

Spring 2020





Welcome to our regular newsletter for Academies and Free Schools

In this edition we cover:

- Internal Scrutiny
- Competency Framework for Governance
- 20 Questions every governing board should ask itself
- Financial support for academy trusts in financial difficulty
- Trustee liability
- The Election Result
- Academy Brexit Planning
- School Resource Management (SRM)
- Focus on MATs: What is GAG Pooling?
- · 2020 Dates for the diary



Academy Update

Welcome to our latest edition of Academy Adviser, which highlights a number of important issues you should be aware of.

As we begin 2020, it is worth reflecting on your audit and any identified efficiencies or improvements highlighted in the management letter, and put into place a plan to address the audit findings over the coming year. The best way to ensure any errors in financial management are not flagged by auditors in the annual accounts for August 2020, is to allow sufficient time to resolve any issues at an early stage.

Having signed off the accounts of 31 August 2019, be sure that you have alerted your auditor to any request from HMRC for a corporation tax return for 31 August 2019. About 25% of Trusts receive such requests, so if you had a return last year, you may not need one this year and, similarly, this may be the first year for such a request. The good news is that the deadline for submission of the 2019 CT600 return will usually be 31 August 2020, but if any corporation tax is payable, the payment date is 31 May 2020, so do not delay in letting your adviser know. Even if no tax is payable, a computation and return and suitably iXBRL tagged accounts are required by HMRC.

Our national award wins truly reflects the hard work of all our staff across the UK, which, along with the success of our Tax team and our efforts with those starting their career in the industry, really showcase the benefits of our employee-led focus and our ethos of bringing true value and understanding to our clients. At the heart of what we do is our clients and we would like to thank you for your continued support.

If you need further advice and support regarding any of the articles we have featured in this edition, please do not hesitate to get in touch with your local office.



About us

Established over 100 years ago, MHA Monahans is a growing, successful independent accountancy firm, with 8 offices, 14 Partners and over 200 professional staff.

With a longstanding commitment to the education sector, we invest significant time and resources to ensure our specialist advice and services make a tangible difference for our clients.

Our national Not for Profit team of 40 specialists across the UK has over 30 years of audit and accounting experience within the charity and education sector, where we have been appointed as auditors to nearly 200 academies and free schools, including nearly 30 Multi-Academy Trusts; supporting many of those with their initial establishment and then with internal control testing on behalf of Trustees and / or audit services.

As one of the 3 largest providers of audit services in the academy sector, we seek to engage and influence where there are challenges and opportunities; working with academy and governmental bodies to help address key issues and, provide technical input into legislative changes affecting the sector. We do this as a part of various working parties who meet regularly with ESFA, SFA and other Education funding bodies.



As a minimum, internal scrutiny involves a series of tests to ensure systems are effective and compliant, but goes beyond simply transaction checking.

management procedures, are operating effectively.

Internal scrutiny is an independent assurance function focussed on governance, risk management and internal controls. The programme of internal scrutiny should be informed by the risk register and agreed with the audit committee, with findings from checks feeding back to the audit committee, which should in turn update the risk register on an ongoing basis as new risks are identified and existing risks are addressed.

Focus areas

The Academies Financial Handbook (AFH) provides key areas for trusts to focus on:

- evaluating the suitability of, and level of compliance with, financial and other controls, which includes evaluating whether controls and procedures are effective and efficient, and checking transactions to confirm they are being followed.
- Advice and insight to the board on how to address weaknesses in financial and other controls, recommending improvements.
- ensuring all categories of risk are being adequately identified, reported and managed.

Programme of checks

The programme of checks should have financial control systems, including procurement, at its core, and involve the evaluation and testing of those controls, through a sample of transactions, considering the:

- monetary value (income & expenditure)
- volume of transactions
- · complexity, sensitivity & stability of the system
- risk of fraud
- strength of management controls
- whether investigative work has been carried out on that system recently

The effectiveness of financial governance and oversight by the board should also be examined and testing should consider wider and less obvious risk areas, such as internal IT systems, cyber risks and succession planning.

Options available

Depending on the size, structure and complexity of the trust, academies can choose between:

- Employing an in-house internal auditor
- Buying in internal scrutiny services (usually as a supplementary programme of work separate from the external audit
- Appointing a non-employed trustee with relevant skills
- Appointing the CFO (or member of the finance team) of another Academy Trust to undertake a peer review

Whichever option is most suitable for your trust, you should ensure those carrying out the programme of work are suitably qualified and / or experienced in the financial management of schools.

