

Setting executive salaries: guidance for academy trusts

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1. Introduction

Academy trusts are both charities and companies limited by guarantee and must operate to further the trust's educational charitable purpose.

They are accountable to the Education and Skills Funding Agency (ESFA), the Secretary of State for Education as principal regulator, and the communities they serve for the education they provide to pupils.

It is essential that we have the best people to lead our schools, but at the same time, it is important that salaries:

- can be justified and are in the best interests of the charity
- reflect the individual's responsibilities
- demonstrate value for money

Academy trusts are free to set their own salaries for staff. This places an even greater responsibility on the board to ensure that the use of public money represents the best value for money, and that decisions are underpinned by [the 7 principles of public life](#), as set out by Lord Nolan, which are:

1. [Selflessness](#)
2. [Integrity](#)
3. [Objectivity](#)
4. [Accountability](#)
5. [Openness](#)
6. [Honesty](#)
7. [Leadership](#)

The Charity Commission published a report, '[Trust in Charities 2018](#)', in July 2018 which outlined that public trust and confidence in charitable companies is low, emphasising the need for academy trusts to adhere to these principles.

This guidance aims to support trusts in making decisions about pay and further enabling the board to be confident about, and accountable for, these decisions.

2. Academies Financial Handbook executive pay requirements

Compliance with the [Academies Financial Handbook](#) (AFH) is a condition of each academy trust's funding agreement. The AFH sets out the financial management, control and reporting requirements that apply to all academy trusts.

The AFH 2018 sets out the following requirements in relation to executive pay:

“2.4.3. The board of trustees **must** ensure its decisions about levels of executive pay follow a robust evidence-based process and are reflective of the individual's role and responsibilities. No individual can be involved in deciding his or her own remuneration.”

“2.4.4. The board **must** discharge its responsibilities effectively, ensuring its approach to pay is transparent, proportionate and justifiable, including:

- *process - that the procedure for determining executive pay is agreed by the board in advance and documented*
- *independence - decisions about executive pay reflect independent and objective scrutiny by the board and that conflicts of interest are avoided*
- *decision-making - factors in determining pay are clear, including whether performance considerations, and the degree of challenge in the role, have been taken into account*
- *proportionality - pay is defensible relative to the public sector market*
- *documentation - the rationale behind the decision-making process, including whether the level of pay reflects value for money, is recorded and retained*
- *a basic presumption that non-teaching pay should not increase at a faster rate than that of teachers, in individual years and over the longer term*
- *understanding that inappropriate pay can be challenged by ESFA, particularly in any instance of poor financial management of the trust.”*

If ESFA believes that a robust process for deciding on executive remuneration has not been followed, or that the salary is inappropriate in the context of the trust, ESFA will challenge the trust directly to resolve this issue. High salaries have been factored into ESFA's approach to risk management and are now considered alongside other risks when making decisions about academy trusts.

The importance of, and increasing emphasis on, transparency around pay is further highlighted by [The Charity Commission](#)'s revisions to their 2018 Annual Return. The annual return now requires charities to provide information about the total remuneration received by their staff members and The Commission will make public how many individuals receive total packages worth upwards of £60,000.

Evidence sources

It is good practice to ensure that all decisions are made based on a consideration of relevant evidence. This enables the board to be accountable for each decision, and makes it easier to provide justification of how decisions are made.

The evidence base that should be considered when making decisions about pay will vary depending on the context of the specific academy trust. The board should use their discretion when determining the most appropriate data to support their decision making. Below are resources and information that will be helpful in forming the basis of decision making in relation to executive pay:

Source	Summary
Find and compare schools in England	Search for primary, secondary and special needs schools and colleges near you, and check their performance. You can view and download exam and test results, Ofsted reports and financial information
Get information about schools	A register of schools and colleges in England. You can search for and download information on establishments, establishment groups (such as a local authority, trust or federation) or governors. Information includes pupil numbers, percentage of pupils eligible for FSM and SEN provision
Financial Statements	All trusts must publish their financial statements on their website. Within a trusts financial statements you can find the number of individuals within £10,000 salary bandings (starting at £60,000), and the remuneration of trustees
Schools financial benchmarking tool	Compare your school's income and expenditure with other schools in England. You can view your school's financial data, see how similar schools manage their finances and use the information gathered to establish relationships with other schools
Gender pay gap service	Compare your gender pay data with similarly sized trusts
Key stage 2 national performance tables	Information on the 2018 key stage 2 assessments and statistics on the performance of state-funded schools and multi-academy trusts.
Key stage 4 national performance tables	Statistics on the achievements of pupils at the end of key stage 4 in schools and multi-academy trusts, including pupil characteristics.
Understanding your data	Guidance on how to collect and analyse data, and what your collected data can tell you about your school's performance.
School Teachers' Pay and Conditions	Statutory guidance on pay and conditions for teachers in England and Wales for 2018 and 2017. Whilst this guidance was developed for local authority maintained schools, it may provide a useful starting point when considering salary ranges at your trust.

3. Essential points to consider when setting pay

Trust boards must be accountable and answerable for the decisions they make on setting pay and must robustly challenge escalating leadership costs where they are not clearly justifiable, or where it raises questions about financial sustainability.

This section sets out the key factors that should be taken into account when determining levels of executive salary at your trust both at the initial point of determining salaries, and when conducting reviews of existing salaries. There is no single way to approach pay that will work for every trust, therefore you should use the key points below to inform your decisions.

This criteria also applies to maintained schools and sixth form colleges converting to academy trust status. While it may be necessary for salaries to remain the same following a transfer, the board should consider on a case by case basis whether it is appropriate to inherit salaries at existing levels. The board must ensure that salaries are in line with the trust's existing pay policy, that all decisions around pay are evidence based, and that the trust is accountable for levels of pay within their organisation. It is important that you are aware of the [Transfer of Undertakings \(Protection of Employment\) regulations](#) when inheriting staff as part of a transfer. If you are unsure of how this applies to your trust during a transfer you should seek legal advice.

It is important that trusts have a pay policy in place to ensure a robust decision making process that ensures pay is transparent, proportionate, reasonable and justifiable for all staff.

When determining the level of salary of executive leaders, you may wish to consider the following interdependent factors (depending on the individual role):

4. Academic performance

Academic performance and the key outcomes of a particular academy trust should be factored into the responsibilities of all executive members, however the level of impact this will have on each decision should vary depending on the role in question.

When considering academic performance in relation to executive pay you should consider pupil outcomes across the trust and the level of improvement required to ensure that the trust is providing the highest standard of education to its pupils. When reviewing salaries you should also consider the level of progress that is being made towards improvement and ensure that appropriate adjustments are made where expectations are not being met.

Evidence to consider:

- At primary, [Key Stage 2 headline](#) measures
- At secondary, [Key Stage 4 headline](#) measures
- [Post-16 performance](#)
- Ofsted rating
- long and short term educational targets of the trust

Possible questions to ask:

- How does performance compare with the national average?
- How does performance compare with the schools of trusts in the same area or which have a similar context?

5. Educational challenge

When making decisions about pay you should factor in any educational challenge the trust may face as a result of its individual mission, motivations and values.

Based on the context and circumstances of the trust, you may require additional expertise, as a result of particular challenge in the educational setting, to deliver a curriculum that meets the needs of your pupils. When thinking about whether this applies to your trust, you should consider, relative to other schools in the locality:

Evidence to consider:

- % of SEND pupils
- % FSM
- % EAL pupils
- Level of deprivation
- Number of looked after children

Possible questions to ask:

- Is the level of complexity and challenge significantly above other similar-sized trusts?

6. Financial performance

It is important to consider the current financial position of the trust when considering salaries, both in terms of budgeting and in the level of challenge as a result of the trusts current financial performance. Decision making by the board should be done using robust data and the board should ensure it has sufficient access to the current actual financial position and financial projections for the trust to inform these decisions.

