

Academies Financial Handbook 2018 – Key Changes

Introduction

On 13 June 2018 the ESFA published the Academies Financial Handbook 2018 (AFH 2018) which replaces the 2017 Handbook with effect from 1 September 2018. This was issued a month earlier than the previous year which allows more time for members, trustees, accounting officers, chief financial officers and auditors to consider the changes introduced.

A full copy of the Handbook can be found on www.gov.uk.

What has changed?

There are 17 main changes in the 2018 edition, 8 of which are in Part 2 which contain the main financial and governance requirements.

Part 1 – Roles and responsibilities

This section has been expanded as follows:

The following ESFA paragraphs have been added 1.2.3 to 1.2.9.

- 1.2.3 ESFA exercises the rights, powers and remedies in this handbook on behalf of the Secretary of State. If ESFA fails to use, or delays in using, any of these, this does not mean that it cannot do so later.

Secretary of State directions

- 1.2.7 Subject to the relevant provisions being present in the trust's funding agreement the Secretary of State can require the trust to remove a member or trustee.
- 1.2.8 The Secretary of State can also make directions under section 128 of the Education and Skills Act 2008 prohibiting individuals from taking part in academy trust management. This could prevent an individual from acting as a member, trustee or executive leader of a trust. The circumstances are prescribed in regulations but can include where the individual is subject to a caution or conviction or has engaged in relevant conduct, and the Secretary of State considers that because of that caution, conviction or conduct that individual is unsuitable to take part in the management of a school.

ESFA work with Charity Commission

- 1.2.9 Where there is a concern, ESFA may refer trusts to the Charity Commission reflecting the Commission's interest in addressing non-compliance with legal or regulatory requirements or misconduct or mismanagement in the administration of any charity, and in ensuring that individuals acting in the administration of the charity (in particular, but not limited to, the charity trustees) do so in compliance with the legal duties. The Commission may use its regulatory powers as described in its Memorandum of Understanding with DfE.

Trustees

They have combined explanations about trustees and members that were previously in the introduction into sections 1.3 and 1.4.

Greater emphasis on trustees applying high standards of governance, the role of the chair, working with the ESFA and updated references to church academies 1.3.1-1.3.5. The sentences in brackets below have been added.

- 1.3.1 The trustees of the academy trusts are both trustees and company directors. The Handbook refers to them as Trustees. However, [in some academy trusts, such as church academies, those on the board are known instead as 'directors'. In church academies, the term 'trustees' is reserved for those on the board of the] separate trust that owns the land.]
- 1.3.3 [The trustees **must** apply the highest standards of governance and take full ownership of their duties]. They must comply with the trust's charitable objects, with company and charity law, and with the funding agreement. [The duties of company directors are described in sections 170 to 181 of the Companies Act 2006].
- 1.3.5 [The chair of trustees is responsible for ensuring the effective functioning of the board and setting professional standards of governance. ESFA will help chairs and their boards to do this if required.]

Suggested Action:

All Trustees to be made aware of amendments to AFH 2018 at next Committee meeting.

Members

Two new sentences have been added into 1.4.1 to the description of the role of members to align with the Governance Handbook.

- May in certain circumstances, appoint new members or remove existing members
- Have power to change the name of the company and, ultimately, wind up the academy trust.

The Accounting Officer

They have removed the term 'exoficio' to avoid suggesting an academy trust's senior executive leader would automatically act as a trustee.

- 1.5.1 The Board of Trustees **must** appoint, in writing, a senior executive leader who may be appointed as a trustee. In trusts comprising a single academy this should be the principal. In MAT's it should be the chief executive or equivalent.

Part 2 – Main financial and governance requirements

New headings have been introduced as follows. In AFH 2017 they were contained in 2.2 and 2.3.

- 2.4 Spending (2017 – 2.3.5)
- 2.5 Income Generation (2017 – 2.2.11)
- 2.6 Risk Management (2017 – 2.3.8)
- 2.7 Whistleblowing (2017 – 2.3.7)
- 2.8 Annual Accounts (2017 – 2.2.14)

Board Meetings

A new sentence has been introduced setting out what happens if the Board meets less than 6 times a year.

- 2.1.2 The board and its committee **must** meet regularly enough to discharge their responsibilities and ensure robust governance and effective financial management arrangements. Board meetings **must** take place at least three times a year (and business conducted only when quorate). Larger trusts should consider meeting more frequently. If the Board meets less than six times a year it **must** describe in its governance statement, accompanying its annual accounts, how it maintained effective oversight of funds with fewer meetings.

Suggested Action:

Ensure Board meetings are scheduled in advance for at least six times a year.

Cash Management

In 2017 the Handbook only said that the trust **should** manage its cash position. It has now been included as a mandatory requirement that it **must** manage its cash position robustly.

It also highlights that the trust may be required to report on its cash position to the ESFA where there are concerns about financial management.

Budgets

Clear requirements have been included for budget setting and maintaining.

2.3.2 The academy trust **must** submit to ESFA, in a form specified by ESFA:

- A budget forecast return outturn by 21 May
- A 3-year budget forecast return by 30 July

These **must** be approved by the trustees before submission. ESFA has produced guidance on both returns.

2.3.3 The board of trustees, and any separate committee responsible for finance, **must** ensure rigour and scrutiny in budget management.

- **Budget setting** – The board must ensure that budget forecasts, for the current year and beyond, are compiled accurately, based on realistic assumptions including any provision being made to sustain capital assets, and are reflective of lessons learned from previous years. It should challenge pupil number estimates as these will underpin revenue projections. Boards are encouraged to take an integrated approach to curriculum and financial planning. Boards should also refer to DfE's material on improving school resource management including the top ten planning checks for governors.

