

Academy Trust Handbook 2021 Changes

Introduction

On 16 June 2021 the ESFA published the Academy Trust Handbook 2021 (ATH 2021). The Academies Financial Handbook has been rebranded as the Academy Trust Handbook and replaces the Academies Financial Handbook 2020 (AFH 2020) with effect from 1 September 2021.

A full copy of the ATH 2021 can be found at www.gov.uk/guidance/academies-financial-handbook/academy-trust-handbook-2021

What has changed?

Roles and responsibilities

Part 1 (page 11)	Paragraph 1.1 now includes an additional sentence, "Trusts perform an important role in advancing education in the public benefit."
Part 1 (page 11)	An additional paragraph 1.4 has been included on the suitability of members. Paragraph 1.4 reads as "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."
Part 1 (page 12)	An additional paragraph 1.11 has been included "The trust's articles of association will set out conditions determining the minimum number of trustees that the trust will have. All trusts have reserved places for parents, carers or other individuals with parental responsibilities in their governance structure; trusts should hold elections to fill these places, as appropriate. Single academy trusts should have at least two such places on the board. Trusts with multiple academies should have at least two such places on the board or at least two such places on each local governing body where the trust has established them."

Suggested Action:

Trustees should review the trusts articles of association to ensure that they are familiar with the conditions setting out the minimum number of trustees, in addition to reviewing whether they have the required reserved places.

Part 1 (pages 14/15)	<p>Greater emphasis has been given to set out the trusts range of legislation obligations, including safeguarding, health and safety and estate management. Paragraph 1.14 goes on to state “Ensuring strong governance in these areas will be a key priority for the board.”</p> <p>Safeguarding – Paragraph 1.15 states “Academy trust boards have a duty to;</p> <ul style="list-style-type: none"> ❑ safeguard and promote the welfare of children ❑ have regard to any statutory guidance on safeguarding issued by the Secretary of State ❑ ensure the suitability of staff, supply staff, volunteers, contractors and proprietors. <p>Health and safety – Paragraph 1.17 states “The main legislation covering this area is the Health and Safety at Work etc. Act 1974 and its regulations. Under the Act the academy trust, as an employer, is responsible for the health and safety of its staff, pupils, and any visitors. Paragraph 1.18 states “Trust boards should follow the Department’s ‘Health and Safety: responsibilities and duties for schools’ as well as ‘Health and Safety Executive (HSE) guidance for Education’.”</p> <p>Estates management – Paragraph 1.20 states “The DfE expects academy trusts to manage their estate strategically and maintain in a safe working condition.”</p>
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Suggested Action:
The trusts board should review the guidance set out in the links provided in the ATH 2021, consider if they are meeting their duties in these areas and take appropriate action.

Part 1 (page 16)	More emphasis has been given to the role of the chair of trustees in paragraph 1.22; that the role is vital in setting the highest expectations for professional standards and accountability of the board and to give the trust board leadership and direction.
Part 1 (page 16)	Paragraph 1.23 sets out that from 1 March 2022, any newly appointed senior executive leader can only be a trustee if the members decide to appoint them as such, but adds from the AFH 2020 that the senior executive leader agrees to this and the trust’s articles permit it.
Part 1 (page 17)	Paragraph 1.32 emphasises the value of having an objective independent external review of the effectiveness of the board. The DfE’s strong preference is that external reviews are conducted routinely as part of a wider programme of self-assessment and improvement.
Part 1 (page 19)	An additional paragraph 1.36 has been included which states “When the senior executive leader is planning to leave the trust, the board of trustees should approach their Regional Schools Commissioner (RSC) in advance to discuss their structure and options, including plans for recruitment.”
Part 1 (page 21)	The term ‘clerk to the board’ has been replaced with ‘governance professional’ in paragraph 1.49.
Part 1 (page 21)	A new section at the end of part 1 has been included in paragraphs 1.51 and 1.52 for ‘Disclosure and Barring Service (DBS) checks’. This is a reminder to trusts that all staff, supply staff, trust members, trustees and individuals on any committees must have enhanced DBS certification.

Main financial requirements

Part 2 (page 23)	An additional sentence to paragraph 2.4 has been added where a scheme of delegation is in place for the trust's funds, "The scheme of delegation should be reviewed annually, and immediately when there has been a change in trust management or organisational structure."
Part 2 (page 24)	The control framework of trusts now has an additional requirement, in paragraph 2.7, that it must "ensure a risk register is maintained and reviewed by the board drawing on advice provided to it by the audit and risk committee."

Suggested Action:

If a risk register is not in place, the trust must take corrective action to prepare and maintain a risk register.

Part 2 (page 27)	Paragraph 2.28 on procurement has been adapted to read "a competitive tendering policy is in place and applied, and the procurement rules and thresholds in the Public Contracts Regulations 2015 and Find a Tender service are observed". This removes wording from AFH 2020 of "unless alternative arrangements to these regulations are introduced".
Part 2 (page 28)	A number of changes have been made to the section on 'publication of executive pay' paragraph 2.32 as follows: <ul style="list-style-type: none">❑ Employer's pension contributions are now included when considering employees salary and benefits exceeding £100,000. The AFH 2020 previously stated the trust's own pension costs were not included as part of the benefits amount.❑ Additional requirement where the trust has entered into an off-payroll arrangement with someone who is not an employee, to disclose the amount paid on the trust's website where payment exceeds £100,000 (as if they were an employee).

