

# Annual Academies Update

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Bishop Grosseteste University, Lincoln

Friday 12<sup>th</sup> July 2019



# Agenda

## **VAT for Academies**

Gerry Myton, Head of Indirect Tax

## **Academies Financial Update**

Robert Anderson, Lead Technical Partner for Academies

## **Academies Update 2019**

Lizzie Saywell, Manager

Georgii Gale, Director



# VAT for Academies

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Leo Donovan, Senior VAT Manager

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# Key Issues

1. Legal Status
2. VAT Registration or not?
3. Partial exemption
4. Catering contracts
5. What does “closely related” mean?
6. Supplies of Staff/Consultancy
7. Consideration
8. Lettings / Sports Halls
9. Capital Projects
10. Teaching Partnerships



# Legal Status

- Section 33B VAT Act 1994
- Goalposts have moved
- Not entitled to recover all the VAT incurred



# VAT Registration – Why register?

- Why do schools register for UK VAT?
- Because they are legally obliged to do so – Compulsory registration

Para. 1, Sch. 1, VATA 1994

Or

- Because they are entitled to do so – voluntary registration

Para's 9 and 10, Sch. 1, VATA 1994

- Multi Academy Trust (MAT) – obligation to monitor income from schools within it



# VAT Registration – Advantages/disadvantages

## Advantages of VAT registration

- Fulfilling legal compliance obligations
- Transparency/credibility
- Input tax recovery

## Disadvantages of VAT registration

- Compliance obligations (VAT returns, records keeping, MTD, etc)
- Risk of penalties if you get it wrong
- Potential erosion of profit margin/competitive advantage



## VAT Registration – Historic test

- Need to look at preceding 12 months of “supplies” made
- Liability to register if threshold (£85,000) has been exceeded

Para. 1(1)(a), Sch. 1, VATA 1994

- Must notify liability within 30 days of end of “relevant month”
- Registered effective from beginning of the next but one month following “relevant month”

Para. 5, Sch 1, VATA 1994





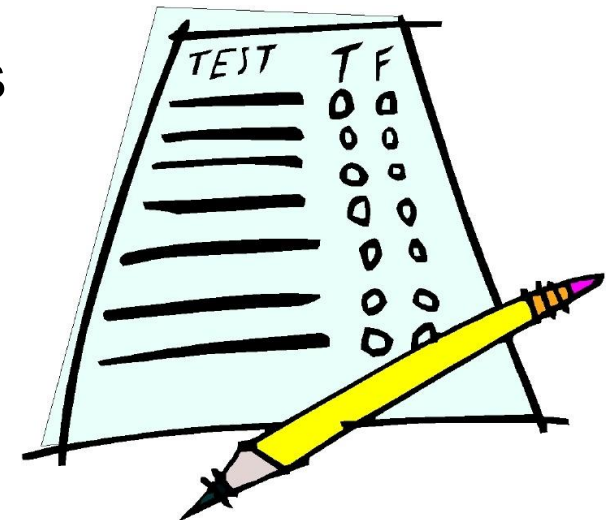
## VAT Registration – Future test

- A trader has an “expectation” that the threshold will be exceeded in the next 30 days

Para. 1(1)(b), Sch. 1, VATA 1994

- Must notify liability HMRC within 30 days
- Registered with effect from the date the expectation arose

Para. 6, Sch. 1, VATA 1994



# VAT Registration – Taxable supplies

What is included when calculating a traders taxable supplies:

- Standard rated sales i.e. consultancy income, administration and management services
- Zero-rated sales i.e. books, school uniforms for sizes up to 14 years old
- Reverse charge services received i.e. services from another EU Member State



# What does “closely related” mean?

Limited to goods and services that are necessary for delivering the education directly to the pupil, student or trainee. Usually accepted are:

- Tuckshops and vending (at or below cost)
- Accommodation
- Catering
- Transport
- School trips
- Musical instruments for use in music lessons/school orchestra
- Rulers/calculators/stationery

**Not** closely rated are:

- Supplies to staff
- Sale of goods from school shops
- Vending machines (but not catering)
- Good not needed for regular use in class (consider private use high value items)

**MUST BE AT OR BELOW COST TO QUALIFY AS CLOSELY RELATED**



# Input tax blocks – Non-business purposes

- Apportionment: Business/Non-Business use
- No mechanism set out in law
- Direct attribution and a proportion of overheard VAT
- HMRC can assess if not fair and reasonable
- Example based on values

$$\text{Input tax} = \left[ \frac{\text{Business income}}{\text{Total income}} \right] \times \text{VAT incurred}$$

$$\text{Non-business overhead VAT} = \left[ \frac{\text{Non-business income}}{\text{Total income}} \right] \times \text{VAT incurred}$$

