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Publication of Academy
Trust Handbook and
changes from the previous
Academies Financial
Handbook

July 2021

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The Education Schools Funding Agency (**ESFA**) published the [Academy Trust Handbook 2021](#) (the **New Handbook**) in June 2021. The New Handbook is effective from 1 September 2021, replacing and updating the [Academies Financial Handbook 2020](#) (the **AFH 2020**) which continues to apply until 31 August 2021. Unlike the AFH 2020 and preceding versions, the New Handbook has been rebranded so that the focus is not just on financial management issues but now overtly relates to wider governance requirements and other obligations. Whilst the title of the document has changed, the New Handbook still makes clear that it will also be known as the “Academies financial handbook”, given that this terminology is still used in other academy documentation (particularly the funding agreements). Retaining the old name, also seeks to counteract arguments that the New Handbook is an entirely different type of document.

In some respects, the widening of the scope of the handbook is not a recent issue as the existing AFH 2020, despite its title, does not solely concern financial management matters and already concerns wider requirements on academy trusts. In fact, as each version of the handbook has been updated, there has been an increased impetus on wider matters related to governance and academy trust responsibilities, indicating a gradual change of scope to the handbook over time. The rebranding of the New Handbook now makes explicit that the regulatory framework provided for in the document, is much broader than originally envisaged. This also coincides with the ESFA rebranding “Financial Notices to Improve” as “Notices to Improve”, again highlighting their scope beyond just financial matters. Whilst many of the changes in the New Handbook seek to clarify or consolidate existing requirements, the rebranding does raise broader questions as to how the New Handbook may be updated in future given the wider scope. It could be said that the New Handbook, combined with the rebranded Notices to Improve, represent a step change in the way in which the Department for Education (**DfE**) is regulating academy trusts.

We consider the impact of the rebranding of the New Handbook and the other changes captured in the New Handbook in further detail below.

Who is the New Handbook aimed at?

The New Handbook (as with previous versions) concerns both single academy trusts (**SATs**) and multi-academy trusts (**MATs**), which may operate various different types of academy provision (including mainstream, alternative provision and special academies, free schools, studio schools and university technical colleges). All types of academy trusts, therefore need to be familiar with and consider the guidance and requirements of the Handbook.

As with the AFH 2020, the New Handbook is aimed at and should be read by those persons who have the responsibility for the governance, management and audit of academy trusts, including members, trustees, local governors, accounting officers, chief financial officers, auditors and clerks to the board (now known as “governance professionals”) of academy trusts. The New Handbook though now states that this also includes audit and risk committee members. Academy trusts therefore need to ensure that the New Handbook is brought to the attention of appropriate persons within or acting for the academy trust.

What does the New Handbook cover?

The New Handbook covers a wide range of financial responsibilities of academy trusts, but now makes clear that its scope is wider by also covering governance responsibilities of academy trusts, and other statutory responsibilities that academy trusts have.

As with any new iteration, the New Handbook is more onerous than previous versions, containing more obligations which academy trusts must meet, as well as more guidance that academy trusts should have regard to as best practice. This year's revisions include a number of significant changes and additions which, alongside the changes to Notices to Improve, could be said to be a modification to the scope and nature of the DfE's intervention powers in academy trusts.

Key changes include:

- updates to terminology – including the updated name of the handbook and the replacement of “Financial Notices to Improve” with “Notices to Improve”;
- a requirement that academy trusts ensure that members (and future member appointees) are not prohibited from taking part in academy trust management;
- an increased emphasis on the appointment of parent trustees/parent local governors in academy trusts;
- a requirement that from 1 March 2022 senior executive leaders are only appointed as trustees if the members agree to the appointment, the senior executive leader agrees and the academy trust's articles of association permit this;
- a requirement that when a senior executive leader plans to leave their post, the board of trustees approach the RSC in advance to discuss the board structure and options (including plans for recruitment);
- new provisions setting out the ESFA's expectations concerning external reviews of governance;
- new sections which seek to consolidate existing statutory obligations and guidance including in respect of health and safety, safeguarding (including relevant checks), and aspects of estate management;
- additional requirements as to when the scheme of delegation concerning financial management must be reviewed;
- a requirement that when an academy trust has entered into an off-payroll arrangement with someone who is not an employee, the amount paid by the academy trust for that person's work for the academy trust must be disclosed on the academy trust's website where the payment exceeds £100k (as if they were an employee);
- additional requirements concerning the publication of agendas, minutes and reports (subject to some exceptions) of trustee and committee meetings (although this is usually already a requirement of academy trust articles of association);
- a new provision that where the audit and risk committee and the finance committee are separate, the chair of each committee should not be the same person;
- a requirement that internal scrutiny must be viewed the same as internal audit;
- a change to the approval requirements for staff severance payments;

