



Education & Skills  
Funding Agency

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

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

17 January 2022

Mr David Land  
Chair of Trustees  
The Durham UTC Limited  
Long Tens Way Long Tens Way  
Aycliffe Business Park  
Newton Aycliffe  
DL5 6AP

Dear Mr Land

**Notice to improve: The Durham UTC Limited**

I am writing to you in your capacity as the Chair of The Durham UTC Limited.

As you know, the Education and Skills Funding Agency (ESFA) has been working with the Trust to stabilise its financial position and monitoring the Trust's progress towards setting and maintaining a balanced budget. I recognise the cooperation and extensive discussions that have taken place between the Trust and officials and the changes you have already made to strengthen accounting and internal financial controls. However, my concerns remain in relation to the weak financial position and financial management at the Trust.

Paragraphs 2.10, 2.20 and 2.24 of the Academy Trust Handbook clearly states:

- 2.10 The board of trustees must approve a balanced budget, and any significant changes to it, for the financial year to 31 August, which can draw on unspent funds brought forward from previous years. The board must minute its approval.*
- 2.20 The board must ensure appropriate action is being taken to maintain financial viability including addressing variances between the budget and actual income and expenditure.*
- 2.24 The trust must manage its cash position robustly. It must avoid becoming overdrawn on any of its bank accounts so that it does not breach restrictions on borrowing. It may be required to report on its cash position to ESFA where there are concerns about financial management.*

Failure to set a balanced budget, take appropriate action to maintain financial viability and manage the cash position robustly is therefore a breach of the ATH and the FA.

This letter and its annexes serve as a written notice to improve financial management, control and governance at the Trust (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 Academy Trust Handbook (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
- 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 comes 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 issued and retain it on the website until the Ntl is lifted by ESFA.

I am copying this letter to the Accounting Officer Tom Dower, Trust Members Jonathan Timmis, Peter Anthony Galone, Ross C Nagle and Katherine Cowell, the Regional Schools Commissioner for the North.

I look forward to hearing from you.

Yours sincerely



**Warwick Sharp**

**Director – Academies & Maintained Schools Directorate**

CC. Tom Dower – Accounting Officer of The Durham UTC Limited  
Katherine Cowell – RSC for the North of England  
Jonathan Timmis – Trust Member  
Peter Anthony Galone – Trust Member  
Ross C Nagle – Trust Member

### Notice to Improve

1. The Education and Skills Funding Agency (ESFA) has decided to issue a Notice to Improve (the 'Notice') as a consequence of The Durham UTC Limited (the 'Trust'):
  - Failing to set a balanced budget, take appropriate action to ensure financial viability and manage its cash position robustly as required in the Academy Trust Handbook paragraphs 2.10, 2.20 and 2.24.

### Conditions

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

### Financial management requirements

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

### Monitoring and progress

6. 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.
7. 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

8. 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.
9. 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.

**Table of conditions**

The table below summarises the conditions that have been placed upon The Durham UTC Limited (“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.

**Conditions**

	<b>Condition applied</b>	<b>Action/ evidence required from trust</b>	<b>By when</b>
<b>1</b>	<p>The Trust must consider joining a strong Multi-Academy Trust (MAT).</p> <p>The Trust must agree to the deployment of an SRMA and submit a three-year financial plan showing a balanced budget and including a debt repayment plan.</p> <p>The Trust must increase the regularity of trust board meetings and finance committee meetings to 6 times a year until further notice and provide a copy of the approved minutes along with associated reports to the ESFA no later than 5 working days after approved.</p> <p>The Trust must submit to the ESFA monthly management accounts and a cashflow forecast by the 10<sup>th</sup> of each month for a period of 12 months from agreement of the plan. The frequency of reports</p>	<p>Submit evidence of considerations and/or negotiations having taken place. Trust provides a detailed breakdown of the reasoning behind any decisions that are agreed.</p> <p>SRMA report and three-year finance plan. Three-year budget along with cashflow forecast including last three months bank statements and current aged creditors and debtors.</p> <p>The ESFA receives notice of all board meetings; and that the agenda and 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>Copy of monthly management accounts including cashflow and copies of latest bank statement to be sent to the ESFA.</p>	<p>By 31 March 2022.</p> <p>By 31 March 2022.</p> <p>As soon as available. Minutes within 5 days of approval.</p> <p>By the 10<sup>th</sup> of every month starting from February 2022.</p>

	thereafter will be determined by the ESFA, based on progress against the recovery plan.		
<b>2</b>	<p>The Trust is required to:</p> <p>Comply with the funding agreement requirement to submit all audited financial statements to the ESFA on time and without qualification.</p> <p>The Trust is required to submit the Budget Forecast Return (BFR) by the deadline required by the ESFA.</p> <p>Contact the ESFA if it believes it is not able to follow or 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. For 2021/22, this is 17 May 2022.</p> <p>Returns show recovery in line with the Trust financial plan.</p>	<p>Submit statements by date required each year until notified otherwise.</p> <p>Submit BFR by date required, each year until notified otherwise.</p>
<b>3</b>	<p>The Trust is required to:</p> <p>Ensure that all necessary Trustee contact details are up to date.</p>	<p>The trust must ensure its record on Get information about schools and Companies House for the individuals remains up to date.</p>	<p>Within two weeks of any changes until the Ntl is lifted.</p>
<b>4</b>	<p>The Trust is required to:</p> <p>Request approval from the ESFA, in advance, for any actions under the revoked freedoms in Part 3 and Annex B of the AFH. These requests should be sent using the <a href="#">ESFA enquiry form</a>. 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 Ntl.</p>	<p>Until the Ntl is lifted.</p>