S.24(5), VATA 1994



# Evidence required for recovery

- Valid VAT invoice
- Self billed invoice
- Less detailed invoice (£250) – Retailers need not issue VAT invoices unless specifically requested by customer – invoice can be simplified for values below £250
- Invoice for acquisitions
- Invoice for reverse charge
- Alternative evidence

**Reg. 29(2), VAT Regs SI 1995/2158**



# Partial exemption - general

- Accurate coding of income & expenditure is key;
- Income – non-business & business activities;
- Income – taxable & exempt business activities;
- Underlying concept re expenditure is that it has to be attributed in accordance with the onward activity to which it relates;
- Multiple 20% codes for purchases required to attribute input tax to its onward usage; and
- Without sufficient codes all VAT on purchases has to be treated as non-attributable and recovery potentially restricted



# Partial exemption – 2 step method

- Directed by HMRC for academies
- Consists of various stages:
  - Non-business/business income apportionment (VAT 126);
  - Calculate non-attributable VAT relating to non-business activities (recoverable);
  - Calculate non-attributable VAT relating to business activities;
  - Business income - taxable/exempt income apportionment;
  - Calculate non-attributable VAT relating to taxable activities (recoverable);
  - Calculate non-attributable VAT relating to exempt activities (aka exempt input tax); and
  - Calculate total VAT relating to exempt activities (i.e. wholly attributable to exempt activities + non-attributable relating to exempt income)
  - (irrecoverable unless de minimis).



# Partial exemption – de minimis limits

- De minimis criteria:
  - (a) less than £625 per month on average; and
  - (b) less than 50% of total business input tax for the period.

Both have to be met for ‘exempt input tax’ to be recoverable.

- In the case of academies, total business input tax does not include VAT incurred on non-business activities





# Partial exemption – annual adjustment

- VAT reclaimed on purchases is provisional for partially exempt organisations;
- An annual adjustment is required to even out potential seasonal fluctuations;
- Partial exemption year ends 31 March, 30 April or 31 May depending on VAT periods;
- For monthly returns VAT year ends 31 March;
- Basically annual adj uses figures for the whole year – same calculation as for each month/quarter; and
- Resultant adj to be included on 1<sup>st</sup> return for new VAT year or if preferred last return of old VAT year.



# Catering (1)

- Optimum Position

School acts as principal for supplies to pupils/free school meals/duty teachers

Catering Co acts as principal for supplies to visitors and paying teachers

- As Good

School acts as principal for supplies to pupils/free school meals/duty teachers/visitors and paying teachers



## Catering (2)

- Not So Good

Catering Co acts as principal for supplies to pupils/free school meals/duty teachers/visitors and paying teachers

VAT cost to parent!!



# Supplies of Staff

- Standard Rated BUT
- Hire or loan of staff from one charity to another can be treated as non-business and outside the scope of VAT. This is subject to the following conditions:

*the employee has been engaged only in the non-business activities of the lending charity/organisation and is being seconded to assist in the non-business activities of the borrowing charity; and*

*the payment for the supply of the employee's services does not exceed the employee's normal remuneration ('Normal remuneration' means the total costs incurred in employing the member of staff including National Insurance and pension scheme contributions etc).*



# Supplies of Staff

- Could be VAT exempt education services;
- No VAT charged but how does VAT exempt income impact on VAT recovery position.



# Lettings

- Exempt subject to an option to tax;
- Rooms with catering – combined charge standard rated; and
- Sports lettings subject to VAT but there are exceptions and these mostly apply to Academy situations.



# Lettings – Basic position

- Exempt – if registered, no VAT chargeable.
- Related input VAT cannot be recovered because:
  - A. S 126 Business
  - B. Registered Input VAT relating to exempt not allowed (unless all such input VAT is “de minimis”)
- Remember : Input VAT on general overheads must be apportioned between school use and business use.
- Can “opt-to-tax” (must be registered for VAT)



# Lettings – Implications OTT

1. Any lettings from any school premises on same site subject to VAT.
2. Lasts for 20 years.
3. Can claim back all input VAT incurred.

