



## **Audit Findings Report – 31 August 2019**

Management Letter to Trustees following conclusion of the Audit  
15 October 2019

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## **1. Introduction and Management Summary**

### **1.1 Outline**

This report has been prepared for the trustees of Richard Challoner School following the audit of the financial statements for the year to 31 August 2019 and will be presented by Landau Baker Limited at the meeting of the trustees on 11 November 2019. The comments and recommendations made in this report arose as a result of our review and are for the sole use of the trustees. No responsibility to any third party is accepted as the report has not been prepared, and is not intended, for any other purpose.

Our audit work has been carried out with the express objective to enable us to offer an opinion on the financial statements, thus ensuring that they are compliant with the prevailing regulatory requirement listed below:

- Companies Act 2006
- UK Generally Accepted Accounting Practices (including FRS 102)
- Charities Statement of Recognised Practice (2015)
- Academies Accounts Direction 2018 to 2019

We have also carried out a limited assurance engagement as to whether the expenditure disbursed and income received by Richard Challoner School for the year to 31 August 2019 have been applied to the purposes identified by Parliament and the financial transactions conform to the authorities which govern them.

The scope of the above work has been communicated to the trustees through our audit planning letter, and our terms of engagement detail the respective responsibilities both Landau Baker Limited and the trustees.

We would like to express our thanks to Paul Baxter, Stephanie Harvey and the finance team for their assistance during the audit.

### **1.2 Nature and Scope of the Audit**

We set out below an outline of the nature and scope, including where relevant, any limitations thereon, of the work we propose to undertake and the form of the report we expect to make

We have a duty to form an opinion on the financial statements at the end of the audit. We must give an opinion on whether the financial statements give a true and fair view at the year end, whether the financial statements have been properly prepared in accordance with the Companies Acts 2006, we must also state whether all the information and explanations which we consider necessary for the purpose of the audit have been obtained, whether proper books of account have been kept by the academy

and whether the information given in the Trustees' Report is consistent with the financial statements.

We will express an unqualified opinion when the financial statements give a true and fair view in accordance with the financial reporting framework. Any modification to this unqualified audit opinion will be expressed in our auditor's report.

We will conduct our audit in accordance with the International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes an examination on a test basis of evidence relevant to the amounts and disclosures in the financial statements.

We will document the internal controls and the systems of the academy. We will review internal and external operational, financial, compliance and other risks facing the academy, which might affect the financial statements, including the likelihood of those risks materialising and how they are managed.

We will also document and review the control environment within the academy, including the attitude of management to controls and whether management have a process for keeping under review the effectiveness of the system of internal control and, where a review of the effectiveness of internal control has been carried out and the results of that review.

We will also review the actions that the trustees plan to take in response to matters such as developments in law, accounting standards and other developments relevant to the academy's financial statements.

### **1.3 Audit Opinion**

At the date of this report, nothing has been identified which would warrant the issuing of a qualified audit opinion or modified conclusion in our regularity assurance report.

Our specific observations and recommendations have been highlighted in section 4.

## **2. Audit Approach**

### **2.1 Materiality**

Our audit work does not attempt to verify that the financial statements are 100% correct. We employ the concept of materiality to decipher whether any error or misstatements found during the audit process require adjustment.

When assessing materiality, we utilise our professional judgement whilst considering the following:

- Whether the omission or misstatement of an individual item would reasonably influence the reader of the financial statements; and
- Whether the adjustment or non-adjustment of individual item would impact on the true and fair view of the financial statements.

The overall level of materiality for the financial statements of Richard Challoner School has been set at £79,611. This was set during the planning stage of the audit, using the level of funding received by Richard Challoner School, and we are satisfied that it continues to be appropriate.

Any unadjusted misstatements above the trivial level of just below £1,430 have been recorded on the Summary of Unadjusted Errors [Appendix 5.1].