- an obligation that where academy trusts seek ESFA approval for an indemnity, the academy trust should confirm whether it is covered by insurance or by the Risk Protection Arrangement;
- an obligation concerning third parties providing information and documentation on academy trusts to the ESFA as part of ESFA investigations; and
- a new section stressing the risks of Cybercrime and requiring academy trusts to seek permission from the ESFA to pay any cyber ransom demands.

Further information on the updates contained in the New Handbook compared to the AFH 2020 are described in the Annex below.

Compliance with the New Handbook

The New Handbook (as with previous versions) sets out that academy trusts must comply with the New Handbook as a requirement of their funding agreements with the Secretary of State, and the ESFA expresses the view that a breach of the New Handbook would amount to a breach of the funding agreement. It should be noted however that the exact requirements to comply with the New Handbook under the funding agreements will depend on the particular funding documents in place and precisely how they are worded (as wording can differ depending on the age of the funding agreement). The New Handbook though (along with past iterations) seeks to provide a means for the ESFA to impose additional contractual obligations on academy trusts via the New Handbook without amending the funding agreements.

The widening of the scope of the handbook over time does pose the question as to whether academy trusts, when signing up to funding agreements, would have envisaged a handbook with a wider scope than financial management matters. That said, despite any technical arguments regarding how the funding agreements achieve the outcome of requiring academy trusts to comply with the New Handbook, academy trusts should be mindful that the ESFA's clear expectation is that the New Handbook forms a key part of the regulatory framework for academy trusts and that academy trusts must comply with requirements of the New Handbook and have regard to any guidance on best practice set out in the New Handbook.

Detailed information on the additions and changes contained in the New Handbook are set out in the Annex below.

If there are any queries in relation to the Academies Financial Handbook, please contact your usual Stone King contact, or the Head of our Education Team - Graham Burns GrahamBurns@stoneking.co.uk.

Stone King LLP – July 2021

Annex - Key amendments and additions

Details of key additions in the New Handbook and changes from the AFH 2020 are set out below.

Please note that where a provision in the New Handbook (as was the case in the AFH 2020) states “must” this is deemed by the ESFA to be a requirement and where a provision states “should” this is deemed to be “minimum good practice” which academy trusts “should apply unless they can demonstrate that an alternative approach better suits their circumstances” (see section in the New Handbook on “Using the handbook”). We have made clear where changes are “must” obligations or “should” best practice, by using the same terminology. We have also stated in brackets the relevant paragraph number from the New Handbook where the change or addition appears.

Part 1: Roles and Responsibilities

GOVERNANCE, MEMBERS, TRUSTEES, THE CHAIR AND GOVERNANCE PROFESSIONALS

The New Handbook emphasises the role that academy trusts have in advancing education for the public benefit (1.1). There are also a number of changes and new provisions which seek to further clarify the roles and responsibilities of academy trust members and trustees, as well as the chair of trustees and the clerk to the board. In particular:

- there is a new provision that academy trusts must ensure that their current members are not prohibited from taking part in academy trust management under section 128 of the Education and Skills Act 2008, and that they do not appoint any individuals as members who are subject to such directions (1.4);
- there is a clarification that trustees are specifically responsible for an academy trust’s “strategic” business, and removed wording which stated “members should be ‘eyes on and hands off’ and avoid compromising the board’s discretion” (1.7);
- there is a further clarification that members are kept informed by “trustees” about the business of the academy trust. As before, this must continue to include providing the members with the academy trust’s audited annual report and accounts (1.8);
- there is an explanation that the chair of trustees is responsible for providing the board with clear leadership and direction, keeping the board focussed on its core functions (with support and advice by the governance professional (clerk)) (1.22);
- references to the clerk to the board now refer to a “governance professional” and it is clarified that such a post can held contribute to the efficient functioning of the board, by providing independent advice on procedural matters (1.49); and
- the New Handbook now cross-refers throughout to the DfE’s [academy trust governance: structures and roles guidance](#) to enable Academy Trust’s to further understand the role of members, trustees, the chair of trustees and the governance professional.

