

## Academy trust governance guide

From:

Department for Education

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Guidance on strategic leadership and the governance of academy trusts.

**This non-statutory guidance replaces the governance handbook 2019.**

This is a reference document for those involved in trust governance. It provides essential information from a range of sources on the trust board's roles and legal responsibilities.

The [Academy Trust Handbook \(ATH\)](#) and your funding agreement have more information on contractual requirements.

### Who should use this manual

This guidance is for:

- trustees, executive leaders, local committee governors, governance professionals and academy trust members
- academy trusts including free schools and university technical colleges

- foundations, sponsors and others, such as diocesan authorities, with an interest in the governance of trusts
- organisations supporting boards to develop effective governance

It does not apply directly to pupil referral units, sixth-form colleges or academies, or general further education colleges, though they may find its principles helpful.

## Resources for trust boards

Practical resources for trust boards are available from sector organisations including:

- [National Governance Association](#)
- [Confederation of School Trusts](#)
- [GovernorHub](#)
- [Chartered Governance Institute](#)
- [Catholic Education Service](#)
- [Church of England Education Office](#)

## Using this guidance

What you need to know about legal requirements, the 5 pillars of academy trust quality and resources from third parties.

In this guidance:

- **must** is a legal or regulatory requirement or duty which must be complied with
- **should** is the minimum good practice which should be applied (unless it can be demonstrated that an alternative approach better suits the circumstances)

Where neither a **must** or **should** is used, the content refers to a generally held view of high-quality governance.

Additional governance expectations or arrangements may be in place for specific groups of academies, for example by diocesan authorities, academy sponsors or multi-academy trusts (MATs). This guidance refers to them where relevant, but does not aim to cover them comprehensively.

## **The 5 pillars of Academy trust quality,**

As part of the guidance on [Commissioning high quality trusts](#), the Department for Education (DfE) published 5 pillars of academy trust quality.

Annex A: trust quality descriptions sets out the 5 pillars of academy trust quality. The trust quality descriptions cover:

1. High-quality and inclusive education
2. School improvement
3. Workforce
4. Finance and operations
5. Governance and leadership

This guidance has been structured around the governance and leadership pillar.

## **Resources from third parties**

Many third party organisations provide support for governing bodies, and we recognise the value that these resources bring to help support effective governance.

Some resources are only available through membership subscription, but links have been provided for free guidance where available. This is intended as further reading, and not a formal endorsement of the content.

## **Definitions**

Explanations of the terms used in this guidance.

## **Academy trust or trust**

An independent, charitable company limited by guarantee which has a funding agreement with the Secretary of State. Includes those that run one or more academies, including free schools, university technical colleges (UTCs) and studio schools.

## **Academy trustees or trustees**

The company directors and charity trustees who sit on the board of an academy trust. They are also known as trustees in recognition of the charitable, non-profit-making status of academy trusts.

In some trusts, those on the board are known as directors or company directors. This often happens in academies with a religious character where the term 'trustee' is reserved for those on the board of the separate trust that owns the land and assets.

## **Accounting officer**

The academy trust's senior executive leader. They are accountable for value for money, regularity and propriety.

## **Board**

The accountable body for the academy trust which operates at a strategic level. Also known as the board of academy trustees.

## **Chair**

Chair of the board of academy trustees.

## **Charitable objects**

The academy trust's purpose, which is set out in the academy trust's Articles of Association.

## **Committees**

The board can set up committees and delegate powers to them. A local committee is a committee of a board in a multi-academy trust (MAT) that is established as a local governing body (LGB) under the academy trust's Articles of Association.

### **Executive leaders and executive leadership team**

The executive leaders and executive leadership team are held to account by the board for the performance of the academy trust. May include the senior executive leader, executive headteacher, headteacher or principal, as well as other senior employees, depending on the structure of the academy trust.

### **Local authority associated people (LAAP)**

Members, officers (employees) of local authority, or individuals who are, or have been, within the last 4 years, a member of a local authority where that local authority has a responsibility for education or is a district or parish council where there is a land or other commercial relationship with the academy trust.

### **Multi-academy trust (MAT)**

A MAT is a single legal entity. It is a charitable company with a board of academy trustees that is accountable for all of the academies within the trust. It has both a master funding agreement and supplemental funding agreements for each academy.

### **Members**

Members are the founders and/or subsequent members of an academy trust. They have a general duty to exercise their powers to further the academy trust's charitable purpose. They form part of the academy trust's governance structure.

## **Non-executive leaders**

These make up the board of academy trustees. Non-executive leader is another term for academy trustee.

## **Single academy trust (SAT)**

A SAT is a charitable company with a board of academy trustees that is accountable for one academy within the trust. It has a single funding agreement with the Secretary of State.

## **Schools**

An academy within an academy trust – includes free schools, UTCs and studio schools operated by an academy trust.

## **Senior executive leader**

The accounting officer (as defined in the [Academy Trust Handbook](#) section 1.27 to 1.28). In a MAT this should be the chief executive (or equivalent) and the head of the management team. In a SAT this should be the principal. Academy trusts may use the term executive principal.

## **1. Culture and engagement**

How boards create a culture that motivates and is ambitious for all.

This section covers the trust quality descriptions of [culture and engagement](#).

### **Culture**

The board and executive leadership team anchor the trust's strategy in the needs of its schools, the communities they serve and the wider educational system in line with its charitable objects. The board, accounting officer and executive leadership team create a culture of ethical leadership, and follow the [Seven Principles of Public Life](#), also known as the 'Nolan Principles'.

## **Engagement**

The board oversees strategic relationships with external stakeholders, including the involvement of parents, schools and communities. Where appropriate it will also involve dioceses and the religious authorities, so that decision-making is supported by meaningful engagement.

### **1.1 Establishing a positive culture**

Everyone involved in governance is expected to know about and follow [the Seven Principles of Public Life](#).

#### **1.1.1 How trustees can create a positive culture**

Trustees:

- ensure the trust's culture and values are focussed on the charitable objects and its governing documents, including any trust deed
- embed the culture and values across the academy trust, ensuring these are reflected in its policies and practices
- ensure that the trust complies with the principles of ethical practice and leadership including in the delivery of training and development and by being an ethical employer
- create and maintain positive relationships with executive leaders that encourage a professional culture across the trust
- promote a whole-trust approach to pupil and staff well-being, safeguarding arrangements, and child protection

Where a trust has a religious character, the relevant appointing body may appoint the members and trustees. Those appointed have a duty to preserve and develop the character of the trust, including any religious character.

#### **1.1.2 Responsibility of the board in creating a positive culture**

In setting a positive culture, the board **must**:

- act in the best interests of the trust
- be open and ensure transparency about their decisions and actions
- be prepared to explain their decisions and actions

An effective board also:

- sets and safeguards high expectations for the trust's community, including for:
  - the expected behaviours, progress and attainment of all pupils
  - the conduct and professionalism of its staff, the board and its committee members including any local committees
- achieves the best outcomes for the trust's pupils through a full understanding of the needs of pupils, staff, parents, carers and local communities
- ensures all systems, processes and policies operate with the best interests of the pupil at their centre

The trust's culture **must** actively promote the fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance for those with different faiths and beliefs. Information on promoting fundamental British values is available in the [independent school standards guidance](#).

Find out more about the Seven Principles of Public Life through the [academy trust governance code: principle 3 - integrity](#).

### 1.1.3 A collaborative culture

Collaboration can foster strong relationships which offer support and shared learning. Trusts can use this shared expertise and knowledge to raise standards.

Where a trust collaborates with another trust, it **must** ensure that their collaboration does not impact on:

- the trusts' governance
- intervention
- financial transparency
- the accountability relationship between the trusts and DfE

These arrangements **must** be compatible with the duties of charity trustees, which are explained in the Charity Commission's guidance [the essential trustee: what you need to know, what you need to do](#).

Trusts may collaborate informally with maintained schools but **must not** share governance arrangements and form formal committees.

DfE's guidance on [trust partnerships for academy trusts and prospective joiners](#) has more information.

Find out more on collaborating from:

- Ethical leadership commission: [Framework for Ethical Leadership in Education](#)
- National Governance Association: [Ethical Leadership for a better education system](#)

#### 1.1.4 Trustee conduct and behaviour

Effective boards create and maintain a code of conduct.

Breaching the code of conduct could result in the trust removing a trustee or individual on a committee, including a local committee.

Here are some examples of model codes of conduct produced by organisations to help boards in drafting or updating their own code of conduct:

- Catholic Education: [codes of conduct for governors and directors in Catholic schools and academies](#)
- Confederation of School Trusts: [model code of conduct for trustees and trust boards](#)
- National Governance Association: [model governing board code of conduct](#)

### 1.1.5 Equality, diversity and inclusion

Equality, diversity and inclusion should be an integral part of the board's strategy and business plans. It is important that this includes not just legal or regulatory obligations but also how equality, diversity and inclusion is championed and embedded throughout the academy trust.

Trusts **must** abide by the [Equality Act 2010](#). It applies to all trusts as providers of education to their pupils and to those who have applied for admission as pupils. Where the board is also the employer, it must also be aware of its responsibilities under the Equality Act.

Under the [Public sector equality duty \(PSED\)](#) boards **must** have due regard to:

- eliminating unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- advancing equality of opportunity between people who share a protected characteristic and those who do not
- fostering good relations between people who share a protected characteristic and those who do not

Boards **must**:

- ensure equality objectives are published and that they can demonstrate compliance with the PSED
- comply with the duty to make reasonable adjustments to help alleviate any substantial disadvantage to a disabled person, which will vary in each case

DfE's [Equality Act 2010: advice for schools](#) provides detailed information for academies, including on general exceptions and special issues for some protected characteristics.

Useful information is also available from:

- Equality and Human Rights Commission (EHRC): [guidance for schools on the PSED](#)
- Government Equalities Office: [Positive action in the workplace: guidance for employers](#)
- [Governor hub: community insights](#): a free tool that boards can use to search for information about the diversity of a school's community

### 1.1.6 Being transparent about governance

The trust **must** be transparent with its governance arrangements.

Openness about governance arrangements and decisions helps parents, carers and wider communities understand and navigate the trust and creates a relationship based on trust.

The [Academy Trust Handbook \(sections 1.42-1.46\)](#) has information on what the trust **must** provide and publish.

Published governance information on an academy trust's website **must** be in a readily accessible format. For example it should be on a webpage, without the need to download or open a separate document.

It may be helpful to add the governance professional's contact information to the governance page of your trust's website.

There is useful information in the DfE guidance [What academies, free schools and colleges must or should publish online](#).

Find out more on transparency from the sector-led academy trust governance code [Principle 7: Openness and accountability](#).

## Document retention

The board and academy trust must follow legal requirements from the [Companies Act 2006, chapter 6](#) for document retention in relation to board proceedings. They must accurately document:

- evidence of the board and its committee's discussions and decisions
- any evaluation of the board's impact

Information on [data protection for schools](#), freedom of information and cyber security can be found in the Compliance section [7.9 Protecting and sharing information](#).

### 1.1.7 Get Information about Schools (GIAS)

DfE has a national database of governors and trustees. You can access this through [Get Information about Schools \(GIAS\)](#).

GIAS:

- allows DfE to identify individuals who have a role in governance
- helps boards to identify where people govern in more than one trust, academy or school

A trust **must** provide up-to-date information about its members, chair, trustees and people on local committees to the Secretary of State for Education, as required by the [Academy Trust Handbook section on provision of information](#). Some of this information will be used to populate the [Get Information About Schools database](#).