## CAR PARKING

- If VAT Registered subject to VAT.
- Exception: charges to pupils to cover “cost”





# Buildings and Construction

Input VAT on construction costs can be claimed on the basis of:

- Used for school's education
- VAT charged on lettings.

Input VAT cannot be claimed in as far as used for exempt lettings (i.e. non- sports lettings, parking etc.)

If mixed use - apportionment required based on intention when bringing into use.

Intention will be demonstrated by minutes of Governors or sub-committee meetings.



# Capital Projects Sports Hall

- Greater scope for third party use
- Liability of supplies – 20% or Exempt
- Option to tax
- Revise booking conditions = taxable
- Last resort – opt to tax



# Lettings

Note 16 says

- 16) *Paragraph (m) shall not apply where the grant of the facilities is for -*
- (a) a continuous period of use exceeding 24 hours; or*
  - (b) a series of 10 or more periods, whether or not exceeding 24 hours in total, where the following conditions are satisfied -*
    - (i) each period is in respect of the same activity carried on at the same place;*
    - (ii) the interval between each period is not less than one day and not more than 14 days;*
    - (iii) consideration is payable by reference to the whole series and is evidenced by written agreement;*
    - (iv) the grantee has exclusive use of the facilities; and*
    - (v) the grantee is a school, a club, an association or an organisation representing affiliated clubs or constituent associations.*



# Capital Projects Certification

- Relevant Residential Purpose
- Relevant Charitable Purpose
- RCP – 95% (Non Business) Test
- Change in Use Provisions
- Penalties



# Examples

***Non-VAT Registered School builds a sports block and intends to let out as much as possible outside of hours.***

- Input VAT claim should be apportioned according to intended business use.
- Available for letting proportion can be as high as 40% - Could be very costly.
- Input tax incurred subsequently should be restricted e.g. maintenance

***Non-VAT Registered School builds a sports block for 100% School use. A year later it is approached for an out-of-hours letting.***

- If certificate issued to contractor to obtain zero rate on build, any subsequent change of use would create a self-supply with VAT due to HMRC
- However, if VAT charged by contractor and recovered via VAT126 form, at present there is no mechanism for a pay-back of VAT if there is a change of use and Academy is not VAT-registered
- Input VAT incurred subsequently should be restricted e.g. maintenance

***VAT Registered School builds a sports block and intends to let out as much as possible outside of hours.***

- Input VAT should again be apportioned according to intended business use.
- Portion to be claimed includes income subject to VAT e.g. sports lettings (but not “series of lets”).



## Examples (cont)

***VAT Registered School builds a sports block for 100% School use. A year later it is approached for an out-of-hours letting.***

- The Academy has to apply a VAT pay-back mechanism known as “the Capital Goods Scheme” applicable for works above £250K
- This runs for 10 years from when VAT claimed and each year one tenth of the VAT claimed has to be repaid insofar as it relates to exempt lettings.

***There are organisations offering to look after lettings for all use outside school hours.***

- This entails a lease to the entity and thus maximises the “available for letting” proportion. This can mean a 40% disallowance of VAT build costs if it is planned when the building comes into use or if decided after brought into use will mean a **Capital Goods Scheme (CGS)** annual payback(if VAT Registered).
- In this case it may be essential to opt to tax and recover all input VAT



# Sports facilities

## General findings

- Individuals and unincorporated clubs (where there is no membership scheme) – EXEMPT
- Series of lets to individuals and unincorporated clubs – EXEMPT
- Sports or physical education classes provided by the Academy –

EXEMPT

- Otherwise – plus VAT and “taxable business income”



# Sports facilities

- **Building a new sports hall**  
Can we get zero-rated construction services?
- **Membership schemes**  
Special rules under the sports exemption – must take great care as if grant full membership rights (i.e. more than 3 months) this will take the Exemption away from individuals and will need to rely on “series of lets” test for VAT exemption.
- **Capital projects**  
Apportionment according to use of facilities.





