

Ms Barbara Stephens
Chair of Governors
Energy Coast UTC
Blackwood Road
Lillyhall, Workington
Cumbria CA14 4JW

28 March 2017

Dear Ms Stephens

Financial notice to improve

I am writing to you in your capacity as Chair of Governors for Energy Coast UTC ('the Trust').

Firstly I want to thank you for the positive action you have taken since taking up the position of Chair in October 2016, the cooperation you have shown my team and EFA Provider Risk Assurance (PRA) and the changes you have already made to strengthen accounting and financial controls.

However, whilst the deadlines specified within Kate Copley's letter to you of 3 November 2016 were met, I am concerned about the historic failure in governance and financial management and control which have been highlighted in the report from PRA and the external audit you commissioned. These reports cited a number of material weaknesses in the accounting practice and internal control systems of the Trust. The evidence reviewed does not provide the EFA with assurance of good financial management and governance, and breaches elements 1.4.4, 3.1.3, 3.1.14, 3.2.14, 3.2.16, 3.7.15 of the AFH.

This letter and its annex consequently serve as a written notice to improve financial management, control and governance at the Trust. It reflects the continued concerns about governance and the oversight of financial management by the Board.

The Trust is required, pursuant to the provisions of the Academies Financial Handbook (AFH) and the Funding Agreement (FA), to comply with the terms of this Financial Notice to Improve ("the Notice"). These terms are set out in Annex A. In addition, the Notice will be published in due course on www.gov.uk.

Upon receipt of this Notice, all of the delegated authorities as identified in the AFH will be revoked, and all transactions by the Trust previously covered by these delegations (regardless of size) must come to the EFA for approval. These delegated authorities shall

be returned to the Trust providing that the terms set out in the Notice have been complied with and continue to be complied with, to the satisfaction of the Secretary of State.

We will monitor progress made towards meeting the requirements associated with this Notice. We will lift the Notice when the requirements set out in the annex have been met. 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. As a result of this breach of the AFH, and therefore also of the FA, the termination process in the FA may be triggered. Depending upon the severity of the breach, this may be considered a material breach of the terms of the FA and lead to termination.

I would be grateful if you would acknowledge receipt of this letter and provide a formal response recognising the requirements associated with this Notice within three working days of the date of this letter. This should be sent by e-mail to [REDACTED].

I am copying this letter to Jan Renou, Regional Schools Commissioner for the North.

I look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mike Pettifer', is written over a light blue horizontal line.

Mike Pettifer

Acting Director, Academies and Maintained Schools

Copy to: Jan Renou, Regional Schools Commissioner

Annex A

Financial notice to improve

1. The Education Funding Agency (EFA) is issuing a Financial Notice to Improve (the 'Notice') as a consequence of:
 - the Trust's failure to demonstrate adequate financial control.

Conditions

2. The Trust is required to develop and implement an action plan which responds to the issues identified in the EFA's report, including ensuring that:
 - all service level agreements (SLAs) and contracts are compliant with EU/UK procurement law and AFH requirements
 - where any potential related party transaction (RPTs) exists the SLAs are "at cost" and the Trust has sufficient supporting processes and procedures to assure the EFA of this. A statement of assurance should also be included in the financial statements where RPTs of this nature exist. This may include identifying any elements that may have previously been charged as profit
 - adequate financial management and governance arrangements are in place to assure the financial position of the Trust and avoid:
 - conflicts of interest
 - novel and contentious payments
 - accounting irregularities
 - inappropriate use of capital funds on revenue expenses
 - a review is undertaken of the use of capital grant funding to ensure that restricted capital funds have been used for the purposes intended.
 - the Trust has a Board that is sufficiently skilled, experienced and structured to maintain adequate oversight in accordance with paragraph 1.5.10 of the AFH
 - the EFA receives appropriate assurance that improvements have been ratified and embedded.
3. The Trust must submit:
 - minutes of each meeting of the Trust and each of its sub committees
 - the Budget Forecast Return (BFR) by 31 July 2017
 - 2016/17 Financial Statements by 31 December 2017 without qualification

Financial Management Requirements

4. The Trust is responsible for its own financial management, control and governance and is expected to take appropriate action to strengthen the weaknesses identified.
5. The Trust should take all appropriate actions to ensure an action plan is fully implemented.

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

Timescales

7. The Trust must provide the financial scheme of delegation and action plan by 28th April 2017.
8. Once the EFA has approved the action plan, evidence of the completion of all actions should be provided to the EFA within three months.
9. The BFR return is due to the EFA by 31 July 2017. The 2016/17 Financial Statements are due to the EFA by 31 December 2017.

Monitoring and Progress

10. The Trust is required to meet the specific conditions outlined above to enable the EFA to monitor compliance and progress.
11. The EFA reserves the right to amend and add further specific conditions to this Notice should they be required. This may include the stipulation of an independent governance review, the Terms of Reference for which would have to be agreed with the EFA.
12. 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 EFA will begin to consider and explore the contractual intervention options available.

Compliance and End of Notice Period

13. Compliance with this Notice will be demonstrated when:
 - the Trust has submitted an action plan which the EFA has agreed is appropriate to address the areas of non-compliance with the AFH
 - the Trust has provided evidence that it has completed all the actions contained within its action plan.
 - the Trust requests approval from the EFA for any actions under the revoked freedoms in Part 3 and Annex B of the AFH. These requests should be sent us using the [efa-enquiry-form](#)
 - all returns due to the EFA are submitted on time, without qualification or commentary that raises concerns, up until and including the 2016/17 Financial Statements
14. When the Trust meets the conditions outlined in this Notice, the EFA will write to the Trust again to confirm that the Notice has been lifted.