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Academy Trust Handbook 2023

Our summary of the key changes

Helping you prosper

The Education and Skills Funding Agency have published the Academy Trust Handbook 2023

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The Education and Skills Funding Agency (ESFA) have published the Academy Trust Handbook (the Handbook) 2023, which will be effective from 1 September 2023.

For the second successive year the new Handbook has regretfully been published very late in the academic year, giving trusts and their leaders little time to review it before the date it becomes effective.

Thankfully there are few changes again this year, but it is nevertheless important that trustees and CFOs review the new edition and action any necessary changes promptly at the beginning of the new academic year so that your trust is compliant as quickly as possible. The Handbook also strengthens messages in a small number of key areas, notably the safety and management of the school estate.

It is important the trustees and CFOs are aware of these amendments and what they may mean for their trust.

In her opening foreword, Baroness Barran, Parliamentary Under Secretary of State for the School System, highlights the important role the Handbook has played over the twenty years since the first academy schools opened. The Handbook is simpler, shorter and more sharply focused this year following feedback invited from various stakeholders – 62 pages compared to 78 pages in last year's edition.

There are only a very small 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 your trust.

In our helpful summary we highlight the main changes alongside our insights discussing what these may mean for the sector and your trust.

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Role and responsibilities

Change 1

The Handbook contains updated content on governance matters throughout part 1 following the publication of the trust quality descriptions.

Section 1.11 of the Handbook clarifies that trusts should consider the features of high-quality governance as described in the trust quality descriptions.

The trust quality descriptions were published in draft in April before the final versions were confirmed in the July guidance. They build on the 5 pillars of quality originally cited in the Schools White Paper. These 5 pillars are:

1. High Quality and Inclusive Education with effective central leadership teams, strong school leadership and teaching and an evidence-based curriculum
2. School Improvement which quickly improves and maintains standards
3. Workforce where great teachers and leaders are trained, recruited, developed, deployed and retained and where staff wellbeing is prioritised
4. Finance and Operations underpinned by strong and effective financial management and use of resources to deliver the best educational experience and
5. Governance and Leadership with an effective and robust governance structure that involves schools, exemplifies ethical standards, uses skills and expertise to provide strategic challenge and hold leaders to account and with a strong local identity.

UHY view: The concept of good governance is constantly evolving so any new guidance to the sector is helpful, although in reality these changes will have little immediate impact.

Change 2

Emphasising the importance and value of good estates safety and management (1.19).

The Handbook clarifies that an academy trust's estate is both an asset and a mechanism to deliver outcomes for pupils. The DfE therefore expects academy trusts to manage their school estate strategically and effectively and maintain their estate in a safe working condition. This includes complying with statutory duties to ensure the health and safety of building occupants.

Section 1.19 of the Handbook contains various useful links to guidance relevant to estates safety and management, including Good Estate Management for Schools, Schools Capital Funding, and Reinforced autoclaved aerated concrete, the last one a very hot topic during 2023.

UHY view: This follows changes in the 2022 to 2023 Accounts Direction which requires Trusts to disclose more about how they manage school buildings' safety risks in their 2023 annual reports. For example, the section on principal risks and uncertainties should now consider risks impacting on trustees' responsibilities to ensure the trust's estate is safe and well maintained, and the value for money statement will need to encompass estates safety and management. Accounting Officers will also need to draw attention to any significant issues in respect of estates safety and management in their statement on regularity and propriety.

Change 3

Confirming that the board should have sufficient financial knowledge to hold the executive to account (1.25).

The board should identify the skills and experience it needs, including sufficient financial knowledge to hold the executive to account. The board should also address this for committees/local committees/local governing bodies.

UHY view: It is clear why the ESFA feel it is vitally important that trust boards are able to hold the executive to account. To do this effectively the board needs the correct skills, and so it is important that at least one board member has sufficient financial knowledge and experience to ask challenging questions of the CEO and CFO. The extent to which the same principle applies to sub-committees and local governing bodies will depend on the structure of each trust and the scheme of delegation, and if finance is part of the scope of a committee then it is equally important that the committee members have a sound understanding of the issues that may arise. We would highly recommend that all new academy trustees take some form of training on education finance, there are many excellent providers of face-to-face training and webinars.

