Permanent Secretary

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[redacted]

Meg Hillier
Chair of the Public Accounts Committee
House of Commons
London
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12 June 2018

Dear Meg

Thirtieth Report of the Session 2017-19: Academy Schools' Finances

As you will be aware, the formal Treasury Minute response to the Committee's report was published on 23 May. The report recommended that the Department write to you by the end of June, setting out the progress of our work in meeting individual recommendations. In line with that recommendation, I have provided an update on our work in meeting each recommendation below.

Recommendation 3: ***The Department should extend its work to challenge all academy trusts that are paying excessive salaries and take action where these cannot be justified. The Department should write to the Committee and update the Committee on the results of this work.***

Since the 29 January hearing, the Education and Skills Funding Agency (ESFA) has continued to build on its work around high salaries and is taking action where high salaries are awarded to ensure there is clear evidence for doing so. The ESFA emphasised the importance of pay restraint in the 2017 Academies Financial Handbook, in that "the board of trustees must ensure that their decisions about levels of executive pay follow a robust evidence-based process and are reflective of the individual's role and responsibilities".

In recent months, Lord Agnew, the Parliamentary Under Secretary of State for the School System, has taken action to bear down on high executive pay, including challenging 117 academy trusts across the country that pay a salary of more than £150,000 to provide clear evidence for doing so. Since then 18 no longer pay a salary over this amount, with further salary revisions expected in the coming months.

This challenge continues to reinforce the message to the sector that there is need for robust evidence-based processes in all instances, even in the cases where action has led to trusts no longer paying these levels of salary. The ESFA will continue to strengthen both its message about the importance of robust evidence-based processes for setting pay and its approach in this area, monitoring and challenging academy trusts to ensure that they are making best use of every pound of taxpayer's money. The 2018 Academies Financial Handbook will further strengthen expectations and increase transparency on CEO pay. Starting with the 2018/19 Accounts Return, academy trusts will be required to report number of individuals earning above £100,000, the role and also the percentage of teaching time each individual undertakes.

Further to this, the ESFA will provide further clarification on roles and the Chair of Trustees responsibility to ensure rigorous processes are in pace and well documented, with decisions and the factors taken into account recorded and transparent. To date we have met with 32 Chairs of academy trusts and are planning to meet with a further 12 over the coming months.

Recommendation 4: ***The Department should, by the end of June 2018, write to the Committee with details of its progress in improving how it identifies, and intervenes with, academy trusts at risk of financial difficulty.***

The ESFA reviews a broad range of academy trust data and intelligence to identify risk. Each year the ESFA reviews all trusts' audited accounts through a process of analytical reconciliation to identify those with audit concerns and undertake a more detailed review of a risk-based sample. When reviewing all academy trust audited accounts, the ESFA looks at key risk indicators, such as those academy trusts subject to a Financial Notice to Improve, financial health and or governance concerns, qualified accounts or potential compliance issues. In addition, the ESFA have a robust whistleblowing policy to enable anybody to highlight concerns in order to provide assurance over the sector on use of funds and robust financial health. Where academy trusts have newly emerging concerns, then the ESFA will work with the trust to ensure effective financial management.

The ESFA has clear ladders of intervention that fit within the overall robust academy accountability framework. Where an academy trust requires additional support, the ESFA will work with the trust to help it reach a stronger position. Where there is a risk to public funds, the ESFA will intervene in a way that is proportionate to the risk and preserves the effective education of children, including issuing a Financial Notice to Improve, or in the most serious cases termination of the Funding Agreement. Financial Notices to Improve and investigation reports are published so that lessons can be learned. The role of the ESFA goes hand in hand with that of Regional Schools Commissioners. By combining school improvement and financial management intelligence, the Department engages trusts with one voice; ensuring intervention is joined up and consistent.

The Academies Financial Handbook explains that trusts must also develop their own programme of work for checking financial systems, controls and risks. They must have an audit committee, or equivalent, to manage their risks and oversee checks of systems of control. To ensure strong external scrutiny, all academy trusts must have an annual external audit of their annual accounts by a registered statutory auditor. The Department expect trusts to act on audit findings as an opportunity to strengthen their systems. Auditors must apply national auditing standards set by the Financial Reporting Council as independent regulator, and this provides the Department with a high level of confidence that scrutiny is professional and consistent.

The ESFA's focus is much broader than intervention, working with the sector to continue building capacity and expertise in financial management and forecasting. To reinforce the importance of three year financial planning the ESFA are further strengthening budget forecasting, the ESFA CEO Eileen Milner wrote to academy trusts in March 2018 setting out the requirement for all academy trusts to submit three-year financial forecasts. The ESFA, using financial data supplied by trusts, is also generating wider improvements and delivering value for money for the taxpayer by working with trusts to support effective school resource management, three year financial forecasting and developing buying hubs and national deals for all schools.

Recommendation 5: ***The Department should write to the Committee by the end of June 2018 with detail of how funds and assets will be protected and redistributed when schools transfer to another academy trust after one has failed. The Department needs to develop a risk strategy for how to tackle multi-academy trust failure.***

The primary responsibility for the oversight of trusts rests with the trustees themselves, supported by clear financial management and governance requirements set by the ESFA in the in the academy trust funding agreement (FA) and the Academies Financial Handbook (AFH). The AFH requires that Trusts must produce audited accounts and gives Multi-Academy Trusts (MATs) the freedom to amalgamate a proportion of their General Annual Grant (GAG) funding for all their academies to form one central fund. Whether GAG is pooled or not, MAT trustees are responsible for the financial health and governance of all their trust's academies and this is reflected in a single accounts return.

Where GAG is pooled, the AFH further requires that trusts give individual consideration of the funding needs allocations of each constituent academy and must have an appeals mechanism in place. MATs must have adequate internal financial controls and reporting processes to ensure funding is accounted for correctly at individual academy level. Trusts must account properly for their money - maintaining accounting records and publishing annual accounts, which provide the primary means by which they report on their stewardship of funds and show accountability to the public.

Trust closure is rare. Just 2.5% of academies were re-brokered in financial year 2016-17. Where an academy trust winds up, then no academy trust or trustees can profit from their schools. An academy trust cannot retain any public funds it has at the point of dissolution. If the trust winds-up in a surplus position, the Department will work with the incoming trusts to agree a fair way of redistributing this money.

The Department has learned lessons over time about how best to ensure effective multi-academy trust growth. More rigorous controls over growth have been established – a key part of which is our regular reviews of trusts to understand their capacity to manage growth and identify where support is needed. Our focus today is therefore on promoting sustainable growth through high-performing trusts that are able to support and drive wider improvement in schools.

As noted previously for recommendation 4, the ESFA is working with the sector to continue building capacity and expertise in financial management, support effective school resource management and three year financial forecasting and developing buying hubs and national deals for all schools. In addition, the ESFA's school resource management adviser pilot has now started and is providing advice, support and challenge to schools developing financial recovery plans. The pilot phase enables us to test the concept and embed the learning, both in the existing support and guidance provided by the ESFA to the sector and in the procurement of longer-term supply of advisers.

I hope this update is useful for the Committee. I am copying this letter to Sir Amyas Morse, Comptroller and Auditor General and Richard Brown, Treasury Officer of Accounts.

JONATHAN SLATER
PERMANENT SECRETARY