Certain governance information collected from GIAS will be made public. Find out more from the [National database of governors](#).

When collecting information from trustees and local governors, they will need to be made aware:

- that it will be shared with DfE
- of the reasons why the information is being collected
- of the purpose for which it will be used

The collected information will be encrypted and held securely by DfE. Access to this information is restricted to a small number of users who need it to fulfil their official responsibilities.

Find out more from:

- [GIAS privacy notice](#)
- [GIAS users responsibilities pages](#)

## **1.2 Engaging with stakeholders and religious authorities**

The board oversees strategic relationships with:

- parents
- the trust's community
- the church community and diocese (in the context of church schools)

This creates a sense of trust and shared ownership.

The board ensures that the trust puts the systems in place to regularly:

- seek and consider the views of parents, carers and communities – helping them to understand the structure of the trust, how it operates and how they can support their child’s education and put forward their views
- listen and respond to parents and carers, pupils, staff, local communities and employers and capture how their views have informed the board’s decision-making
- communicate decisions clearly to pupils, parents and carers, staff and communities

The board is responsible for assuring this process.

[Parentkind](#) provides guidance and training on building better partnerships with parents.

The National Governance Association and Parentkind have produced guidance on [Engaging with parents and carers](#).

## **2. Governance of the trust**

Information on board expertise and building an effective team.

This section covers the trust quality description of [governance](#).

### **Governance of the trust**

The members of the trust ensure that the board of trustees have the necessary expertise to fulfil its functions effectively and that the board acts in accordance with the trust’s charitable objects.

[all sections](#)

#### **2.1 The academy trust**

Trusts are founded by members and run by trustees. They have a general duty to exercise their powers to further the trust’s charitable object. In the majority of trusts this is “to advance for the public benefit, education in the United Kingdom”. This will be set out in the trust’s articles of association.

Members have powers:

- to appoint trustees, as set out in their articles of association
- to remove any or all serving trustees if governance is failing, under the Companies Act

[The trust board](#) in Section 4.3 has more information on members.

### 2.1.1 Trusts with a religious character

Academy trusts with a religious character are founded by the appropriate religious body and their objects will be set out in the articles of association of the academy trust.

Members of trusts that include church academies **must** also ensure that the religious character of the church academies is preserved and developed as part of ensuring the charitable objects of the academy trust deed are met.

Governance structures in church academies should reflect the diocesan strategy. This strategy:

- establishes what is required to provide the best possible safeguard for church academies
- preserves the ability of the diocese to discharge its function under charity and company law

### 2.2 The purpose of governance

In trusts, the purpose of governance is to provide:

- strategic leadership
- accountability and assurance
- strategic engagement

The board has collective accountability and strategic responsibility for the trust. It has a focus on ensuring the trust delivers an excellent education to pupils while maintaining effective financial management and **must** ensure compliance with:

- the trust's charitable objects
- regulatory, contractual and statutory requirements
- their funding agreement

The board also has:

- strategic and statutory responsibility for [safeguarding](#) and [special educational needs and disabilities \(SEND\)](#) arrangements within (and across) the academy trust ensuring the promotion of pupil welfare and for keeping their estates safe and well-maintained
- a role in making sure that it delivers its commitment to other schools and academies, however it is done

Refer to your own academy's articles of association for more information.

### **2.3 Capturing the purpose and regulations of the trust: articles of association**

Articles of association set out a framework for establishing academy trust governance structures, including:

- appointing and removing trust members and trustees
- establishing committees

Trusts **must** comply with the requirements set out in their articles as a condition of their funding agreement with the Secretary of State and as required by charity law.

Effective trusts review their articles regularly to keep them up-to-date and reflective of the trust's development and growth.

DfE's [model articles](#) reflect requirements in charity and company law and DfE governance policy.

There are specific [model articles and other guidance](#) for trusts with church academies, which capture differences in governance arrangements.

## **2.4 Building an effective and diverse board**

To ensure it has the expertise it needs, the board can also use its powers to co-opt trustees, where such powers are included in the articles of association.

The board needs people with the right skills, expertise, behaviours and capacity who collectively:

- understand the purpose and importance of academy trust governance and the role of strategic leadership
- are committed to, understand and have time for the role
- are appointed through a transparent process against a clear role specification
- meet eligibility criteria and pre-appointment checks to be an academy trustee

Trustees will have the necessary skills to fulfil the board's functions effectively. They will have the ability to:

- bring a diverse range of perspectives for robust decision-making
- understand the educational setting and the cultural and religious contexts of the trust and the communities it serves
- analyse trust performance data
- use financial knowledge to hold the executive to account and drive financial efficiency
- challenge each other effectively and work effectively in committees
- performance manage the senior executive leader

- use active succession planning to ensure the board and the trust have the leadership and people it needs to remain effective

The sector-led academy trust governance code [principle 5: board effectiveness](#) has more information on how the board can work as an effective team.

A diverse board reflects, as a minimum, the diversity of the community or communities that the trust serves. This provides:

- diverse role models for staff and young people
- a variety of skills, experiences, qualifications, characteristics, perspectives and backgrounds

It also prevents the board being dominated by one perspective and promotes:

- an inclusive environment
- open debate informed by a range of voices and views
- effective decision-making

Having a diverse board of trustees, with no inappropriately close personal or business ties to the trust or with each other, can help ensure there is sufficient challenge to decisions and strategic functions.

[Equality, diversity and inclusion](#) in Section 1.1.5 has further information on discrimination.

DfE encourages boards to collect and publish diversity information about the board and any local committees. Collecting data on the diversity of the board can help trusts to understand and reflect upon the diversity of their governors and trustees.

Trustees and people on local committees can opt out of sharing their information, including protected characteristics, at any time. This can also be done after publication of any data related to information provided. Information should be widely accessible to the community and the public.

Find out more from DfE's guidance on [What academies, free schools and colleges must or should publish online](#).

### Guidance resources on diversity

- Confederation of School Trusts: [On diversity: An essay collection](#)
- Governors for Schools: [Diversity on governing boards](#)
- GovernorHub. [Recruit missing talent: resources for tackling diversity on your board](#) includes resources to help boards remove barriers and develop a more inclusive culture
- National Governance Association: [Everyone on Board campaign](#) provides information on how to recruit diverse governors and academy trustees and includes their report on '[Increasing participation in school and trust governance](#)
- National Governance Association: [Governing board diversity indicators form](#)
- The National Black Governors Network (NGBN): [Welcome to the National Black Governors Network \(NGBN\)](#)
- Sector-led: [Academy Trust Governance Code – Principle 6: Equality, diversity and inclusion](#)

### 3. Strategy

Setting and implementing a clear strategy for the trust.

This section covers the trust quality description of [strategy](#).

#### Strategy

The chair leads the board to set and champion a clear strategy for the trust, which aligns with the trust's charitable objects, covers all of the pillars of trust quality set out in [Annex A: trust quality descriptions](#) and, where applicable, sets out its aspirations for growth over time.

The board and the CEO review progress rigorously to ensure strategic alignment and effective implementation.

### 3.1 Setting the strategy

The strategy, which is set out in a written statement, supports the board's ambitions for:

- delivering an excellent education for its current and future pupils through the vision and its values
- the level of ambition for the trust's future growth
- the trust's relationship with other trusts, and where relevant dioceses and diocesan families of schools and other organisations and partnerships within the education sector

It draws on, and ensures, the trust's connection and responsiveness to its pupils, parents and carers, and communities it serves and provides a framework for:

- setting priorities
- implementing and ensuring accountability
- monitoring progress in achieving the trust's vision
- addressing strategic challenges and managing risk

When setting the strategy, the board is encouraged to consider staff workload and wellbeing. Effective boards consider how to ensure the trust fosters a supportive working environment where:

- workload is managed
- wellbeing is prioritised
- action is taken to support all staff (in line with the [pillars of quality for academy trusts](#)).

Where the trust has a religious character, the strategy for growth will be set by the appropriate religious body and the board is responsible for implementing any strategy for the growth of a trust. Reference should be to the relevant diocesan academisation strategy and with the consent of the diocese.

Find out more from:

- the sector-led [Academy Trust Governance Code - Principle 1: Delivering the academy trust charitable objects](#)
- the Confederation of School Trusts: [Building strong trusts: assurance framework](#)
- the National Governance Association: [Eight elements of effective governance](#) and [Being strategic: a guide for boards and leaders](#)

### 3.2 Championing the strategy

An effective strategy:

- supports the trust's operational plan
- is easily understood
- is communicated and supported across the trust and by its stakeholders – this is vital in disseminating and fostering awareness of the strategy

Championing a trust's strategy requires a collaborative and inclusive approach. This creates a sense of ownership and shared responsibility amongst staff. It can also maximise the strategy's effectiveness for the benefit of all stakeholders, particularly its pupils and for the success and growth of all schools within the trust.

DfE's [Commissioning high-quality trust guidance](#) has more information.

### 3.3 Reviewing progress against the strategy

The board has a responsibility to periodically review progress made against the strategy to ensure its effectiveness and alignment with desired outcomes. This process involves an evaluation of the performance indicators, benchmarks, and goals outlined in the strategy.

The board collaborates with the senior executive leaders to:

- gather relevant data
- assess the impact of implemented initiatives
- identify areas of success and areas needing improvement

Monitoring and reviewing progress not only ensures accountability but also allows for changes to be made that cater to evolving educational needs and emerging trends. This fosters continuous improvement and advancement toward the overarching goals of the strategy.

#### **4. Non-executive leadership**

Information on structures, roles and support.

This section covers the trust quality description of [non-executive leadership](#).

The trust has a high performing governance structure where trustees and other non-executive leaders have the expertise to fulfil their functions effectively, with representation that reduces biases in decision-making. See [Section 2: Governance of the academy trust](#).

The board accesses independent insight from internal and external audits, reviews of governance arrangements and other forms of expert advice. The trust provides board induction, training and review, and supports effective succession planning by building a pipeline of future trustees and committee members, with a focus on promoting diversity of thought and experience.

#### **4.1 Establishing a high performing governance structure**

A high-performing governance structure within a trust is made up of:

- members
- a board of trustees (non-executive directors)
- a governance professional
- committee members and/or local governors if the structure includes committees

It embodies strong leadership with clear lines of accountability and communication and clearly defined governance roles and responsibilities through:

- appropriate board and committee arrangements that:
  - reflect the trust's scale and structure
  - have the expertise to fulfil their functions effectively
  - include a range of perspectives that reduce biases in decision-making
- avoiding duplication between the delegated powers and decision-making of the trust board and its committees, including local committees in MATs, in holding academy-level leaders to account
- clear separation between the roles of strategic governance, oversight and operational executive leadership
- ensuring governance arrangements and remits are clearly understood

## 4.2 Members

Members' powers are set out in the trust's articles of association and in company law. See the [Companies Act 2006](#).

It is important that members' do not undertake the trustees' role. However, they will need to assure themselves that the governance of the trust is effective and that trustees are acting in accordance with the trust's charitable objects.

To enable members to assure themselves that the governance of the trust is effective, the board provides members with the information they require. This **must** include providing members with the trust's audited annual report and accounts.

Trusts **must** keep a register of individuals that have control of them – persons with significant control (namely members in this context) and disclose certain information to Companies House. Find out more from the guidance on [people with significant control \(PSCs\)](#).

You can find out about the [qualities of a member of an academy trust](#) from the Confederation of School Trusts.

