



# EDUCATION MATTERS

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## EDITORIAL

'Uncertainty' - if I had to pick the word of the moment, this would be it. Brexit has certainly dominated the drive towards uncertainty. Government departments can do nothing else and in the meantime schools are having to pick up the pieces of flawed decisions such as the proposed increase of the employers' teacher pension (TPS) contributions to 23.6%.

The changes to the TPS have certainly dominated most of our conversations for the last few months. After schools did their quick back-of-the-envelope calculations, it became obvious to the bursars that the increase was not sustainable in the long term. I have been told by heads and main senior bodies that represent individuals that any move away from the TPS would have severe repercussions for the sector and the school.

However, I always look for the opportunities and, for the first time, independent schools are faced with a choice that they never knew they had: do they want to continue to offer the TPS as part of their remuneration package? The answer might be yes, but at least it's now a choice that can be reviewed at the school's discretion.

More importantly schools should now be looking at their remuneration packages as a whole. The commercial world has had to embrace flexible working, agile working and non-cash remuneration offerings – maybe it's time for schools to do the same.

If schools want to continue to be a relevant employer, they have to understand that teachers may not necessarily see the TPS as something they want. Over the past decade, we have seen more teachers opt out of the TPS.

Having mortgages to pay, children to support and other financial needs all mean that teachers are looking for more money in their pockets. Maybe the solution is not to take the TPS away, but for schools to offer alternatives so that individual teachers can make their own decisions. Schools are actively looking at their remuneration packages and it will be interesting to see the changes that might be introduced. Whatever these might be, there is no doubt that schools cannot sit back any more and watch the world change around them.



**Anjali Kothari**  
Head of Education

# MAKING TAX DIGITAL - ARE YOU PREPARED?

By Debbie Jennings, VAT Director,  
Moore Kingston Smith

The government's Making Tax Digital (MTD) programme, being introduced on 1 April 2019, is arguably the most radical change in taxation since self-assessment was introduced in 1997. From that date, it will be mandatory for most VAT-registered organisations to keep VAT records in a digital format and file VAT return information with HM Revenue and Customs (HMRC) using a digital link in functionally compatible software. For VAT periods commencing on, or after 1 April 2019, it will no longer be possible to enter VAT return details manually via the Government Gateway to submit to HMRC.

A later implementation date of 1 October 2019 has been agreed by HMRC for a small minority of VAT-registered organisations with more complex arrangements e.g. VAT groups, trusts, not for profit bodies that are not corporate bodies and public sector organisations.

HMRC is allowing some additional time for organisations to comply with certain aspects of MTD. They have set 1 April 2020 as the date for when organisations will have to maintain a digital link between all their accounting systems and the software used to prepare and submit their VAT returns. After this date the use of cut and paste for the transfer of data between software programmes will not be accepted.

The aim of MTD is to eradicate manual intervention, and HMRC has said that the introduction of MTD will greatly reduce the chance of human error in preparing and submitting tax returns.

The deadline is fast approaching but there is still widespread uncertainty about what needs to be done to be ready for MTD. Many organisations are unclear about the impact of these changes on their tax affairs. Also, many accounting software providers are yet to confirm if their accounting packages meet the new requirements, and if so, whether they will be ready ahead of the deadline.



## ORGANISATIONS AFFECTED BY MTD

MTD applies to all organisations making taxable supplies exceeding £85,000 a year; this includes overseas organisations, small owner-managed organisations and multimillion pound household names.

After MTD is introduced for VAT, it will apply to income tax and then corporation tax, but only from April 2020 at the earliest.

You need to allow enough time to establish the impact of MTD on your current VAT accounting systems, train your staff and get them up to speed on the changes. You also need to allow time to test new systems thoroughly before the MTD requirements become mandatory.

Where VAT accounting is more complex (such as partial exemption calculations), spreadsheets are widely used. These would normally be prepared and checked manually. This manual preparation can continue, but the spreadsheets need to be supported by compatible bridging software to enable the VAT figures to be communicated to HMRC in the new digital format (this is a temporary solution).