Reporting

Termly reports should capture the detail of the work performed, whereas ESFA has specified that the annual report needs to cover the areas reviewed, key findings, recommendations and conclusions.

The AFH requires academy trusts to submit the annual report, summarising the areas reviewed, key findings, recommendations and conclusions as presented to the audit committee by the internal scrutineer, to ESFA by 31 December each year. This requirement for an annual internal scrutiny report will be applied fully for the 2019/20 financial year.

Findings from the internal scrutiny report should also provide the Accounting Officer with key evidence to enable them to sign off their statement on regularity, propriety and compliance and provide the Board with information for its annual governance statement, both of which are submitted to ESFA with the audited accounts.



MHA are ideally placed to provide this service as we have developed a series of programmes to ensure we can offer an independent internal scrutiny service that is separate from our external audit services. Please get in touch with your local office if you would like a quotation.

The musts!

Internal scrutiny, the role of the audit committee and a new annual internal scrutiny report featured heavily in the 2019 Academies Financial Handbook, where the 'musts' list was revised to include:

All academy trusts **must** have a programme of internal scrutiny to provide independent assurance to the board that its financial and other controls, and risk management procedures, are operating effectively and it **must** keep its approach under review to ensure its approach remains suitable should it change in size, complexity or risk profile.

The trust **must** identify on a risk-basis the areas it will review each year, modifying its checks accordingly, taking account of output from other assurance procedures, such as recommendations from external auditors to inform the programme of work.

Independence in internal scrutiny **must** be achieved by establishing appropriate reporting lines whereby those carrying out checks report directly to a committee of the board, which in turn provides assurance to the trustees.

The academy trust **must** establish an audit committee, appointed by the board, who meet at least three times a year. Those with an annual income over £50 million **must** have a dedicated audit committee, while other trusts **must** either have a dedicated audit committee or combine it with another committee.

The audit committee's role **must** include directing the trust's programme of internal scrutiny and reporting to the board on the adequacy of the trust's financial and other controls and its management of risks.

Employees of the trust **should not** be audit committee members and the chair of trustees should not be chair of the audit committee. Where the audit committee is combined with another committee, employees should not participate as members when audit matters are discussed.

The committee **must** have written terms of reference describing its remit and agree a programme, (informed by the risk register), of work annually to deliver internal scrutiny that provides coverage across the year. It should agree who will perform the work, consider reports at each meeting from those carrying out the programme of work and consider progress

in addressing recommendations. It should consider outputs from other assurance activities by third parties including ESFA financial management and governance reviews, funding audits and investigations. The committee should also have access to the external auditor as well as those carrying out internal scrutiny and consider their quality.

In MATs, the committee's oversight **must** extend to the financial and other controls and risks at constituent academies.

Oversight **must** ensure information submitted to DfE and ESFA that affects funding is accurate and in compliance with funding criteria.

Internal scrutiny **must** be independent and objective, conducted by someone suitably qualified and experienced and be covered by a scheme of work, driven and agreed by the audit committee, and informed by risk. The programme of work should be spread appropriately over the year and include regular updates to the audit committee and findings **must** be made available to all trustees promptly.

The trust **must** deliver internal scrutiny in the way most appropriate to its circumstances. Options (which may be combined if appropriate) include employing an in-house internal auditor, via bought-in internal audit service, by the appointment of a non-employed trustee or via a peer review by a member of the finance team from another academy trust with a good standard of financial management and governance.

The trust **must** confirm in its governance statement, accompanying its annual accounts, which of the internal scrutiny options it has applied and why. The outcome of the work must also inform the accounting officer's statement of regularity in the annual accounts.

The trust **must** submit its annual summary report of the areas reviewed, key findings, recommendations and conclusions to ESFA by 31 December each year when it submits its audited annual accounts. The trust must also provide ESFA with any other internal scrutiny reports if requested.



The governance board has three core functions:

- Ensuring clarity of vision, ethos and strategic direction;
- Holding executive leaders to account for the educational performance of the organisation and its pupils, and the effective and efficient performance management of staff; and
- Overseeing the financial performance of the organisation and making sure its money is well spent.