The New Handbook includes a new provision making clear that the articles of association of an academy trust will set out conditions which determine the academy trust’s minimum number of trustees. Further the new wording provides that all academy trusts should have reserved places for “parents, carers or other individuals with parental

responsibilities in their governance structure”. Such reserved places should be filled by elections, as appropriate. Reflecting the current DfE model articles of association, the new wording also provides that SATs should have at least two such reserved places on the board, and MATs should have at least two reserved places on the board or at least two reserved places on each local governing body (where the academy trust has established local governing bodies) (1.11).

Clarification and additional provisions have also been included in the New Handbook relating to the appointment of senior executive leaders to the board of trustees. The New Handbook provides that from 1 March 2022 any newly appointed senior executive leaders can only be appointed as trustees if “the members decide to appoint them as such, the senior executive leader agrees and the trust’s articles permit it”. Whilst this requirement reflects the drafting of the DfE model articles of association, academy trusts with older articles of association which allow a Principal (in a SAT) or Chief Executive Officer (in a MAT) to automatically become trustees (without a resolution of the members) will need to consider updating their articles of association to ensure compliance with this provision. It should also be noted that the New Handbook retains the DfE’s “strong preference” that other than the senior executive leader, no other employees serve as trustees (1.23).

The New Handbook also provides that when a senior executive leader plans to leave their post (such as by retirement or resignation), the board of trustees approach the RSC in advance to discuss the board structure and options (including plans for recruitment) (1.36).

A new section has been added, setting out the DfE’s “strong preference” that external reviews of governance be conducted routinely as part of a wider programme of self-assessment and improvement. The New Handbook makes clear that such reviews are of particular importance before the board of trustees undertakes “significant change” (such as where there is significant growth, or where there are governance concerns). Such reviews should also consider “the interaction between members and trustees, including the extent that members are able to assure themselves that the trustees undertake their duties effectively” (1.32). Additional guidance documents relating to governance and governance reviews are also now referred to in the New Handbook (after 1.32).

The New Handbook also now emphasises an academy trust’s wider statutory obligations, specifically referring to “safeguarding, health and safety and estates management” and noting that “strong governance in these areas will be a key priority of the board” (1.14).

SAFEGUARDING AND DISCLOSURE AND BARRING SERVICE (DBS) CHECKS

The New Handbook has added a section on safeguarding which sets out certain statutory obligations of an academy trust. This new provision makes clear that academy trusts have a duty under the Education (Independent School Standards) Regulations 2013 to:

- safeguard and promote child welfare;
- ensure the suitability of staff, supply staff, volunteers, contractors and proprietors of the academy trust; and
- to have regard to Secretary of State issued guidance on safeguarding (1.15).

The New Handbook also now states that academy trusts are required to follow the Home Office’s [Revised Prevent duty guidance: for England and Wales](#) and the DfE’s general advice [Protecting children from radicalisation: the](#)

[prevent duty](#) when carrying out the Prevent duty in compliance with section 26 of the Counter Terrorism and Security Act (1.16).

The New Handbook has also added a new section on DBS Checks, setting out that academy trusts must ensure enhanced DBS certificates are obtained as appropriate for all staff and supply staff (1.51). There are also obligations that members, trustees, committee members (including local governing bodies) of academy trusts are required to have enhanced criminal records certificates from the DBS (which does not include a barred list check, unless the individual is engaging in regulated activity in addition to their governance duties) (1.52).

There are also links to the further guidance where academy trusts can find out more about their safeguarding and DBS check responsibilities (after 1.15 and after 1.52).

