



Academy Trust Handbook (ATH) 2021
(also known as Academies Financial Handbook)

Yesterday 16th June 2021, the ESFA published the latest ATH 2021, which will come into effect from 1st September 2021 and replace the 2020 version.

As you will note, the name of the Academies Financial Handbook has now been amended to 'The Academy Trust Handbook (also known as the Academies Financial Handbook).' This is to ensure the title of the Handbook accurately reflects the full range of important content it contains and to more accurately highlight trusts' existing responsibilities "in a wider range of areas" than finances alone.

Baroness Berridge, minister for the school system, has written to all trusts about the renamed guide and publication of the 2021 version, whilst the Education secretary Gavin Williamson also said in a keynote speech at the Festival of Education on 16th June 2021, that it was "not just a routine update".

We therefore strongly advise that that the ATH 2021 is read by all those involved in making decisions on behalf of the trust.

'Academy trusts must comply with this handbook as a condition of their funding agreement. It provides an overarching framework for implementation of effective financial management and control.'

The ESFA have published the 2021 edition of the Handbook as a PDF, available to download and they have advised they will update the digital handbook to reflect the 2021 edition on 1 September 2021. A full copy of ATH 2021 can be found [here](#).

The changes as always, reflect the main areas identified to improve Trusts and also include the following new information about:

- trusts' existing obligations in relation to safeguarding, health and safety, and estates management
- cybercrime
- external reviews of governance
- renaming the financial notice to improve (FNtI) to notice to improve (NtI)

The ESFA has summarised all the changes on page 9 of the PDF version of the ATH 2021 so that they can be easily identified.

Services 4 Schools have reviewed these changes and have highlighted the key changes below which will impact your trust.



Changes in the ATH 2021	Implications
<p>Roles and responsibilities Information on suitability checks for existing and future members [1.4]</p>	<p>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.</p>
<p>Roles and responsibilities Confirming that trusts should have reserved places for parents in their governance structure [1.11]</p>	<p>This change will help ensure that boards stay accessible and connected to the community they serve and supports robust decision making. The update shows how much has changed in the government’s thinking about parents on boards in recent years. Ministers had planned to scrap the requirement for reserved places for parents, but the proposals were shelved in 2016.</p> <p>The trust’s articles of association will set out conditions determining the minimum number of trustees the trust will have. All trusts should 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.</p> <ul style="list-style-type: none"> • 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.
<p>Roles and responsibilities Highlighting trusts’ obligations in relation to safeguarding [1.15], health and safety [1.17] and estates management [1.20]</p>	<p>These new sections highlight key existing legislation and guidance on safeguarding, health and safety and estates management.</p> <p>The safeguarding section notes board duties to promote children’s welfare and ensure the suitability of staff, supply staff, volunteers, contractors and proprietors.</p>



	<p>Trusts are also told the trust is responsible for health and safety under the 1974 Act and for managing asbestos.</p> <p>Meanwhile estates must be managed “strategically” and in a “safe working condition”, with links to separate guidance.</p>
<p>Roles and responsibilities Emphasising the process of appointing a senior executive leader as a trustee [1.23]</p>	<p>From 1 March 2022, any newly appointed senior executive leader can only be a trustee if:</p> <ul style="list-style-type: none"> • The trust’s members decide to appoint them as such; and • The senior executive leader agrees; and • The trust’s articles permit it. <p>Previously, meeting these requirements was only a strong preference.</p> <p>The Department’s strong preference is for no other employees to serve as trustees, nor for trustees to occupy staff establishment roles on an unpaid voluntary basis, in order to retain clear lines of accountability.</p> <p>This does not prevent trustees from carrying out internal scrutiny as described in paragraph 3.17.</p>
<p>Roles and responsibilities Emphasising the value of external reviews of governance for trusts [1.32]</p>	<p>The updated handbook encourages external governance reviews as a “more powerful diagnostic tool” than self-evaluation. The DfE’s “strong preference” is for their routine use, but they are particularly important before significant changes such as large trust growth or where governance concerns exist.</p> <p>An objective independent external review of the effectiveness of the board can be a more powerful diagnostic tool than a self-evaluation. External reviews are particularly important before the board undertakes any significant change – for example before a trust grows significantly, or in cases where concerns around governance arise.</p> <p>The Department’s strong preference is that external reviews of governance are also conducted routinely as part of a wider programme of self assessment and improvement.</p>



	<p>Reviews should also consider the interaction between members and trustees, including the extent to which members are able to assure themselves that the trustees undertake their duties effectively.</p>
<p>Roles and responsibilities 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]</p>	<p>This new obligation is to ensure that when the senior executive leader is planning to leave the trust (for example retirement or resignation), the board of trustees should approach their Regional Schools Commissioner (RSC) in advance.</p> <p>This will allow discussions on the Trust structure and options, including plans for recruitment.</p>
<p>Roles and responsibilities Replacing the term clerk with governance professional [1.49]</p>	<p>Throughout the handbook, the ESFA has replaced the term ‘clerk to the board’ with ‘governance professional’. The responsibilities of this role remain the same.</p> <p>The academy trust must appoint a governance professional to support the board of trustees who is someone other than a trustee, principal or chief executive of the trust.</p> <p>A governance professional can contribute to the efficient functioning of the board by providing:</p> <ul style="list-style-type: none"> • guidance to ensure the board works in compliance with the appropriate legal and regulatory framework, and understands the potential consequences of non-compliance • independent advice on procedural matters relating to operation of the board • administrative and organisational support.
<p>Roles and responsibilities Reminding trusts of the requirement for Disclosure and Barring Service checks [1.51 and 1.52].</p>	<p>In complying with the Independent School Standards, and as set out in funding agreements, academy trusts must ensure enhanced Disclosure and Barring Service (DBS) certificates are obtained as appropriate for all staff and supply staff.</p> <p>Similarly all academy trust members, trustees and individuals on any committees including local governing bodies are required to have an enhanced criminal records certificate from the Disclosure and Barring Service (DBS), which does not include a</p>