#### 4.2.1 Member group composition

Trusts **must** have at least 3 members before entering into a funding agreement, but should have 5 members or more, as this:

- provides a more diverse range of perspectives to enable robust decision-making
- reduces the risks of concentrating power
- ensures members can take decisions through special resolution without requiring unanimity

The majority of members should not also be trustees (see [ATH \(section 1.6\)](#)). If members also sit on the trust board, this reduces the objectivity with which the members can exercise their powers. Where a member is also an trustee, they do not have and should not seek to have greater influence than other trustees.

No more than 19.9% of members can be [local authority associated people \(LAAPs\)](#).

Where a trust has a sponsor, the relationship between the sponsor and trust is vested in the sponsor's right to appoint members as set out in the trust's articles of association.

The minority or majority control of the church in a voluntary controlled (VC) or voluntary aided (VA) school respectively is retained on conversion to academy status through minority or majority control over the appointment of members of the trust.

#### 4.2.2 Annual general meetings

Any obligations for members to hold an annual general meeting (AGM) will be set out in the trust's articles of association. AGMs are mandatory in the mainstream and Church of England model articles of association members may:

- want to use an AGM to review the trust's annual audited accounts and broader issues of trust governance with the board

- instruct the trustees to convene a general meeting at any point, at which trustees may speak but not vote

AGMs:

- provide an opportunity for members and trustees to come together at least once a year
- help ensure that members are kept informed about the actions and decisions of the board, supporting the accountability of the trustees
- give a formal opportunity for members to exercise their legal duties and powers in overseeing trust governance, for example, routine appointments to the board and
- can be used to review the trust's audited accounts and broader issues of trust governance with the board

### 4.3 The trust board

The trust is a legal entity and is the employer of any central or academy staff, and has responsibility for the health and safety of those staff, its pupils and any visitors. The trust board has collective accountability and responsibility for the trust on behalf of the members.

The board can delegate most operational matters. It can also delegate aspects of decision-making to a committee, but it cannot delegate responsibility and **must** retain overall control.

The board can decide whether trustees will have a focus on certain areas to support its strategic decision-making, often referred to as link or lead trustees.

An example of a link role is a [Link governor for careers and work related learning secondary](#). Find out more from the Careers and Enterprise Company's [Resources for Governors](#)'.

However, all boards should have trustees to take specific strategic oversight responsibility on behalf of the board for its:

- safeguarding arrangements, including the [Prevent duty](#).
- special educational needs and disabilities (SEND) arrangements
- careers education – in trusts which contain secondary academies

The [SEND code of practice](#) will assist boards and the link or lead trustee in supporting and promoting discussions with regards to outcomes for learners with SEND.

[SEND governor questions: five great tips for meetings with SENCOs](#) provides helpful information and downloadable planners and questions.

Effective boards provide confident, strategic leadership in setting the trust's strategy and championing its vision and culture through:

- initiating and leading strategic change and overcoming strategic challenges, acting in the best interests of pupils
- defining medium and long-term trust-wide strategic goals, including development and improvement priorities
- monitoring and reviewing progress rigorously against agreed strategic goals and their effective implementation
- managing risk appetite and tolerance in line with strategic priorities and improvement plans
- embedding appropriate strategies and risk management at every level of governance
- informed decisions on whether to form, join or grow a group of academies, supported by strong due diligence, in line with the trust's strategic plan

Find out more about governance structures and role descriptions from:

- Confederation of School Trusts: [Role description: Trustee](#)
- sector-led: Academy Trust Governance Code: [Principle 2: Leadership](#)

#### **4.3.1 The board's constitution**

The constitution of the board will be set out in the trust's articles of association.

An effective board is focused and no larger than is needed to have all the necessary skills to carry out its functions effectively. DfE's preference is for smaller boards that help the board be cohesive, dynamic, and able to act more decisively on delivering its agreed strategic priorities.

Boards should have reserved places for elected parents, carers or other individuals with parental responsibilities. A MAT may, alternatively, choose to have at least 2 elected parents on each local committee.

The members can choose to appoint the senior executive leader as a trustee – no other employees should sit on the board. Trustees should not occupy staff establishment roles on an unpaid voluntary basis.

No more than 19.9% of the board's trustees can be LAAP.

#### **4.3.2 Suspending and removing trustees**

Only the Charity Commission has powers to suspend trustees.

The articles or association will set out who can remove trustees from the board. In summary:

- the board may remove any trustee it has appointed
- members have powers to remove any trustee

The Secretary of State for Education can require a trust to remove a trustee, subject to the relevant provisions being present in the trust's funding agreement. They can also prohibit a trustee under a section 128 direction [Academy Trust Handbook - Part 6: The regulator and intervention](#)

### 4.3.3 Board meetings

Board meetings **must** take place at least 3 times a year, although trusts should consider meeting more frequently.

The board **must** ensure it has the appropriate quorum to carry out its business, in line with the academy trust's articles of association.

Boards can decide how to hold meetings, such as meeting:

- face to face
- virtually, as allowed in their articles of association
- using a hybrid model, as allowed in their articles of association

[Good practice for virtual board and committee meetings guidance](#) from the Chartered Governance Institute has useful information.

In making strategic decisions the board:

- **must** act in line with the trust's charitable objects
- **must** act in accordance with its governing documents and where applicable including any trust deed
- will have a full understanding of the communities the trust serves, including the full cultural and religious diversity of the trust and its community
- is well informed by the available evidence of what works or is likely to be effective
- welcomes open debate from a diverse range of individuals, views and experiences
- considers the views and needs of, the religious body, where appropriate, and the views of the trust's key stakeholders, particularly parents and carers

#### 4.3.4 Committees of the board

Each committee of the board (other than those in a MAT constituted under the articles as a local committee) **must** contain a majority of trustees.

The board **must** have an audit and risk committee and should have a finance committee. These can be combined where the annual income is below £50 million.

Further information is available in the ATH [sections 2.5](#) and [3.6](#)

The board may delegate powers to committees, in line with its articles of association. Committees can:

- be established for a specific purpose
- include people from another trust (a joint committee)
- contain people not appointed to the board, in line with the articles of association.

The need to establish committees or panels does not define the size of a board.

#### 4.3.5 Local committees in MATs

A MAT trust board can choose to have a local committee, and, in line with its articles of association:

- may choose to delegate governance functions and decision-making to local committees
- may appoint and remove people on local committees of the MAT
- elect parents or carers to local committees

Local committees can:

- connect boards and their local academies and communities

- ensure board decisions are well-informed by the local context
- share local information with the board
- escalate issues to the board
- provide meaningful engagement with parents and local communities

Local committees can be set up by a MAT board to oversee an academy or group of academies. The board will maintain close links with its local committees, enabling it to actively consider and respond to the issues and escalated risks. Even where local committees have no delegated decision-making and are purely advisory in nature, they are a full and formal part of the governance structure, as determined by the trust's articles.

Find out more about local governance from:

- National Governance Association: [Local governance here and now](#)
- Confederation of School Trusts: [Governing a school trust](#) which references the role of local governance

#### 4.3.6 A scheme of delegation

The scheme of delegation **must** set out the structure and delegated remit of the trust's members, its board and any committees (including any local committees in a MAT).

An effective scheme of delegation will be written clearly so that everyone in and across the trust can understand the delegations and how this affects their role and that of others. The scheme of delegation will:

- include details of all the board's committees, including the local committee in a MAT (whether decision-making or advisory), and explain the role and remit of each
- set out which governance powers are retained at board level, and which powers are delegated
- make clear where all key governance functions including vision and budget-setting, senior executive leader oversight and performance management, are exercised in respect of each academy, where the board governs a number of schools

- explain how the roles of those in the governance structures relates to that of key executive leaders (such as the senior executive leader, executive principals, regional directors, finance and HR directors) – this will help avoid duplication of work for example between the roles of the MAT executive leadership team and the local committee in holding individual academy leaders to account
- explain the circumstances in which the arrangements set out in the scheme may vary, including both the timeframe for the overall scheme being reviewed and updated, and any triggers that might lead the board to review or change levels of delegations

Although trustees can choose to delegate certain powers, they cannot give up their legal duties to a third party – even to the members.

Find out more from Confederation of School Trusts: [Scheme of delegation checklists](#).

#### **4.3.7 Trustee terms of office**

The term of office for trustees is set out in the articles of association.

When members or the board appoint trustees, they may set the term of office at between 1 and 4 years. This does not apply to parent trustees or local committee parent governors. Trustees may be re-appointed or re-elected if eligible, subject to the articles of association.

Where the senior executive leader has been appointed to the board (ex-officio) the time limits do not apply. If they leave their employment, they will no longer hold the trustee role.

#### **4.3.8 Paying trustees and committee members**

Trust governance is based on the principle of voluntary service. The government is committed to maintaining and promoting this principle, including the expectation that volunteering will remain the normal practice for people who sit on local committees.

Trusts are exempt charities, and trustees are also charity trustees and **must** comply with charity law.

This means individuals can only receive payment for carrying out their (charity) trustee duties if :

- specifically allowed by the academy's articles of association
- the trust has express authorisation from the Charity Commission

In line with its duty to ensure value for money, any trust considering paying people for their role as a trustee, or to sit on any local or other board committees, should carefully review if it is:

- in the best interests of the trust
- in furtherance of the charitable objects
- an appropriate use of public funds

Any such payments would most likely be for a time-limited period, for example, in relation to bringing in highly skilled individuals to oversee the improvement of an underperforming academy.

Any change to articles to allow payment to a trustee requires authorisation from the [Charity Commission](#). The Charity Commission will only authorise amendments to allow payment to trustees on an exceptional basis and where it is in the charity's interests. It will consider:

- the reasons for payment
- conflicts of interests
- whether DfE, as [principal regulator](#), supports the payment
- whether payment is in the longer-term interests of the trust as a charity

A trust **must**:

- avoid or manage conflicts of interest
- comply with the restrictions in the [Academy Trust Handbook](#)
- act in accordance with its articles of association

## 4.4 Specific roles on a board

### 4.4.1 The chair of the board

The chair can be a shared role but cannot be an employee of the trust.

The chair is responsible for:

- leading the board and ensuring its effectiveness, with support from the vice chair and the governance professional
- championing high standards of governance and continuous improvement
- setting and agreeing the board meeting agenda with support from the senior executive leader and the governance professional
- the line management of the senior executive
- the performance review of the governance professional in their governance role within the trust
- setting expectations for professional standards of governance, creating the right conditions to support the board's discussions and decision-making
- having honest conversations with trustees and committee members who are not committed or are ineffective in their role

They are also responsible for ensuring trustees:

- understand what is expected of them and are committed to their role
- contribute their relevant skills, knowledge and experience
- participate constructively in meetings and display the behaviours expected of them
- are actively involved in the work of any committees
- receive appropriate induction, training and development

A chair will not act alone in conducting the functions of the board unless approved to do so by the board, and only in circumstances where delegation to an individual is permitted.

Delegated decisions taken by the chair should be reported in writing to the trustees as soon as possible and recorded in board minutes.

Find out more about the role of a chair from:

- Confederation of School Trusts: [Role description: Chair of a school trust board](#)
- National Governance Association: [Governing board chair role descriptions](#)

#### 4.4.2 Appointing a chair

The board **must** elect its chair each school year (this is set out in the articles of association).

It is important for boards to put in place effective succession planning arrangements for the chair's position. Succession planning involves a strategic process to identify, develop, and prepare trustees to move into the role of chair and ensures a smooth transition and continuity of effective leadership within the board.