### **2.2 Independence and Objectivity**

In accordance with the Auditing Practices Board's Ethical Standards we as auditors must ensure that our independence and objectivity is maintained at all times. The following threat and safeguards identified at the planning stage were as follows:

#### **a. Long association with the audit engagement**

The engagement partner has not been involved with the audit for more than 10 years. However, there may be a perceived loss of independence due to self-interest, self-review or familiarity (as per APB Ethical Standard 3). In order to address such threats, we applied the following safeguards appropriate to the audit. These are outlined below.

- i. The audit manager has not been involved with the audit for more than 5 years.
- ii. The perceived ethical threats are regularly reviewed.
- iii. A sample of our audit files are subject to review each year by an independent member of the Institute of Chartered Accountants in England and Wales, who specialises in this type of technical review. The audit files selected for review are chosen by reference to the perceived risk associated with those audit files.
- iv. The Quality Assurance Directorate of the Institute of Chartered Accountants in England and Wales, who is our audit regulator,

visits us from time to time and carries out, amongst other things, independent reviews of our audit files.

- v. We use an independently produced audit programme.
- vi. We use an independently produced accounts disclosure checklist.

**b. Non-audit services provided to the audited entity**

Landau Baker Limited is also engaged by Richard Challoner School to provide the following non-audit services detailed immediately below.

- Preparation of Statutory Accounts
- Preparation and Submission of Corporation Tax Return
- Annual Accounts Return
- Teacher's Pension – End of Year Certificate

There may therefore be a perceived loss of independence due to self-review and a management threat (as per APB Ethical Standard 5). In order to address such threats, we applied the following safeguards. These are outlined below.

- i. The non-audit services are provided by a separate team from the engagement team, and the team providing the non-audit services avoids taking any action or making any statement that compromises the independence or objectivity of the engagement team, for example, expressing any opinion about the approach that the engagement team might take or the conclusion it might reach when considering the appropriateness of accounting or other audit judgements.
- ii. The audit team is satisfied that a member of management has been designated by the audited entity to receive the results of the non-audit service and has been given the authority to make any judgements and decisions of the type set out in paragraph 34 of APB Ethical Standard 1 that are needed.
- iii. The audit team concludes that that member of management has the capability to make independent management judgements and decisions on the basis of the information provided.
- iv. The perceived ethical threats are regularly reviewed.
- v. A sample of our audit files are subject to review each year by an independent member of the Institute of Chartered Accountants in England and Wales, who specialises in this type of technical review. The audit files selected for review are chosen by reference to the perceived risk associated with those audit files.
- vi. The Quality Assurance Directorate of the Institute of Chartered Accountants in England and Wales, who is our audit regulator, visits us from time to time and carries out, amongst other things, independent reviews of our audit files.

We confirm that, in our professional judgement and having regard to the safeguards in place, the firm is independent within the meaning of the Auditing Practices Board's

Ethical Standards and the objectivity of the audit engagement partner and staff has not been impaired during the course of our audit.

We have complied with the Auditing Practices Board's Ethical Standards and therefore we confirm that we are independent and are able to express an objective opinion on the financial statements.

We confirm that we have implemented policies and procedures to meet the requirement of the Auditing Practices Board's Ethical Standards.

### **2.3 Qualitative aspects of Accounting Policies and Financial Reporting**

During the course of our audit, we consider the qualitative aspect of the financial reporting process, including items that have a significant impact on the relevance, reliability, comparability, understandability and materiality of the information provided by the financial statements. We would discuss, as necessary, the following items with the trustees:

- The appropriateness of the accounting policies to the particular circumstances of the academy;
- The timing of transactions and the period in which they are recorded;
- The appropriateness of accounting estimates and judgements (e.g. in relation to provisions), including the consistency of assumptions and degree of prudence reflected in the accounting records;
- The potential effect on the financial statements of any uncertainties including significant risks and disclosures, such as pending litigation, that are required to be disclosed in the financial statements;
- Material uncertainties related to events and conditions that may cast significant doubt on the academy's ability to continue as a going concern;
- The extent to which the financial statements are affected by any unusual transactions during the period and the extent to which such transactions during the period and the extent to which such transactions are separately disclosed in the financial statements; and
- Disagreements about the matters that, individually or in aggregate, could be significant to the academy's financial statements or in the auditor's report. These communications include consideration of whether the matters have or have not been resolved and the significance of the matters.

