



Department
for Education

Department for Education
South East Regions Group
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[DfE enquiry form](#)

14 December 2022

Fleur Bothwick Interim Chair of Trustees
Nicola Crossley Chief Executive
NAS Academies Trust
77 Farringdon Road
London
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Company Number: 07954396

Dear Fleur and Nicola

National Autistic Society (NAS) Academies Trust: Failure to comply with the Academy Trust Handbook 2022 – Notice to Improve

I am writing to you in your capacity as interim Chair of Trustees and Chief Executive for NAS Academies Trust, to inform you that we are now issuing the trust with a Notice to Improve for financial management, governance and compliance concerns.

Following the recent Ntl warning letter, I want to thank you for your response setting out where the trust remains in breach of the Academy Trust Handbook (ATH) 2022 and where you have/have not made progress against the recommendations of the external review of governance (ERG).

Unfortunately, due to the scale of the breaches and number of actions that remain outstanding, we are issuing this notice to improve.

The Trust is now 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Being issued with a Notice means that certain delegated authorities, as defined in the ATH, have been revoked.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
- carry forward of unspent GAG from one year to the next beyond any limit in the funding agreement
- pooling of GAG

If the Trust goes to the ESFA to seek retrospective approval this will be deemed a breach of the ATH. Further details of the approval process will be forwarded to the 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.

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 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.

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 ATH. This will amount to a breach of the terms of the FA and may lead to termination.

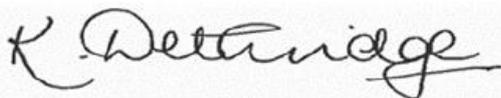
If continued non-compliance with the ATH occurs, we may also refer the case to the Charity Commission and/or Insolvency Service for further investigation, as deemed appropriate in the circumstances.

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 [REDACTED]. 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 publication. The Trust is required to publish the Ntl on its website within 14 days of it being published by the department and retain it on the website until the Ntl is lifted by the department.

I am copying this letter to the Trust Members and Warwick Sharp the Director of Schools Financial Support and Oversight at the department.

I look forward to hearing from you.

Yours sincerely



Dame Kate Dethridge, Regional Director for the South East

CC. Warwick Sharp
Carol Homden, Caroline Stevens, Stephen Ladyman

Notice to improve

The Education and Skills Funding Agency (ESFA) has decided to issue a Notice to improve (the 'Notice') as a consequence of NAS Academies Trust (the 'Trust') failing to comply with the Academies Trust Handbook (ATH) 2022:

- i. Part 1 (paragraphs 1.1, 1.3, 1.12, 1.13, 1.15, 1.21, 1.22, 1.27, 1.33): Roles and Responsibilities – the duties of key people responsible for running academy trusts.
- ii. Part 2 (paragraphs 2.4, 2.9, 2.10, 2.11, 2.19, 2.20): Main financial requirements – the lack of financial oversight.
- iii. Part 5 (paragraphs 5.1, 5.2, 5.11, 5.32, 5.35, 5.36, 5.38, 5.39, 5.40, 5.41, 5.42, 5.43, 5.44): Delegated authorities.

Whilst some progress has been made in relation to other breaches: 1.24, 1.25, 2.1, 2.2, 2.3, 2.5, 2.6, 2.38, 2.39, 3.1-3.5, 3.6-3.21, 4.5, 4.6, 4.16 and 4.17 we require further information on these areas.

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 Academy Trust Handbook.
3. The Trust should take all appropriate actions to ensure the action plan agreed with the ESFA is fully implemented.
4. The 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 the 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 Notice and/or within the given timescales, the 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 notice, which the 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 the ESFA.

8. 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, the ESFA will write to the Trust to confirm that the Notice has been lifted.

NAS Academies Trust

Table of conditions

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

	Condition	Evidence required from trust
Financial and management conditions		
Audit and risk committee	The trust must establish an audit and risk committee, or committee fulfilling the functions of an audit and risk committee, to provide assurance over the suitability of, and compliance with, the trust’s financial systems and operational controls and to manage risks.	Trust must establish an audit and risk committee, or a committee fulfilling the functions of an audit and risk committee and confirm its composition including chair and skills/experience by 22 February 2023. The trust must agree the terms of reference for the committee with the ESFA by 22 February 2023.
Internal audit findings	The trust must provide the ESFA with its latest internal audit findings and any actions taken by 22 February 2023.	The trust must provide the ESFA with its latest internal audit findings and actions taken by 22 February 2023.
Financial systems & controls and internal scrutiny	The trust must commission and complete an independent review of the trust’s financial systems and processes by no later than 22 February 2023. The terms of reference of the review and the outcome must be shared with the ESFA. The trust must 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 February 2023.	The trust must submit the Terms of Reference and share the findings of the independent review of the trusts financial systems and processes with ESFA by 22 February 2023. The trust must submit a written report, detailing the actions the trust has taken to strengthen the financial management and monitoring structures, to ESFA by 22 February 2023.