A board can advertise for a chair from outside the board but in order to do so it should ensure that it:

- has a vacant, or soon to be vacant, trustee position on the board for the person to be appointed to
- follows its articles of association

#### 4.4.3 The vice-chair

A vice-chair:

- is elected on an annual basis
- can be a shared role
- cannot be an employee

- supports the chair in the provision of strategic leadership and plays an important role in the trust
- in the absence of the chair, will chair a board meeting

#### 4.4.4 Academy trustees

The trust's articles of association set out the minimum number of trustees the trust **must** have. The articles of association also provide information about how trustees are appointed and by whom.

Trustees **must** :

- apply the highest standards of governance, taking full ownership of their duties
- ensure compliance with the trust's charitable objects, company and charity law, and with their funding agreement
- provide members with sufficient information to enable them to assure themselves that the board is exercising effective governance

Trustees **must** comply with the following duties under charity law:

- ensure the charity is carrying out its purposes for the public benefit
- comply with the charity's governing document and the law
- act in the charity's best interests
- manage the charity's resources
- act with reasonable care and skill
- ensure the charity is accountable

They **must** also comply with their statutory duties as company directors, which are described in [Chapter 2 of the Companies Act 2006](#), and are broadly to:

- act within their powers
- promote the success of the company
- exercise independent judgement

- exercise reasonable care, skill and diligence
- avoid conflicts of interest
- not to accept benefits from third parties and
- declare any interest in proposed transactions or arrangements

Trustees should not occupy staff establishment roles on an unpaid voluntary basis.

DfE recommends that trustees serve on no more than 2 trust boards or governing bodies except in exceptional circumstances.

Trustees will need to understand the purpose and importance of trust governance and the differing roles of strategic and operational leadership.

Further information on charity trustee and company directors' duties is available:

- Charity Commission CC3: '[The essential trustee: what you need to know, what you need to do](#) and its '[welcome pack](#)
- Charity Commission. 5-minute guides [Support for charity trustee](#)
- Chartered Governance Institute: [Directors' Duties \(cgi.org.uk\)](#)
- DfE: [Regulation of schools and academies with exempt charity status](#)
- Institute of Directors: [Directors' duties and responsibilities factsheets](#)
- National Governance Association: [Role description for trustees in an academy trust](#)

#### **4.4.5 Parent trustees and local committee parent governors**

Parent trustee or local committee parent governor election arrangements will be set out in the trust's articles of association.

Elected parents or carers:

- can help boards stay accessible and connected to their local community

- bring a parental viewpoint to the trust
- add to the board's range of perspectives to support robust decision-making
- are there to represent the interests of the trust and all its pupils and not to promote the interests of their own child or the interests of other parents' children

Elected parents, like other trustees and people appointed to the local committees, will need to have access to any support and training to ensure they can operate effectively in their role.

#### **4.4.6 Making parent elections open and secure**

Elections can be held electronically, using a secure and reliable voting system, but postal ballots **must** be available for all. The trust's articles of association will contain further information on parent and carer elections.

If there are the same number of candidates as posts, or fewer, the board may appoint parents or carers as trustees or local committee parent governors to ensure that it has the necessary number.

#### **4.5 Governance support**

Strong governance support and an effective governance professional contributes to the board's efficiency, effectiveness, productivity and compliance. It also helps in supporting an understanding of the board's role and its legal responsibilities, strategic activities, safeguarding, culture and commercial awareness.

An effective board understands:

- the level of governance support required across the trust, factoring it into growth plans so that future support sufficiently manages the enhanced needs of a growing trust

- the knowledge, skills, and behaviours that are needed to deliver professional governance support and sets standards for the service it expects from the governance professional

#### 4.5.1 The governance professional

Boards **must** have a governance professional, who is someone other than an trustee, principal or senior executive leader of the trust. A trustee can undertake the role for a specific meeting if the governance professional is unable to attend.

Where the trust does not directly employ the governance professional, it may choose to use a traded service or someone who is self-employed.

Governance professionals receive direction from, and are accountable to, the board. This will normally be through the chair.

The role of the governance professional is to:

- provide independent governance advice, guidance and effective administrative support to the board
- support the board to meet high standards of governance, including fulfilling legal or regulatory requirements and decision-making
- help the board to understand its role and legal duties
- support the chair to facilitate strategic debate and decision-making
- promote the flow of information throughout the governance structure, including between the board, its committees including local committees and members

The board supports the governance professional in identifying, accessing and allowing them to attend further training and development so they can:

- maintain their knowledge of governance
- accurately advise the board
- make sure the board complies with its duties

It is the board's responsibility to ensure the governance professional receives appropriate remuneration for their governance role, reflective of the skills, experience and advice they bring to the board.

More information on the role of a governance professional is available from:

- [Chartered Governance Institute's 'Competency Framework](#) and [Specimen academy company secretary role description](#)
- Confederation of School Trusts: [Governance professional: roles and responsibilities](#)
- DfE: [Academy Trust Handbook](#)
- National Governance Association: [Governance professionals' resources](#)

#### 4.6 Checks for new and existing appointments

Checks on members and trustees **must** include:

- an enhanced disclosure and barring service (DBS) check (see [section 4.6.1](#)) – these are also needed for people on committees, including local committees
- confirmation of the individual's identity
- a section 128 check (see [section 4.6.2](#))
- checks to confirm their right to work in the UK
- any other checks, where the individual has lived or worked outside the UK, as appropriate.

It does not include a barred list check unless they are involved in regulated activity.

Further qualification criteria may be set out in the trust's articles of association.

##### 4.6.1 Trust chair suitability checks

The chair of the board of trustees **must** undergo [statutory suitability checks](#) as a condition of appointment. Checks **must** be completed before, or as soon as practical after, a chair's first appointment and any subsequent reappointments. DfE performs checks on behalf of the Secretary of State.

This does not apply to persons within a maintained school that is converting to become a trust where the local authority has carried out an enhanced DBS check on that person.

#### 4.6.2 Check for section 128 direction

[Section 128 of the Education and Skills Act 2008](#) provides the Secretary of State with the power to issue a direction prohibiting an unsuitable individual from managing an independent school. This includes academies, free schools and alternative provision academies. Roles involving management functions include (but are not limited to):

- a trustee
- a headteacher, deputy/assistant headteacher, principal or chief executive (such as chief financial officer or chief operating officer)

The [ATH \(section 1.4\)](#) requires trusts to ensure that members are not subject to a section 128 direction.

Find out more about checks for new and existing governance appointments from:

- DfE's statutory guidance [Keeping Children Safe In Education \(KCSIE\) guidance, Part three: Safer recruitment \(paragraphs 318 to 325\)](#).
- [The Education \(Independent School Standards\) Regulations 2014](#) (Part 4)
- [Barring unsuitable individuals from managing independent schools](#) for more information about the Secretary of State's power.

#### 4.7 Induction, training and development

Boards are responsible for:

- allocating a training and development budget
- identifying what induction and ongoing development is needed

- providing an induction and development programme for new trustees, those sitting on local committees and the governance professional
- identifying specific training such as safeguarding, [Prevent duty training](#) and how to keep pupils safe online, ensuring that all trustees, those sitting on local committees and the governance professional have read and follow Part 2 of [Keeping Children Safe in Education guidance](#)
- encouraging all on the board, the governance professional and those on local committees to develop their knowledge and skills

A trustee (or local committee person) who persistently fails to attend training or development may be in breach of the board's code of conduct and it may be necessary to consider their position.

[The Hoot](#) from GovernorHub, provides news and updates on governance from across the sector – signposting readers to free podcasts, webinars, events and training opportunities.

#### 4.8 Evaluation

A combination of self-assessment tools and independent perspectives will assist the board in regularly evaluating governance effectiveness.

Trusts producing audited accounts for the first time **must** set out how they have reviewed and developed their governance structure in their first year. They must do this in the governance statement, within the annual accounts.

Established trusts **must** provide details of their governance arrangements in their governance statement published with the annual accounts, including what they have delegated to committees and, in MATs, to local committees.

Evaluation considers:

- board effectiveness and the quality of decision-making
- the board's impact on efficiency and board/staff workload

- skills needed for governance
- readiness for growth if that is appropriate
- individual performance of trustees, for example, their contribution to board discussions

Skill audits, aligned to the strategic plan:

- identify skill and knowledge gaps in the governance structure
- define recruitment needs
- inform individual's development plans
- inform induction design

Find out more about evaluating governance from:

- Confederation of School Trusts: [Governing a School Trust](#)
- DfE: [MAT Assurance Framework](#)
- Education Endowment Fund's [bitesize-support - guide for governing boards](#)
- National Governance Association: [Governing board self-evaluation questions](#) and [Governing board skills audit](#)
- OFSTED: [Summary evaluations of multi-academy trusts](#)

#### **4.9 External reviews of governance**

External reviews of governance (ERGs) provide independent assessment of the board's effectiveness and areas for development. An ERG is not an audit or inspection. They can:

- be a more powerful diagnostic tool than self-evaluation
- bring an independent perspective
- identify areas for capacity and capability building for members, trustees and governance support
- identify areas for further learning and development
- be arranged by the board at any time
- be recommended by DfE, the Charity Commission or other authority

Effective boards are proactive in arranging regular ERGs and, especially when undergoing any significant change, for example before a MAT grows significantly.

This will help improve the board's effectiveness and identify areas for capacity and capability building for members, trustees and those who sit on committees of the board including local committees.

#### **4.9.1 Recommended external review of governance**

In cases where the DfE, the Charity Commission or another authority recommend an ERG, it is important the board:

- understands the reasons for the review and the improvement needs that have been identified
- ensures it is clear on this before a review is commissioned
- arranges the review promptly
- ensures the external review is independent and objective.
- avoids conflicts of interest (or potential perceived conflicts of interest) between boards or trustees and potential reviewers – any consideration of a conflict of interest should be done before the reviewer is engaged and should be recorded, along with any steps taken to manage

You can find out more on reviews of governance from:

- [External reviews of governance: guide for schools and trusts](#) developed by DfE, the National Governance Association (NGA) and Confederation of School Trusts (CST)
- The Chartered Governance Institute: [Code of Practice for board reviewers](#)

## **5. Executive leadership**

Information on how the board works with the executive leadership.

This section covers the trust quality description of [executive leadership](#).

The board:

- ensures high quality executive leadership through appointing the trust's CEO and providing effective support and challenge to the CEO and executive leadership team
- maintains sufficient independence from the executive leadership team to allow scrutiny of both their performance and organisational performance overall
- sets clear objectives and effectively manages the CEO to ensure high performance, whilst securing appropriate levels of remuneration for the CEO and the executive leadership team
- works in partnership with the CEO to:
  - ensure effective relationships between the executive leadership team and trustees
  - ensure the executive leadership team has the expertise needed to fulfil functions delegated by the board, for example secure financial expertise
  - support effective succession planning by building a leadership pipeline

## 5.1 Appointing the senior executive leader

The board **must** appoint a senior executive leader, who should be the accounting officer [Academy Trust Handbook 1.27-1.28](#). The articles of association set out the trustees' responsibilities in the appointment of the senior executive leader.

A board may ask for details about whether a senior executive leader (or teacher) has been subject to capability procedures in the previous 2 years, in line with the funding agreement.

If the articles of association in a trust require it, then any relevant religious authority may have rights to:

- attend proceedings
- provide advice
- give its agreement to the appointment

DfE's [Multi-academy trust leadership development: CEO content framework](#) sets out the knowledge, skills and behaviours required to lead large MATs effectively.

The accountabilities of executive leaders to governance is set out in [Headteachers' standards](#).