We trust that this more formal approach to the above matters will be helpful to you.

### **2.4 Trustees' Responsibilities**

As required by the Companies Act 2006 s418 (2) the Trustees' Report is required to include a statement confirming at the date of approval of the financial statements, the trustees' have:

- taken all steps that they ought to have taken to make themselves aware of any relevant audit information and to establish that the auditor is aware of that information; and

- ensured so far as they are aware that there is no relevant audit information of which the company's auditor is unaware.

### 3. Key Audit Areas

Our audit work undertaken has been focused upon our assessment of the risk of misstatement of balances reported in the financial statements. Summarised below are the significant risks and reasonably possible risks identified at Richard Challoner School and a summary of the specific audit testing undertaken. Any key findings pertaining to the work undertaken are summarised in section 4.

#### 3.1 Significant risks identified (ISA 315)

Significant risks are defined by professional standards as risks that, in the judgement of the auditor, require special consideration. The significant risks identified by the audit team are as follows:

Identified Audit Risk	Audit Approach & Findings
The revenue cycle includes fraudulent transactions	<p>Under ISA 240 there is a presumed risk that revenue may be misstated due to the improper revenue recognition of revenue.</p> <p>We will select 100% of grant income and a sample of non-grant income from the sales ledger and trace these items back to source documentation.</p> <p>We will also review any funding restrictions in place.</p> <p>Walkthrough tests will be performed on all other material income streams to ensure the system is operating in line with expectations.</p> <p><b>Our audit work undertaken did not indicate any reason why the identified audit risk could not be mitigated.</b></p>
Management override of controls	<p>Under ISA 240 there is a presumed risk that the risk of management override of controls is present in all entities.</p> <p>We will review accounting estimates, judgements and decisions made by management, test journal entries and review unusual significant transactions.</p> <p><b>Our audit work undertaken did not indicate any reason why the identified audit risk could not be mitigated.</b></p>

#### 3.2 Reasonably possible risks identified

Identified Audit Risk	Audit Approach & Findings
Fund Allocation	<p>Review the allocation between funds to confirm that it has been correctly undertaken in accordance with both regulation and precedence. Specifically confirm that income and expenditure allocation is accurate and any transfer between funds has the appropriate authority.</p> <p><b>Our audit work undertaken did not indicate any reason why the identified audit risk could not be mitigated.</b></p>
Payroll Costs	<p>Agree the total payroll costs per the reports to the staff costs reported in the financial statements. Agree payments made on a sample basis.</p> <p>Test check a sample of employees to ensure existence and that their individual deductions are correctly calculated.</p>



	<p><b>Our audit work undertaken did not indicate any reason why the identified audit risk could not be mitigated.</b></p>
Local Government Pension Scheme	<p>Sense check the assumptions made by the actuaries to ensure that they are comparable with the industry standard. Review the accuracy of the calculation made.</p> <p><b>Our audit work undertaken did not indicate any reason why the identified audit risk could not be mitigated.</b></p>
Related Parties	<p>Enquire with management as to the existence of any related parties. Review the accounting records and any other governorships / directorships held, thus confirming that all relevant disclosures have been made within the financial statements.</p> <p><b>Our audit work undertaken did not indicate any reason why the identified audit risk could not be mitigated.</b></p>
Accounting Estimates	<p>Consider and document all significant accounting estimates used in the preparation of the financial statements. Review all estimates made for accuracy, appropriateness and consistency.</p> <p><b>Our audit work undertaken did not indicate any reason why the identified audit risk could not be mitigated.</b></p>
Governance	<p>Review of the financial procedure manual and the financial systems to ensure that the appropriate level of governance is adhered to. Typical review work concerns the convening of regular meetings, the timely submission of reports and the correct disclosures made as prescribed by the prevailing regulations.</p> <p><b>Our audit work undertaken did not indicate any reason why the identified audit risk could not be mitigated.</b></p>

#### 4. Audit Findings

As stipulated by the Academies Accounts Direction 2018 to 2019, all findings detailed below have been given a priority rating as follows:



High Priority – should be addressed as a matter of urgency.