HEALTH AND SAFETY

A new section has also been included on health and safety setting out the key statutory requirements and relevant guidance for academy trusts in this area. In particular the New Handbook explains that:

- under the Health and Safety at Work etc. Act 1974, an academy trust (as an employer) is responsible for the health and safety of its staff, pupils, and any visitors (1.17);
- academy trust boards should follow the DfE's [Health and Safety: responsibilities and duties for schools](#) as well as [Health and Safety Executive \(HSE\) guidance for Education](#) (1.18); and
- academy trusts have a duty to manage asbestos in their schools effectively in compliance with the Control of Asbestos Regulations 2012 (1.19).

There are also links in the New Handbook to further guidance where academy trusts can find out more about their responsibilities in relation to asbestos (after 1.19).

ESTATE MANAGEMENT

The New Handbook has added a new section on estate management, making clear that an academy trust's estate is "both an asset and a mechanism to deliver outcomes for pupils". Academy trusts are expected by the DfE to manage their school estate "strategically and maintain their estate in a safe working condition" (1.20).

Academy trusts are also directed to find further advice and support relating to estate management at [Good Estate Management for Schools](#).

Part 2: Main Financial Requirements

SCHEME OF DELEGATION

The New Handbook maintains the previous requirement from the AFH 2020 that the board of trustees "must approve a written scheme of delegation of financial powers that maintains robust internal controls". There is now an additional provision though that the scheme of delegation should be reviewed annually, and, when there has been a change in management or organisational structure of the academy trust, reviewed immediately (2.4).

BASIC CONTROL PRINCIPLES

The New Handbook, as with the AFH 2020, still emphasises that there must be a sound internal control, risk management and assurance process. The New Handbook though now requires that the control framework must ensure a risk register is maintained and reviewed by the board or trustees, taking into account advice provided to it by the audit and risk committee (2.7).

FINANCIAL PLANNING AND SETTING A BUDGET

The New Handbook clarifies that the board of trustees must, as part of its management of the academy trust's funds, set, (rather than explain, as before) a policy for holding reserves and then explain it in its annual report. Information on how the trust must report on reserves is set out in the [Accounts Direction](#) (2.8).

The New Handbook has an expanded reference to financial planning, financial performance and resource management tools (see additional tools listed after 2.14).

PROCUREMENT BASICS

As was previously required, academy trusts must ensure a competitive tendering policy is in place and applied. The New Handbook tidies up the drafting slightly to make it clearer that procurement rules and thresholds in the Public Contracts Regulations 2015 and [Find a Tender](#) service must be observed (2.28).

PUBLICATION OF EXECUTIVE PAY

Academy trusts must still publish on their website the number of employees whose benefits exceeded £100k, in £10k bandings, for the previous year ending 31 August. Further explanation though has been provided as to what constitutes a "benefit", stating that this includes employers' pension contributions. The publication requirement though has been amended so that, this no longer has to take the form of an extract from the disclosure in the academy trust's financial statements. Rather academy trusts may wish to display the information in a tabular form showing in each column (salary, pension etc.) (2.32).

New wording has also been added requiring that, where an academy trust has entered into an off-payroll arrangement with someone who is not an employee, the amount paid by the academy trust for that person's work for the academy trust must also be included in the website disclosure where the payment exceeds £100k as if they were an employee (2.32).

TAX ARRANGEMENTS FOR SENIOR EMPLOYEES

The New Handbook does not substantively amend existing requirements, but does now direct readers to a new resource: [List a teaching job at your school on Teaching Vacancies](#).

BEING TRANSPARENT ABOUT YOUR GOVERNANCE

Additional obligations are included in the New Handbook which require academy trusts to make available for public inspection agendas, approved minutes, reports, documents and papers of every trustee and committee (including local governing body) meeting. Material may be excluded from inspection when materials relate to named employees (or proposed employees), named pupils/students (or candidates for admission/referral), or any matter which by

reason of its nature trustees are satisfied should remain confidential (2.51). These requirements reflect provisions in the current model articles of association for academy trusts (and which will already be included in most academy trust's articles of association).

