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Academies Newsletter

Summer/Autumn 2022

Larking Gowen

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Welcome to the summer/autumn edition of our Academies Newsletter

Welcome to our summer/autumn 2022 edition of Academy News. We're delighted to compile the newsletter with contributions from our colleagues across the PrimeGlobal firms. The breadth of insight demonstrates the depth of academy sector experience and expertise across the association, which means that whichever PrimeGlobal firm you are with, your advisers have outstanding resources, putting them in an excellent position to advise you.

Gillian McGill, gives an exceptionally clear summary of the very particular VAT position that applies to academy trusts. Following the White Paper agenda, trusts will increasingly have strategies to expand and otherwise collaborate, increasing the likelihood that adjustments to recoveries, and sometimes VAT registration, may be required. If you buy services from overseas, be aware of the potential for reverse charges contributing to the registration threshold!

And we have to talk about the 2022 White Paper. As **David Wright** discusses, Government has ambitions to complete academisation and use stronger powers to implement that ambition and intervene in schools. If a school is not already in a MAT of 10 schools or 7,500 pupils, they should soon be considering a strategy to get there.

"How can we benchmark our results?" is a fairly frequent query from trusts. **Robin Evans** considers the types of results you can get from benchmarking, and some potential pitfalls. The Government's Schools Financial Benchmarking Service is certainly a powerful and valuable source of data – but the real value comes with interpretation, and then deciding to act on it.

James Gare summarises the changes this year in the Accounts Direction. Although perhaps less drastic than some years, we are finding that most trusts need to respond to at least one or more of the changes.

Wendy Davies brings us the somewhat disappointing news that ESFA will now not be introducing the expected relaxation of the requirement for approval from ESFA for certain finance leases, including catering and IT equipment, from 1 September 2022. However the change is delayed rather than cancelled, with it now expected to happen from 1 September 2024.

This brings us to our Academies Update Webinar on 20 September. Save the date! This will combine sector insights with group discussion. Taking up the theme of trust growth, our keynote speaker Mark Woods of Meridian trust, which now has
28 schools, will present his observations.

We hope you enjoy the newsletter.

Articles in this edition include:

- Academies and VAT
- White Paper
- Financial benchmarking for academy schools
- Academies Accounts Direction
- Leases

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Academies and VAT

VAT is a non-issue for Academies, right? The answer as always with matters involving tax is, “it depends”.

Academies and VAT - part one

Status quo

Academies have been afforded a beneficial status with respect to VAT by virtue of legislative provisions that came into effect in 2011. Most other organisations are unable to claim back the VAT on costs that are incurred in carrying out any “non-business” functions. Non-business here means, broadly, free to the user. Academies, however, are specifically allowed to claim back the VAT that they pay on costs relating to their non-business activity of delivering education free of charge to the student.

Provided that all the Academy does is carry out its core, educational function, then all of its VAT will be claimed from HM Revenue & Customs (HMRC) each month by submitting a form VAT126.

Evolution

We know, though, that most Academies will look to maximise the income they can generate from the significant assets that they hold, whether that is from their site or from the knowledge and reputation of their staff.

As soon as any income generating activity begins, there is an impact on VAT recovery that needs to be considered. The ability that Academies have to reclaim VAT is predicated upon their non-business activities, and does not extend to any business activities (ie. income-seeking) activities that they might undertake. There needs, therefore, to be some calculation undertaken to establish how much of the VAT on costs can be recovered under the VAT126 scheme, with HMRC expecting at least some attempt to calculate the level of irrecoverable VAT.

It should be noted that the concept of what is “business” has been the subject of a great deal of attention from HMRC and the Courts over recent years, culminating in HMRC issuing a Business Brief in June 2022 setting out its position. Despite that Brief, the issue is still far from clear but we have had informal assurance from HMRC that the treatment of grant funding for Academies remains unchanged – for the time being at least.

Expansion

As multi-academy trusts (MATs) grow and we head rapidly towards 2030, the level of non-core education provision will inevitably increase. For VAT purposes, the MAT is treated as one entity and its income levels as a whole are compared to the VAT registration threshold.

The threshold currently set at £85,000 for a rolling twelve month period, if breached, requires the MAT to register for VAT. Fortunately, only “taxable” income is considered, being that income that is not the MAT’s non-business grant funding nor any exempt income. Typical examples of a MAT’s taxable income would include:

- Uniform sales
- Photograph sales or commissions
- Catering (other than to pupils at or below cost)
- Secondments of staff
- Consultancy provided by SLT outside the MAT

Importantly, services bought in from businesses based outside the UK will potentially be subject to the “reverse charge” and the value of these purchases may count towards the registration threshold.