# Teaching partnerships

- Legal entity – does one exist?
- Non-profit making company
- Think of costs coming into the entity – i.e. Staff
- Irrecoverable VAT on cost if TP makes VAT exempt supplies  
i.e. training and education



# Miscellaneous

- Leasing schemes for laptops etc.
- Arrangements with Universities for teacher training.
- Whether events such as 'Proms' give rise to VAT
- Sales of 'Hoodies'
- Supplies between Landlord (i.e. Local Authority) and Tenant (School) and vice versa



# Questions



# Academies Financial Update

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Robert Anderson, Lead Technical Partner for Academies  
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# Agenda

- Sector Overview
- ESFA Letters
- Academies Accounts Direction
- Academies Financial Handbook



# Sector Overview

	<u>2017</u>		<u>May 2018</u>		<u>May 2019</u>	
Primary	3,961	24%	4,721	29%	5,545	33%
Secondary	2,146	70%	2,210	73%	2,611	76%
Special	226		266		340	
Alternative Provision	<u>65</u>		<u>80</u>		<u>133</u>	
	<b>6,398</b>		<b>7,317</b>		<b>8,629</b>	
Free Schools	347					
Studio Schools	36					
UTCs	<u>51</u>					
	<b>6,832</b>					



# Sector Overview

Number of entities	01.06.2017	01.05.2018	01.05.2019
SATs	1,812	1,614	1,608
MATs	<u>932</u>	<u>1,067</u>	<u>1,183</u>
	2,744	2,681	2,791



# ESFA Letters

- September 2018 – ESFA to Academies
- March 2019 – ESFA to Academies
- April 2019 – Lord Agnew to External Auditors





# September 2018 – ESFA to Academies

- Related Party Transactions
- Controlling Executive Pay
- Scrutinising Budgets
- Acting on Audit Findings
- Late Filings – trusts to be named
- Providing Governance and Executive Details



# March 2019– ESFA to Academies

- Key Reporting Dates
  - Budget Forecast Return – 30 July 2019
- Related Party Transactions – a reminder



# April 2019 – Lord Agnew to External Auditors

- Management Letters – areas for improvement
- Auditors Report on Regularity – extended testing
- Financial Summaries, including management briefings



# Academies Accounts Direction

- Issued April 2019
- Includes Key Changes
- Part 8 - Musts



# Academies Accounts Direction

- Year end accounts to be sent to every member
- Technical guidance on the payment of dividends
- Increased Related Party Transaction disclosure given new reporting regime
- Irregular expenditure includes all alcohol and excessive gifts



# Academies Financial Handbook 2019

- Issued June 2019
- Includes Key Changes – mainly “more”
- Part 8 – Musts



# Management Accounts 2.18, 2.21 and 2.23

- Must prepare monthly management accounts
- Chair of Trustees each month
- Other Trustees six times a year
- I&E, budget variations, cash flows and balance sheet
- Select and monitor KPI's
- Act on concerns



# Executive Pay 2.30 and 2.31

- Follow robust evidence-based process
- Approach needs to be transparent, proportionate and justifiable
- 2.31 sets out conditions





# Gender Pay Gap 2.32

- 250 or more employees
- Publish on website and government's reporting website



# Risk Register 2.36

- Now mandatory
- Links to guidance



# More about Whistleblowing 2.41 and 2.46

- Must have procedures
- Ensure respond properly and fairly



# Internal Scrutiny 3.1 and 3.22

- Risk based approach
- Must have an audit committee if income over £50m
- Removes external auditors extended work programme



# ESFA Approval of Transactions 5.1

- Special Payments
- Writing off debts
- Acquisition and disposal of land
- Gifts
- Finance Lease
- Etc.



# Related Party Transactions 5.40 to 5.43

- New from 1 April 2019
- Report all transactions via online form
- Prior Approval
  - Contracts over £20,000
  - Cumulative Contracts over £20,000



# Questions?



# Academies Update 2019

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Georgii Gale, Director

Lizzie Saywell, Manager





# Financial and other considerations when growing or joining a MAT...

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## The background...

- Less pressure to convert to an academy now in theory compared to March 2016.
- Can only be forced to convert by Ofsted now (not RSC)
- The DFE's preference- "growing sustainable MATS"
- Seems to be a preference for a "mid-sized MAT"- around 10-15 schools.

BUT... there is an ever changing political landscape...



# Benefits and Risks of MATs

Potential Benefits of MATs include:

- Additional support
- Power to negotiate and economies of scale
- Potential opportunities for staff
- Sharing of grant generation expertise
- Sharing of high level leadership costs
- Sharing of specialist resources



# Benefits and Risks of MATs

Potential Risks of MATs include:

- Geographical issues
- Loss of control at academy level
- Reputation risk
- Competition vs Collaboration
- Variances in systems and clashing cultures
- Short term restructuring costs



# Voluntary convertors joining a MAT...

- For voluntary convertors- still a £25,000 support grant available.
- There will be scrutiny of the existing trust as well as the school.
- Regional School Commissioners will need to approve additional schools joining a MAT.