INFORMATION ABOUT KEY INDIVIDUALS IN THE TRUST

The New Handbook clarifies that all "mandatory" fields specified in GIAS for key individuals must be completed (2.56). Additional wording has also been added to clarify that the records required in GIAS for constituent academies in a trust, must also include direct contact details for local governors (where local governing bodies are adopted). Previously it was only specified that direct contact details were necessary for the headteacher of the academy and the chairs of local governing bodies (2.58).

Part 3: Internal Scrutiny

REQUIREMENT FOR AN AUDIT AND RISK COMMITTEE

The AFH 2020 provided that the audit and risk committee must "direct" the academy trust's programme of internal scrutiny. The wording has been amended in the New Handbook to provide that the audit and risk committee must "oversee and approve" the trust's programme of internal scrutiny (3.8).

MEMBERSHIP OF THE COMMITTEE

Additional wording has been included in the New Handbook to make clear that where the finance committee and the audit and risk committee are separate committees, the chair of each committee should not be the same person (3.10).

OPERATING THE COMMITTEE

The New Handbook now clarifies that the audit and risk committee must also review the plans and reports of the external auditor and also consider their quality (3.12).

DELIVERING INTERNAL SCRUTINY

The New Handbook still includes requirements relating to how internal scrutiny of the academy trust is delivered. The New Handbook though further clarifies the range of people who must not be involved in the performance of internal scrutiny. Specifically, internal scrutiny must not be performed by members of the academy trust's senior leadership team, nor (as was the case previously) the accounting officer, chief financial officer or other members of the finance team (3.15).

The New Handbook also slightly amends previous wording to make clear that the audit and risk committee is now responsible for "overseeing", rather than "directing", the internal scrutiny (3.16).

The ESFA's expectation has been upgraded so that internal scrutiny "must" (rather than "should", as before) be viewed in the same way as internal audit, in order to minimise threats to objectivity and independence in the internal scrutiny of academy trusts (3.20).

Part 4: Annual Accounts and External Audit

PREPARATION AND AUDIT OF ACCOUNTS

The New Handbook now directs readers to separate [guidance](#) about the requirement to submit an annual confirmation statement to Companies House.

APPOINTMENT OF EXTERNAL AUDITORS

The New Handbook has been amended to more accurately reflect the wording in the Companies Act 2006 regarding the role of auditors appointed by academy trusts. Trusts must appoint an auditor to give an opinion on, rather than to certify, whether their annual accounts present a true and fair view of the trust's financial performance and position (4.5). In addition, a new obligation is included that academy trusts should now retender their external audit contract at least every five years and must consider the relevant points in paragraph 4.17 of the New Handbook when evaluating (4.5). Paragraph 4.17 sets out the requirements that the audit and risk committee must meet in exercising its' function (they have not changed from the AFH 2020).

The New Handbook also clarifies that both the regularity engagement (as described in paragraph 4.15 of the New Handbook), as well as the audit contract, must be in writing and must not cover other services. As per the AFH 2020, the New Handbook provides that any additional services of an auditor require a separate letter of engagement which specifies the work and the fee (4.6).

REMOVAL OF EXTERNAL AUDITORS

The AFH 2020 provided that the board of trustees notifies the ESFA immediately of the removal or resignation of the auditors and the reasons for the removal. This obligation still stands, but the New Handbook now includes an additional requirement that academy trusts copy to the ESFA any statement received from the auditor on this matter (4.8).

Part 5: Delegated Authorities

REQUIREMENT TO OBTAIN ESFA APPROVAL

The AFH 2020 made clear that whilst academy trusts have autonomy over financial transactions arising in the normal course of business, some transactions have delegated authority limits beyond which academy trusts must obtain the prior approval of the ESFA. The New Handbook clarifies that this applies "regardless of the source of funds" (5.1).

The New Handbook also directs readers to use the ESFA's [contact form](#) to request ESFA approval for any transactions beyond the delegation limits, making clear that such approval must be sought before the transaction takes place (wording follows paragraph 5.1).