More information on executive leadership is available from:

- Confederation of School Trusts (CST): [The core responsibilities of a school trust chief executive officer](#)
- National Governance Association: [Recruiting Executive Leaders](#)

## 5.2 Building effective relationships

The board holds the senior executive leader to account for the day-to-day running of the trust.

It is important that the chair of the board builds and develops a good professional working relationship with the senior executive leader based on mutual respect and understanding.

For the relationship to be effective, the chair and the senior executive leader need to understand each of their respective roles and duties. The chair can act as a sounding board and provide effective support to the senior executive leader as long as this does not interfere with:

- the chair's and board's responsibility for providing constructive challenge to the senior executive leader and the executive leadership team
- making decisions that are in the best interest of the trust

The senior executive leader:

- reports to the board as is required and including on delegated duties
- gives advice and complies with any reasonable direction given by the board
- implements the board's strategic framework

Whether or not the senior executive leader is a trustee, an effective board independently evaluates the information it receives from the executive leadership team and makes its decisions accordingly.

[What governing boards and school leaders should expect from each other](#) has more information. This is joint guidance from the Association for College and School Leaders (ASCL), National Association of Headteachers (NAHT) and the National Governance Association (NGA).

### 5.2.1 Managing the senior executive leader

The board's appraisal and performance management of the senior executive leader is a key part of their relationship, and it will want to ensure that the senior executive leader's development is part of the process.

Find out more about CEO appraisal from:

- Association of Chairs: [Appraising your chief executive](#)
- Confederation of School Trusts: 3 part guidance on the [performance review of executive leaders](#)
- DfE: [Multi-academy trust leadership development: CEO content framework](#)

### 5.3 Working with the executive leadership team

The board works in partnership with the senior executive leader and the executive leadership team through:

- setting, agreeing, communicating and reviewing a clear vision and strategy, focussing on high quality inclusive education and school improvement
- taking reasonable steps to ensure the wellbeing of the senior executive leader and their executive team
- supporting sensible health and safety management (see [Health and Safety Executive guidance](#))

A trust is free to determine its own appraisal processes. The board will:

- work with the senior executive leader to develop and maintain a transparent system for the performance management of the executive leadership team
- set appropriate levels of remuneration
- ensure the continuing development of the senior executive leader and the executive leadership team
- have effective oversight of employee performance and the framework for pay and conditions of service

An effective board will have a succession plan to address anticipated, and unexpected changes in its executive leadership so that the trust can continue to deliver its strategy.

#### **5.4 Staff wellbeing, workload and working conditions**

The trust, as the employer, has a legal duty to protect its workers from stress and therefore the board will want to consider the wellbeing and work-life balance of all its staff.

The board supports the wellbeing of their staff by actively promoting their commitment to implementing DfE's [workload reduction taskforce recommendations](#).

DfE encourages the board and the senior leadership team to consider implementing flexible working practices. The [flexible working in schools](#) guidance and accompanying resources can help employers develop and implement flexible working policies.

The board **must** ensure the trust adheres to [The Working Time Regulations 1998](#).

Boards may wish to consider designating a trustee or local governor as a wellbeing champion to provide strategic support to the school leadership team as appropriate.

Find out more about wellbeing at work from:

- Health and Safety Executive: [stress and mental health at work](#) guidance
- DfE: [education staff wellbeing charter](#) and [school workload reduction toolkit](#) include useful information and resources to support trusts

DfE encourages boards to consider:

- the 2016 independent workload review groups' recommendations on:
  - [marking](#)
  - [planning](#)
  - [data management](#)
- [making data work](#), a 2018 report from the teacher workload advisory group

## 5.5 Setting and managing executive pay

The board **must** ensure its:

- approach to pay and benefits is transparent, proportionate and justifiable. No individual can be involved in deciding their remuneration
- decisions about levels of executive pay are evidence-based and reflective of the individual's role and responsibilities

Section 2 in the [Academy Trust Handbook](#) provides further information on executive pay.

You can also find out more on executive pay from:

- DfE: [Setting executive salaries: guidance for academy trusts](#)
- Confederation of School Trusts: [Principles for determining executive pay](#) and [Guidance on setting executive pay](#)

## 6. Accountability

How accountability and assurance help to deliver a trust's strategy.

This section covers the trust quality description of [accountability](#).

### Accountability

The board holds the executive leadership team to account for the effective implementation of the trust strategy and operating plan, including in relation to the use of resources and the drivers of impact.

The board assures itself:

- of the integrity of financial information
- that there are robust risk controls and risk management systems
- that there is compliance with regulatory, contractual, and statutory requirements, including safeguarding

The board agrees:

- the annual operating plan and budget for the trust, which delivers on the trust's strategy
- metrics and process by which progress will be assessed

### 6.1 Ensuring strategic oversight and accountability

The board **must** have robust strategic oversight of the operations and performance of the trust including:

- holding the senior executive leader to account for improving pupil and staff performance by asking the right questions, informed by data
- having a regular cycle of meetings and appropriate processes to support business and financial planning
- managing the trust within the available resources and ensuring regularity, propriety and value for money

The board has a collective responsibility and avoids getting involved in operational matters unless the trust is in breach of a statutory duty.

To ensure and embed robust accountability, that improves educational standards and financial performance, it is essential for the board, and a committee, where it has delegated powers for education or financial data, to:

- agree a range of metrics, including both quantitative and qualitative data, to measure progress and impact
- have access to objective, high quality and timely data
- scrutinise pupil progress, attainment and financial information, comparing these with local and national benchmarks over time
- monitor and oversee school improvement and financial health
- know the questions that need to be asked of the executive leadership team
- put in place an external audit of finances and strategic priorities

Accountability in a trust also involves compliance with statutory and contractual requirements, across a range of areas, through adherence with:

- the trust's funding agreement and articles of association
- the [Academy Trust Handbook](#)
- charity and company law
- [The Education \(Independent School Standards\) Regulations \(2014\)](#) and any other applicable education, employment and health and safety legislation
- conditions and obligations imposed by funding or regulatory bodies
- [keeping children safe in education](#), relating to safeguarding and safer recruitment
- [the Equality Act 2010](#), including the [public sector equality duty](#), as set out in section 149 of the Equality Act – trusts must actively promote equality and diversity as public authorities
- legal duties in religious measures and laws where applicable, for example the Church of England Diocesan Boards of Education Measure 2021 and Catholic Canon Law

The board is also accountable for:

- effective planning to ensure key duties, such as special educational needs and disabilities, and ensuring inclusion are undertaken effectively across the trust
- overseeing and monitoring the impact of pupil premium and other targeted funding stream conditions

Find out more about accountability from:

- [statutory policies for schools and academy trusts](#)
- the [academies planning calendar](#)
- the [assurance framework for trust governance](#) from Confederation of School Trusts.

## 6.2 Accountability for educational performance

### 6.2.1 Rigorous analysis of education data

An effective board will:

- have at least one person with the skills to interpret the full detail of educational performance data and ensure the board has a correct understanding of the trust's educational performance
- understand the limitations of performance data, including being clear about what the data implies
- have access to objective, high quality and timely data and know the questions that need to be asked of executive leaders
- identify issues of priority that need to be addressed and discussed
- seek explanations from executive leaders where performance is below expectations

Find out more about analysing your data from:

- [Understanding your data: a guide for school governors and trustees](#), which includes pointers to areas of questioning
- [Making data work: teacher workload advisory group](#)
- [Eliminating unnecessary workload associated with data management](#)

## 6.2.2 Sources of education data

The executive leadership team helps the board access:

- data published by the Department for Education (DfE) and Ofsted
- management information
- information on priorities for improvement

The executive leadership team is not the only source of information – the board can commission or request audit reviews from external partners.

The board:

- agrees with the senior executive leader how data will be provided – this will help the board stay focused on its strategic functions, while being mindful of staff workload
- identifies ways to validate and cross-reference the data provided by the executive leadership

Find out more about understanding and analysing school performance from:

- [School and college performance measures](#) – guidance and tools to help boards understand and analyse trust performance
- [performance tables](#) – check your trust and other trust's performance data
- [MAT performance measures statistical data release](#) – performance data (key stages 2, 4 and 5) for MATs and sponsors

The trust's DfE Sign-in approver can provide the board with a trustee account for:

- [Analyse School Performance \(ASP\)](#) – boards can look into their academy's performance and identify its strengths and weaknesses, and trustees who lead on attainment data can analyse the ASP full report

- [Ofsted Inspection Data Summary Report](#) (IDSR) – also covers 16 to 18 provision and includes key stage 5 data

### 6.3 Accountability for financial performance

The board **must**:

- oversee financial performance
- ensure public money is well spent
- sign off the annual accounts

A trust's significant level of autonomy makes it important for the board to consider the regularity, propriety and value for money of trust business.

Trusts **must** comply with the [Academy Trust Handbook](#) as a condition of their funding agreement, including the requirements on related party transactions and executive salaries.

Trustees **must** take ownership of the trust's financial sustainability and ability to operate as a going concern.

The board should have at least one trustee with relevant financial skills and experience, who can fully interrogate detailed financial data and who:

- builds a relationship with the school business professional responsible for finance, such as the chief financial officer, finance director, finance manager
- acts as the link between the school business professional and the board
- ensures the board has a correct understanding of the trust's finances and financial performance

It is important that everyone on the board has a basic understanding of the financial cycle, legal requirements on accountability and spend and an oversight of the trust's spending.

The board **must**:

- use the [school resource management self-assessment checklist](#) to ensure its trust is meeting the right standards to achieve good financial health and resource management
- submit the trust's checklist online to the Education and Skills Funding Agency (ESFA), through a link on the page
- complete the dashboard on the [schools financial benchmarking website](#)

Find out more about financial management for trusts from:

- [Academy Trust Handbook](#)
- [Operating an academy trust as a going concern](#), from the Education and Skills Funding Agency
- [School resource management: top 10 planning checks for governors](#)

### 6.3.1 Sources of financial data and tools

Boards can use the following financial tools to help achieve value for money:

- [School resource management](#) – information, tools, training, guidance and a YouTube playlist to help schools and trusts save money on day-to-day costs
- [Integrated curriculum and financial planning \(ICFP\)](#) – tools and training to help trusts plan the best curriculum for their pupils with the funding they have available
- [Schools financial benchmarking website](#) – includes a dashboard to compare school data to statistics thresholds that DfE has identified as indicators of good resource management and outcomes
- [View my financial insights](#) (VMFI) – a benchmarking tool which:
  - trusts and local authorities access through an [IDAMS account](#)
  - academies access through a DfE Sign-In account

- any users within trusts, such as school business managers, senior leaders, and governors or trustees, can access
- [School resource management: top 10 planning checks for governors](#) – checks for trusts to use early in the annual budget planning cycle and when looking ahead at the 3 to 5-year position

Guidance is available on:

- [school and academy funding](#)
- [understanding your data: a guide for school governors and trustees](#)

## 6.4 Risk management and assurance

Managing risk is essential to ensure the trust is meeting its key objectives and to protect its funds and assets.

The requirement for the board to appoint the audit and risk committee is set out in the [Academy Trust Handbook \(section 3.6\)](#).

The board **must** take a whole trust approach to making sure risk assessments are in place to safeguard and promote pupils' and staff welfare.

Further information on basic control principles is outlined in the [Academy Trust Handbook \(sections 2.6 and 2.7\)](#).

The board **must** establish policies and procedures that support the independent and effective use of internal and external audit functions, including reporting arrangements.