# Sponsored conversions...

- May be significant additional funding available for fully sponsored projects including a post-opening start up grant (which can be fairly significant- £70k-£150k depending on type of school and type on conversion, including £25k support grants).
- Possible environmental impact grant (primary £40k, secondary £80k).



# Academy Transfer Funding...

- Grant funding is only normally provided where the transfer is at the direction of the RSC- in 17/18 there were 255 trust transfers and only 49 of these were grant funded- which is only 19%



# Due Diligence...

- Very important to consider what due diligence work needs undertaking regarding both parties if considering joining a multi academy trust.
- The due diligence could be financial, legal, religious, property, health and safety, human resources etc.
- You should consider using the in house skills within your existing school or academy before procuring external advisors.





# Driving efficiencies and gaining value within your academy or multi academy trust...

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# The starting point...

- Consider the KPIs you need to effectively operate...
  - Pupil/teacher ratios
  - Teacher contact time
  - Average teacher cost (including on costs)
  - Pupil/adult ratio
- Some of the most successful academy trusts and MATs in the country cite their ability to balance their budget due to their “education centric” approach to budgeting...



# Benchmarking...

- The ESFA online benchmarking tool is now up to date and significantly more user friendly, with vast amounts of data available for analysis.
- Obviously, benchmarking is only useful if you are comparing like with like...
- It may well ask the right questions but is unlikely to give you the answers.



# Benchmarking...

**GOV.UK** Schools financial benchmarking

**BETA** This is a new service – your [feedback](#) will help us to improve it.

If you would like to help us improve the usability of the beta site through a testing session, [please enter your contact details](#) and we will get in touch. [Hide message](#)

## Schools financial benchmarking

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
- use the information gathered to establish relationships with other schools

**Begin by finding a school or trust**

School

Trust

**Alternatively, search by area**

Location

Local authority

### Guidance

[Help using this site](#)

[Interpreting the charts](#)

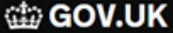
[Data sources](#)

### Deals for schools

Find a range of cost-saving deals for schools assessed for compliance with procurement regulations and ease of use by the DfE



# Benchmarking...

 **GOV.UK** Schools financial benchmarking

**BETA** This is a new service – your [feedback](#) will help us to improve it.

If you would like to help us improve the usability of the beta site through a testing session, [please enter your contact details](#) and we will get in touch. [Hide message](#)

[Home](#) > [REDACTED]

## Select comparison type

Comparing to [REDACTED]

**How do you want to compare this school with others?**

We have some guidance on [choosing characteristics](#) if you are unsure which method suits you.

Quick comparison using pre-selected characteristics (including number of pupils, school phase, urban/rural)

Detailed comparison using characteristics you choose

Manual comparison choosing schools by name or location

or

Schools with the highest progress but similar characteristics (including number of pupils, expenditure, FSM) [?](#)

[Next](#) [Back](#)



# Benchmarking...

- You can search by location, education phase, school type, Ofsted rating, religious character and then select a specific school.
- You can view staff numbers, pupil numbers, income and costs in total and by various categories...