It is also worth noting that collaborative arrangements entered into with other organisations need careful attention. The commonly touted “cost sharing exemption” arrangements will not work for Academies due to the favoured VAT status that they have, meaning that any income is likely to count towards the registration threshold.

Once the income from any such activities exceeds £85,000 for a 12 month period, the MAT is required to register for VAT. That means an end to submitting VAT126 claims, and becoming fully immersed in the same VAT reporting and charging that other businesses have to contend with.

Academies and VAT

VAT registration - part two

A change to financial systems and processes needs to follow once VAT registered, together with beginning to charge VAT where required. The scale of this change should not be underestimated and will likely need professional support as well as an investment of time from the MAT's own staff.

Monthly (or quarterly) VAT returns will need to be prepared and submitted to HMRC. All of the requirements of the VAT regime will apply, including the need to be fully compliant with Making Tax Digital for VAT.

Ironically, some MATs consider registering ahead of being required to do so. The perceived benefit here being that much less information needs to be provided to HMRC as compared to within the VAT126 process.

Lastly, don't forget that large amounts of non-core activities might mean that the MAT needs to set up a subsidiary company to ring-fence these trading activities for both risk management and corporation tax reasons.

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Key points

- Review at least annually your activities in order to identify the income that contributes to the VAT registration threshold
- If registration is required, take steps early to implement new processes, update systems, train affected staff, and communicate with those affected that you will start charging VAT
- Once registered, ensure the VAT liability of any new activity is understood so that reporting remains correct
- Take advice early and regularly

Webinar invitation
Academies Annual Update

Tuesday 20 September 10:30 - 12:30pm

CLICK HERE TO BOOK YOUR PLACE

Multi Academy trusts - Government White Paper

The Secretary of State for Education published the much-anticipated White Paper, "Opportunity for all: strong schools with great teachers for your child" in March 2022. This details the Government's future plans for schools. Under the heading "A stronger and fairer school system" it sets a target for all children to be in a school in a "strong multi academy trust or with plans to join one," by 2030.

Background

The paper notes that Government has not been able to intervene adequately in a small number of trusts and has not clearly set out through the regulatory system the standards it expects trusts to achieve. They acknowledge that the system "that has evolved over the past decade is messy and often confusing".

How the changes will be made

Funding

There will be 55 Education Investment Areas (EIAs) established across the country where literacy and numeracy outcomes have been lower. They plan to move schools that have received two consecutive Below Good Ofsted judgements into "strong trusts" and this will begin in the EIAs.

Around £86m of capacity funding will be committed to trust expansion in the EIAs. Moreover, 24 'priority' EIAs will be provided with an extra £40m funding for bespoke interventions. A number of 16-19 free schools will be opened, with priority to bids in the Priority areas.

trust size

"trusts typically start to develop central capacity when they have more than ten schools", according to the White Paper. They expect most trusts will be "on a trajectory to either serve a minimum of 7,500 pupils or run at least 10 schools". So, they will "avoid converting" schools as standalone academies, but will consider bids for free schools opening initially as standalone trusts.
There will be no maximum trust size, but there will be limits to the proportion of schools that can be run by an individual trust.

LA trusts, faith schools and selective schools

Perhaps due to concern at the challenge in converting the many primary schools that are still in the maintained sector, local authorities will now be able to create new MATs.

Extra assistance will be given to church and faith schools when they join or form trusts and there will be "options for financial support".

Selective schools will be secure in MATs, according to the White Paper.

Charity newsletter

Click here to read our summer update for charities, where we consider the impact of recent legislative, reporting and tax developments and other pertinent issues, giving you the inside track on the sector's current hot topics and latest guidance.

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Multi Academy trusts - Government White Paper continued...

Stronger regulation

There will be a statutory academy trust standard that will bring together both new and existing requirements on academy trusts, which are currently specified in both legislation and funding agreements. There will be new statutory intervention powers.

A long-term regulatory review will take place (including inspections) in which MAT strength will be defined. Furthermore, the regulator will hold a consultation regarding the circumstances in which a good school might request approval to move into another MAT.

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Conclusion

The level of ambition is high: to complete the process of academisation of state schools and to increase Government's powers to intervene in the operation of schools.

They give themselves a significant period of time to achieve this – eight years. The new statutory and intervention powers will give Government stronger tools with which to implement the policy.

The message seems clear that if a trust is not already a MAT of 10 schools or 7,500 pupils, they should be considering a strategy to get there.

Financial benchmarking for academy schools

The Government's Schools Financial Benchmarking Service allows both individual schools and academy trusts to compare themselves with other schools and trusts across a number of key income and expenditure measures, providing them with useful data to assist in future planning and decision making.

