

# Academy Trust Handbook 2021

Our summary of the key changes

# Our summary of the key changes for trustees and finance staff

The Education and Skills Funding Agency (ESFA) have published the Academy Trust Handbook (the Handbook) 2021, which will be effective from 1 September 2021.

The first thing to note is the name change, following ESFA's decision to re-brand the Academies Financial Handbook to the Academy Trust Handbook.

The document continues to set out the financial management, control and reporting requirements that apply to all academy trusts, but now also highlights trusts' existing responsibilities in a wider range of areas, acting in the spirit of clarity and providing close to a 'one stop shop' for trustees, local governors and leaders of trusts.

The Handbook points trusts towards key legislation and guidance about safeguarding, health and safety and estates management by which trusts are already bound, and reiterates how essential it is that trusts comply with these important requirements to ensure the welfare of pupils.

In her opening foreword, Baroness Berridge, Parliamentary Under Secretary of State for the School System, comments on her aspiration "for all schools to have support and to thrive by being part of a confident and successful multi-academy trust."

This echoes the message delivered by Gavin Williamson in April in which he spoke about a wish for every school to be part of a family of schools and the unviability of single schools.

There are once again a number of changes in the Handbook. Most of these are subtle or relatively minor, but nevertheless it is important the trustees and CFOs are aware of these amendments and what they may mean for their trust.

In our summary we highlight the changes with our helpful commentary on what these may mean for the sector.



# Five key changes

## 1. Explaining when trusts should review their scheme of delegation [2.4]

### UHY commentary

It is minimum best practice to review the scheme of delegation at least once a year, but also whenever there is a significant change in trust management or the organisational structure. This means a change in the senior leader, or expansion of the trust to include additional academies, should trigger a review of the scheme of delegation.

The Handbook reaffirms that regardless of any scheme of delegation the board cannot delegate overall responsibility for their trust's funds. Part 2.5 of the Handbook notes that trusts should have a finance committee to which financial oversight and scrutiny can be delegated, but also emphasise that the committee would be supporting the board. One area of the Handbook where the board's responsibility for financial matters remains are parts 2.10 and 2.11 which state the board must approve a balanced budget and ensure budget forecasts are compiled accurately. This means the board, and not any sub-finance committee, must take responsibility for these budgets.

## 2. Emphasising the value of external reviews of governance for trusts [1.32]

### UHY commentary

Trusts are required to conduct an internal review of governance, and new trusts must disclose in their first accounts what they have done to review and develop their governance structure and the composition of the board.

Subsequently, trusts need to include an annual assessment within the financial statements, and ESFA recommend that boards refer to features of effective governance in the [Governance Handbook](#).

The Handbook suggests that trusts should strongly consider an objective independent external review of the effectiveness of the board. Guidance on how trusts can approach this is given [here](#) but in essence such a review conducted by an external system leader or governance professional, often a trained national leader of governance or national leader of education, looks at how well the board is working.

Again ESFA say it's their 'strong preference' for external reviews of governance to be conducted routinely. This stops just short of being a 'must' requirement and the implication is that any trusts that are pulled up over their governance arrangements will be in trouble if they have not arranged an external review. The Handbook includes several useful links to helpful resources which we would encourage trustees to refer to.

### 3. Explaining that trusts must obtain prior approval for staff severance payments of £100k or more which include a non-statutory/non-contractual element, and/or where the employee earns over £150k [5.12]

#### UHY commentary

Para 5.10 of the Handbook continues to require trusts to obtain approval for any staff severance payments including a non-contractual/non-statutory element of £50k or above. This requirement goes further and stems from [HM Treasury's Guidance on Public Sector Exit Payment](#). It introduces a new specific must requirement to obtain prior approval on any exit payment above £100k and the second part of the requirement, catching any exit package paid to any employee earning more than £150k, will mean trusts will need to take care to report some smaller exit packages if they are paid to their highest earning employees. This change is welcome in the interests of increased transparency.