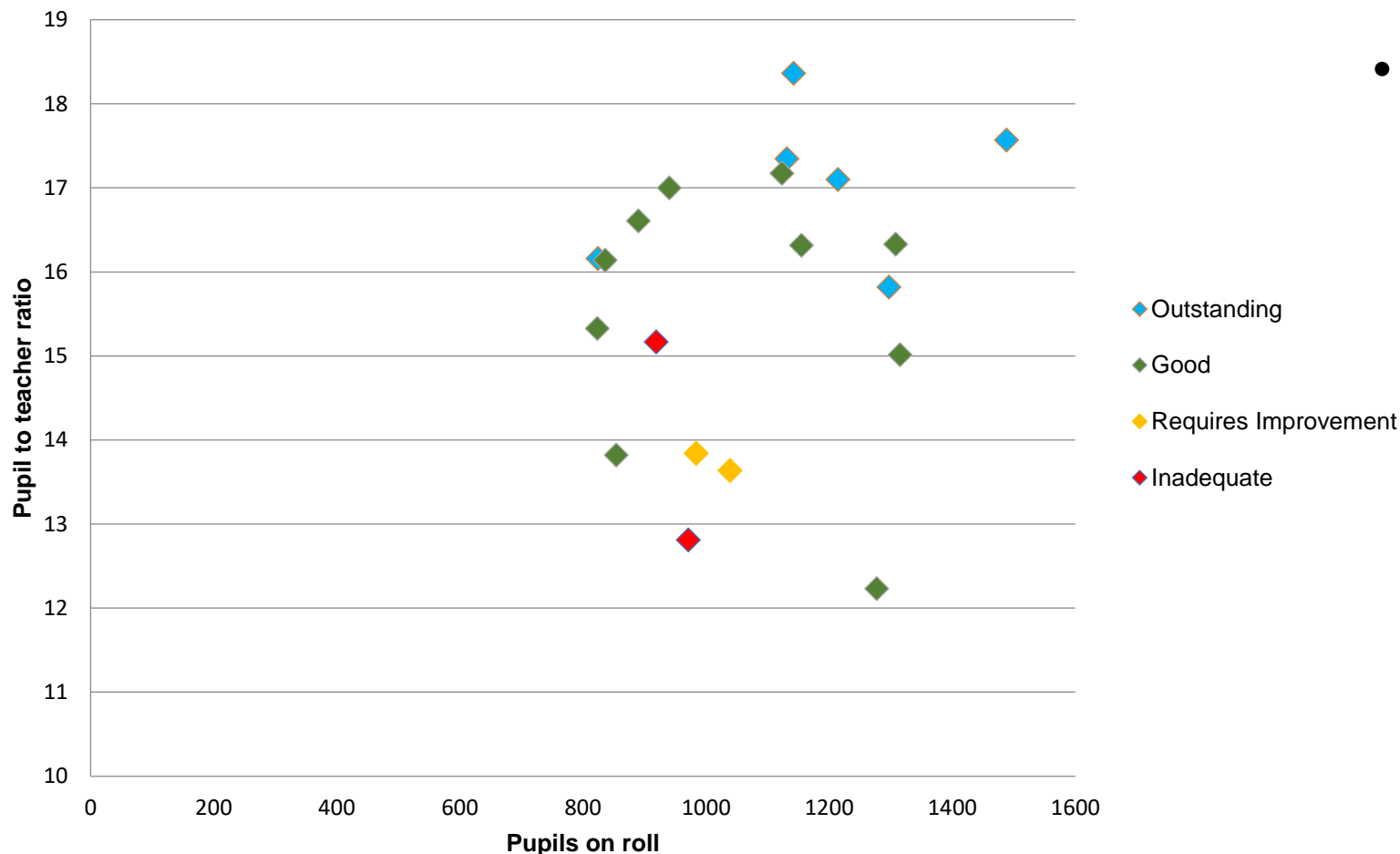


## Example Benchmarking...

- 20 Lincolnshire Secondary Schools with similar role numbers and characteristics.
- Calculated the Pupil to Teacher Ratio for all of them
- Included number of pupils on roll for comparison
- Included most recent Ofsted rating



# Example Benchmarking...



- Pupil to teacher ratio does not appear to correlate to Ofsted rating in the way you might expect- arguably other way around?