For this and other adjustments required for VAT returns, for example fuel scale charges, partial exemption and business/non-business calculations, only the total for each type of adjustment will be required to be kept in functional compatible software. Any calculation can be completed outside of this software.

**“The introduction of MTD offers opportunities as well as additional compliance obligations.”**

## MTD IN PRACTICE

The introduction of MTD offers opportunities as well as additional compliance obligations. Organisations should see it as a chance to review current VAT accounting processes and systems. You should check your processes are still fit for purpose, and determine whether you could be more efficient.

On a practical level, you should be looking to do the following now:

- Contact your accounting software provider and ascertain if the software you use is MTD-compliant. If not, establish that they will have compatible software and/or bridging software ahead of the introduction date and arrange an upgrade as required;
- Evaluate how you are currently carrying out your VAT accounting and how much manual intervention takes place;
- Assess whether your current VAT accounting is compliant with MTD requirements;
- Identify the staff in your organisation who are involved in VAT accounting and preparing the returns, and engage with them now to increase understanding and awareness;
- Draw up a timeline and prepare for the migration process.

## BENEFITS OF MTD FOR YOUR SCHOOL

Although the new system means major changes, it should ultimately create benefits by:

- Improving the quality of record keeping;
- Reducing errors caused by manual data entry;
- Providing more up-to-date information on how much tax you owe, thereby helping with budgeting and cash flow.

For more information on how Moore Kingston Smith can help and to keep up-to-date with the latest developments in MTD, access our MTD hub

[www.mks.co.uk/mtd](http://www.mks.co.uk/mtd)



## GOVERNANCE IN SCHOOLS

By Sally Knight, Consultant for Moore Kingston Smith

Most schools will be familiar with the Code's seven principles, which build on the assumption ("Foundation") that the charity governors understand their role and are meeting their legal and regulatory responsibilities.

<https://www.charitygovernancecode.org/en>

The Code's principles, rationale and outcomes apply to all schools, although the recommended practice to meet those principles will vary. As the Code is not mandatory, reference to "adherence" is more appropriate than "compliance". So how are schools addressing the Code?

One option is to do nothing – after all, there is (currently) no legal or regulatory requirement to comply with the Code, nor are the results formally "audited". However, this approach is seen by many as a missed opportunity. The Code has been developed as a tool for continuous improvement; to coin an often over-used phrase – it is a "journey". As the Code is not mandatory this offers flexibility, in terms of approach and timing, to schools who are interested in benchmarking themselves against it.

**"The code has been developed as a tool for continuous improvement"**

Some schools want to embrace the Code as a catalyst for initiating a comprehensive, independent review of processes, policies and structures. This can be helpful for Boards particularly if they want to seek external validation for what they are doing and how they are behaving, thus also benefitting from sharing best practice.

This is to be commended, but we would also highlight that the Board should first consider how comfortable it feels about basic governor roles, responsibilities and compliance, i.e. how strong the school's foundation upon which the Code is built. It may be helpful to offer governors a refresher first. CC3 The Essential Governor, its related infographic summary, and the Governor Welcome Pack, all updated in 2018 by the Charity Commission, are useful starting points.

Some schools prefer to perform their own internal review against the Code's principles, perhaps taking one or two at a time and debating them at pre-agreed slots during the Board meetings, for example, 12 to 18 months. This often works well when different governors or sub-groups take the lead for introducing the principle, leading the debate around it and agreeing action plans – this doesn't necessarily have to be led by the Board's chair. The time for review of the original actions will soon come around again!

Whatever method you choose, it is likely to highlight at least one point for discussion around the boardroom table. The key is to keep your review proportionate, relevant and tailored to your school's circumstances.

So what, in our experience, are the top eye-openers?