### 4. Setting out when trusts should re-tender for their external audit service [4.5]

#### UHY commentary

This is an interesting development. Audit services are no different to any product or service an academy trust procures, and it is right that trusts consider value for money. Section 7 of the ESFA good practice guide [Choosing an external auditor for an academy trust](#) talks about how often a trust may wish to go out to tender, and why it could be counter-productive to go out to change auditors too often.

As with some of the other changes to the Handbook this is a 'should' requirement rather than a 'must'.

The trouble with assessing value for money for a professional service such as an audit, especially one that demands an in-depth understanding of how the trust operates, is that this goes so far beyond simple price. Trustees need to consider factors such as the delivery of the service, quality of the audit findings report and general communications, and engagement and responsiveness to queries from the trust finance team, which should all be more important than saving a trivial amount in the context of the trust's budget. The main thing for any trust is to ensure it is getting the best out of its auditor for its needs.

The change is likely to trigger a significant number of audit re-tenders for the 2021/22 year. Trusts are not under any obligation to re-tender but it is likely many that have not re-tendered for five or more years will read the new Handbook and decide it is now appropriate to test the market. It is important to note that the requirement is only to go out to tender, and not to change auditors. It will therefore be perfectly acceptable to re-appoint the existing auditors even if they have acted for far longer than the five years.

### 5. Reminding trusts of governance documents which need to be available for public inspection [2.51].

#### UHY commentary

Governance transparency has always been important for schools, and academies routinely publish vast amounts of information on their websites. Previous editions of the Handbook required various up to date governance arrangements to be published and these (part 2.50 of the Handbook) are unchanged. The 2021 Handbook goes further and specifically states certain documents which trusts must make available for public inspection:

- the agenda for every meeting of the trustees, local governing bodies and committees
- the approved minutes of each meeting
- any report, document or other paper considered at each meeting.

The wording here is interesting; what does 'make available for public inspection' mean? This could mean publish on the website, but it doesn't explicitly state this. Trusts could therefore interpret this that it is sufficient to have the documents available should a member of the public wish to see them. Trusts may just deem it easier to publish the documents. On 5 July 2021 the ESFA confirmed that trusts have discretion on how they make minutes available, whether on request or on their website, thus reflecting what the model articles already require.

Until now there has not been an explicit requirement for trusts to publish these documents, although many trusts have openly done so, often continuing what they used to do as a local authority school.

The third bullet point requirement, to include any report or paper considered at the meeting, is an interesting one, since this could include some detailed documents. Understandably any item containing confidential material relating to named employees, pupils or indeed any matter which, by reason of its nature, the trustees are satisfied should remain confidential, can be excluded, but when it comes to the other reports and documents trusts will need to use their discretion over what they consider to be confidential.



# Other changes

## Information on suitability checks for existing and future members [1.4]

### UHY commentary

Trusts must ensure that their members are not currently subject to a direction made under section 128 of the Education and Skills Act 2008 which prohibits individuals from taking part in academy trust management, and that they do not appoint as a member a person who is currently subject to a section 128 direction.

This makes sense since members ultimately have powers including to appoint trustees and so, whilst they do not have a day to day responsibility, their oversight role is important.

Trusts should also remember that it is best practice to complete a 'fit and proper' test when they appoint new trustees. HMRC's guidance [here](#) is aimed at all trustees of charities, or directors of corporate charities. Whilst this isn't specifically aimed at the academy sector, academy trusts are exempt charities and this guidance therefore does apply. A fit and proper test should be completed for new trustees and also when a trust appoints someone to a position of trust or influence. The guidance provided a [link to a model fit and proper declaration that trust may use](#).

## Confirming that trusts should have reserved places for parents in their governance structure [1.11]

### UHY commentary

Involving parents in trust governance helps ensure that boards stay accessible and connected to the community they serve and supports robust decision making. In a single academy trust this would mean some parental representation on the main trust board, in a multi-academy trust it is probably more likely that the governance model will provide for parent local governors at individual schools. Note that trusts need to refer back to their articles of association to ensure compliance with the conditions determining minimum number and types of trustee.