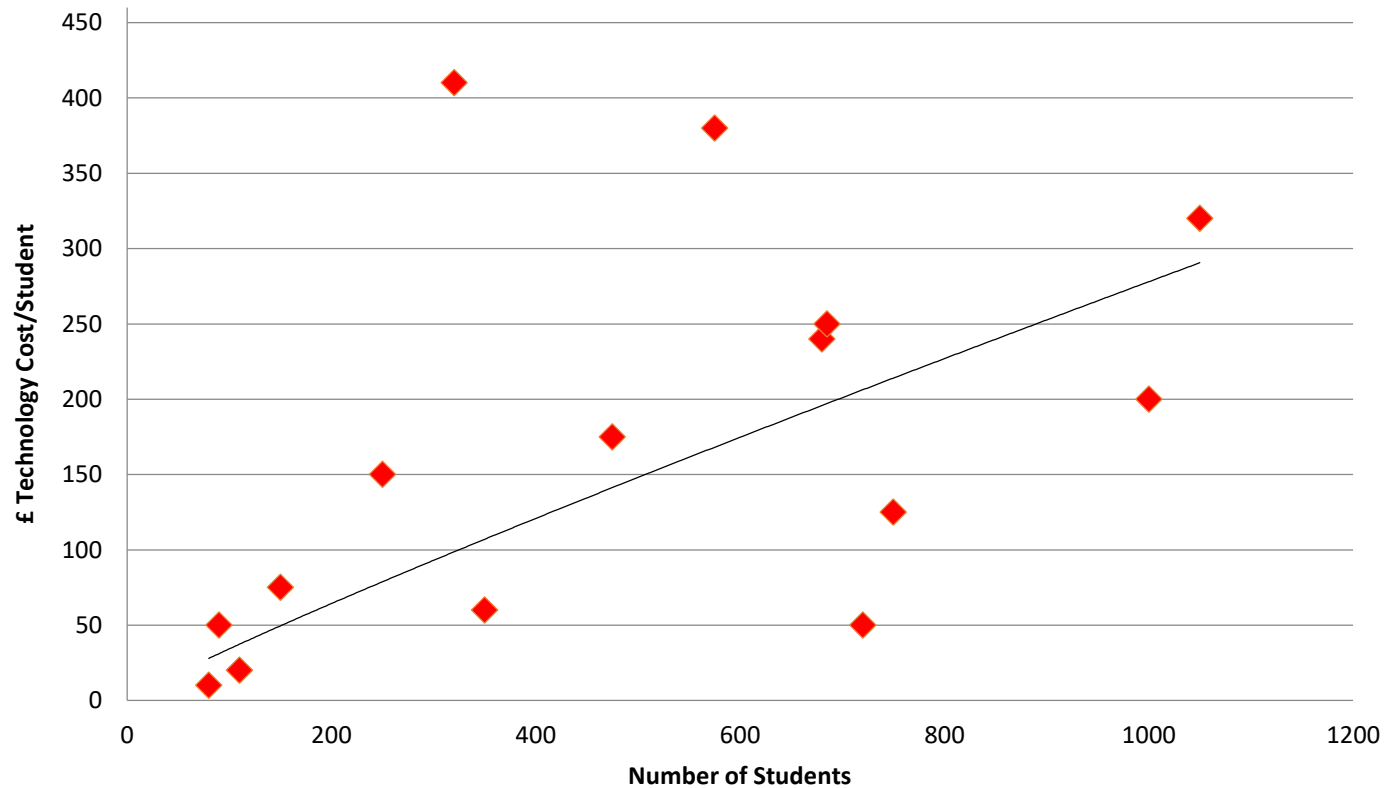


## Example within a MAT...

- Could compare the pupils on roll with a specific cost per academy.
- In theory- shouldn't they all be the same? There could be factors that mean this isn't the case...
- Not a real life example- just an illustration...



## Example within a MAT...



- Has a high spending academy has got too many leases for IT equipment?
- Maybe one of the larger academies is providing IT for one of the smaller academies- is the recharged amount appropriate?
- The disproportionate costs suggest that each academy is responsible for own IT procurement- missing out on potential MAT wide saving?

## Cost saving...

- Catering
- Cleaning/ Refuse collection
- Energy/ Water and sewerage
- Legal Services
- Supply staff/ Recruitment Advertising
- Maintenance
- Travel
- ICT/Photocopiers- leasing is a lot more expensive than buying if you have cash available
- Stationery
- Insurance



# Consumption and Cost Saving...

- Could you make investment to reduce consumption and therefore make a long term saving?
- Funding eg Salix
- ESFA approved supplier list as a starting point
- Quotes on a national basis and then scale down



## MATs- GAG Pooling...

- Encouraged by the ESFA
- Method whereby the GAG funding allocated to each school is paid to the trust and contracts are centrally or regionally managed.
- This does not include pupil premium, 6<sup>th</sup> form bursary etc.
- Often better in a wider regional or national academy set up where different areas receive different allocations, but contracts can be negotiated on a larger geographical scale.
- Could let the MAT do the management, and the schools do the educating...
- Definitely not for every trust!



# Additional Income Generation...

- Income generation approach by way of additional activities- as opposed to (or in addition to) cost savings...
  - Donations
  - Grant funding- e.g. Sport England?
  - Consultancy services
  - Fundraisers
  - Lettings
  - Catering



