited
Denise Reed – Trust Member, Mowbray Education Trust Limited
Siobhan Connolly – Trust Member, Mowbray Education Trust Limited

Notice to Improve

This Notice to Improve is a consequence of Mowbray Education Trust Limited (the 'trust')

- Failing to ensure spending has been for the purpose intended and there is propriety in the use of public funds including in relation to any actual or perceived conflicts of interest as required in ATH 2.25.
- Failing to recognise that transactions with individuals in a position of control and influence may attract greater public scrutiny as required by ATH 5.39.
- Failing to report and obtain ESFA's prior approval for a contract with a related party that is contentious as required in ATH 5.6, 5.41 and 5.44.
- Failing to ensure an agreement with a related party to supply services to the trust is properly procured through an open and fair process as required in ATH 5.58.

Conditions

1. The trust is required to comply with all of the conditions set out in Annex B.

Financial management and governance requirements

2. 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.
3. The trust should take all appropriate actions to ensure the action plan agreed with ESFA is fully implemented.
4. ESFA must be satisfied that the trust is doing everything it can to rectify the weaknesses identified.

Monitoring and progress

5. 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.
6. Should it become evident that the trust is unlikely to fulfil the conditions and / or requirements set out in this Ntl 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

7. As outlined in Annex B, the trust is required to submit evidence to demonstrate compliance with the conditions of this Ntl, 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.
8. When the trust meets all the conditions outlined in this Ntl, 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 Ntl has been lifted.

Table of conditions

The table below summarises the conditions that have been placed upon Mowbray Education Trust Limited ('the trust'). It sets out the evidence the trust must provide, and the timescales the trust must meet, to show compliance with the Notice to Improve. All conditions set out in the table must be met before the Ntl can be lifted.

	Condition applied	Action/ evidence required from trust	By when
1	<p>The trust must commission an independent review of its financial management and governance arrangements to identify any gaps and recommendations for improvement.</p> <p>The terms of reference of the review and the outcome must be shared with the ESFA. The scope of the review should include but not be limited to:</p> <ol style="list-style-type: none"> 1. Trust governance arrangements: as a minimum, an assessment of the oversight exercised by the Trust board, a skills audit of the current members and trustees. 2. Trust procedures and policies. 3. Trust operations. 4. Personnel records. 5. Contracts and contract management (including the scope for further efficiency savings, including using economies of scale to reduce staff costs). 6. Reporting on non-compliance with the trust's obligations, including as set out in the Academy Trust Handbook and the trust's articles of association. 7. A review of the trust's approach to internal scrutiny. 8. A review of the trust's risk management arrangements. 9. Understanding the impact of local governance arrangements, including reviewing the appropriateness of terms of reference and schemes of delegation. 10. Assessing the governance professional (clerk to the board). 11. Understanding the trust's approach to financial budgeting and oversight. 12. A review of the trust's approach to managing conflicts of interest. 13. Considering the role of the members of the trust. 	<p>The trust provides the terms of reference and outcome report from the independent review of its financial management and governance arrangements.</p> <p>The trust must provide evidence of having reviewed and actioned any improvements identified from the independent review.</p>	<p>The terms of reference submitted to the ESFA by 3 May 2024.</p> <p>The outcome of the review and action plan including timings to implement any improvements, should be submitted to the ESFA by 14 June 2024.</p> <p>The trust to provide monthly updates to ESFA on progress in implementing any improvements identified from the independent review until further notice.</p>

	<p>The review should consider the above areas in view of the regulatory framework governing academies and provide assurance on the level of compliance with those requirements. In particular, the trust's Articles of Association, the Funding Agreement, the Academy Trust Handbook and the Companies Act 2006.</p> <p>Where non-compliance or improvements are identified, the trust should provide ESFA with an action plan and timeline to address those issues.</p>		
2	All Related Party Transactions (RPT) must be pre-approved by the ESFA.	Approval for all RPTs received before transaction takes place. Any transactions requiring retrospective approval would count as a breach of this condition.	For the full term of the Ntl.
3	<p>We will expect the trust to supply the following financial information on a monthly basis for a minimum period of 6 months. The frequency of reports thereafter will be determined by the ESFA:</p> <ol style="list-style-type: none"> 1. Revenue income and expenditure report with a narrative explaining any significant variances for the current full academic year. 2. A balance sheet showing the position at the end of the last calendar month. 3. A detailed monthly cash flow forecast rolling 12 months ahead. 	Trust submits the required information to ESFA on time for a minimum of 6 months and until further notice.	The management reports must be submitted to the ESFA by the 20th of the month, for a minimum of 6 months, until further notice.
4	<p>The trust is required to:</p> <ol style="list-style-type: none"> 1. Comply with the funding agreement requirement to submit all audited financial statements to the ESFA on time and without qualification. 2. The trust is required to submit the Budget Forecast Return (BFR) by the deadline required by the ESFA. 	<p>The ESFA receives audited financial statements by 31 December, each year until the Ntl is lifted.</p> <p>The ESFA receives BFR by date required, each year until Ntl is lifted.</p>	<p>Submit audited financial 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>
5	The trust requests approval from the ESFA, in advance, for any actions under the revoked freedoms in Part 3 and Annex B of the ATH. These requests should be sent using the Customer Help Portal . Retrospective approval will be deemed as a breach of the ATH.	The trust must submit a request for approval for any actions relating to the delegated freedom revoked under the terms of the Ntl.	Until the Ntl is lifted.
6	Ensure that all necessary Trustee contact details are up to date.	The trust must ensure its record on Get information about Schools for individuals remains up to date.	Confirmation that details are up to date to be sent to the ESFA by 3 May 2024.