In order to fulfil these core functions, it is essential that every board has at least one person with the skills to understand and interpret the full detail of the educational performance and the financial data available. These individuals should make sure that the board has a correct understanding of the school's performance and finances as presented and explained by executive leaders. They should identify from the data the issues that need to be discussed and addressed as a priority. Others on the board should learn from them and undertake training where needed to improve their confidence and skills in looking at and discussing issues arising from data.

Everyone on the board should be able to engage fully with discussions about data in relation to the educational and financial performance of their school. If they cannot, they should undertake appropriate training or development to enable them to do so.

The competency framework for governance can be used as an important tool for:

- carrying out a skills audit of the board of trustees;
- · recruitment of new trustees; and
- induction/training of new trustees.

There is a vast amount of information available from ESFA as well as from professional advisers to help trustees and School Business Managers to navigate and keep abreast of everchanging requirements, but governance boards need to ensure they provide sufficient time and resources for the ongoing professional development and training required.



MHA offer a series of complimentary academy workshops and training sessions open to both trustees and finance staff every spring and can provide a tailored training session relevant to your trust's individual needs if required. Please visit our website for details or get in touch with your local office.

20 Questions every governing board should ask itself

Area	Focus		Questions
Governing board effectiveness	Right skills: Do we have the right skills on the governing board?	1.	Have we completed a skills audit which informs the trustee specification we use as the basis of trustee appointment and interview?
Effectiveness	Are we as effective as we could be?	2.	How well do we understand our roles and responsibilities, including what it means to be strategic?
		3.	Do we have a professional clerk who provides legal advice and oversees the governing board's induction and development needs?
		4.	Is the size, composition and committee structure of our governing board conducive to effective working?
		5.	How do we make use of good practice from across the country?
Role of the chair	Does our chair show strong and effective leadership?	6.	Do we carry out a regular 360° review of the chair's performance and elect the chair each year?
		7.	Do we engage in good succession planning so that no trustee serves for longer than two terms of office and the chair is replaced at least every six years?
		8.	Does the chair carry out an annual review of each trustee's contribution to the board's performance?
Vision, ethos and strategy	Strategy: Does the school have a clear vision and strategic priorities?	9.	Does our vision look forward three to five years, and does it include what the children who have left the school will have achieved?
		10.	Have we agreed a strategy with priorities for achieving our vision with key performance indicators against which we can regularly monitor and review the strategy?
		11.	How effectively does our strategic planning cycle drive the governing board's activities and agenda setting?
	Engagement: Are we properly engaged with our school community, the wider school sector and the outside world?	12.	How well do we listen to, understand and respond to our pupils, parents and staff?
		13.	How do we make regular reports on the work of the governing board to our parents and local community?
		14.	What benefit does the school draw from collaboration with other schools and other sectors, locally and nationally?
Effective accountability	Accountability of the executive: Do we hold the school leaders to account?	15.	How well do we understand the school's performance data (including in-year progress tracking data) so we can properly hold school leaders to account?
		16.	Do trustee's regularly visit the school to get to know it and monitor the implementation of the school strategy?
		17.	How well does our policy review schedule work and how do we ensure compliance?
		18.	Do we know how effective performance management of all staff is within the school?
		19.	Are our financial management systems robust so we can ensure best value for money?
	Impact: Are we having an impact on out- comes for pupils?	20.	How much has the school improved over the last three years, and what has the governing board's contribution been to this?



Whilst 94% of Academy Trusts reported cumulative surpluses in 2017/18; a minority of trusts are in financial difficulty.

ESFA are clear that Academy trusts are responsible for managing their own finances and should have the leadership and management capability to resolve any issues themselves.

However, in exceptional circumstances, where it is necessary to protect pupils' interests and education, ESFA have an established procedure for considering financial support for academy trusts when they are experiencing financial difficulty to find the most appropriate way forward for the trust and its pupils.

Where there is a risk to public funds, ESFA will intervene in a way that is proportionate to the risk and preserves the effective education of children. This can include issuing a financial notice to improve (FNtI) or, in the most serious cases, termination of the funding agreement once all pupils are under the leadership of an alternative, effective trust.

ESFA expect trustees to take their financial management and governance responsibilities seriously and there are consequences if an academy trust is found to be poorly managed. These responsibilities are set out in the "Schools Causing Concern" guidance of September 2019 and the Academies Financial Handbook.



If you have any concerns about the financial management and governance of your trust, or the potential of falling into financial difficulty, advice can be sought from your local office.