Change 4

Explaining that the roles of the Accounting Officer and the Chief Financial Officer should not be occupied by the same individual (1.28).

UHY view: It is interesting and not clear why this is only a 'should' requirement rather than a 'must'. In practice it would be rare for one individual to hold both positions, although we have seen this on occasion for a short-term period. Both are important management roles and usually the individuals holding the positions would bring quite different skillsets.

Main financial requirements

Change 1

Confirming that trusts no longer need to provide an explanation in their governance statement where the board has not met at least 6 times in the year (2.3).

UHY view: Board meetings must still take place at least three times a year, and the Handbook suggests trusts should consider meeting more frequently to discharge their responsibilities. Previously, where the full board met fewer than six times, it was necessary to explain how they were still able to maintain effective oversight of funds with fewer meetings.

This relaxation is welcome in our view. Most boards of sizeable trusts meet at least six times anyway, whilst for some small trusts it perfectly possible to operate effectively with fewer meetings, especially where the correct sub-committee structure is in place alongside the main board meetings.

Change 2

Providing trusts with an additional month to submit their Budget Forecast Return (2.15), by moving the deadline to 31 August.

UHY view: Feedback from clients suggests this change is not as helpful as the ESFA may have believed it would be. Most trusts' final board meeting of the year will be in July, and so budgets will be taken to these meetings for approval. Extending the deadline to the end of August therefore merely gives the CFO longer to make the formal submission to the ESFA. Having said that, this year, with uncertainty over staff pay rises and whether these will be funded at the time most boards were considering their trust's budget, the clarity provided on 13 July may give trusts the opportunity to amend their budgets and gain approval by email, before submitting a more realistic BFR in August.

Change 3

Simplifying the position on the preparation and circulation of management accounts, including more discretion for trusts (2.18 – 2.20).

UHY view: The relaxation here is minor and in practice will make little difference. Trusts must still prepare management accounts every month setting out their financial performance and position, and these must still be shared with the Chair of Trustees each month. The previous Handbook also stipulated that trusts had to share the management accounts will other trustees at least six times per year, but there is no longer a strict requirement to do so. Now the requirement is just that boards must consider the management accounts when they meet.

We would recommend that management accounts are shared with a wider number of trustees every month as a matter of good practice anyway, and would certainly expect the Chair of Finance or Resources to be provided with a copy at the same time as the Chair of Trustees. Indeed, we know many trusts that will share the management accounts with the entire board every month.

The 2023 Handbook has also quietly withdrawn the requirement for trusts to measure performance against key financial performance indicators on a regular basis. The ESFA have not drawn attention to this change, but para 2.22 of the 2022 Handbook included an explicit 'must' requirement. This requirement has been completely removed, something we find a little perplexing. Trusts are still required to comment on KPIs within the trustees' report and, in our view, regular assessment throughout the year is good practice, with most trusts having built processes into their monthly management accounts to meet the previous requirement. It is not clear why the ESFA have chosen to withdraw this requirement, one can only imagine they felt the rule was too rigid for the benefit it was supposed to give. Despite the relaxation, UHY would recommend that trusts continue to monitor KPIs regularly so that this information is reviewed regularly and does not become a once-per-year exercise solely for the annual accounts.

Change 4

Explaining the permissive position on Electric Vehicle (EV) salary sacrifice schemes (2.31).

The Handbook clarifies that EV salary sacrifice schemes do not need ESFA approval where no liability falls on the trust if an employee does not fulfil their contractual obligations with the scheme provider. However, for other types of EV salary sacrifice schemes, or where the trust is under an NtI, prior ESFA approval must be obtained.

UHY view: Salary sacrifice schemes in general can be a tax-efficient way of rewarding staff, and some academy trusts have explored such schemes as part of a wider remuneration strategy for their senior management. A salary sacrifice arrangement is an agreement to reduce an employee's entitlement to cash pay, usually in return for a non-cash benefit, of which an EV scheme would be one. Employers can establish a salary sacrifice arrangement by changing the terms of your employee's employment contract, with the employee's agreement. It is important that professional advice is taken before starting such a scheme.

Delegated authorities

Change 1

Simplifying the position on GAG pooling to strengthen the value and importance of this practice for trusts to consider (5.30 and 5.31).