Medium Priority – recommendations to be implemented as soon as practical



Low Priority – recommendations made but little risk – to be dealt with in the future

##### 4.1.1 Audit points identified in previous management letter dated 14 June 2019

Findings	Recommendation	Current Position	Priority
<p><b>1. Census</b> We noted that there were differences between the census figures and the school register figures for both pupils on roll and pupils eligible for Free School Meals (FSM). No reconciliation had been retained to explain these differences.</p>	<p>It is recommended that all items on the census are reconciled to supporting information and the reconciliations are retained with the copy of the census. If any figures on the census are inaccurate, the ESFA should be informed as soon as possible.</p>	<p>It has been agreed that at each census date, copies of the internal registers will be retained to confirm the pupil numbers as recorded on the census. Any difference in pupil numbers will be fully investigated and documented.</p>	

##### 4.1.2 Audit matters arising from our audit work

Findings	Recommendation	Priority	Management Response
<p><b>1. Capital grants</b> It was noted that DFC monies totalling £19,259 were received during the year for general school maintenance. However, these funds remained unspent at the year end. This was included within deferred revenue at the year end.</p>	<p>In accordance with the Academies Accounts Direction (2018), unspent amounts of capital grants are not deferred. Therefore, this unspent grant income must be recognised during the period it is received.</p>		<p>This point is agreed and the unspent income from the DFC Capital Grant should not be deferred into the following year but shown in the year that it was received.</p>

#### **4.2.2 Regulatory matters arising from our limited assurance work**

No issues were noted during our limited assurance work.

## **5. Other Issues**

### **5.1 Schedule of Unadjusted Errors**

There were no errors that we noted in carrying out our audit that have not already been adjusted in the financial statements.

### **5.2 Other communication requirements**

- We have not been made aware of any other incidents in the period and no other issues have been identified during the course of our audit procedure
- We are not aware of any related party transactions which have not been disclosed
- We are not aware of any significant incidences of non-compliance
- Our review of the financial statements has found no material omissions in the financial statements

### **5.3 Misstatements Identified**

There have been no material misstatements identified during the course of our audit work.

### **5.4 Significant difficulties met**

There were no significant difficulties encountered during the course of our audit work.

## **6.1 Future Developments in the Sector**

### **6.1.1 INTERNAL SCRUTINY**

A new requirement of the Academies Financial Handbook 2019 ["AFH"], which is applicable for periods commencing from 1 September 2019, is that *"all academy trusts must have a programme of Internal Scrutiny to provide independent assurance to the board that its financial and other controls, and risk management procedures, are operating effectively."* [AFH 2019: Part 3.1]

Internal Scrutiny is the updated terminology to replace that of 'Responsible Officer' and / or 'Internal Audit', albeit with additional requirements upon academy trusts, as are detailed below.

#### **INTERNAL SCRUTINY: APPROACH**

Annually, the trust must decide, with reference to its risk register and external documentation received (e.g. management letter), the focus areas for Internal Scrutiny in the upcoming year.

Internal scrutiny must be devised and conducted with the following principles in mind:

- Evaluating the suitability of, and level of compliance with, financial and other controls;
- Offering advice and insight to the board on addressing weaknesses in controls; and
- Ensuring all categories of risk are being adequately identified, reported and managed.