Categories of financial support ESFA will consider include:

Short-term advance: To enable an academy trust to manage cashflow effectively over a 12-month period

Enabling financial recovery: To secure a return to financial stability for a trust in cumulative deficit within an agreed timeframe

Building capacity: To prevent financial failure at a trust with a projected cumulative deficit that could be not achieved through unfunded options

Facilitating transfer – financially triggered: To secure the rapid transfer of academies out of a closing trust, into one that will stabilise the school and protect pupils' interests

Facilitating transfer – educationally triggered: To protect the financial stability of the incoming trust, enabling prioritisation of school improvement



The ESFA, working with the regional schools commissioners will base any decision on what financial support they provide, to ensure their joint strategy:

Serves the best interests of the pupils, and protects high quality education

Delivers best value for the taxpayer

Shares risk with the trust appropriately

Has evidence for every pound required

Challenges the trust to build and sustain effective leadership and governance

Trustee Liability

Academies must ensure trustees are fully aware of their legal obligations (and liability) as a company director and charity trustee to; comply with company and charity law, the trust's charitable objects and with the trust's funding agreement with the Secretary of State.

Charity Law

Trustees are charity trustees of an exempt charity and have the same general duties and responsibilities as trustees of other charities and, as such, must comply with Charity Law to:

- 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 responsibly;
- · act with reasonable care and skill;
- · ensure the charity is accountable.

These requirements are reflected in the funding agreement and the AFH. More information on the role of a Charity Trustee is available on the Charity Commission's website (CC3).

Companies Act 2006

Academy Trustees must also comply with their statutory duties as company directors, which are set out in the Companies Act 2006, s170 - 177. In practical terms, all Trustees need to be familiar with their academy's articles of association as well as their statutory duties under the Companies Act, which comprise the duties to:

act within their powers; to

- promote the success of the company;
- exercise independent judgment;
- · exercise reasonable care, skill and diligence;
- avoid conflicts of interest;
- · not accept benefits from third parties; and
- declare any interest in proposed transactions or arrangements.



Further advice

Trustees are accountable in law for the decisions and actions they take, for example in relation to any contracts entered into, for health and safety and for financial conduct and oversight. Whilst it is extremely rare to see action being taken against individuals in the context of academy trustees, it is important that trustees are fully aware of their personal liability and ensure they act honestly, reasonably and in good faith in their role. Please contact your local office if you would like more information.

The election result - what does a Conservative majority mean for schools?

The December election saw the Conservative government winning a majority and therefore a mandate to implement their policy pledges. For Academy Trusts we expect it will largely be business as usual.

In terms of funding, the Conservative government had already pledged to increase school budgets by £7.1bn after 3 years, in effect reversing the cuts in per-pupil funding since 2009/10. This figure takes into account inflation and the rising number of pupils. The Institute for Fiscal Studies (IFS) have stated:

"This represents 7.4% expected real-terms growth in spending per pupil between 2019/20 and 2022/23 and is sufficient to almost completely reverse the cuts of 8% seen since 2009/10. If delivered, this will leave school spending per pupil in England about the same level in 2022/23 as it was in 2009/10. No real-terms growth in spending per pupil over 13 years represents a large squeeze by historical standards."

These figures exclude the new grant to schools to cover the costs of higher employer contributions to teacher pensions from September 2019, which rose from 16.4% to 23.6% of gross salary. Academies will be compensated for these additional costs through the Teachers' Pension Employer Contribution Grant, which will be worth £848 million from September 2019 to March 2020. The government has committed to continuing this compensation through to 2022/23.

In an effort to make teaching more attractive to graduates, teacher starting salaries in state schools will be raised to £30,000 from 2022; an increase of up to £6,000 over the next 3 years. Academies are not bound by the terms of the School Teachers' Pay and Conditions Document (STPCD) in the same way that maintained schools are, but many do follow it voluntarily.



A summary of the guidance is provided below:

School Places

Any child living in the UK is entitled to a school place. Citizens of the EU, Iceland, Liechtenstein, Norway or Switzerland who are in the UK after Brexit will continue to be eligible, as will Irish citizens. UK citizens currently living abroad, who are returning to the UK are also eligible, but the offer of a place may be conditional on receiving evidence of their address.

Staffing

All schools must continue to check job applicants rights to work in the UK. From 1 January 2021, schools will also be required to check whether someone has settled or presettled status.