NOVEL, CONTENTIOUS AND REPERCUSSIVE TRANSACTIONS

The New Handbook further clarifies that academy trusts must request ESFA's approval for any novel, contentious and/or repercussive transactions "before the transaction occurs" (5.5).

SPECIAL STAFF SEVERANCE PAYMENTS

The New Handbook tidies up the wording concerning staff severance payments, providing (as before) that staff severance payments which include a non-statutory/non-contractual element of £50,000 or more require ESFA prior approval before any binding offers to staff are made, but clarifying that this amount is “gross, before income tax or other deductions” (5.10).

The New Handbook also includes new wording which states that academy trusts must obtain prior ESFA approval before making a staff severance payment where an exit package which includes a special severance payment is at, or above, £100,000; and/or the employee earns over £150,000. This is in accordance with [HM Treasury's Guidance on Public Sector Exit Payments](#) (5.12)

WRITE-OFFS AND ENTERING INTO LIABILITIES

As per the AFH 2020, academy trusts must still obtain ESFA prior approval for writing of debts and losses, and entering into guarantees, letters of comfort or indemnities which are above delegated limits. The delegated limits also remain the same in the New Handbook, however the wording has been tidied up slightly to make it clearer how the £250,000 cap applies. The delegated limits being:

- *1% of total annual income or £45,000 (whichever is smaller) per single transaction*
- *cumulatively, 2.5% of total annual income (subject to a maximum of £250,000) in any financial year per category of transaction for trusts that have not submitted timely, unqualified accounts for the previous two financial years. This category includes new trusts that have not had the opportunity to produce two years of audited accounts.*
- *cumulatively, 5% of total annual income (subject to a maximum of £250,000) in any financial year per category of transaction for trusts that have submitted timely, unqualified accounts for the previous two financial years (5.20).*

New wording has also been added to this section providing that where academy trusts seek ESFA approval for an indemnity, the academy trust should confirm whether it is covered by insurance or by the Risk Protection Arrangement (RPA) (5.22).

ACQUISITION AND DISPOSAL OF FIXED ASSETS

The New Handbook now directs readers to a new resource on [submitting a school land transaction proposal](#).

RELATED PARTY TRANSACTIONS

This section has been updated slightly in the New Handbook to clarify that “related parties” can include key management personnel and close family members (in addition to persons previously cited) (5.35). Note as before, the readers are still directed to [Financial Reporting Standard 102](#) and the [Charities SORP](#) for a comprehensive definition of related parties.

Part 6: The Regulator and Intervention

ACCESS RIGHTS

The AFH 2020 contained a section on audit access, this has been renamed as “access rights” in the New Handbook and has been amended to reflect the fact that the ESFA or its agents may carry out investigations, as well as audits, at an academy trust (6.4).

INVESTIGATIONS: THIRD PARTY DOCUMENTATION

A section has been added in the New Handbook covering where the ESFA wishes to obtain information or documentation about an academy trust from third parties for the purposes of an ESFA investigation. There is a new obligation that Academy trusts must provide the ESFA with written authority giving permission for any third party to provide such information and documentation to the ESFA or its agents on request of the ESFA (6.5).

FINANCIAL MANAGEMENT AND GOVERNANCE SELF-ASSESSMENT

The New Handbook provides that new “operational” academy trusts must complete a financial management and governance self-assessment (FMGS) and submit this to the ESFA within 3 months of opening their first academy (6.7). Previously the obligation also referred to constituent academies joining a MAT also having to complete an FMGS which has been removed. Further the deadline to submit the FMGS was also previously less clear.

CYBERCRIME

The New Handbook now contains a section on “Cybercrime”. Under this section academy trusts must be aware of the risk of Cybercrime, put in place proportionate controls and take appropriate action where a cyber security incident has occurred (6.16).

A new obligation also requires that academy trusts obtain permission from the ESFA to pay any cyber ransom demands. It is noted that the ESFA supports the National Crime Agency’s recommendation “not to encourage, endorse, or condone the payment of ransom demands”, further stating that the “Payment of ransoms has no guarantee of restoring access or services and is likely to result in repeat incidents” (6.17).

The New Handbook also directs readers to further resources on Cybercrime (see information following paragraph 6.17 of the New Handbook).