Provisions should be made under the contract of employment to revise salaries where the financial position of the trust deteriorates due to poor management. Trusts should ensure there is flexibility in the employment contract of the accounting officer to make downward adjustments if appropriate.

Evidence to consider:

- The trust's deficit/surplus position
- The auditor's view of the trust - and the trust's progress towards implementing audit recommendations
- Requirement for additional financial support

Possible questions to ask:

- Is the trust in a financially stable position – both current and forecast?
- What level of improvement (if any) is required in order to reach a balanced budget position?
- How does financial performance compare with similarly sized trusts?

Specifically when reviewing existing salaries:

- Has the trust delivered to its financial forecast under the management of the individual?
- Is the trust forecasting a deficit in the forthcoming 3-year period, in excess of the operating surpluses generated in the previous 3 years?
- Have the trust's pupil number projections been reflected in the annual census?

7. Any broader factors that indicate the degree of challenge in the role

In addition to the factors set out above, you should consider whether the role presents additional challenges outside of those that would normally be expected of this position. These might include:

- Permanent role and responsibilities that may not be typical of the role in other organisations
- Existing significant concerns at the trust
- A role in leading future plans for the trust (eg expansion)
- Additional accountabilities (eg leading a teaching school alliance)
- Responsibility for engaging the local community

Possible questions to ask:

- Does the level of complexity and challenge warrant a higher salary?
- How do the responsibilities of executives compare with trusts of a similar size and complexity?

8. Experience of the individual

When considering remuneration you should consider any additional expertise that the individual may bring to the role which will add value to the leadership team:

Evidence to consider:

- Previous significant experience in improving educational and financial outcomes
- School Business Management qualifications and experience
- National Leaders of Education/National Leaders of Further Education
- Other relevant qualifications

Possible questions to ask:

- Is this level of expertise essential for the role?
- What value does this additional expertise bring?
- Remuneration levels of other individuals with this level of expertise (within the trust, or within other similarly sized trusts).

9. Cost of total remuneration package

You should consider the total remuneration package, not just the cost of the basic salary.

Particular elements to consider include:

- Performance-related pay and other bonuses awarded during the financial year
- Pension contributions and payments in lieu of pension contributions
- Salary sacrifice arrangements
- Compensation for loss of office
- Any sums paid under any pension scheme in relation to employment with the provider
- Other taxable benefits
- Non-taxable benefits that are available only to senior members of staff
- Other remuneration and the cost to the provider e.g. car allowance
- Non-teaching staff should not be on a teaching employment contract:
 - They should not be entitled to salary protection to prevent or delay a reasonable reduction in salary
 - 14 weeks of annual leave should not be standard in contracts of non-teaching staff.
 - Notice periods for non-teaching staff should not exceed 3 months.

Possible questions to ask:

- If the individual is on a part time or fixed term contract, is the FTE still reasonable within the context of the trust?
- Where the individual is also a trustee, could expenses be considered a conflict of interests?

10. Fixed-term appointments

The board should further consider the most appropriate contractual agreement for each individual. Where the board is looking for an individual to achieve a specific purpose at a trust over a pre-determined timescale, it may be more appropriate to recruit on a fixed term contract.

Evidence to consider:

- Any intended outcomes of recruiting the individual (outside of business as usual responsibilities)
- Specific problems at the trust that are going to be addressed through the recruitment of this individual

Possible questions to ask:

- Are there time restrictions on the responsibilities of the individual?
- What length of contract would be appropriate for achieving the desired aims?

11. Performance management and salary increases

Decisions to award pay progression must be related to the individual's performance, as assessed through the trust's appraisal arrangements. The use of funds intended for education to pay large bonuses is a matter that has come under much scrutiny. It is important that you fully justify any potentially contentious decisions.