- Widespread acknowledgement by many governors that the Code is a positive catalyst for review, challenge and change. For example, looking at the composition of the Board, and the skills needed compared to those skills present. Often this is assumed inherently, but is it timely to introduce a more formal, periodic skills review which actually asks people what they feel they bring to the table and what they could actually bring in addition, with some encouragement or training. Gaps may be highlighted which then help to shape future Board appointments.
- Principle six deals with diversity. We have been party to many fascinating discussions about what "diversity" really means for schools. It goes beyond the typical characteristics of age, gender, race and disability as it should also encompass ability to represent beneficiaries in terms of background, the socio-economic circumstances and viewpoint, etc. This digs far deeper and should not be dismissed as a box-ticking exercise. While it will not be possible or indeed desirable to include a person on the Board to cover every possible combination of "beneficiary" characteristic, the Board should be able to define who the key beneficiaries are, how key groups are represented and who their views are fed to, addressed by and fed back to the Board. This often opens up interesting discussions about the respective needs and roles of the school's beneficiaries and stakeholders – not necessarily the same, but not mutually exclusive.
- Perhaps most importantly, an acknowledgement that consideration of the principles in the revised Charity Governance Code moves the governance debate away from policies, procedures, and the mechanics and structures of the boardroom, to a more qualitative consideration of interaction, dynamics, behaviour and engagement. The tone that the Board sets through its leadership, culture and overall performance is critical to your school. Integral to the

Code's principles is the promotion of the importance of sound boardroom behaviours. These aspects are explored further by the Institute of Chartered Secretaries and Administrators in its guidance note "Improving charity boardroom behaviours" issued in July 2018 – an interesting next step in the governance journey for schools to consider.

The Code is not currently mandatory but could this change in the future? It's extremely likely that the next revision of the charities SORP, due in 2022, will require more specific information to be disclosed about the charity's governance. The SORP-making body has set up four sub-committees to advise it on certain aspects of the SORP development process, including a group looking specifically at charity governance disclosures. However, it is too early to say whether schools will be required to disclose or confirm the extent to which they comply with the Code and how this might be validated. However, although the SORP-making body itself has instigated a review of the SORP development process, including reviewing its own governance, so the topic is inevitably at the top of its agenda.

Whether or not the SORP or any other mechanism "requires" assessment against the Charity Governance Code, we believe that the discussions, challenge and quest for continuous improvement that the Code encourages governors to embrace, will definitely bring benefits – if not a few surprises along the way.

## WHAT ARE AN ACADEMY'S 2019 ACCOUNTS GOING TO LOOK LIKE?

By James Saunders,  
Education Partner, Moore Kingston Smith

As the financial balance sheet for academies changes, so the results of those accounts and the picture they provide, change. For the last few years, we have seen our academy clients battle with reduced funding and increased costs and there is only ever going to be one end result for that equation. Academy trusts – whether in the ever-decreasing standalone bracket or as part of the multi-academy trust (MAT) cluster – have by and large seen reserves diminish over the last few years as annual deficits have eaten away any small accounting surpluses that might have been garnered in the first years of operation.

For some time the 2018/19 year looked like it was going to be a difficult one for many academies. The increases in national insurance contributions and teachers pensions deductions that hit in 2016 and the rebalancing and reducing of funding over the past few years have culminated in a large number of academy forecasts predicting the movement into negative general reserves in 2018/19.

We have seen our clients paring costs to the bone and finding sources of income that would have been alien to them in previous years – one school principal I know

has made no bones about approaching parents each year and asking for money, being quite open that the school can no longer operate to its high standards on the money from government alone. A principal saying that they are cutting a subject because the intake was not high enough and the funding could not justify a subject being offered is categorically not what academisation should be about.

"Negative general reserves" is a particular problem for academies, because they have two very large figures on the balance sheet which can obscure the operational position and make the balance sheet look very different to the reality of its operational position. Firstly, there will invariably be a property on the balance sheet – the school building. This is a large positive figure on the balance sheet which reflects something that the school uses but cannot sell to raise money or use for purposes other than educating its pupils. This positive balance is usually so large that the balance sheet will always be positive – but it can therefore mask financial weaknesses.