## Highlighting trusts' obligations in relation to safeguarding [1.15], health and safety [1.17] and estates management [1.20]

### UHY commentary

As noted in Baroness Berridge's foreword the Handbook includes these sections as it widens its scope to cover more than just financial areas. Obligations in these areas have not changed, the 2021 Handbook merely references useful guidance on these requirements, and one would hope trusts and individuals within them responsible for these areas will already routinely refer to this guidance.

## Emphasising the process if appointing a senior executive leader as a trustee [1.23]

### UHY commentary

This area of the Handbook makes it clear that from 1 March 2022 any newly appointed senior leader – usually the CEO or equivalent – can only be a trustee if the members decide to appoint them as such, the senior leader agrees and the trust's articles permit it. Intriguingly the DfE have stopped short of prohibiting from other employees as serving as trustees.

## Advising trusts to liaise with their RSC when their senior executive leader is planning to leave the trust to discuss their structure and options [1.36]

### UHY commentary

The Handbook clarifies that this means the Accounting Officer, and the guidance applies when this individual leaves for any reason. The suggestion is that boards should approach their local Regional Schools Commissioner (RSC) in advance to discuss their structure, including plans for recruitment. Trusts may well have plans or thoughts to promote someone internally, but talking to their local RSC about the options open to them, at an early stage, enables trusts to consider all their options.

## Replacing the term clerk with governance professional [1.49]

### UHY commentary

The previous edition of the Handbook made it a must requirement to appoint a clerk so this alteration is a minor change to the terminology used. The Handbook reiterates how useful an experienced governance professional can be to a board. In our experience there is quite a range in skillsets, and it can also be a challenge to find someone experienced with academies with the rules and requirements very different to those for a maintained school.



## Reminding trusts of the requirement for Disclosure and Barring Service checks [1.51 and 1.52].

### UHY commentary

This is another area where the new Handbook references well-known guidance, reiterating the obvious importance of obtaining DBS certificates for all staff and supply staff, and enhanced criminal record certificates for all trust members, trustees and local governors. The guidance also refers to the Keeping Children Safe in Education statutory guidance.

## Updating information on what trusts need to publish on their website in relation to employees whose benefits exceed £100k [2.32]

### UHY commentary

Trusts must publish on their website, in a separate readily accessible form, the number of employees whose benefits exceeded £100k, in £10k bandings, for the previous year ended 31 August. The Handbook suggests trusts may wish to display this information in a tabular form showing in each column salary, pension etc. Where the academy trust has entered into an off-payroll arrangement with someone who is not an employee, the amount paid by the trust for that person's work for the trust must also be included in the website disclosure where payment exceeds £100k as if they were an employee.

This requirement hasn't really changed other than the requirement to disclose any off-payroll arrangements in the same way as for employees. The suggestion of using a tabular form for the data is also new but not compulsory.

## Explaining that the chair of the audit and risk committee should not be the same person as the chair of the finance committee [3.10]

### UHY commentary

This will not apply to all trusts because many smaller trusts will operate a joint committee where the finance committee fulfils the remit of an audit committee. However, where a trust has a separate committee, best practice would be to have different chairs. Only trusts with an annual income of over £50 million must have a dedicated audit and risk committee. The third bullet point requirement, to include any report or paper considered at the meeting, is an interesting one since this could include some detailed documents. Understandably any item containing confidential material relating to named employees, pupils or indeed any matter which, by reason of its nature, the trustees are satisfied should remain confidential, can be excluded, but when it comes to the other reports and documents trusts will need to use their discretion over what they consider to be confidential.

## Explaining that internal scrutiny must not be carried out by a member of the senior leadership team [3.15]

### UHY commentary

The previous edition of the Handbook altered the internal scrutiny requirements considerably. This made it clear that internal scrutiny has to be independent and objective and, therefore, must not be performed by the trust's own accounting officer, chief financial

officer or other members of the finance team. This latest tweak expands on this to also prohibit a member of a trust's senior leadership team from performing internal scrutiny services.