	<p>barred list check (unless in addition to their governance duties they also engage in regulated activity).</p>
<p>Main financial requirements Explaining when trusts should review their scheme of delegation [2.4]</p>	<p>The board cannot delegate overall responsibility for the academy trust's funds. However, it must approve a written scheme of delegation of financial powers that maintains robust internal controls. The scheme of delegation should be reviewed annually, and immediately when there has been a change in trust management or organisational structure.</p>
<p>Main financial requirements Updating information on what trusts need to publish on their website in relation to employees whose benefits exceed £100k [2.32]</p>	<p>In the new handbook, employers' pension contributions have been added to the benefits trusts should take into account when publishing on their websites the number of employees whose benefits exceeded £100,000 for the previous year ending 31 August.</p> <p>The handbook also now states that 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 £100,000 as if they were an employee.</p> <p>Trusts may wish to display this information in a tabular form showing in each column salary, pension etc.</p>
<p>Main financial requirements Reminding trusts of governance documents which need to be available for public inspection [2.51].</p>	<p>The trust must make available for public inspection:</p> <ul style="list-style-type: none"> • 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. <p>The trust may exclude from any item any material relating to:</p> <ul style="list-style-type: none"> • a named teacher or other employee or proposed employee • a named pupil or student at the academy, or candidate for admission or referral to it • any matter which, by reason of its nature, the trustees are satisfied should remain confidential.



<p>Internal Scrutiny 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]</p>	<p>The chair of trustees should not be chair of the audit and risk committee.</p> <p>Where the finance committee and audit and risk committee are separate, the chair should not be the same.</p>
<p>Internal Scrutiny Explaining that internal scrutiny must not be carried out by a member of the senior leadership team [3.15]</p>	<p>Internal scrutiny must be independent and objective and therefore 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>
<p>Annual accounts and external audit Setting out when trusts should re-tender for their external audit service [4.5]</p>	<p>Trusts should retender their external audit contract at least every five years and must consider the relevant points in noted in the ATH section 4.17 when evaluating.</p>
<p>Delegated Authorities 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]</p>	<p>In accordance with HM Treasury's Guidance on Public Sector Exit Payments, academy trusts must obtain prior ESFA approval before making a staff severance payment where:</p> <ul style="list-style-type: none"> • an exit package which includes a special severance payment is at, or above, £100,000; and/or • the employee earns over £150,000.
<p>The regulator and intervention Introducing a requirement for trusts to provide ESFA with authority to obtain third party information [6.5]</p>	<p>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.</p> <p>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.</p>
<p>The regulator and intervention Providing trusts with advice and guidance on cybercrime [6.16 and 6.17]</p>	<p>This new section on cyber-security, says the ESFA backs the National Crime Agency's advice to not pay cyber ransoms.</p> <p>Academy trusts must also be aware of the risk of cybercrime, put in place proportionate controls and take appropriate action where a cyber security incident has occurred.</p>



	<p>Trusts must obtain permission from ESFA to pay any cyber ransom demands.</p> <p>ESFA supports the National Crime Agency's recommendation not to encourage, endorse, or condone the payment of ransom demands. Payment of ransoms has no guarantee of restoring access or services and is likely to result in repeat incidents.</p>
<p>The regulator and intervention 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]</p>	<p>It recognises the fact the ESFA continue to intervene on occasion in broader governance issues, not only in response to financial management concerns.</p> <p>Where ESFA has concerns about financial management and/or governance in an academy trust it may issue, and publish, a Notice to Improve (Ntl). The trust must comply with the Ntl. Failure to comply will be deemed a funding agreement breach.</p> <p>The funding agreement may be terminated due to non-compliance with a Ntl.</p> <p>ESFA will notify the trust of the date of which ESFA has published the Ntl. The trust must then publish the Ntl on its own website within 14 days, and retain it on the website until the Ntl is lifted by ESFA.</p> <p>A Ntl describes what a trust must do to address concerns about financial management or governance. For example, a Ntl may be issued due to an actual or projected deficit, cash flow problems, insolvency risk, irregular use of public funds, or inadequate governance and management (including weak oversight by trustees, poor internal scrutiny and breaches of related party requirements).</p> <p>If a Ntl is issued, the delegated authorities in sections 5.6 to 5.31 of the handbook are revoked, and all transactions of this nature must be approved in advance by ESFA.</p> <p>Where ESFA intervenes because of concerns about financial management and/or governance it may require the trust to submit additional information such as monthly income and expenditure accounts, cash flow statements and balance sheets.</p>