#### **INTERNAL SCRUTINY: INDEPENDENCE & AUDIT COMMITTEE**

Inherent in the approach to Internal Scrutiny is ensuring that its practical operations remain independent of the academy trusts' own senior leadership team and finance operations. In order to facilitate this, trusts must establish an audit committee, which should meet at least 3 times a year, and are tasked with *"directing the trust's programme of Internal Scrutiny and reporting to the board on the adequacy of the trust's financial and other controls and management of risks."* [AFH 2019: Part 3.8]

The audit committee should not include employees of the trust, although the accounting officer and chief financial officer (or equivalent) are recommended to attend to provide information and participate in discussions as necessary. The chair of the audit committee cannot be the same individual as the trust's chair of governors.

The audit committee can be combined with another committee, unless the annual turnover of the trust exceeds £50 million, when a separate dedicated audit committee is required.

The audit committee must also have a formal remit which is appropriately documented. This will specifically cover the identification of the programme of work devised annually, as well as an assessment of the subsequent reports provided and the implementation of any recommendations made.

All meetings of the audit committee should be appropriately minuted.

### DELIVERING INTERNAL SCRUTINY

The principles of Internal Scrutiny, as summarised by AFH 2019: Part 3.15 are as follows:

- Independence and objectivity – Internal Scrutiny work conducted by a suitably qualified individual outside of the trust’s own accounting team.
- Be guided by a documented scheme of work provided by the audit committee.
- Formally providing a report of work done in a timely manner to the audit committee at each meeting (minimum of 3 per annum), providing recommendations as needed; and
- Provision of an annual report to the audit committee as at 31 August year end.

The above findings and reports, must be made available to the **all trustees** promptly.

The options available to a trust regarding who can undertake the Internal Scrutiny review are as follows:

- Employment of an in-house internal auditor;
- Engagement of an audit firm to carry out the internal audit service (being under separate terms of engagement should the same firm carry out the trust’s external audit);
- Appointment of a suitably qualified, non-employed trustee; or
- Peer reviews by CFO (or equivalent) from another academy trust, after satisfying and documenting that this other academy trust has a good standard of financial management and governance.

Any combination of the above options is allowable.

The audit committee must also ensure and document that the individual(s) carrying out the review(s) are suitably qualified to do so (ie. members of a relevant professional body). The onus is also on the audit committee, to ensure that the Internal Scrutiny review(s) remain suitable for the trust.

### INTERNAL SCRUTINY: EXTERNAL REPORTING & TRANSPARENCY

The trust must confirm in its Governance Statement (which forms part of the trust’s annual financial statements), which of the Internal Scrutiny options it has applied and why. The outcome of the work must also inform the accounting officer’s Statement of Regularity in the annual accounts.

The trust must submit its annual summary report of the areas reviewed, key findings, recommendations and conclusions to the ESFA by 31 December each year, when it submits its audited accounts. The Trust must also provide the ESFA with any other Internal Scrutiny reports, if requested to do so.

### **6.1.2 ACADEMIES – CHART OF ACCOUNTS**

The Department for Education [“DfE”] has recently introduced a new chart of accounts for academies, an electronic copy of which can be accessed from the link below. Developed in conjunction with representatives from the sector, and software providers, this new chart of accounts is to become the new standard within the sector. It is anticipated that in the future, adoption of the chart of accounts would allow the automated transfer of data from the accounting system to the Education and Skills Funding Agency [“EFSA”] for financial returns, with this scheduled to commence in the 2019-2020 financial year. It is also expected that the implementation will allow for the provision of accurate financial benchmarking information, theoretically providing academies with greater assurance when comparing their finances with other similar academies.

Lord Agnew, the Parliamentary Under Secretary of State for the School System comments as follows: *“By having a standard chart of accounts, we create the essential building blocks for the new system as it provides a consistent way of recording financial data for all academy trusts. This will allow us to reduce the burden on trusts through the electronic submission of financial data directly from finance systems and adding greater value to trusts by enabling us to create new financial efficiency tools as well as improve the timeliness and quality of the existing tools.”*

#### **WHEN DO ACADEMIES NEED TO ADOPT THE CHART OF ACCOUNTS?**

The formal adoption of the Academies Chart of Accounts is currently voluntary, although the DfE do recommend adopting for use from September 2019 onwards. They are actively *“encouraging trusts to work with their financial software suppliers to adopt the chart of accounts.”* It is anticipated that adoption will become mandatory in the future, although the timeframe for this has not yet been provided.