Secondly, a school will also have a pension liability on the balance sheet, which in many ways is out of the school's control, with independently set rates and third parties making funding and investment decisions.

## CURRENTLY

The interim National Schools Commissioner has said that 'we are definitively not in a funding crisis'. This is despite increasing numbers of schools forecasting deficits even after cost-cutting exercises; the new National Funding Formula producing significant disruption in funding allocations; the SEND funding system causing major concerns; and claims that educational standards are starting to fall away. Typing 'academy funding' into Google today produces the following relevant articles in order:

**BBC – "Worsening funding problems for schools"**

**Schools Week – "Tory Peer's academy trust seeks unpaid workers"**

**The Guardian – "England's schools still feeling budget crunch, analysis finds"**

The Guardian's article covers a report by the Education Policy Institute, which showed that "half of all secondary academies and 60% of maintained secondary schools – those managed by local authorities – are spending more than they are receiving, forcing them to dip into their reserves". The report does also record however that "the propensity for an academy to have a deficit in-year balance was generally lower the larger the size of the trust". This is an important assertion in a sector where the drive is towards the conglomeration of schools into multi-academy trusts.

The report also records the observation that the accumulated surpluses of all academy trusts is far in excess of the accumulated deficits. It says that in particular the value of surpluses that would be classed as 'excessive' by the Department for Education's guidance (more than 5% of income in secondary schools or 8% in primaries and special schools) would on its own exceed the accumulated deficit figure. A redistribution of 'excessive' reserve balances would wipe out the deficits in an instant.

The practicalities and popularity of this move is open for debate. Of course it wouldn't solve cases of underlying operational deficits, but suggesting that the overall sector is in surplus in a big way is a slightly difficult position for the sector to counter.

The article featured one of the most vocal critics on the funding matter – WorthLess?, a campaign for fairer funding whose message that more and more schools are sliding into deficit because of funding pressures was reinforced by the Association of Schools and College Leavers. Its general secretary recently said: "What is clear is that the current trend is one of increasing deficits and unless action is taken to improve the level of funding, it is highly likely that educational standards will deteriorate."

If we are in what is (depending on your outlook) a crisis, a challenge or somewhere in between and 2019 looks like it might be a headache for anyone with any involvement in school finances, what are the prospects?

## THE FUTURE

So what will 2019 accounts look like?

From a population perspective, there are likely to be more schools in multi-academy trusts. This is the direction of travel, and most stand-alone academies are no doubt feeling the pressure to move into a group of some sort. This is either because they are strong and should help other schools, or because they are not and need the comfort and help that the MAT programme is designed to provide. MATs are more likely to have per-school surpluses for a number of reasons, but mainly because they are able to centrally apportion GAGs and benefit most from economies of scale.

In terms of results, annual deficits are likely to be more commonplace this year in standalone academies. We are expecting to see more academy trusts with balance sheets that have negative general reserves. The challenges for single academy trusts are so significant this year that auditors will be looking even more closely at the next year or two to see what 2020 and 2021 will bring, and where forecasts predict an academy's finances will be by late 2020. Finance managers and trustees need to be aware that auditors are going to be very wary around any assumptions or estimates that feed into budgets and forecasts.

**"From a population perspective, there are likely to be more schools in multi-academy trusts."**

It would not be a surprise to see an increase in qualifications and modifications of auditors' reports on the going concern principle. 2017 figures showed a small increase in accounts where the auditor had highlighted a material uncertainty on a going concern – or something serious in the financial status – compared with 2016. However with the impact of new schools coming online along with MAT combinations, the percentage stayed consistent at 3%. It will be interesting to see what the 2018 statistics reveal, given that 2018/19 is expected to be a crux year for funding and reserves.