Find out more about risk management from:

- ESFA: [academy trust risk management guidance](#)
- the sector-led academy trust governance code: [principle 4: Decision-making, risk and control](#)

## 6.5 Managing conflicts of interest

Conflicts of interest **must** be avoided or managed.

The [Academy Trust Handbook](#) (sections 2.25, 5.36, 5.38, 5.52) has useful information on avoiding conflicts of interest.

The Charity Commission's guidance on [Conflicts of interest: a guide for charity trustees \(CC29\)](#) and the academy trust governance code [principle 3: Integrity](#) are also useful sources of information.

## 6.6 Related party transactions

For information on related party transactions read:

- [Academy Trust Handbook](#) (section 5) for more information
- [guidance for academy trusts declaring or seeking approval for related party transactions](#)

### 6.6.1 Paying for goods and services

Boards may pay for goods and services, including those provided by trustees in line with their articles of association and the Academy Trust Handbook.

Where a trustee provides goods or services, they **must not** put themselves in a position where personal interests conflict with their governance duty unless they are authorised to provide the goods or services and, therefore, they **must** declare their interest.

If a conflict exists, the board **must**:

- be assured that receiving the goods or services is in the best interest of the trust and will help it achieve its purposes
- manage, and be seen to manage, the conflict
- be open and accountable
- consider the advantages and disadvantages of using the goods and services

Section 6.5 covers how to manage conflicts of interest.

Use the guidance on disclosure in DfE's [Academy Trust Handbook](#) (paragraphs 5.35-5.39).

Use the guidance on [trustee expenses and payments](#) to find out if a charity can pay trustees and what expenses they're entitled to.

## 6.7 Legal liability of the board

The board has legal responsibility for the trust's actions. If trustees act reasonably in the course of their duties, they are generally protected from personal liability, with liability falling on the trust (company).

Trusts **must** have adequate insurance cover to comply with its legal obligations or be a member of the academies' [risk protection arrangement](#) (RPA).

Articles of association provide a power for the trust to indemnify the trustees. Further information is available in the [Academy Trust Handbook](#).

## 7. Compliance

Guidance for boards on how to meet their legal and regulatory responsibilities with regards to compliance.

## Overview

Information, guidance and resources to help the board understand their duties in more detail. This is not intended to be a complete list of duties or responsibilities.

The board is responsible for ensuring legal and regulatory compliance across a range of areas, including but not limited to:

- general principles of charity law and education law
- [health and safety](#)
- [information management](#)
- [employment law](#)
- conditions and obligations imposed by funding or regulatory bodies

Responsibilities on how boards of trusts **must** operate will be set out in:

- their articles of association
- their funding agreement
- the [Academy Trust Handbook](#) (ATH)

Find out more about schools' statutory guidance from:

- [schools: statutory guidance collection](#) page
- guidance on [statutory policies for schools](#) and trusts
- guidance on [what academies, free schools and colleges should publish online](#)
- [academies: compliance, funding and payments](#)

This section has information, guidance and resources to help the board understand these duties in more detail, but does not provide a complete list of key duties or responsibilities.

## 7.1 Admissions

### 7.1.1 The school admissions code

The trust is the admission authority and is legally responsible for admissions decisions, such as determining the admission arrangements and making the decision on the allocation of school places.

Trustees should familiarise themselves with all of their responsibilities for their trust under the [school admissions code](#). This should be read alongside the statutory guidance, [school admission appeals code](#).

Guidance on [academy admissions](#) is available.

### 7.1.2 Admission appeals

Admission authorities **must** organise admission appeals in line with the [appeals code](#).

Guidance on [admission appeals for school places](#) is available to help admission authorities understand their roles and responsibilities as set out in the appeals code.

Information on school admissions legislation is available from:

- [The School Standards and Framework Act 1998](#)
- [The School Admissions \(Admissions Arrangements and Co-ordination of Admission Arrangements\) \(England\) Regulations 2012](#), as amended
- [The School Admissions \(Appeals Arrangements\) \(England\) Regulations 2012](#)

## 7.2 Attendance

All boards **must** ensure that academies are:

- keeping admission and attendance registers according to [The Education \(Pupil Registration\) \(England\) Regulations 2006](#)
- providing information requested by the Secretary of State for Education in line with their funding agreement or the [Education Act 1996](#) including termly absence data
- 

All boards should:

- recognise the importance of school attendance and promote it across the school's ethos and policies
- regularly review attendance data, discuss, and challenge trends, and help school leaders focus improvement efforts on the individual pupils or cohorts who need it most
- ensure school staff receive adequate training on attendance
- be assured that senior leaders are undertaking their responsibilities on [children missing education](#) as outlined in the statutory guidance

Information on the expectations of trust boards is set out in the [working together to improve school attendance](#) guidance.

Boards **must** be aware of the advice in [keeping children safe in education](#) on children who are absent from school and children missing education.

All academies and boards should ensure that their pupils with physical or mental health needs receive a suitable and good education.

### 7.2.1 Parenting measures

If a pupil's behaviour or attendance at school becomes problematic and previous support measures have not worked, boards and local authorities can:

- use parenting contracts

- apply for parenting orders or education supervision orders through the [Anti-social Behaviour Act 2003](#)
- prosecute for absence (for cases of attendance only)

## 7.3 Complaints

### 7.3.1 Complaints procedures

There **must** be a procedure to deal with complaints from parents and carers. This **must** comply with the [Education \(Independent School Standards\) Regulations 2014](#).

Trusts should also respond to complaints from individuals who are not parents.

The complaints procedure **must** be available on request. We recommend this is published online. Read [setting up an academy complaints procedure](#).

16 to 19 academies should have a procedure that is clear and accessible to deal with complaints from learners, parents, authorised representatives, and others.

### 7.3.2 Complaints to the department

Anyone can complain to the Secretary of State for Education about a trust in England.

The department handles complaints about academies on behalf of the Secretary of State for Education, in line with the trust's funding agreement.

[Complain about a school](#) has information about the role of the Secretary of State for Education and the department in the complaints process.

### 7.3.3 Complaints to Ofsted

By law, and in certain circumstances, Ofsted can investigate complaints from parents about their child's academy to decide whether to use its inspection powers.

If requested, boards **must** provide Ofsted with any information relevant to the complaint.

If Ofsted need to meet with parents as part of an investigation, the board **must** work with Ofsted to arrange the meeting. This includes:

- allowing a meeting to take place on the school premises
- arranging a date for the meeting
- notifying parents and where relevant, the local authority of the meeting

A board representative can attend the meeting.

If Ofsted prepares an investigation report, it **must** be passed to the board. The board **must** send a copy of the report to all registered parents.

## 7.4 Education

### 7.4.1 Children with special educational needs and disabilities (SEND)

Boards have legal duties in relation to pupils with SEND that are set out in the [Children and Families Act 2014](#) and the [SEND code of practice](#).

Trusts **must** also meet these requirements by virtue of their funding agreement.

There should be an individual on the board who has specific oversight of the school's arrangements for SEND.

#### **7.4.2 Special educational needs coordinator**

All mainstream academies (including free schools) **must** have a teacher designated as the special educational needs coordinator (SENCO).

The [SEND code of practice](#) provides guidance on the role and responsibilities of a SENCO.

#### **7.4.3 Looked-after and previously looked-after children**

Boards **must** appoint a designated staff member to support the educational achievement of looked-after and previously looked-after children.

This duty is covered by the trust's Funding Agreement and the [Academies Act 2010, section 2e](#).

Find out more from:

- DfE: [The designated teacher for looked-after and previously looked-after children](#) which sets out the board's responsibilities
- Become: the charity for children in care and young care leavers in their [Children in Care: guide for school governors](#)

### **7.5 Funding and finances**

#### **7.5.1 School funding**

The [national funding formula \(NFF\)](#) for schools is used to determine how much core schools funding is allocated to mainstream schools for their pupils from reception to year 11. There are separate formulas for:

- sixth-form
- high needs
- early years funding

The NFF for schools allocates funding primarily based on pupil numbers and characteristics, including additional funding for deprived pupils and pupils with low prior attainment.

Schools also receive funding which does not change with pupil numbers, such as lump sum contributions to fixed costs.

### **The dedicated schools grant and the general annual grant**

The NFF for schools determines how much funding is allocated to each local authority through the [dedicated schools grant \(DSG\)](#).

Each local authority then sets its own local formula to distribute their DSG allocations among schools within its local area. This local formula:

- determines the final allocations for both maintained schools and academies
- ensures that maintained schools and academies are treated similarly in terms of their funding

Trusts receive their funding from the DSG in the form of the [general annual grant allocation \(GAG\)](#), which is allocated on an academic year basis. This constitutes the majority of funding received by academies. The Education and Skills Funding Agency (ESFA) uses the relevant local authorities formula in its determination of GAG funding for each academy.

## **Mainstream schools additional grant**

Since the 2023 to 2024 financial year, mainstream schools have been allocated additional funding through the [mainstream schools additional grant \(MSAG\)](#) in addition to the allocations made through the NFF for schools.

From the 2024 to 2025 financial year, the MSAG funding will be incorporated into the NFF for schools and the MSAG will cease to exist as a separate grant.

Academies will continue to receive funding through the MSAG until the end of the 2023 to 2024 academic year. This will be up to the point at which the rolled-in MSAG funding is incorporated into academies' GAG funding.

## **Teachers' pay additional grant**

In both the 2023 to 2024 and 2024 to 2025 financial years, mainstream schools will be allocated additional funding through the [teachers' pay additional grant \(TPAG\)](#).

This funding is allocated to support schools with the September 2023 teachers' pay award.

## **Pupil premium**

The pupil premium grant is funding to improve educational outcomes for disadvantaged pupils in state-funded schools in England.

School leaders **must** adhere to the [conditions of grant](#), published annually, for pupil premium.

Further information on the 'menu of approaches' and how schools should use their pupil premium can be found on our '[Using pupil premium: guidance for school leaders](#)' document and in the Education Endowment Foundation's (EEF's) [guide to using pupil premium](#).

As part of their grant conditions, boards will scrutinise a school's pupil premium strategy statement and discuss the rationale for pupil premium spending with senior leaders. They will need to consider pupil needs and high quality evidence as part of its decisions.

Boards discuss with the senior leadership team how they will:

- monitor the progress of eligible pupils
- evaluate and sustain the impact of their strategies

### **Recovery premium**

Recovery premium is part of the government's package of funding to support pupils whose education has been impacted by COVID-19.

As part of their grant conditions, boards should scrutinise schools' recovery premium spending decision and discuss the rationale for recovery premium spending with senior leaders. Boards will do this through looking at the school's pupil premium strategy statement which also includes recovery premium spending.

Strategy statements **must** be published annually and be based on the menu of approaches set by DfE.

Further [guidance on the recovery premium](#) is available.

### **PE and sport premium**

Trusts are accountable for how they use the [PE and sport premium funding](#) allocated to them. The funding **must** be spent for the purpose it was provided – to make additional and sustainable improvements to the PE, sport and physical activity offered.

Details of what the funding cannot be used for is included in the guidance. This includes, but is not limited to, teaching the minimum requirements of the national curriculum or capital expenditure.

As part of their role, the board should monitor:

- how the funding is being spent
- how it fits into school improvement plans
- the impact it is having on pupils

## **16 to 19 funding**

Funding for 16 to 19 year olds is allocated by the ESFA through separate arrangements. Basic funding is calculated using NFF rates.

Find out more about [how 16 to 19 funding works](#).

### **7.5.2 Charging for school activities**

Trusts **must** comply with the law on charging for school activities, as per their funding agreement. We have published guidance [charging for school activities](#) to help academies develop their charging and remission policy.