In our experience most trusts do outsource internal scrutiny to a professional firm. **UHY provide internal scrutiny services** to a large number of trusts and can cover numerous financial and non-financial areas, providing assurance to boards that their trust's systems and controls are operating effectively throughout the year.

## Introducing a requirement for trusts to provide ESFA with authority to obtain third party information [6.5].

### UHY commentary

ESFA has always had certain powers and the right to access to books and records etc. Now, where ESFA has concerns about financial management and/or governance at an academy trust, the Handbook clarifies that trusts must provide ESFA with written authority giving permission for any third party to provide information and documentation to ESFA, or its agents on request of ESFA, that ESFA considers relevant for the purposes of its investigation.

## Providing trusts with advice and guidance on cybercrime [6.16 and 6.17]

### UHY commentary

There have unfortunately been an increased number of cyber-attacks and ransomware infections within the education sector. The DfE chief information security officer wrote to multi-academy trusts on 23 April 2021 with important information about these attacks, which have notably affected multi-academy trusts. MATs were asked to confirm to the DfE that their trust is taking action to protect their systems and ensure that they have both a backup regime and incident management plan in place.

The 2021 Handbook makes it a must requirement to put "proportionate" controls in place and also clarifies that trusts must obtain permission from ESFA to pay any cyber ransom demands. The National Crime Agency consider the payment of ransoms as an encouragement or endorsement, and ESFA therefore supports the NCA's recommendation not to pay ransom demands. It should also be noted that paying a ransom does not guarantee access will be restored.

The Handbook provides various helpful links to help trusts manage this very real risk which can have a serious impact on any trust.

## Renaming the Financial Notice to Improve (FNtl) to Notice to Improve (Ntl) reflecting how ESFA intervenes in broader governance issues [6.18 to 6.22]

### UHY commentary

This change recognises how ESFA continue to intervene on occasion in broader governance issues, not only in response to financial management concerns.

## The next step

You can read the **full 2021 Handbook here**.

The Handbook again includes, in Part 8, a schedule of the 'must' requirements. The issuing of a new Handbook is an opportune moment for all Accounting Officers, Chief Financial Officers and trustees to read, as a minimum, the Part 8 requirements since these serve as a reminder of the key rules. Since Part 8 abbreviates those requirements it should not be used as a substitute for reading the full Handbook, and we would strongly encourage key individuals involved in the sector to read the full document once a year.

If you have any questions after reading our summary, the Handbook itself, or indeed in respect of reporting requirements for academies more generally, please contact your usual UHY adviser or find your local academy expert on our website at [www.uhy-uk.com/academy-schools](http://www.uhy-uk.com/academy-schools).

## Reminders

The Handbook uses two key words throughout:

**Must** – this is an explicit requirement of the Handbook and failure to comply is a breach that would be classed as a regularity issue, reportable in the audit findings report and possibly the financial statements

**Should** – this identifies minimum good practice which trusts should apply unless they can demonstrate that an alternative approach better suits their circumstances.



UHY Hacker Young Associates is a UK company which is the organising body of the UHY Hacker Young Group, a group of independent UK accounting and consultancy firms. Any services described herein are provided by the member firms and not by UHY Hacker Young Associates Limited. Each of the member firms is a separate and independent firm, a list of which is available on our website. Neither UHY Hacker Young Associates Limited nor any of its member firms has any liability for services provided by other members.

UHY Hacker Young (the "Firm") is a member of Urbach Hacker Young International Limited, a UK company, and forms part of the international UHY network of legally independent accounting and consulting firms. UHY is the brand name for the UHY international network. The services described herein are provided by the Firm and not by UHY or any other member firm of UHY. Neither UHY nor any member of UHY has any liability for services provided by other members.



This publication is intended for general guidance only. No responsibility is accepted for loss occasioned to any person acting or refraining from actions as a result of any material in this publication.

© UHY Hacker Young 2021

[www.uhy-uk.com](http://www.uhy-uk.com)

Helping you prosper