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Dear Parents/Carers

Last week, there was considerable publicity regarding the Education Funding Agency's (EFA) notice to terminate the school's funding. We had no notice that this letter would be published on the 11th October. We consulted our lawyers on what we were able to publish and distribute to both parents and to the wider public and we are now in a position to share with you the real facts.

We have displayed on our website the advice from our legal advisors with four annexes of supporting evidence. The link is:

<http://www.durandacademy.com/our-school/governingbody/>

In an attempt to simplify this advice, here are some key points which have been left out of recent articles:

- 1) On the 30th April 2011, Michael Gove the Secretary of State for Education at the time wrote to Sir Greg Martin confirming that the government would provide £17.34m for the development of an all through academy including a free boarding school. The £17.34m would be the government's contribution to the capital costs for the scheme, while the school would provide the remainder of the funding for the capital costs of the Middle School (Years 7 and 8). The school also agreed to set aside £2m for the boarding project.

The school kept to its part of the agreement, but have not received a penny of the promised £17.34m from the government.

Why?

- 2) When the Durand Academy Trust (DAT) and the Durand Education Trust (DET) were set up, the assets including the land that the school is on, were transferred to DET. DET was set up prior to the school becoming an academy as governors wanted to be certain that the assets and income they generated (which was many thousands of pounds) would always be available to support



the education of the children of Durand. To that end, the governors sought legal advice on how to achieve this and they followed it. DET was founded entirely legally and correctly. Therefore, all the significant assets created by Sir Greg Martin's building of the company from non public money were placed in this private, charitable trust known as DET. DET's objectives are to ensure the delivery of excellent education for Durand children, including the development of the boarding school site for this purpose. The EFA have attempted to force DAT to give these assets back, which is obviously impossible because DAT does not own the assets.

In a meeting in December 2014 with Lord Nash (The Parliamentary under Secretary of State for Schools) and Peter Lauener (Chief Executive of the EFA), the former threatened to issue a Financial Notice to Improve against Durand unless the Governing Body of DAT had the assets transferred from DET to DAT (See Annex 2 and 4 of the legal advice). Lord Nash stated in that meeting that:

" I don't care what the law is: I just want your clients to do what I tell them".

- 3) In order to carry out their threats Lord Nash and Peter Lauener tried using a report by the National Audit Office (NAO) and discussions at the Parliamentary Accounts Committee (PAC) against the school.

To do this, the EFA provided inaccurate information to the National Audit Office, which they used in their report (See Annex 3 of the legal advice). None of the issues raised at the PAC meetings has proved to have substance.

- 4) Lord Nash and Peter Lauener then carried out their threat and issued the school with a Financial Notice to Improve. This flawed notice included a forensic investigation into Durand Accounts by Price Waterhouse Cooper. This investigation or fishing exercise took seven months.

The draft report, which the EFA have not published, shows nothing negative of substance but instead reveals the fundamental financial strength of the school. It must be remembered that the school has not had a penny of the promised £17.34m from the government in the last four years since the secondary school opened in 2012 but it has continued to run the only free state boarding school in the country. What primary school could do that?

- 5) Lord Nash and Peter Lauener, as part of their threats, said they would damage reputations of individuals of the school. They are ordering Mr McLaughlin to resign as Headteacher or resign as a trustee of DET, claiming there is a conflict of interest. They are ordering Sir Greg to resign from the Governing Body.

There is no such conflict of interest in terms of Mr McLaughlin's positions and if there was then they can be managed and the EFA have no right to ask for either. Similarly with Sir Greg, there is no conflict of interest and the EFA have no right to order him to leave the Governing Body. Sir Greg's level of work has been paid separately by private funds which he has generated by the developments he has created, managed day to day and developed. Sir Greg's work has resulted in all children from Reception to Year 6 swimming for no charge, free music to children, an After School Charge of £1.50 per evening, subsidised teacher accommodation etc. The Charity Commission instructed for a major independent review into Sir Greg's payments which concluded that they were both reasonable and provided value for money.

- 6) Throughout these attacks on the integrity and reputation of the academy, the academy has continued to provide outstanding education for its pupils.

The consistently outstanding academic results are interestingly never mentioned throughout the attacks of Lord Nash and Peter Lauener. These are contained in Annex 1 of the legal advice.

We invite parents to read the detailed legal advice on the website. We have also published on our website our letters to the Prime Minister and Secretaries of State, requesting them to stop the EFA's unjustified attacks on the school.

We will continue to act in the best interests of the pupils and parents of Durand Academy and are determined not to allow the actions of unaccountable, unelected civil servants to damage the education of Durand children.

The Governing Body of Durand Academy