Find out more from the [guidance on revenue funding: payments to academies](#)

### **7.6 Health and safety**

The employer is responsible for the health and safety of employees, pupils and visitors in workplaces, as set in the [Health and Safety at Work Act 1974](#).

For academies, including free schools, the trust is the employer. As an employer, the trust has a legal duty of care to:

- protect the health, safety and welfare of their employees under health and safety legislation
- ensure that non-employees are not exposed to risks in their health and safety

Boards **must** regularly monitor and review their health and safety policies to ensure risks are managed if full removal is not reasonably practicable.

Boards need to seek assurance that where there are potential health and safety risks:

- appropriate corrective action is being taken
- learning is being shared
- improvements are being put in place

Regulation 6 of [The School Premises \(England\) Regulations 2012](#) requires that school premises and the accommodation and facilities provided **must** be kept up to a standard, where, as much as reasonably possible, the health, safety and welfare of pupils are guaranteed.

Guidance on [health and safety: responsibilities and duties for schools](#) outlines how the law affects governing bodies, executive leaders and other school staff.

## 7.7 Inspections

### 7.7.1. Ofsted academy inspections

Ofsted's [school inspection handbook](#) provides details of state-funded school inspections and monitoring, including how:

- trustees are involved

- effective governance is assessed and reported

[Handbooks and frameworks](#) that cover other settings are also published.

Ofsted considers responses to its [Parent View](#) survey and boards can access the [Parent View: toolkit for schools](#) for more information.

When an academy is notified of a graded inspection, the board **must** take reasonable steps to notify parents of registered pupils and other prescribed persons. This is set out in [The Education\(School Inspection\) \(England\) Regulations 2005, regulation 4](#).

When it receives the final report, the board **must**:

- send all parents a copy within 5 working days
- provide a copy to any member of the public who requests it, at reasonable times and places
- publish details on a website of how to access the report, for example by linking to the school's report on the [Ofsted website](#)
- consider translating the report into other languages where appropriate

This is in accordance with the [Education Act 2005, sections 14 and 16](#) (the act applies to academies through clauses in funding agreements).

Read [The Education \(School Inspection\) \(England\) Regulations 2005 \(regulation 6\)](#) for more details.

### **7.7.2 Section 48 inspections in academies with a religious character**

The trust's funding agreement will provide for an inspection of trusts which have a religious character. These are conducted in addition to Ofsted inspections.

The board is responsible for ensuring that these inspections take place within the time periods set out in Regulations ([The Education \(School Inspection\) \(England\) \(Coronavirus\) \(Amendment\) Regulations 2021](#)).

There is a 3 year extension to the prescribed 5 year interval for inspections from September 2021, due to suspension during the pandemic. Once a school has received its initial inspection, the timing reverts back to a 5 year interval.

The board is also responsible for contractual arrangements and fees.

A grant is available towards the cost of the section 48 inspection. Faith groups manage the process for claiming this.

### **Choosing an inspector**

When choosing an inspector, the board **must** consult the relevant bodies, depending on the school designation (see [The Education \(School Inspection\) \(England\) Regulations 2005, regulation 9](#)).

### **The section 48 report**

Inspectors **must** prepare a report and send it to the school within 15 working days from the end of the inspection for factual checking.

When a board receives the final report, it **must**:

- send all parents a copy within 5 working days
- provide a copy to any member of the public who requests it, as appropriate
- publish details online of how to access the report
- consider translating the report into other languages, where appropriate

More details regarding the report and legislations surrounding it are available:

- [regulation 6](#) and [regulation 11](#) of The Education (School Inspection) (England) Regulations 2005
- the [Education Act 2005](#), sections 14, 16 and 49

## 7.8 Political impartiality

All boards and headteachers **must not** allow the promotion of one-sided political views as set out in Part 2 of the Schedule to the [Education \(Independent School Standards\) Regulations 2014](#). This applies both to the teaching of any subject and to extra-curricular activities at the school. Where political issues are covered, opposing views **must** be presented in a balanced way.

The board should actively promote staff awareness of the statutory requirements and relevant information, including guidance on [political impartiality in schools](#).

## 7.9 Protecting and sharing information

### 7.9.1 Data protection and retention

Trusts **must** comply with data protection legislation and handling personal data in line with it, for example:

- providing a statement or privacy notice to individuals whose personal data is being processed or held
- responding to requests for personal data or subject access requests within one calendar month

This is in accordance with the Data Protection Act (DPA) 2018 and UK General Data Protection Regulations (GDPR).

Boards **must** retain all records and documentation in line with regulations and retention guidelines, see [ATH](#) (part 5) and the Information and [Records Management Society's Academies toolkit](#) (section 1).

The Information Commissioner's Office (ICO) has published [resources on UK GDPR](#), including guidance about [accountability and governance](#).

Guidance on [data protection in schools](#) and the ESFA's [record keeping and retention information for academies](#) provides further information.

### 7.9.2 Freedom of Information

The board is responsible for ensuring the trust complies with the [Freedom of Information Act 2000 \(FOIA\)](#). There **must** be a Freedom of Information (FOI) publication scheme in place.

Boards **should** make sure that all staff members are aware of the FOIA and how requests for information are handled by the trust. They may choose to charge a fee to cover some costs, which **must** be calculated according to the FOI and Data Protection (Appropriate Limits and Fees) Regulations 2004.

Trusts **must** respond to an FOI request within 20 working days of receipt (not including school holidays) or within 60 working days following the date of receipt including holidays, whichever is shorter ([ICO guidance section 10](#)).

Further guidance on [Freedom of information](#) is available.

### 7.9.3 Cyber security

The board needs to understand the considerable damage cyber security attacks can cause to their trust. At least one trustee should complete the cyber security training.

The ability to predict, prevent and respond to cyber threats, is vital in protecting the trust's information technology (IT) and online services and the large amounts of sensitive personal data it holds.

The board will seek assurances from senior leaders that the trust is adequately prepared if a cyber incident occurs and that, as trustees, they are aware of cyber risks.

Further guidance about [meeting digital and technology standards in schools and colleges](#) is available.

The National Cyber Security Centre has also published some [questions for governors and trustees](#).

Guidance to help boards support school leaders in [keeping children safe online](#) has been developed. This should be read alongside the statutory guidance [keeping children safe in education](#) (KCSIE).

## 7.10 Safeguarding and pupil welfare

Trust boards have a duty to ensure that they:

- carry out their functions with a view to safeguarding and promoting the welfare of children
- have regard to the statutory guidance issued by the Secretary of State for Education relating to arrangements required to fulfil their safeguarding duties

This is outlined in [section 175 of the Education Act 2002](#) and the [Education \(Independent School Standards\) Regulations 2014](#).

Boards have a strategic leadership responsibility for their school's safeguarding arrangements. They **must**:

- comply with their duties under legislation
- have regard to [KCSIE](#)
- ensure that policies, procedures and training in their schools are effective and comply with the law at all times

Trustees and local governors should ensure they have regard to this guidance.

### 7.10.1 The Prevent Duty

Under the [Counter-Terrorism and Security Act 2015](#), all trusts are subject to the Prevent duty. They **must** have due regard to:

- the need to prevent people from being drawn into terrorism
- the [statutory guidance on Prevent Duty](#)

All trusts should ensure staff receive training to identify children at risk and have a process in place to [make a referral to Prevent](#) if a concern is identified.

### 7.10.2 Pupil mental health and wellbeing

Trusts have a statutory duty to promote wellbeing through [Part 8 of the Education \(Independent School Standards\) Regulations 2014](#).

The statutory obligations of schools in relation to pupil mental health and wellbeing are covered principally by wider duties including:

- the curriculum
- behaviour
- SEND
- safeguarding

Statutory guidance on these issues sets out how mental health should be factored in, for example specifying what needs to be taught in health education, identification of social, emotional and mental health needs as part of the SEND code of practice, and information on supporting mental health as part of [keeping children safe in education](#).

Further non-statutory guidance on [promoting children and young people's mental health and wellbeing](#) is available.

### 7.10.3 Supporting pupils in school with medical conditions

Proprietors of academies (except 16 to 19 academies) have a legal duty to ensure that their school has in place a policy to support pupils with medical conditions.

[Supporting pupils at school with medical conditions at school](#) contains statutory and non-statutory guidance to help boards meet their legal responsibilities and sets out the arrangements they are expected to make, based on good practice.

## 7.11 Pupil behaviour

A trust **must** promote good behaviour among pupils by:

- implementing a written behaviour policy
- keeping a record of the sanctions imposed upon pupils for serious misbehaviour
- using an anti-bullying strategy to help prevent bullying.

We encourage academies to publish their behaviour policy on their website.

[Guidance on the use of reasonable force](#) is available for headteachers, staff and boards.

### 7.11.1 Directing pupils off-site to improve their behaviour

The legislation for directing a pupil off-site does not apply to academies. However, an academy can arrange off-site provision for such purposes (see [school suspensions and permanent exclusions](#) guidance (part 4)).

### 7.11.2 Suspending or permanently excluding pupils

Behaviour sanctions such as suspension or permanent exclusion **must** follow the statutory guidance: [school suspensions and permanent exclusions](#). The guidance also provides information for trust boards on their legal duties in relation to suspensions and permanent exclusions which they **must** carry out.

### 7.12 Schools causing concern

The [schools causing concern guidance](#) sets out that regional directors may intervene in relation to underperforming academies. This includes academies that:

- are judged as inadequate by Ofsted
- have met the definition of a coasting school (a school not making necessary improvements)

The [schools causing concern](#) guidance sets how [regional directors](#) will intervene in underperforming academies.

Regional directors have the power to issue termination warning notices in relation to academies causing concern.

Failure to comply with a termination warning notice may lead to the termination of the academy's funding agreement and the academy being transferred to a new trust, or in exceptional circumstances, the closure of the academy.

Regional directors and ESFA may also issue a notice to improve to a trust where there are concerns about financial management and governance at trust level.

### 7.13 School day and school year

Trusts (except for special academies) set their school day, including session times, breaks and term dates. Special academies are subject to the requirements in the [Education \(School Day and School Year\) \(England\) Regulations 1999](#), which state that schools **must** open for at least 380 sessions (190 days) during any school year.

The 'school year' means the period beginning with the first day of term after July.

The government has set out a non-statutory expectation that all mainstream, state-funded schools should deliver a minimum school week of 32.5 hours by September 2024, at the latest. [Guidance to support schools that are not yet meeting the minimum expectation](#) is available.

The board is responsible for the length and structure of the school day and week. In a multi-academy trust (MAT), this may be delegated to a local committee in accordance with the trust's scheme of delegation.

Any final decisions about changes to the length of the school week should be taken in conjunction with the school's senior leadership team.

## **7.14 Management of academy premises**

### **7.14.1 Ownership of land and buildings**

Boards need to understand the circumstances of their trust, including who owns the land the trust uses and the basis for this. They will need to know:

- the history of the academy - including any arrangements made when it was set up or when the school converted to become an academy
- any previous change of category or change in the academy's location or size that involved relocation or expansion onto new land
- how the land is held for the purposes of the academy or used by the academy
- any existing arrangements allowing others to use the academy's land

### 7.14.2 Disposal and protection of public and publicly funded land

Disposal of land includes:

- sales
- leases
- change of use, in some circumstances

Under the terms of their funding agreement, trusts may need to involve the Secretary of State for Education if:

- they want to dispose of any public or publicly funded land under [Schedule 1 of the Academies Act 2010](#)
- they have a lease of land direct from the Secretary of State for Education – this land is not directly caught under the statute, but the lease and funding agreement together would require consent for a disposal in a similar way

Find out whether you need to involve the Secretary of State for Education when you [submit a school land transaction proposal](#).