## SAFEGUARDING REMINDERS FOR SCHOOLS

**By Charlotte Melhuish,  
Senior Associate, Stone King LLP**

In 2018, we saw changes to the safeguarding regime following the publication of the Department for Education's (DFEs) revised statutory guidance Keeping Children Safe in Education (KCSIE). County line exploitation, pupil mental health and the Independent Inquiry into child sexual abuse also received much press interest, with some schools further revising policies and practices to strengthen their safeguarding arrangements. This article explores some topical safeguarding issues for schools and further changes to the safeguarding regime for 2019.

## SAFEGUARDING PARTNERS

Local Children Safeguarding Boards (LCSBs) set up by local authorities will be replaced by safeguarding partners and child death review partner arrangements over the coming year. LCSBs will continue to carry out all of their statutory functions until they are replaced by these two partner arrangements (with the transition deadline being September 2019). Where an LCSB has already been replaced by the new partner arrangements, a school's safeguarding policy must incorporate the local safeguarding arrangements agreed with and published by the safeguarding partners. Where a school LCSB is yet to undergo the transition, schools should liaise with their LCSB regarding transition periods and interim measures to ensure their safeguarding policies reflect any transitional arrangements.

## PEER-ON-PEER SEXUAL ABUSE

Peer-on-peer abuse is a common area of concern in schools, with several articles about peer-on-peer sexual abuse featuring in the press in 2018. Safeguarding policies should include procedures to minimise the risk of such abuse and how allegations are recorded, investigated and dealt with. Staff should know where to get advice and support; schools should ensure active engagement with local partners to assist with effective referrals, access appropriate support and increase awareness and understanding of trends and risks in their local area; and wider school policies (i.e. on behaviour) should incorporate local arrangements and reflect the pupil cohort.

## CONTEXTUAL SAFEGUARDING

KCSIE highlights the importance of staff and the designated safeguarding lead taking a holistic view to ensure wider environmental factors are considered that may be a threat to children's safety and welfare. Staff training on this remains paramount, particularly given the broad range of safeguarding considerations.

## MENTAL HEALTH AND BEHAVIOUR

The DfE published non-statutory advice in their 'Mental health and behaviour in schools' guidance in November 2018 highlighting a whole school approach to promoting the welfare of, and supporting pupils with, mental health needs who may display challenging behaviour. Effective staff training (on induction and at regular intervals) and teaching such as through personal, social, health and economic education on mental health and wellbeing, plus efficient systems to identify, support and tackle bullying, will assist schools in meeting their legal and moral responsibilities to those with mental health problems. Awareness that a mental health concern may be an indicator that a child is at risk should also prompt action in accordance with a school's safeguarding policy.

## CHILD CRIMINAL EXPLOITATION

90% of police forces reported evidence of county lines activity in 2018, with concern that this figure may increase in 2019. It is key to carefully consider how best to equip the school community to spot those at risk of, or suffering, this type of abuse. Pupils should be educated about the nature and risks of such exploitation (both online and offline) and how to access support; parents should be involved in identifying and reporting concerns at home; and schools should be aware of local multi-agency protocols and the importance of information-sharing to keep children safe. Regular liaison with local police forces and agencies should help inform schools approaches. Staff training will also be key but should be accompanied by opportunities for supervision; access to appropriate support; and opportunities to learn from others when addressing child criminal exploitation issues.

**“Regular liaison with local police forces and agencies should help inform schools approaches.”**

Whatever method you choose, it is likely to highlight at least one point for discussion around the boardroom table. The key is to keep your review proportionate, relevant and tailored to your school's circumstances.



## GDPR LATEST NEWS AND UPDATES

**By Tara Jay, GDPR/Privacy specialist, ClearComm**

Much has been published on the importance of the General Data Protection Regulation (GDPR) for educational establishments before 25 May 2018. It has been some twelve months since the GDPR was implemented and while the landscape has changed, not all the issues which have become frequent are amongst the usual suspects.

## SUBJECT ACCESS REQUEST AND FREEDOM OF INFORMATION ACT

An individual has the right to request information held on them, regardless of the format. Schools and universities similar to other organisations, have received an increased number of Subject Access Requests (SARs) regarding admissions and recruitment applications. Staff must be informed that any written, or otherwise recorded comments such as a recorded telephone or Skype interview are subject to disclosure. Therefore, subjective, unprofessional and unseemly comments must be avoided at all costs. Feedback must be precise, factual and objective on all fronts, so the need for training interviewers and administrators has been highlighted.