The facility also includes the Self-Assessment Dashboard tool, allowing individual schools within a trust a clear view of "how they are doing" in the eyes of the DfE – the Dashboard provides the school with red, amber or green ("RAG") ratings against similar schools or nationally recognised bandings and recommendations.

The benefits of benchmarking

The ability to compare your own performance and situation with that of your peers allows a trust to gain a really good picture of the wider landscape and identify areas where it is doing well, or where perhaps some attention is needed.

The outcome of the benchmarking exercise can provide the information to allow trusts to make better-informed decisions on where or how their resources should be focused. It can be the starting point for senior management and the board to really get to grips with their own numbers, highlighting areas for investigation and perhaps a strategic change of direction.

Benchmarking can allow you to identify those trusts that are your closest peers, those who share a number of common traits with you. Identifying these schools may prompt you to reach out and form relationships with schools or trusts in other parts of the country, from whom you can potentially learn and share valuable experiences. An initial query about a significant variance in per pupil spend on ICT resources, for example, could lead to the sharing of great ideas and best practice – and the dissemination of such best practice is clearly in the best interests of all.

As comparisons can be made across the country, geography is no barrier to knowledge sharing. Indeed, many may find it easier to share with those not viewed as competitors for pupils in the local market, so collaboration may be more effective.

A note of caution

While the benchmarking data can give a host of valuable information, the raw data must always be treated with caution, and as the first steps in a journey of understanding the discovery! No two trusts are fully alike, and subtle, or not-so-subtle, differences will often explain away variances. This is, of course, especially the case when making comparisons across different localities, so while geography is no barrier to knowledge sharing it can throw up significant cost of living variances.

The benchmarking data needs to be taken in such context, and time taken in interrogating and understanding what the data is actually telling us, makes the information provided far more valuable.

How to use the tool

At a very simple level the benchmarking exercise can help you to identify other organisations that are most directly comparable to you. The tool allows you to choose from a whole raft of characteristics, including:

- General characteristics – pupil numbers; rural or urban; free school meals numbers; pupil age and gender
- SEN characteristics – the percentage of pupils with learning difficulties of various kinds, physical impairments, an autism spectrum disorder
- Performance characteristics – attainment at Key Stage 2; Progress 8; Attainment 8
- Workforce characteristics – full time equivalent number of teachers / teaching assistants / senior leadership team members / auxiliary staff

You can be as precise or general as you wish with these characteristics, with, of course, a smaller but more comparable sample as you add more specific criteria. You should probably aim for a data set with no more than six to eight comparators – any fewer doesn't allow for trends to be seen, any more and the exercise can become onerous as you drown in the data!

Financial benchmarking for academy schools

continued...

Use of the data

A reasonably useful data set, allowing simple benchmarking to be performed, can be very quickly obtained from the tool. It is unlikely to result in too many lightbulb moments, leading to huge cost savings and efficiencies overnight! The report should, however, be the starting point for your finance committee to identify areas for further consideration, and could be helpful in validating concerns that may have already been raised, crystallising suspicions about excess spending or prompting praise for what you have already achieved.

It can also be used at the outset of the budgeting process to really get you thinking about how things may be done differently, and to provide challenge to the process from all parties.

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Conclusion

The Government's Schools Financial Benchmarking Service is a powerful and valuable source of data, allowing trusts to compare their financial performance with similar organisations. Generating a report gives you the starting point from which there is real potential to identify cost efficiencies or missed opportunities around resource allocation. The real value is in being able to contextualise and understand the issues that the data highlights – and then to act upon it!

Academies Accounts Direction

The latest iteration of the Academies Accounts Direction (guidance on the preparation and auditing of a trust's financial statements) was released at the end of March. It applies to the 2021-22 financial year and was released alongside a set of model trust accounts – referred to as "Coketown". There was also a separate document for external auditors released at the same time – the "Framework and guide for external auditors and reporting accountants of academy trusts 2021 to 2022".

This year's accounts guidance is by no means a revolution, but it does contain some notable changes and clarifications:

Business rates

From April 2022, the business rates payment process changed. Some billing authorities will opt to submit their bills directly to the ESFA. In these situations – it has been confirmed that it is appropriate for the trust to gross up the cost in the accounts (that is to show the cost and a corresponding increase in the GAG). It is also worth noting that some authorities continue to seek payment directly from the schools, and in this situation – the process will remain unchanged.

Managing conflicts of interest

Conflicts of interest appear to be continuing to move up the Government's agenda and there are new requirements for trusts to disclose the processes a trust has in place to manage conflicts of interest – including how this is managed with joint ventures and subsidiaries.