### 7.14.3 Estate management

We expect academies and responsible bodies to manage their trust estate strategically and maintain their estate in a safe working condition. This includes complying with statutory duties to ensure the health and safety of building occupants.

Boards **must** ensure that buildings:

- provide a safe environment for children, staff and visitors
- comply with all relevant regulations, including, but not limited to:
  - health and safety

- fire safety
- the control and management of asbestos

Boards should also ensure that:

- they are aware of and apply other relevant guidance
- academies have up to date information about the condition of their buildings and a prioritised plan for managing them

Developments at an academy **must** follow normal planning controls.

[Good estate management for schools](#) includes guidance on developing an estate strategy and asset management plan, prioritising maintenance and health and safety compliance. It also has [tools and checklists](#) to help manage estates effectively and a top 10 estates check for boards.

You can also find out more from:

- [the estate management competency framework](#) should be used to build capability at all levels of the school estate profession
- the [Condition Data Collection \(CDC\)](#) report for your school
- [reinforced autoclaved aerated concrete \(RAAC\)](#) guidance
- the [design and construction of school buildings](#)
- part 5 of the [Education \(Independent School Standards\) \(England\) Regulations 2014](#)

#### 7.14.4 Asbestos in trusts

Trusts and responsible bodies have a duty to manage asbestos in their academies effectively, in compliance with the [Control of Asbestos Regulations 2012](#).

[Managing asbestos in your school or college](#) helps schools and responsible bodies understand their duties in relation to asbestos management.

The Health and Safety Executive (HSE) have resources on:

- the [duty to manage asbestos in buildings](#) and [asbestos management checklist for schools](#)
- the [Reporting of Injuries, Diseases and Dangerous Occurrences Regulations \(RIDDOR\) 2013](#) – including the legal duty to notify the HSE in certain circumstances where asbestos has been disturbed or damaged

#### **7.14.5 Funding for capital investment**

##### **Academy trusts condition**

Trusts' revenue budgets will typically fund:

- day to day maintenance
- checks and minor repairs to buildings

Those responsible for the trust's buildings also have access to capital funding through different routes depending on their size and type. The funding should be used to keep buildings and grounds safe and in good working order by:

- tackling buildings in poor condition
- ensuring compliance with regulations
- addressing health and safety issues
- improving energy efficiency

Types of capital funding available for schools include:

- [school condition allocations \(SCA\) and devolved formula capital](#) which local authorities and larger voluntary-aided school bodies receive to improve the condition of the schools they are responsible for
- the [condition improvement fund \(CIF\)](#) which is open for bids each year for sixth-form colleges and smaller voluntary-aided school bodies who are not eligible for SCA
- [basic need allocations](#) to help local authorities meet their statutory duty to provide sufficient school places
- [high needs provision capital allocations](#) to support local authorities in providing new places and improving existing provision for children and young people with SEND or requiring alternative provision

## 7.15 Control and community use of academy premises

### 7.15.1 Day-to-day control of academy trust premises

Trusts tend to have practical day-to-day responsibility for their site. However, they do not have statutory control over use of their premises, or statutory powers to provide community facilities or services.

To determine their powers around control over the use of their premises, trusts **must** refer to:

- the terms on which academies occupy their site
- the wording of the Funding Agreement and [ATH](#)

Many trusts can agree casual use or short-term lettings in the same way as maintained schools. This may be subject to how land is held, particularly when it is held by others on restricted trusts.

However, trusts can only grant longer-term leases or licences if:

- they have a freehold or leasehold interest in the land
- any lease permits sub-leases or licences
- they obtain the necessary consent from the Secretary of State for Education

Where trusts are occupying land owned by charitable sites trustees (for example, in most church academies):

- only the charitable site trustees that own the land and assets can lease the premises or grant licences to others
- trusts **must** consult with the charitable site trustees that own the land and assets about providing community services and facilities, to ensure these fall within the site trust's purposes
- charitable site trustees who hold the land and assets **must** make arrangements that would be carried out under Transfer of Control Agreements in maintained schools, in agreement with trusts

Use the [ATH](#) and [Submit a school land transaction proposal - GOV.UK \(www.gov.uk\)](#) to find out when consent is required to:

- dispose of or acquire land
- grant or take on leases and joint use agreements

### **7.15.2 Using premises for charitable purposes**

Trusts' articles of association will govern the extent to which trusts are able to enter into contracts to provide facilities or services that will further any 'charitable purpose' for the benefit of pupils at their academy, families, or the local community.

Trusts whose academies occupy land held on trust, **must** consult with any charitable site trustees who own the land and assets. This is to ensure that the intended activities are consistent with the charitable purposes of their trust.

### **7.15.3 Using premises for extended activities and community services**

Trusts may also be able to generate a revenue stream from activities such as:

- providing extended activities and community services
- renting or letting facilities to voluntary groups
- letting buildings to private nurseries
- before and after-school clubs
- adult education
- breakfast clubs
- childcare outside of school hours, including holiday care
- sport and youth clubs

However, trusts will need to refer to the way in which they hold their land, and any restrictions contained in relevant leases or agreements.

Where the academy occupies land held by charitable site trustees:

- charitable site trustees will need to agree to any extended activity or community services
- trustees will need to agree to any generated revenue being used by the trusts

When making decisions about extended activities and community services, academy trusts should ensure that:

- they benefit the public and comply with the trust's charitable objects
- they are in keeping with any separate site trust that governs use of an academy's premises
- any childcare is registered where necessary with Ofsted
- appropriate arrangements are in place to keep children safe, such as those outlined in the [safeguarding guidance for after-school clubs, community activities and tuition](#) – academy trustees should inspect these arrangements as needed
- arrangements comply with the statutory requirements for safeguarding children, including:
  - the [Childcare Act 2006](#)
  - Part 2 of the [Childcare \(Disqualification\) and Childcare \(Early Years Provision Free of Charge\) \(Extended Entitlement\) \(Amendment\) Regulations 2018](#), explained in the statutory guidance, [Disqualification under the Childcare Act 2006](#).

#### **7.15.4 Provision of childcare and other community services**

Some providers of activities, tuition, or other community services for children, known as out-of-school settings, are not regulated under education or childcare law. These providers can include external sports and youth clubs, private tutors, and supplementary schools. Where these providers are using academy sites, the proprietor should ensure that:

- the provider concerned has appropriate safeguarding arrangements in place, such as those outlined in the [safeguarding guidance for providers of after-school clubs, community activities and tuition](#)
- there are arrangements in place to liaise with the school or college on these matters where appropriate

Trusts may follow the [significant change](#) process to:

- change the age range of the academy
- run extended services and provide childcare
- run nurseries and children's centres

This may require a change to the trust's articles of association. Trusts would need to contact ESFA for further advice on this.

The 3 possible arrangements that allow trusts to operate a nursery on their premises are:

- direct nursery provision as a charitable activity within the academy's objects
- nursery provision through a wholly owned subsidiary company of the academy trust
- contracting out nursery provision to an independent provider – this may or may not be a charity, and trustees may have an interest in this

The trust and the board (and the local authority, if relevant) **must**:

- work closely together
- use their powers for the benefit of the school and local community

The trust that owns the land and assets **must** use any rental or profit for the purposes of their trust.

[Wraparound and holiday childcare: responding to requests](#) has information on how to respond to requests from parents and childcare providers about wraparound and holiday childcare.

Trusts **must** ensure that:

- staff providing childcare meet the requirements in [Disqualification under the Childcare Act 2006](#)
- independent providers providing childcare on site have appropriate safeguarding policies in place, including under:
  - the [Childcare Act 2006](#)
  - [Part 2 Childcare \(Disqualification\) Regulations 2018](#)

## 7.16 School uniform

Boards decide whether there should be a school uniform and other rules relating to pupils' appearance. The [guidance on school uniform and related policies](#) has more information.

Boards should follow DfE's statutory guidance on the [cost of school uniforms](#) when developing and implementing their uniform policies.

## 7.17 Staffing

### 7.17.1 Staff employment

Boards are responsible for:

- the appointment, conduct, suspension and dismissal of staff
- complying with the [Equality Act 2010](#)

DfE's [Equality Act 2010: advice for schools](#) help schools understand how the Equality Act affects them and how to fulfil their duties under the act.

You can also find out more from:

- [ACAS](#)
- the Equality and Human Rights Commission's [Code of Practice on Employment](#)
- [The Education \(Independent School Standards\) Regulations](#)
- [staffing and employment advice for schools](#)

Trusts can decide which functions they delegate in line with their funding agreement. They **must** record this within their scheme of delegation.

### 7.17.2 Pay and conditions of service

Trusts can set their own pay and conditions of service for teachers and support staff.

Where a maintained school converts to an academy, the existing terms and conditions of service of teachers and support staff are protected under [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006](#) (TUPE).

The statutory guidance on [school teachers pay and conditions](#) will remain relevant to any teachers whose contract has not been renegotiated.

### 7.18 Whistleblowing

Trusts **must** have procedures in place for whistleblowing. The board **must** :

- agree the whistleblowing procedure and publish it on the trust's website
- appoint at least one trustee and one member of staff, who other staff can report concerns to

- ensure all staff are aware of the whistleblowing process and how concerns will be managed
- ensure all concerns raised by whistleblowers are responded to properly and fairly

DfE has published guidance on [whistleblowing for employees](#).

[Protect](#) provide free, confidential whistleblowing advice to organisations and employees.

### **Statutory policies for trusts**

Information for trust boards and governance professionals on the policies and documents they must have.

This is not intended to be a complete list of policies. Unless otherwise stated in the relevant statutory or non-statutory guidance, it is up to boards to decide whether and how to delegate the creation, maintenance and approval of policy documents within their trust.

Boards remain accountable for these documents and the policies and procedures contained within them.

The list includes a link to where trusts can find guidance and, where available, a model policy.

Advice and model policies may also be available from sector organisations such as:

- [National Governance Association](#)
- [Confederation of School Trusts](#)
- [GovernorHub](#)
- [Catholic Education Service](#)
- [Church of England Education Office](#)

### **Statutory policies for trust boards**

Trust boards **must** have policies on:

- admissions arrangements – [school admissions code](#)
- behaviour – [keeping children safe in education](#)
- careers: provider access policy statement (secondary education) – [careers statutory guidance](#)
- charging and remissions – [charging for school activities](#)

- data protection privacy notice – [data protection: privacy notice model documents](#)
- equality objectives – [Equality Act 2010: advice for schools](#)
- health and safety – [health and safety: advice for schools](#)
- premises management – [good estate management for schools](#)
- relationships and sex education and health education – [relationships and sex education \(RSE\) and health education](#)
- safeguarding and child protection – [keeping children safe in education](#)
- school attendance – [working together to improve school attendance](#)
- school complaints – [setting up an academies complaints procedure](#)
- school exclusions – [school suspensions and permanent exclusions](#)
- school uniform – [statutory guidance on cost of school uniforms](#) and [guidance on school uniforms](#)
- special educational needs and disability – [SEND code of practice: 0 to 25 years](#)
- staff behaviour and grievance – [staffing and employment: advice for schools](#) and [keeping children safe in education](#)
- support for pupils with medical conditions – [supporting pupils with medical conditions at school](#)

## **Review process**

It is recommended that trust boards should review these policies annually. This is with the exception of the equality objectives policies which can be reviewed every 4 years.