ESFA INTERVENTION POWERS

Under the New Handbook, a “Financial Notice to Improve” (FNtI) has been renamed as a “Notice to Improve” (NtI). This reflects that the ESFA regulatory scope is beyond financial matters and coincides with the rebranding in the New Handbook. It should be noted though that despite the rebranding, the AFH 2020 already provided that a FNtI could concern “financial management and/or governance” which remains the case for a NtI. The New Handbook also provides (which again remains the same as provided for in the AFH 2020 for a FNtI) that a failure to comply with a NtI will be deemed a breach of the funding agreement and the funding agreement may be terminated for non-compliance (6.18)

The New Handbook clarifies the requirements for publishing the Ntl, making clear that the ESFA will first notify the academy trust of the date which the ESFA published the Ntl. Within 14 days, the academy trust must then publish the Ntl on its own website, retaining this until the Ntl is lifted (6.19).

PART 7: DEFINITIONS

Definitions used in the New Handbook have not altered from the AFH 2020. Academy trusts should continue to consult the definitions to understand the terminology used in the New Handbook.

Part 8: Requirements for trusts (the ‘musts’)

This section in the New Handbook should continue to be consulted for a list of items the ESFA consider “musts” for academy trusts to comply with. In summary the following musts have been added to the New Handbook which were not included in the AFH 2020:

- *Have suitability checks in place for members to ensure they are not subject to a direction under section 128 of the Education and Skills Act 2008 [1.4].*
- *Arrange DBS checks as appropriate [1.51 and 1.52]*
- *Ensure governance documents are available for public inspection [2.51].*
- *Internal scrutiny must be viewed in the same way as internal audit [3.20].*
- *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]*
- *Provide ESFA with permission for any third party to provide requested information where there are concerns or an investigation is ongoing at a trust [6.5].*
- *Be aware of the risk of cybercrime and put in place proportionate controls and appropriate action where a cyber security incident has occurred [6.16]*
- *Obtain permission from ESFA before paying any cyber ransom demands [6.17].*

The following “musts” have been altered slightly from the AFH 2020 to reflect the new terminology for governance professionals and NtIs. The new wording is set out below:

- *Appoint a governance professional (clerk to the board) [1.49]*
- *Comply with a Trust Notice to Improve [6.18 and 6.20]*
- *Publish the Ntl on the trust’s website until it is lifted [6.19]*

The following “musts” have been altered slightly from the AFH 2020 to make clear that the approvals all require “prior” approval:

- *Obtain ESFA’s prior approval for the non-contractual/non-statutory element of a staff severance payment of £50,000 or more (gross, before deductions) [5.10]*
- *Obtain ESFA’s prior approval for non-contractual/non-statutory compensation payments of £50,000 or more [5.15]*

- *Obtain ESFA's prior approval for ex gratia payments [5.18]*
- *Obtain ESFA's prior approval for writing off debts and losses, guarantees, letters of comfort and indemnities beyond limits in this handbook [5.19 and 5.20]*
- *Obtain ESFA's prior approval, before acquiring and disposing of fixed assets beyond limits in this handbook and ensure disposal achieves best price [5.23 and 5.24]*
- *Obtain ESFA's prior approval for leases beyond limits in this handbook [5.26 to*
- *Obtain ESFA's prior approval before borrowing, including finance leases and overdrafts, and only use credit cards for business expenditure [5.33]*
- *Obtain Charity Commission prior approval for paying a trustee for acting as a trustee [5.36]*
- *Obtain ESFA prior approval for contracts and other agreements with related parties beyond limits in this handbook [5.42 to 5.44]*

Part 9: Further Reading

The following documents have been added to the list of further reading in the New Handbook:

- [Role of the accounting-officer](#) (Confederation of School Trusts (CST))
- [School land transaction proposal](#) (DfE)

Disclaimer

The law and practice referred to in this article or webinar has been paraphrased or summarised. It might not be up-to-date with changes in the law and we do not guarantee the accuracy of any information provided at the time of reading. It should not be construed or relied upon as legal advice in relation to a specific set of circumstances.

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