Suggested Actions:

The board should review its payroll and off-payroll arrangements and ensure the trust's website is updated accordingly. Previous employees where salary was below £100,000 may now exceed £100,000 due to the employers pension change and therefore the website may require updating.

Part 2 (page 32)	<p>Additional paragraphs have been included at 2.51 that the trust must make available for inspection the following:</p> <ul style="list-style-type: none"> ❑ 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. <p>The paragraph also sets out what information can be excluded from these documents.</p>
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Suggested Action:
The trustees and governance professional should ensure that governance documents are available for public inspection, most likely on your website.

Part 2 (page 33)	<p>Paragraph 2.58 has been changed to state that the records required in GIAS for constituent academies in a trust with multiple academies is to include direct contact details for all. Previously this was only for head teachers and chairs of local governing bodies but has been extended to local governors in the ATH 2021.</p>
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Internal Scrutiny

Part 3 (page 35)	<p>Wording changed in paragraph 3.8, from ‘the audit and risk committee must direct the trust’s programme of internal scrutiny’ to ‘the audit and risk committee must oversee and approve the trust’s programme of internal scrutiny.’</p>
Part 3 (page 35)	<p>Additional sentence added to Paragraph 3.10 “Where the finance committee and audit and risk committee are separate, the chair should not be the same.”</p>
Part 3 (page 36)	<p>Additional wording included in Paragraph 3.12, that “the committee must have access to the external auditor, as well as those carrying out the internal scrutiny, review their plans and reports and also consider their quality.”</p>

Suggested Action:
The audit and risk committee should have access to the plans and reports of internal scrutiny and external audit work. Looking at the quality of the oversight, together with assessing whether the academy trust had acted on auditors findings and reports.

Part 3 (page 36)	<p>Additional wording of senior leadership added to paragraph 3.15, to read “Internal scrutiny must be independent and objective – for example it must not be performed by the trust’s own accounting officer, chief financial officer or other members of the senior leadership or finance team.”</p>
Part 3 (page 37)	<p>The transitional internal scrutiny arrangements, paragraph 3.20, which permitted existing audit arrangements at 15 March 2020 to conclude has now been removed from the ATH 2021. In addition the term internal scrutiny now must (previously should) be viewed in the same way as internal audit.</p>

Annual accounts and external audit

Part 4 (page 39)	Additional wording included in paragraph 4.5 "Trusts should retender their external audit contract at least every five years and must consider the relevant points in 4.17 when evaluating."
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Suggested Action:

Review the engagement length between the trust and the external auditors, the quality of the external financial oversight and consider whether the trust should retender. Please ask us for a template we have devised to assist you.

Delegated authorities

Part 5 (page 43)	Additional wording added to Paragraph 5.1 "However, some transactions have delegated authority limits beyond which trusts must obtain prior ESFA approval, regardless of the source of the funds. "
Part 5 (page 44)	Paragraph 5.5 now specifies that any request to the ESFA for novel, contentious and/or repercussive transactions must be made to the ESFA before the transaction occurs.
Part 5 (page 45)	Wording from the AFH 2020, paragraph 5.10, has been removed, namely "The academy trust has delegated authority to approve individual staff severance payments provided any non-statutory/non contractual element is under £50,000 gross (i.e. before income tax or other deductions)."
Part 5 (page 45)	Additional ESFA approval requirements included in paragraph 5.12 of the ATH 2021 before making a staff severance payment above £100,000 or severance payments where the employee earns over £150,000.
Part 5 (page 49)	The definition of related parties has been extended in paragraph 5.35 to include 'key management personnel' and 'close family members'.

The regulator and intervention

Part 6 (page 57)	An additional paragraph 6.5 has been included in the access rights section. "Where ESFA has concerns about financial management and/or governance at an academy trust, it may wish to obtain from third parties information or documentation about the trust which ESFA considers relevant for the purposes of its investigation. Academy trusts must provide ESFA with written authority giving permission for any third party to provide such information and documentation to ESFA or its agents on request of ESFA."
Part 6 (page 58)	<p>Removed wording from paragraph 6.7 'constituent academies joining a trust with multiple academies' from the requirement to complete a financial management and governance self-assessment.</p> <p>New operational academy trusts must now complete a financial management and governance self-assessment and submit it to the SFA within 3 months of opening their first academy.</p>
Part 6 (page 59)	A new section on Cybercrime has been included in the ATH 2021, paragraphs 6.16 and 6.17 that trusts must put in place proportionate controls and obtain the ESFA's permission before making any payments for cyber ransom demands.

Suggested Action:

Assess the trusts risk to Cybercrime and ensure that proportionate controls are put in place to deter attacks. Provide clear actions to take in the event of the trust being a victim of cybercrime and ensure that the ESFA's permission is requested before making any payments for cyber ransom demands.

Part 6 (page 59)	A 'Financial Notice to Improve' (FNtl) has been renamed to a 'Notice to Improve' (Ntl)'. See paragraphs 6.18 to 6.22.
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