By adopting fully the chart of accounts, the academy will be utilising the standard ledger codes thus allowing the full integration with the accounting software, significantly reducing the time it takes to complete online forms. Changes can be made to the standard ledger codes, but these would run the risk of minimising the automation process and requiring manual input of data.

The DfE do note, that Trust’s will not need to use all of the standard codes, especially those on the balance sheet, which reflect the full gamut of the DfE’s financial reporting. Instead, these can be marked as inactive on the accounting system

#### **ACCOUNTING SYSTEM PROVIDERS**

In the development stage for the Chart of Accounts, the DfE consulted with the following finance system suppliers within the sector:

- Access Education, Capita SIMS, Civica Corero, Hoge 100, Orovia, PS Financials, RM and Sage

All above suppliers (and indeed all providers operating in the sector) will be knowledgeable concerning the adoption of the new chart of accounts, and therefore we recommend that they should be the first port of call to discuss the implications of the trust adopting the new chart

of accounts. They will also be able to advise on the what tailoring to the standard nominal ledger codes can be done, without compromising the integrity of the software.

#### WHEN SHOULD THE TRUST ADOPT THE CHART OF ACCOUNTS?

As stated above, the adoption of the standard chart of accounts is currently not being forced upon trusts. However, it is likely, in the near to medium term future that the ESFA will make it a mandatory requirement of all trusts to adopt the academies chart of accounts. Therefore, it is incumbent on all trusts to actively prepare for the transfer. In certain instances transferring onto the new chart of accounts ought to be the default option, as detailed below.

- a. When the current contract for the accounting system is due for renewal. It is recommended, both with the incumbent provider, and others to which the trust tenders, that it is a pre-requisite of the tendering process that the adoption of the new chart of accounts is both implemented and fully supported by the provider.
- b. Change in the MAT structure. Any change to the structure of a MAT ( new schools / academies joining and / or leaving etc.) will impact significantly on the accounting system. Therefore, it is likely that this will be an opportune time to implement the new chart of accounts.

#### LANDAU BAKER – HOW CAN WE HELP?

The conversion of the existing chart of accounts to a new one can be daunting, with new processes to learn, changes in reporting and the potential risk of a loss of integrity of the data. As stated above, it is recommended that the assistance of your software provider is engaged in this matter.

In addition, Landau Baker, are able to offer a 'transfer verification transition service, to ensure that the closing balances on the old chart of accounts have been fully transferred and are traceable into the new chart of accounts, thus providing a necessary audit trail. Landau Baker are also able to assist in the induction of staff when using the new chart of accounts, enabling them to identify and produce the necessary reports required for both monthly and year end reporting.

With regards to the cost for this service, we will charge our current daily rate of £1,000 (plus VAT).

#### KEY LINKS

Academies Chart of Accounts - <https://www.gov.uk/government/publications/academies-chart-of-accounts>

Guide to adopting the Chart of Accounts - <https://www.gov.uk/government/publications/academies-chart-of-accounts/guide-to-adopting-the-academies-chart-of-accounts>



## **6.2 Technical Help-sheets**

### **6.2.1 ACADEMIES – AFTER SCHOOL PROVISION**

A recent publication by the DfE - 'Charging for School Activities (May 2018)' - has highlighted certain complications for academy trust's who charge parents / guardians for the provision of After School Clubs ["ASC"], or other similar ventures termed an 'Optional Extra'. Whilst charging for Optional Extras are allowable, so far as to cover costs incurred, the guidance states that "*schools cannot and must not make a profit from charging for Optional Extras.*" This applies, even if the profits are to be fully re-invested into the trust.