Pay increases should not be awarded automatically. Instead they should be linked to a clear and measurable set of Key Performance Indicators within the parameters of the agreed contractual arrangements. The board must be satisfied that there is an evident link between the levels of achievement of the individual and across the trust, and pay progression. Pay ranges should only be reviewed when there have been significant changes to responsibilities and not just because the top of the current range has been reached.

Pay increases should always be considered in the context of the wider organisation. Rewards must be applied appropriately at all levels. Executive leaders are not solely responsible for the performance outcomes at an academy trust. It is important that awards for exceptional performance be applied across all levels. Executive leadership pay should not increase at a faster rate of that of teaching staff. Consideration should be given to the rate of increase across the board.

Possible questions to ask:

- Does the level of staff turnover seem high and potentially indicate poor management practice?

12. Benchmarking

Benchmarking can be a very useful activity to support quality decision making when taken into consideration alongside the specific context of the individual trust. When using benchmarking it is important to consider the individual trust perspective when comparing against statistically similar trusts. Where results show that the trust is at the high end of the benchmarking scale, you should ensure that you have clear reasoning and rationale as to why this is the case.

The Department for Education has a public [benchmarking tool](#) that includes information on staffing expenditure. A comparison on executive pay is not currently included as the Department does not hold data on each individual's executive pay, however, the tool can support you in identifying comparable trusts based on financial information. Establishing relationships with other schools may aid future decision making by providing the opportunity for more in-depth benchmarking.

You may also wish to contact similarly sized trusts in your area, either that you think would be willing to share information with you or that have recently recruited. Where possible you should aim to benchmark against individuals with similar responsibilities, as the responsibilities associated with different job titles vary across the sector.

Evidence to consider:

- Local trusts of similar size and challenge
- Other organisations, for example, Local Authority CEOs and Director of Children's Services (who generally have significantly greater responsibilities)

Possible questions to ask:

- Have any other local/similarly sized trusts recently recruited?
- Are there any organisations that may be able to provide benchmarking support?
- Is external independent advice required?

13. Characteristics of the trust

Generally, larger academy trusts equate to bigger responsibilities. Trusts with a large number of academies across a wide range of provisions may require additional expertise in order to manage the trust effectively.

Evidence to consider:

- Number of academies
- Number of pupils
- Range of provision
- The quality of provision and their financial effectiveness
- Type of school (e.g. UTC, special school, alternative provision)

Possible questions to ask:

- Does the size and provision of the trust provided any additional challenges?
- How do similarly sized trusts remunerate their executive leaders?
- Does the type of school present additional challenges to that of an academy trust of a similar size?

14. Location

The locations of a trust and its academies should be factored into decisions about pay.

Evidence to consider:

- Whether the trust or its academies need to recruit to central London
- Whether the trust is in a sparse/rural setting (balanced against the cost of housing in that area)
- Whether the location results in additional financial burdens for the trust as a whole

Possible questions to ask:

- Is it necessary to increase the salary level due to location?

- Are there cheaper alternatives to increasing the base salary? (eg subsidising transport)
- How does the salary level compare to trusts of a similar size facing similar challenges?

15. Ratios

Decisions on executive salaries should not be made in isolation, but should be considered alongside other salaries and the wider context of the trust. While there is no ideal ratio figures to suit all trusts, it is important that the board considers these statistics alongside the individual circumstances of the trust to form the basis of discussion around whether costs are reasonable and relevant in the context of the trust.

Evidence to consider:

- Cost of salary per pupil when benchmarked against comparable trusts
- Cost of total leadership team compared to trusts of a similar size
- % difference between highest and lowest paid staff
- Rate of pay increase across the trust
- Senior leadership team cost as a % of total staff cost

Possible questions to ask:

- Is external independent advice required to determine a fair ratio?

16. Gender pay gap reporting

The gender pay gap is the difference in the average hourly wage of all men and women across a workforce. Trusts with 250 or more employees are legally required to publish their gender pay gap figures annually, on the Government's [reporting portal](#) and on their own websites. The statutory deadline for public bodies to publish their data is 30 March each year. More information on the reporting requirements is available on the [Acas website](#).