Further, certain institutions are obliged to respond to Freedom of Information Act (FOI) requests. There has been lack of knowledge and expertise distinguishing between an SAR and a FOI, leading to the disclosure of personal data in response to a FOI which could be a reportable data breach. The disclosure was due to various reasons such as lack of clarity about data already being available in the public domain, or the small number of data subjects in statistical reporting where giving any information to third parties may have led to their identification being far easier than it was thought.

## STAFF TRAINING

It is thought that only key staff who handle personal data over the course of their routine tasks must be trained. The GDPR does not differentiate between key staff when it comes to personal data and its processing, in particular dissemination - everyone from the porters to the academic office must be trained. For example, the school caterer might receive data about a pupil's special dietary requirements which is health data and falls into a special category. Therefore, limiting staff training to just the administration office can leave schools vulnerable to a data breach.

## VOLUNTEERS, INTERNS, TEMPS, AGENCY WORKERS AND THOSE ON WORK PLACEMENT

Schools have been focused on training their full-time core staff rather than thinking about the areas where temporary staff or unpaid volunteers may handle personal data and therefore could leave them open to data breaches - training them is equally important and essential.

The general rule of thumb is that any individual who works in the school and handles personal data must be trained for data protection. Failure to do so will be a direct liability for that school. A revision of induction packs that includes staff handbooks and agreements, contracts of employments and terms and conditions are good first steps towards ensuring that everyone is aware of their obligations under the GDPR.

## SECURITY

To date, data security and the extent by which it can be used is not fully appreciated. Looking at a school from the front of house to the back office, there are many areas where a genuine risk to personal data can be easily overlooked. The sign-in books at most concierge and reception desks where visitors can see each other's data, to the lack of visitors badges and escorts are a few to mention.

Cyber security and ensuring that networks and devices are updated and checked for anti-virus and cyber-essentials are one of the many methods of preventing an external attack on online and live data. In addition, a new area which has been the subject of many debates in the past few years is "bring your own device", which refers to the practice of bringing a personal device such as a mobile phone or laptop into the workplace should not be forgotten. Appropriate measures such as device inventories and contractual clauses in addition to stringent information and communications technology policies must be put in place to ensure no personal data can be taken off the official premises without the knowledge of the school and the loss of such data from personal devices must be reported immediately.

Overall, the GDPR in relation to its impact on the education sector is an evolving area and schools should seek expert advice and assistance when dealing with data protection and privacy matters.

**"Schools should seek expert advice and assistance when dealing with data protection and privacy matters."**



## CASH MANAGEMENT

**By David Mitchell, Chartered Financial Planner, Moore Kingston Smith Financial Advisers.**

For the last decade, UK interest rates have remained at historically low levels. Schools have suffered from these low interest rates as they traditionally hold large cash balances either from advance fees or large funds that have built up over time to support building projects, bursars and so on.

Schools are also time poor and managing cash investments does not feature highly on the day-to-day running of the school. Cash management services have been around for some years, but have grown in popularity in the last decade. It enables schools to benefit from active management of their cash, placing it in accounts that offer the most appropriate highest yield to meet liquidity preferences, i.e. how much is needed on instant access, how much can be held for three, six or 12 months, etc.

This means schools can earn consistently competitive interest and ensure their cash is constantly monitored for security while saving time, effort and worry.

## SECURITY

Capital is held in cash deposit accounts with banks and building societies from the whole UK market, providing access to over 200 institutions and 10,000 deposit accounts. All institutions are constantly monitored using data from rating agencies (e.g. Moody's) and published accounts, and provide FSCS protection up to £85,000 per institute in place. Cash is held in the schools name, never in a third-party account.

As funding pressures continue to grow this could be one way to generate additional cash with very little effort.

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