

Removing employees as members from 1 March 2021

As of 1 March 2021, the Academies Financial Handbook 2020 requires that no employee of an academy trust is a member of that academy trust.

11 February 2021

As of 1 March 2021, the [Academies Financial Handbook 2020](#) requires that no employee of an academy trust is a member of that academy trust. This requirement also applies to members occupying staff establishment roles on an unpaid, voluntary basis.

Although the more recent Department for Education (DfE) model Articles of Association have, for some time, included a provision that no employee of the academy trust shall be an employee (Article 12A), it is not uncommon for a trust principal or CEO to be a member of those academy trusts using older versions of the Articles. In some cases, particularly single academy trusts, the principal is expressly stated to be an ex officio member of the academy trust under Article 12.

Academy trusts who do have members who are employees need to take steps now to ensure they are ready to meet the requirement from 1 March 2021.

This may mean:

- Requesting that the employee member resigns in writing; or
- Removing the employee member from office in accordance with the Articles.

Where the resignation or removal would leave the trust with less than three members, the trust will need to arrange for the appointment of at least one additional non-employee member before this resignation/removal could take effect.

Once the member is removed, the trust will need to update its statutory books, its website and the [‘get information about schools’ register](#).

Where the principal or CEO is an ex officio member under the Articles, the Articles will need to be changed. This will require the consent of the DfE as well as any site trustee or diocesan body (see Article 10). The DfE are likely to require the trust to adopt the latest model Articles as a condition of their consent. If the changes to the Articles are not approved by the DfE or approved by the members prior to 1 March 2021 then, where possible, we would advise minimising the impact of the breach by asking the employee member to:

- Give apologies for any member meetings; and/or
- Abstain from voting on any member resolutions.

Provided that an academy trust can demonstrate that action is being taken then we would expect the DfE to take a pragmatic approach to enforcement from 1 March 2021. However, it is worth noting that, under the Handbook, the trust's Accounting Officer is required to advise the board in writing if the board fails to act where required by the Funding Agreement or Handbook. This would include failing to take appropriate steps to address this new requirement.

If your trust needs support in implementing this new requirement under the Handbook, including any changes required to the trust's Articles, then please contact [Victoria Hatton](#) or a member of the education team.

Contact



Victoria Hatton

Partner

victoria.hatton@brownejacobson.com

+44 (0)330 045 2808

Related expertise

Governance of schools and colleges

HR services for schools and academies