#### **DOES THIS CREATE A PROBLEM FOR ACADEMY TRUSTS?**

Whilst provision of an ASC is prevalent within the sector, it does present certain difficulties when there is a formal charge made for this service. The relevant section of the Education Act 1996 [sections 449-462], discusses the legalities of charging fees for education services and Optional Extras. Section 456(3) states that the "*charge [fees] shall not exceed the cost of the provision of the Optional Extra*", thus indicating that these services have to be provided with no 'profit mark-up'.

It is therefore the responsibility of each individual academy trust to ensure that they are in compliance with the Education Act, and that any charges made for these such provisions are in accordance with the current legal requirements, not exceeding the cost of providing these Optional Extras.

#### **IS THERE ANYTHING THAT CAN BE DONE?**

There are a number of options that are available to academy trusts which will enable them to legally charge for the provision of ASCs. These are detailed below, alongside a summary of the necessary requirements to ensure compliance with the regulations.

#### **APPORTIONMENT OF COSTS**

The Education Act 1996 Section 456(4) details that an appropriate proportion of costs can be applied, in relation to staffing, premises and other relevant materials and services, which apply to the usage of the ASC.

In practice therefore, one needs to appropriately apportion relevant and legitimate costs against the income received. On a very basic level, if the school premises are open 8am-6pm and the ASC runs from 3:30pm-6pm, one could potentially apportion premises costs (e.g. electricity, gas, water), by 2.5hrs / 10hrs. One could also apportion the following costs; materials, insurance costs, building maintenance costs (where relevant), rates, cleaning costs, premises staff (if they have to stay at the school for a longer period), etc.

Any cost apportionment model applied must be appropriate for the ASC and fully justifiable. It is the responsibility of the governing body of the academy trust to confirm this.

#### **VOLUNTARY DONATIONS**

If the academy trust did not formally charge for the provision of the ASC, instead asking for voluntary donations, then it does not matter if a 'profit' is made, as the income received will

be classified as a donation. However, there are certain other considerations here – as the payment contribution is voluntary, one cannot fully guarantee from year to year the total amount that will be paid. This will depend somewhat upon the demographics of the local area.

One option to trusts' is formally charging parents at the actual cost level of providing the ASC, whilst requesting for top-up voluntary contributions. Should this option be implemented, there would be an increased administrative burden upon the trust, as very clear records detailing and confirming this course of action will need to be kept.

#### CHARITABLE COMPANY / OUTSOURCING

In order to maximise revenue, if a trust was to remove the provision of the ASC outside of the control of the trust, either by way of the creation of a charitable company or fully outsourcing to a third party, then the income received would not be subject to the same legislation.

By creating a charitable company to run the ASC, the new entity would be able to 'gift aid' all the profits up to the trust. However, setting up and running a charitable company will incur both initial and ongoing annual governance and administrative charges. The trust will also have to consider the legal governance of the trust - who will become trustees of the charitable company? etc., and the implications of annual reporting – will the charitable company need to be consolidated into the trust's annual accounts?

If the trust wishes to outsource the ASC to a third party, then the income received would be classified as 'lettings', with all the income and running costs being the responsibility of the third party. The trust however, would be losing control of the ethos of the ASC, which potentially could have a detrimental impact to the reputation of the academy trust.

#### COMMUNITY USE

As seen from the legislation above, charging for an ASC anything in excess of the cost incurred is prohibited. However, if the ASC provision was available to the wider community and not just pupils on the roll, then different legislation applies which states that '*a governing body may charge for any [community] services or facilities provided*' [Education Act 2002, Section 27(3)], thus providing an opportunity for a surplus ('profit') to be generated. It must be noted however, that the above clause must not be applied in detriment to either the trust's Articles and Memorandum of Association and / or the requirements of HM Treasury – Managing Public Money.

In order to facilitate this, there must be tangible evidence of the marketing of the provision to the community, with no preference given to pupils on the roll. This will provide proof that the provision is available to the wider community, even if no children ultimately join the ASC. As ever, clear notations must be made in the governing body minutes, with all relevant documentation retained to support the course of action.