Suggested Action:

Trustees to minute the work that has been undertaken to challenge budgets before it is approved.

- **Budget monitoring** – The trust **must** prepare management accounts every month setting out its financial performance and position, comprising its budget variance reports and cash flow forecasts with sufficient information to manage cash, debtors and creditors. Managers **must** take appropriate action to ensure ongoing viability.

Management accounts **must** also be shared with the chair of trustees every month irrespective of the size of the trust, and with the other trustees six times a year. The board **must** consider these when it meets. The board **must** ensure appropriate action is being taken to maintain financial viability including addressing variances between the budget and actual income and expenditure.

The format of management accounts should be adjusted to be suitable for different users including summaries and supporting narrative as appropriate.

The trust **must** select key financial performance indicators and measure its performance against them regularly, including analysis in its annual trustees' report as explained in the Accounts Direction.

Where the board has concerns about financial performance, it should consider whether additional financial reporting is appropriate. ESFA may require additional financial reporting as a condition of an FNtL.

Spending

The DfE strongly recommends the national deals for schools that makes buying simpler and quicker and can provide better value for money (2.4.2). There is also guidance on how to plan and run an efficient procurement process which is referred to.

Suggested Action:

Have evidence to support that the national deals for schools have been considered in the procurement process.

Executive Pay

The paragraph on executive pay has been expanded to strengthen the expectations about the pay setting process and highlighting gender pay gap reporting.

Executive Pay

- 2.4.3 The board of trustees **must** ensure its decisions about levels of executive pay follow a robust evidence-based process and are reflective of the individual's role and responsibilities. No individual can be involved in deciding his or her own remuneration.
- 2.4.4 The board **must** discharge its responsibilities effectively, ensuring its approach to pay is transparent, proportionate and justifiable, including:
- Process – that the procedure for determining executive pay is agreed by the board in advance and documented.
 - Independence – decisions about executive pay reflect independent and objective scrutiny by the board and that conflicts of interest are avoided.
 - Decision-making – factors in determining pay are clear, including whether performance considerations, and the degree of challenge in the role, have been taken in to account.
 - Proportionality – pay is defensible relative to the public sector market.
 - Documentation – the rationale behind the decision-making process, including whether the level of pay reflects value for money, is recorded and retained.
 - A basic presumption that non-teaching pay should not increase at a faster rate than that of teachers, in individual years and over the longer term.
 - Understanding that in appropriate pay can be challenged by ESFA, particularly in any instance of poor financial management of the trust.
- 2.4.5 The trust is reminded of the requirements under the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 to publish information on its website about the gender pay gap in their organisation.

Suggested Action:

Ensure that it has been clearly documented how the levels of executive pay have been set.

Whistleblowing

A new sentence has been added to emphasise the proper handling of whistleblowers.

2.7.1 The academy trust **must** have appropriate procedures in place for whistleblowing, making sure all staff are aware of the process and how concerns will be managed. [The trust **must** ensure that all concerns raised with them by whistleblowers are responded to properly and fairly. ESFA has published procedures for dealing with complaints about academies].

Internal Audit

The trust **must** confirm in its governance statement in the annual accounts which of the options contained in 2.9.6 it has applied and why.

The findings of the internal audit work **must** be made available to all trustees promptly. They **must** be provided to the ESFA on request.

Related Party Transactions

There are **new** requirements for related party transactions (3.10.4, 3.10.6 and 3.10.7).

Reporting of related party transactions to ESFA

3.10.4 Trusts **must** report all transactions with related parties to ESFA in advance of the transaction taking place, using ESFA's on-line form. This requirement applies to transactions made on or after 1 April 2019.

Approval of related party transactions by ESFA

3.10.5 Trusts **must** obtain ESFA's approval for transactions with related parties that are novel, contentious and/or repercussive. Trusts should carefully consider the impact of this requirement and its relevance to transactions involving the chair of the board and the accounting officer.

3.10.6 Trusts **must** obtain ESFA's prior approval, using ESFA's on-line form, for contracts for the supply of goods or services to the trust by a related party agreed on or after 1 April 2019 where any of the following limits arise:

- A contract exceeding £20,000
- A contract of any value that would take the total value of contracts beyond £20,000 in the same financial year ending 31 August
- A contract of any value if there have been contracts exceeding £20,000 individually or cumulatively with the related party in the same financial year ending 31 August

3.10.7 For the purposes of reporting to, and approval by, ESFA, transactions with related parties do not include salaries and other payments made by the trust to a person under a contract of employment through the trust's payroll.

Suggested Action:

Ensure all key individuals are aware of the new requirement in advance of 1 April 2019.

Transactions with the Dioceses (3.10.20)

In relation to dioceses, the contributions made by an academy trust to its diocese for services it receives associated with securing the academy trust's religious character and ethos, which only the diocese can provide, are regarded as meeting the 'at cost' requirement.

Auditing Findings

A new paragraph [4.3.1] has been included focusing on the importance of acting on audit advice making it a mandatory requirement to provide a timely response.

The audit process can support trusts by helping identify key areas that may require improvement. The board of trustees **must** ensure there is an appropriate, reasonable and timely response by the trust to any findings by auditors, taking opportunities to strengthen the trust's systems of financial management and control.

Provision of Information

A new sentence has now been included in 4.8.4 that the ESFA may take further actions such as the publication of the names of late returners, to enforce compliance where trusts fail to fulfil their duties to provide information.

Annex C – Schedule of Requirements (the “musts”)

Annex C has different headings and order to the “musts” and includes the new mandatory requirements contained in the AFH 2018.

Suggested Action:

Trustees to review to ensure all the musts are being carried out for the school and there is evidence to support compliance.