Severance payment disclosures

There are new requirements to show the number of severance payments, within set bandings based on value.

For example

The trust paid five severance payments in the year, disclosed in the following bands:

£0-25,000	5
£25,001-50,000	0
£50,001-100,000	0
£100,001-150,000	0
£150,001+	0

Previously the accounts only needed to refer to the total value of non-contractual severance payments.

Changes to accounting for teaching schools and teaching school hubs

The accounts direction has now removed the need to show a separate trading account for teaching schools (hubs) as a separate note to the financial statements. However, if transactions are considered to be material – the total activity will need to be shown separately on the face of the SOFA and analysed appropriately within the appropriate notes of the financial statements. The model accounts have been updated to reflect how this should look.

Service concession arrangements (PFI schools)

Following feedback from the sector – schools who benefit from a service concession arrangement (such as PFI schools) are required to provide further detail, by way of a narrative note, on the details of the arrangement.

Academies Accounts Direction - continued...

Construction work overseen by the DfE or local authority (in particular – Free Schools and Priority Schools Building Programme)

During construction of a school's building – where the costs are managed and paid for by the DfE, the accounts should not reflect the value in the financial statements on the basis that the building is not yet in educational use. Where the construction is partly funded by the trust however, the trust's costs should be capitalised as "assets under construction".

At the point control of the assets are then transferred to the trust – an opening value will need to be included – with the value of the asset also being reflected in the accounts within "donations and capital grants".

Other accounting changes and clarifications

This iteration of the direction has removed the requirement to submit dormant accounts to the ESFA, as well as clarifying that the trustees' report should refer to organisational structure of any joint ventures or associates.

Changes to auditor's framework

The guidance has been updated with some specific circumstances where accounts are falling short. These include:

1. Failure to provide details or actions taken to review the effectiveness of the Board, or the intended time frame to do so if nothing was done in the year.

2. Failure to provide details of the frequency of internal scrutiny activity being conducted.

3. Failure to disclose the name and salary of trustees who are also staff members.

There is also a greater emphasis on auditors to identify failures to adhere to the Academy Trust Handbook in relation to related party transactions.

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Leases - no change

Contrary to a previous announcement, on 13 July 2022 ESFA advised that the expected relaxation to the rules around finance lease approval from 1 September 2022 will now not happen.

It had been expected that academies would no longer require prior consent from ESFA before entering into a finance lease for certain types of assets, principally those that did not involve land or buildings. However, it has now been confirmed that the change has been delayed until 1 September 2024, and that will be kept under review.

As such, there will be no change from 1 September 2022, and academies will continue to have to obtain prior consent from ESFA before entering into all finance leases.

This is a frustrating development as the anticipated change would have meant that trusts could make purchasing decisions more easily, reflecting value for money for the trust, rather than having to arbitrarily distort their decisions to comply with a Treasury accounting rule.

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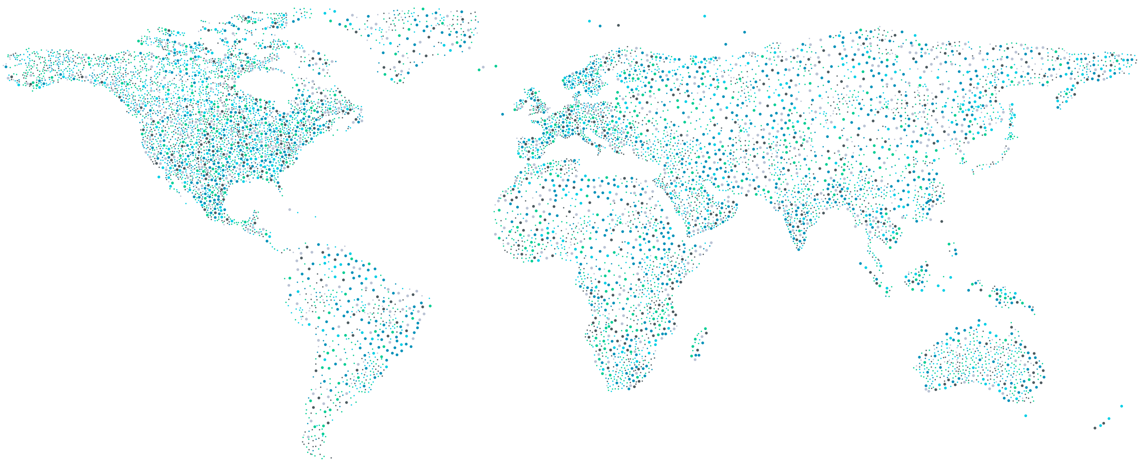

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