



Eight priorities for trustees following the publication of the 'Academy trust handbook 2021'

In this article, we outline the actions trustees should consider in response to the publication of the 'Academy trust handbook 2021'. By actioning the necessary recommendations in this article, trust boards can ensure their trust is compliant with the changes as soon as possible.

Read on for more detail!

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1. Understand what has changed

The ESFA has published a new version of the '[Academy trust handbook 2021](#)', previously known as the 'Academies financial handbook', which will be effective from 1 September 2021.

There are various changes to the handbook that trustees need to be aware of – most significantly, the handbook now covers trusts' existing responsibilities in a wider range of areas, not only its financial responsibilities. This includes areas such as safeguarding, health and safety, and estates management, with the vision of being a 'one stop shop' for trustees. The ESFA recommends that trustees read and understand the latest release of the handbook.



There have been a few terminology changes boards should be aware of. Clerks are now referred to throughout the handbook as 'governance professionals' and the 'financial notice to improve' is now known as a 'notice to improve'.

To get an at-a-glance look at specific changes before delving into the handbook in full, read our [Up-to-speed on: Changes to the 'Academy trust handbook 2021'](#).

2. Ensure parents have places within the trust's governance structure

Trusts should now have reserved places for parents, carers or other individuals with parental responsibilities within their governance structures. The conditions surrounding this will differ depending on whether a trust is a single academy trust (SAT) or a MAT.

It is the trust members' responsibility to appoint these trustees and, where required, amend the articles of association to reflect the conditions determining the minimum number of these trustees the trust will have; however, being aware of the changes to these conditions will help trustees identify any gaps in the required number of parent trustees on their board.

The conditions are as follows:

- SATs should have at least two parents (or individuals with parental responsibilities) on the board of trustees
- MATs should have at least two parents (or individuals with parental responsibilities) on the trust board, or at least two such places on each local governing board, where the trust has them.

For trustees who are part of a MAT, where the trust has local governing boards and the minimum number of individuals with parental responsibility are not appointed to the board of trustees, it is the trust board's responsibility to ensure that these places are instead on each local governing board. Trustees will need to be aware of this condition and, where applicable, raise it within the board to action.

The handbook also states that elections should be held to fill these places, as appropriate.

3. Be aware of upcoming changes affecting employee trustees

Going forward, trustees will need to be aware of the handbook's changes to the conditions of appointing employees as trustees – these changes are not currently in effect, but will be from 1 March 2022. It is the trust members' responsibility to ensure these changes are followed; however, it is worth trustees being aware of the changes beforehand and ensuring the trust board's practices are reviewed to account for them, where necessary.

From 1 March 2021, changes will be made to the appointment of any newly-appointed senior executive leader, who can only be a trustee if decided by the trust's members, the trust's articles permit it, and the individual agrees to serve as a trustee.

The ESFA has also expressed its strong preference for no other employees to serve as trustees, nor for trustees to occupy staff roles on an unpaid, voluntary basis. This does not state that current employee trustees should lose their places, though it is worth reviewing this practice going forward, where appropriate and applicable, to align with the ESFA's preference.

These changes do not prevent non-employed trustees from conducting internal scrutiny.



A few good practice tips:

- Use the new handbook to access various related legislation and guidance.
- Circulate any new terminology into use as soon as possible, e.g. 'governance professional' to minimise confusion in future.

Good practice

4. Adapt the board's self-assessment routine

The handbook outlines the ESFA's strong preference for trusts to have objective, independent external reviews of trust governance conducted. This is not in replacement of boards' routine self-assessments, and is instead encouraged as part of a wider programme of self-assessment and ongoing improvement.

Where applicable, trust boards should work to integrate these external reviews and their results into their current self-assessment practices to further strengthen them.

The ESFA also recommends that these external reviews occur when the trust board undergoes significant change, e.g. before a trust grows significantly, or when concerns have been raised about the effectiveness of governance.

5. Ensure the publication of executive pay reflects pensions

Trusts have been required for some time to publish information on their websites about the pay and benefits of executive leaders that exceed £100,000. This requirement has now been extended to cover pension contributions.

Where the trust has entered into an off-payroll arrangement with an individual who is not an employee, the trust must now publish the amount paid for the person's work for the trust if it is over £100,000. This is the same as if they were an employee.

Trustees should ensure that their board is monitoring this practice and that the trust is compliant with this new requirement. The ESFA recommends this information is displayed on the trust's website in an accessible form, such as a table.

6. Ensure meeting material is available for public inspection

Certain material is now required to be available for public inspection; therefore, trustees will need to ensure this is monitored by their trust board in order for the trust to remain compliant with this requirement.

The following material must be made available for public inspection:

- The agenda for every trustee meeting, including the meetings of any local governing boards and committees
- The approved minutes of each of these meetings
- Any reports or other documents considered at each meeting

It is important to be aware of any material that can be excluded from this requirement. This includes material containing:

- The names of trust employees or proposed employees.
- The names of pupils within the trust.
- The names of candidates for admission or referral to the trust.
- Any matters that trustees are satisfied should remain confidential.

By allowing these materials to be available for public inspection, the trust board ensures it remains transparent in its arrangements, in line with the handbook. This information should be made known to the person responsible for filing and organising meeting material.

7. Be aware of the changes to staff severance payments

Trust boards are now required to obtain approval from the ESFA where certain criteria for staff severance payments are met. Approval must be granted where:

- The trust is offering an exit package that includes a special severance payment at, or above, £100,000; and/or
- The employee earns over £150,000.

Trustees will now need to ensure this additional step is integrated into the board's current practices in order to remain compliant with HM Treasury's '[Guidance on Public Sector Exit Payments](#)'.

8. Monitor the trust's cyber-crime management methods

Cyber-crime in the education sector has recently been on the rise, and so it is important that trusts are adequately prepared to prevent and manage cases of cyber-crime committed against them.

In line with the handbook's new requirements to manage cyber-crime, the board of trustees must regularly monitor the effectiveness of the controls put in place to prevent cyber-crime and plans to mitigate any damage caused. Boards should also monitor the effectiveness of staff training and awareness relating to preventing and managing cyber-crime.

Trustees should be aware of the ESFA's new requirement to obtain permission from them in the event a cyber-criminal demands a ransom payment. This is to ensure that the unregulated payment of ransoms does not worsen the matter by encouraging repeating incidents or losing access to data altogether. It is worth noting that the ESFA does not condone or encourage the payment of ransoms. Trust boards should ensure that all staff members are aware of this stance.

Next steps

→ [Read our article: Up-to-speed on: changes to the 'Academy trust handbook 2021'](#)

Bibliography

ESFA (2021) 'Academy trust handbook 2021'