Monthly management accounts	<p>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. The frequency of reports thereafter will be determined by the ESFA, based on progress against the Trust financial plan:</p> <ol style="list-style-type: none"> 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; and 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. 	<p>Trust submits the required information to ESFA on time for a minimum of 12 months and until further notice.</p> <p>The management reports must be submitted to the ESFA by the 8th day of the month, for a minimum of 12 months, until further notice.</p>
School resource management	<p>The trust must demonstrate that every possible economy is being made to achieve a balanced budget – this must consider the Trust-wide SMT structure, service providers and staffing costs across its academies.</p> <p>The Trust must demonstrate that it has made use of the School Resource Management tools available at https://www.gov.uk/government/collections/schools-financial-health-and-efficiency and also engaged fully with any additional resources made available through this programme i.e. a School Resource Management Adviser.</p> <p>The trust should make reasonable endeavours to implement improvements identified by an SRMA.</p> <p>The trust must comply with all recommendations for improvements identified by an SRMA.</p>	<p>The trust should provide DFE 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.</p> <p>Timeframe to be identified by SRMA.</p>
Governance conditions		
Skilled board	<p>The trust must strengthen the financial and governance capacity of the board, restructuring the board and recruiting a substantive chair</p>	<p>Evidence of appointment and training plans for the trustee provided to the department by 29</p>

	and new trustees with skills and expertise in areas such as finance and HR.	March 2023.
External Review of Governance/ Action plan	The trust must comply with the recommendations set out within the ERG action plan completed by Ruth Murton in the summer of 2022.	The findings of the review, action plan to implement the recommendations and progress updates should be submitted to the DFE by the 15 th of each month.
AGM of Members	The ESFA requires the trust to hold an AGM of members. Notice of meeting, agenda and draft minutes (can be limited to financial/governance arrangements) must be forwarded to the ESFA within 10 working days of the meeting.	Notice of meeting, agenda and draft minutes (can be limited to financial/governance arrangements) must be forwarded to the ESFA as soon as they are available. Notice of any members' meeting, agenda / papers and draft must be forwarded to the ESFA within 10 working days of the meeting.
Board meetings	The ESFA receives notice of all board meetings, including extraordinary 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. Increase regularity of Board meetings and particularly Audit & Finance Sub-Committees above the minimum of 3 times a year.	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). The trust submits minutes confirming the scheduling of an increase in board meetings above the minimum of 3 times a year and ensures that agenda and draft minutes are forwarded to the ESFA as soon as they are available.
Scheme of delegation	The trust must review and update its scheme of delegation and it must meet the required criteria set out in the ATH. The trust must: <ul style="list-style-type: none"> • Approve a written scheme of delegation of financial powers that maintains robust internal controls. • ensure delegated financial authorities are complied with, and The trust must provide ESFA with evidence of its use.	The ESFA will confirm when it is satisfied the Trust has a strong governance structure in place, including a revised scheme of delegation and evidence of its use.
Related party transactions	All Related Party Transactions must be pre-approved by the ESFA.	ESFA approval for all RPTs received before transaction takes place. Any transactions

		requiring retrospective approval would count as a breach of this condition. RPTs to be reported in annual accounts.
Safeguarding conditions		
Policies	<p>The Trust must review and update its current safeguarding policies and establish a process for regular updates and compliance checks. The updated policies must be approved by the governing body.</p> <p>This process should include arrangements for:</p> <ol style="list-style-type: none"> a. scheduling annual updates to child protection policies (KCSIE para 98-99) aligned with KSCIE updates b. ensuring other safeguarding policies¹ are revised following updates to guidance, legislation etc c. Regular policy reviews and sign off through the trust board d. staff training on appointment and following trust policy updates or updates from other sources e.g. DfE, local safeguarding partnership. 	The trust must submit a copy of its updated policies, along with an approved process for regular review and update of policies to the department by 8 February 2023.
Safeguarding governance	<p>The Trust must commission an external review of safeguarding 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 department. The scope of the review should include but not be limited to:</p> <ol style="list-style-type: none"> a. Trust safeguarding arrangements: (as a minimum, an assessment of the oversight exercised by the Trust board, a skills & training audit of the current staff and trustees, arrangements and training for the Designated Safeguarding Lead and any deputies). b. Trust safeguarding procedures and policies and their implementation. 	The trust must submit a copy of the remit for the review to be agreed by the department; evidence of procurement and commissioning by 31 March 2023; and share the report/findings with the department within 2 weeks of completion.

¹ See KCSIE para 84 – 86, and part 3 of the Education Independent School Standards Regulations 2014.

	<p>c. Trust recruitment processes, including compliance with all statutory requirements.</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 Funding Agreement, the Academy Trust Handbook, Keeping children safe in education, Working together to safeguarding children and the Education (Independent School Standards) Regulations 2014.</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>	
Safeguarding governance lead	The Trust must ensure that a trustee(s) with leadership responsibility for safeguarding is appointed by the board.	Evidence of appointment and training plan for the safeguarding trustee provided to the department by 29 March 2023.
Other (standard) conditions		
Financial returns	<p>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 qualification.</p> <p>b) The Trust is required to submit the Budget Forecast Return (BFR) by the deadline required by the ESFA.</p> <p>c) 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 each year.</p> <p>The ESFA receives BFR by date required, each year.</p> <p>Submit audited financial statements by 31 December each year.</p> <p>Submit BFR by date required, each year.</p>
Delegated freedoms	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 esfa-enquiry-form . Retrospective approval will be deemed as a breach of the ATH.	<p>The Trust must submit a request for approval for any actions relating to the delegated freedom revoked under the terms of the Ntl. specifically:</p> <ul style="list-style-type: none"> • special staff severance payments • compensation payments • writing off debts and losses • entering into guarantees, indemnities or

		<p>letters of comfort</p> <ul style="list-style-type: none"> • 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 <p>Until the Ntl is lifted.</p>
Fraud and irregularity	Trust must request approval for all novel, contentious and/or repercussive transactions from the ESFA in advance. Retrospective requests for approval will be considered a breach of the ATH.	Trust requests approval for all novel, contentious and/or repercussive transactions in advance from the ESFA.
Trustee contact details	Ensure that all necessary Trustee contact details are up to date.	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 GIAS for the individuals remains up to date.
Master Funding Agreement (MFA)	The Trust must adopt the latest Model Funding Agreement.	Trust adopts the latest Model Funding Agreement by 29 March 2023.