UHY view: The change here is subtle and has limited impact. However, it is a useful reminder of the benefits of GAG pooling. Pooling is becoming increasingly popular, even if the more traditional top-slice approach remains far more common. The ability for a MAT to amalgamate and direct funds to meet improvement priorities and needs across the trust's schools can be integral to a trust's successful financial operating model. Creating one central fund can enhance a trust's ability to allocate resources in line with improvement priorities and running costs across the trust's constituent academies.

GAG pooling gives MATs the freedom to allocate their funds how they best see fit, promoting the ethos of one trust looking after all pupils' interests, helping establish a shared belief of an 'all in this together' mantra: the strongest will help the weakest. It can give confidence to constituent academies that they will receive help in the future if needed, strengthening the sense of collaboration.

Difficulties remain when moving to a pooling model. For example, higher-performing schools may resist the loss of autonomy and control over their finances, and some may worry that all their reserves would disappear. Nevertheless, pooling is something that, in our view, all sizeable MATs should be exploring even if after a review they conclude that a top slice approach is the most suitable for their trust for now.

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Change 2

Refining the approval threshold for related party transactions, and simplifying arrangements for transactions within other educational providers (5.42 & 5.57).

UHY view: The threshold above which trusts must obtain the ESFA's prior approval before entering into related party contracts has been increased to £40,000, up from £20,000. Interestingly, 5.42 is worded such to imply that the threshold applies only to a single contract or agreement within the same financial year; previously the Handbook explicitly stated that the prior approval requirement applied where the cumulative value of contracts with the related party exceeded the threshold.

There is now also an exception for contracts and agreements entered into with certain educational establishments:

- colleges, universities and schools which are sponsors of the academy trust
- state funded schools and colleges, including other academies, and
- the provision of services to an academy trust with a religious designation, for essential functions fundamental to the academy trust's religious character and ethos which can only be provided by their religious authority such as the Diocese.

In addition to the above, para 5.57 now means that, alongside the existing exemption for the provision of services by the religious authority, the "at cost" provisions of the Handbook no longer applies to educational sponsors or transactions with other state funded academies.

The decision to increase the threshold and simplify the rules will significantly reduce the number of reportable transactions across the sector. The ESFA have to walk a fine line between providing trust with sufficient autonomy and ensuring the risk posed by contracts with related parties is managed effectively.

It needs to be remembered that the relaxation only relates to the level of transaction above which prior approval is required.

It remains a requirement of the Handbook (5.41) for Trusts to report all contracts and other agreements with related parties to the ESFA in advance of the contract or agreement commencing or being renewed.

The regulator and intervention

Change 1

The section on Notices to Improve (NtIs) has been updated to clarify the range of circumstances in which an NtI might be issued (6.16.)

Examples of when a NtI might be issued on financial management grounds include: an actual or projected deficit; cash flow problems; insolvency risk; irregular use of public funds; poor internal scrutiny or breaches of related party requirements.

A NtI might be issued on governance grounds in the following circumstances: the trust board not being properly constituted; trustees failing to comply with their safeguarding duties or trustees lacking the skills, knowledge and experience to exercise effective oversight of the trust's operations and performance, including educational performance.

UHY view: The clarification here is welcome and whilst the list of examples is not exhaustive it does highlight the range of issues that can see trusts receive a NtI.

The next step

You can read the full 2023 Handbook here.

The list of 'must' requirements has now been separated from the Handbook itself, and the ESFA have published an Excel list of 'must' requirements in an interactive format which trusts can download and self-complete. This list is available from the main ATH link above or directly here.

The tool is an entirely optional resource, and there is no requirement to submit it to ESFA. It does need to be remembered that the list of musts abbreviates the requirements and so cannot be used as a substitute for the full Handbook.

We always recommend that the publication of the new Handbook each year is an opportune moment for Accounting Officers, Chief Financial Officers and trustees to read the list of 'musts' as a minimum, to remind themselves of the key requirements of the Handbook. It would be good practice to work through the Excel tool or, if you've not had such a review recently, to engage your internal auditors to complete a full review of compliance with the Handbook as part of a wider governance review.

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.

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.