There is a further potential complication to the above, whereby the explanatory guidance to Education Act 2002, Section 27 indicates, 'that any surplus raised through community usage, actually belongs to the owner of the land on which the school is situated, as opposed to the trust directly'. As the majority of academy trusts include the land and buildings within their

balance sheet (as opposed to Local Authority schools), this is not a significant issue. In the cases where the land and buildings of the trust are not included on the balance sheet (typically faith schools, where the land and buildings are held by an external organisation – e.g. a diocese), the trust will need formal permission from the external organisation in order to generate the revenue initially, as well as having control over the funds. The external organisation is under no obligation to cede this to the trust, but practically are highly likely to do so. Again, formal documentation of this (e.g. signed letters), will need to be obtained prior to the commencement of this option, and updated regularly with copies retained as evidence.

### **CONCLUSION**

Whichever of the above options academy trusts chose to employ, these must be formally documented and minuted as having been discussed in the Governing Body meetings. Documentation will need to be created and retained to support the decision(s) made (eg. basis of apportionment, evidence of community use). Trusts may also wish to engage their legal advisors to confirm their approach, given the complexity of the issue.

With regards to the above options, there is no ‘optimum’ which can be applied to all trusts. The choice made will depend very much on the governance and senior leadership team at the academy, to identify and implement (if applicable).

*Should you require any assistance regarding the above, please do not hesitate to utilise our free help-line for academies and contact either Carly Pinkus, Jake Lew or Jonny Weatherall on 0208 359 988*

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## **6.2.2 ACADEMIES – TAX ADVISORY WORK**

Despite being publicly funded, academy trusts are largely subject to the same tax requirements as those of an incorporated charity. As such, there are a number of considerations that they need to take in to account, to ensure that they optimise the tax exemptions available, whilst avoiding non-compliance with the prevailing regulations and the potential ensuing penalties.

In order to assist trusts in this matter, Landau Baker are able to offer practical on-site guidance, from dedicated members of the academies team, ensuring that the tax position of each trust is both fully compliant and optimal for the specific requirements of each individual trust.

Detailed below are examples of the type of tax advisory work that can typically be undertaken for trusts. Alternatively, we can tailor our work accordingly to focus on specific areas.

### **SYSTEMS REVIEW**

- Undertaking a complete and comprehensive review of the Trust's systems and controls pertaining to Corporation Tax, VAT and PAYE.
- Advising as to whether the systems are fully compliant with prevailing UK tax requirements.
- Providing recommendations in order to improve operational efficiency (if applicable).

### **REVIEW OF INCOME**

- Analysing the multiple income streams of the Trust in order to assess both corporation tax and VAT implications for each one individually.
- Ensuring that the Trust is fully compliant and is paying the correct level of tax (if applicable).
- Review structure of the Trust for tax efficiency – is it appropriate to set up a trading company?
- Ensure that any trading company is operating in the most tax efficient manner (if applicable).

### **VAT REVIEW**

- Advise whether VAT 126 forms are the most appropriate for the Trust - checking that the VAT threshold hasn't been breached.
- Review the completed VAT 126 forms / VAT returns to ensure that they have been accurately prepared.
- Advise whether VAT registration is appropriate for the Trust.
- Ensure that any partial exemption / business use calculations are being made and check for accuracy and reasonableness.
- Check VAT on catering is being correctly applied.

**VAT ADVICE - PLANNED PROJECTS**

In certain instances - for example when a trust is undertaking a significant capital spend - it is often prudent to enlist the services of a VAT specialist. This recommendation is to ensure that any potential VAT issues can be identified early to allow the Trust the opportunity to proceed accordingly. This will also ensure that any potential VAT refund due, can be received promptly and in full by the Trust.

Our daily charge for the above work is £1,000 (plus VAT).

*Should you require any assistance regarding the above, please do not hesitate to contact either Carly Pinkus, Jake Lew or Jonny Weatherall on 0208 359 9988.*

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