Staff who are citizens of the EU, or EEA will need to apply to the EU Settlement Scheme to continue living in the UK after 2020. They will have until at least 31 December 2020 to apply. Irish citizens' right to live in the UK will not change after Brexit.

EEA Checking sanctions or restrictions

Schools will be able to continue using the existing system to check for EEA sanctions imposed on teachers. This procedure will not change until the proposed end of the transition period, scheduled for 31 December 2020. If the UK fails to agree terms of a future trade agreement by this date, professional regulators in the EEA will no longer share with the Teaching Regulation Agency (TRA) information about sanctions imposed on teachers. In such a scenario, the DfE have advised that they will update their guidance on Keeping Children Safe in Education.

Qualified Teacher Status (QTS) after Brexit

Teachers currently in England from the EU or EEA, who already have QTS, will continue to hold QTS after Brexit and the end of the transition period, and will not be affected in the event of no deal.

There will be no change to existing arrangements for teachers applying for QTS during the implementation period.

If there's a no-deal Brexit at the end of the implementation period, Teachers who've applied for QTS before Brexit can continue with their application under the previous system. Teachers applying after Brexit will still be able to apply but will also need a letter of professional standing from the EU country (or Iceland, Liechtenstein, Norway and Switzerland) where they are recognised.

Catering

Schools will need to ensure any food suppliers will continue to be able to comply with all legal requirements related to School food in England, such as meeting nutritional standards, accommodating special dietary needs and managing allergies, if they plan to provide substitute products.

Medicines and medical products

Schools should continue with their normal arrangements for supporting students with health needs. There is guidance from the NHS on getting medicines in a no-deal Brexit which you may like to share with parents ahead of December 2020. If there are any concerns about meeting statutory duties, schools should work with parents and the local authority to ensure there are adequate contingency plans in place.



School Trips to the EU

There will be no changes to travel arrangements before December 2020 as school groups can continue travelling on the List of Travellers visa scheme. If there is no deal at the end of the transition period, schools will need to review any plans before travel, considering passport and visa requirements, access to healthcare and travel insurance.

Review how you collect, use and share personal data

General Data Protection Regulation (GDPR) will be incorporated into UK law if there's a no-deal Brexit. This and the Data Protection Act 2018 will continue to apply to data transferred within or from the UK. You can still share personal data lawfully within the EEA where there is a need to, but you should identify who the data controllers and processors are and where data is stored.

You should continue to carry out your own risk review and identify where you currently share or receive data within the EEA and get legal advice if you are not sure about your obligations.

The full guidance can be online at:

www.gov.uk/government/publications/ eu-exit-no-deal-preparations-for-schools-in-england

Key Considerations

Since the UK's decision to leave the European Union, the number of teachers coming to work in the UK from EU member states has fallen by 35%.

Figures published in the <u>Teaching Regulation Agency's</u> <u>annual report and accounts</u> 2018/19 indicate that 3,103 QTS awards were made to qualified teachers from Europe in 2018/19, compared to a peak of 4,795 awarded in 2015/16.

It is also worth noting that, whilst the proposed salary threshold of £30,000 for visa eligibility, published in the immigration white paper in December 2018 may be abandoned - entry requirements will still be a consideration for teachers from the EU coming to work in the UK as they may also need to consider the eligibility of their spouse.

If there are fewer teachers available in future, schools may be forced to increase salaries further to attract and retain staff, putting a greater pressure on budgets.



If you have any questions relating to Brexit, please get in touch with your local office.



In November, Trusts were asked to submit answers to the School Resource Management Self-Assessment Tool (SRMSAT) checklist, and throughout the year, Trusts have been encouraged to make use of School Resource Management Advisers (SRMAs), with a view to helping optimise spending decisions so that as much resource as possible is available to support educational outcomes. Typically, SRMA visits and subsequent report on the recommendations and suggestions take up to 5 days of time.

ESFA have just issued an evaluation of the SRMA pilot scheme in 72 trusts, highlighting that the majority of the £35m identified for reallocation related to optimal deployment of staff over a period of up to 3 years, and which would result in almost £15m of savings.

The purpose of the evaluation is to highlight what Trusts thought of the process (94% of respondees gauged this as good or very good), and to highlight areas for all Trusts to consider.