All trusts have an important role in helping to reduce the gender pay gap, in order to build a fairer society and ensure that everyone is able to reach their full potential.

Trusts are encouraged to consider [evidence-based actions](#) to address gender pay differences, including:

- Ensuring transparency to promotion, pay and reward processes
- Clearly communicate the salary range on offer as the evidence indicates that women are less likely to negotiate their pay compared to men

The Government Equalities Office has published guidance to help employers understand their gender pay gap figures and take the right actions, including advice on using evidence-based [actions to close the gap](#), [eight ways to understand your gender pay gap](#) and a [four-step guide](#) to developing an action plan.

17. Pensions

The Teachers' Pensions Regulation 2010 and the Teachers' Pension Scheme Regulations 2014 mean academy trusts must put anybody who meets the criteria for the Teachers' Pension Scheme (TPS) into the scheme following the guidance that explains the eligibility of senior leaders. Eligibility of leaders is for the trust to decide.

Where members of the trust are not eligible for the TPS they may become eligible for The Local Government Pension Scheme. The individual may choose to opt out of these pension schemes.

You must consider whether the individual is on the correct pension package that represents the best value for money for your trust.

Scheme	Eligibility	Cost
Teachers' Pension Scheme	Eligibility criteria	16.4% of employee's salary (rising to 23.6% from September 2019).
The Local Government Pension Scheme	Eligibility criteria	Employer contributions are determined on a risk basis so contribution rates will vary.

The TPS is a very generous scheme which provides a benefit structure designed to appropriately reward teachers for the excellent, but demanding, job they perform. In the forthcoming year members will see a 42% increase in employer contributions, which should be taken into consideration when agreeing remuneration packages for executives who are opted into the scheme.

18. Succession planning

It is important to give consideration to succession planning during recruitment, and not just when seeking a replacement. Individuals should not automatically be recruited at the same level as their predecessor.

Evidence to consider:

- Whether severance payments are reasonable and justifiable
- Intended length of service
- Required notice period
- Length of time required to recruit a replacement.

19. Public scrutiny

As academies operate with the use of public money, executive pay must be proportional and defensible to the public sector market and should reflect value for money. You should consider the public perception and the public benefit of your decision while considering salary decisions.

Evidence to consider:

- Levels of teacher pay within the trust – and how your proposed salary compares to these
- Salary levels in the local area
- National salary levels
- Justification in response to ESFA challenge of salaries over £100,000 (and publication on GOV.UK)
- Local and national media interest in salaries
- Local economy

Possible questions to ask:

- Does the salary demonstrate VfM and can you publicly justify paying the level? Is it in the best interest of the charity (trust)?
- If the individual is requesting a higher salary, do they have the right interests?
- Is the remuneration package proportionate and defensible in relation the public sector market?

20. Other resources

- [Department for Education: Implementing your schools approach to pay](#)
- [Department for Education: Governance handbook and competency framework](#)
- [Confederation of School Trusts Code: Principles for determining executive pay](#)
- [The Charity Commission guidance: Trustee expenses and payments \(CC11\)](#)
- [The Charity Commission: Trustee Welcome Pack](#)

There are many other external organisations that may be able to offer you additional training and support, including:

- [Confederation of Schools Trust](#)
- [National Association of Head Teachers](#)
- [National Governance Association](#)

21. Annex A: terminology

Total remuneration package	All remuneration, salary, benefits, employer's pension contributions and any termination payments made.
Emoluments	Emoluments includes all remuneration, salary, benefits (excluding employer pension contributions) and any termination payments made.
Executive leaders	For the purpose of this guidance, executive leaders are defined as primarily non-teaching staff in leadership roles in which they are held to account for the standards across the academy trust.
The board	Those with the authority or delegated authority to assess and set executive pay.