The savings and revenue generation opportunities identified at a value of £35m related to the following areas:

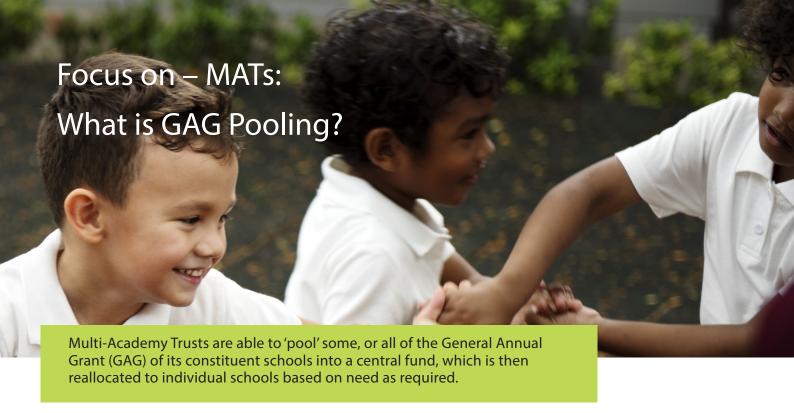
- Energy costs (0.3%)
- ICT and other learning resources (1%)
- Catering (1%)
- Staff related costs (1.8%)
- Back office and other costs (10%)
- Supply, premises and education support staff (21%)
- Revenue generation (8.7%)
- Optimal deployment of teaching and leadership staff (55.5%)

Key to the reviews was testing the school costs and ratios against the benchmarks set in Integrated Curriculum and Financial Planning (ICFP) data for pupil teacher ratio, average teacher costs, average class size and teacher contact ratio – all part of the Integrated Curriculum and Financial Planning reviews.

The pilot evaluation report includes details of actual anticipated savings over a three year period as well as case studies, which reveal possible courses of action that Trusts may wish to consider are appropriate to their particular scenario:

- Increase staff contact hours by restructure of timetable
- · Reduce senior leadership team
- Marketing strategy and improved signage to increase awareness of the trust to aid increase in pupil numbers
- Administration staffing structure and term time only working
- Join a MAT
- Ratio of teaching assistant pupil to staff ratios in primary schools
- Review of non staff expenditure such as insurance and catering
- Procurement manager across MAT to obtain economies of scale

A full copy of the pilot evaluation can be seen at: www.gov.uk/government/publications/school-resourcemanagement-adviser-srma-pilot-evaluation



More and more Multi Academy Trusts are taking advantage of the freedom they have to 'pool' the GAG funds into one central pot, in order to deliver support directly to those who are most in need and focus resources on longer term development projects to benefit all schools within the MAT. However, trusts have a duty of care to every school and every child, so in all cases openness and transparency will be a key factor in the success or otherwise of GAG Pooling.

We have outlined below some of the potential benefits and challenges Trustees should consider below:

Pros

- Funding can be targeted and allocated based on need – either to improve premises, facilities or educational performance
- · Promotes collaboration between schools
- Teaching staff employed by the MAT can move more freely across locations to provide cover and support or to deliver more specialist subjects
- MATs operating a central fund for certain purchases, such as stationery and supplies to benefit from economies of scale

Cons

- Individual schools' GAG funding is based on ESFA formulaic approach, so diverting funds away from one school to support development in another would need support from all parties
- · Could weaken accountability in individual schools
- MATs are often reluctant to increase central funds from constituent schools in fear of deterring other schools from joining the MAT
- Individual schools may be reluctant to give up budgetary control
- Financial benchmarking can be affected

The AFH provides guidance on GAG pooling, including the requirement for an appeals mechanism. If you would like further advice, please get in touch.





2020 Dates for the diary

Description	Deadline
2018 - 2019 Academies Accounts Return (AAR)	20 January
Publish audited financial statements on website	31 January
Budget forecast return outturn (BFRO)	21 May 2020
Teachers' Pensions EOYC return filing	29 May 2020
Filing of accounts with Companies House	31 May 2020 (or 21 months from incorporation)
P60 (send to employees)	31 May 2020
P11D filling	06 July 2020
Budget forecast return (BFR)	30 July 2020
CT600 Corporation tax return filing for 31 August 2019	31 August 2020 (if required)
Land & Buildings collection tool	04 November 2020
School Resource Management Self Assessment Tool (SRMSAT) checklist	14 November 2020 (date may change)
Filing statutory accounts and management letter with ESFA	31 December 2020
Internal scrutiny report relating to 31 August 2020	31 December 2020

ESFA will publish on GOV.UK the list of Trusts who do not submit two or more returns on time.





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