# Risk and rewards of income generation



**CORPORATION  
TAX**

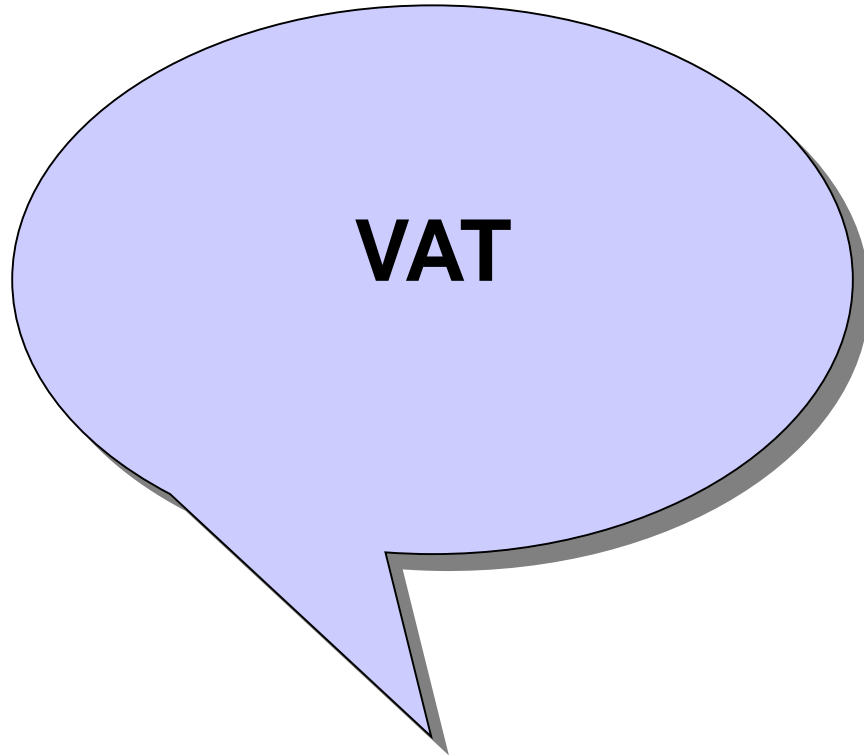
May be payable on profits generated, if the activity is deemed to be commercial trading.

Could possibly consider a subsidiary company to minimise or eliminate tax problems and maximise benefits for income generated.

May be payable on costs outside the charitable objects of the organisation- could possibly add objects to articles!



# Risk and rewards of income generation



## Check the nature of the activity

- Exempt
- Standard Rated
- Outside the Scope

## Check the VAT threshold

- One School or One Trust?
- What are other schools doing to contribute to the VAT threshold?
- If VAT applies to a MAT, it applies to all schools in the Trust



# Risk and rewards of income generation



**OTHER  
RISKS**

## **Knowledge and Expertise?**

Is the activity within or outside skills and experience


## **Purpose?**

Does the activity support or conflict with the main purpose of school

## **Risks / liability?**

Are there costs of generating funds?  
What happens if the activity is not successful?

# Risk and rewards of income generation



**OTHER  
REWARDS**

## **Knowledge and Expertise?**

Does the Academy or Trust have specific skills and experience which can be shared?

## **Purpose?**

Does the activity fall within charitable objectives and extend public benefit?

## **Non-financial rewards?**

Can students gain from being involved in running the activity experience?



# Other reporting and governance considerations...

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# “Academies Better Reporting Programme”...

- New chart of accounts
- Published by the ESFA in May 2019
- Voluntary but recommended from September 2019
- Could enable automated data transfer to ESFA
- Software providers have been involved in development
  
- Can one size fit all? It is enormous...



# Members

- Every trust has members who have a similar role to the shareholders of a company limited by shares.
- The key responsibilities of the members are:
  - amending the articles of association
  - powers to appoint and remove trustees
  - appoint the trust's auditors and receive the trust's audited annual accounts
  - ability to change the name of the company and, ultimately, wind up the academy trust.



# Members

- Should have at least 3 members but preference of at least 5 members
- Employees **cannot** be members unless the articles specifically say so
- Significant degree of separation between members and trustees- majority should be independent of trustees
- Eyes on, hands off



# Trustees

- Every trust has trustees who have a similar role to the directors of a company limited by shares.
- The trustees should focus on 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 performance management of staff
  - overseeing and ensuring effective financial performance.



## Will trustees' roles change when joining a MAT?

- As a SAT the trust has two tiers of governance; Members and Trustees/Governors/Directors.
- As a MAT there is an extra level added to make three tiers of governance; Members, MAT Board of Trustees/Governors/Directors and Local Governing Bodies.
- Trustees of a joining academy will remain as the Local Governing Body, however discussion will be needed to assess whether a member to the joining academy's Local Governing Body should be included on the MAT Board of Trustees.





# Questions?

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# Annual Academies Update

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Bishop Grosseteste University, Lincoln

Friday 12<sup>th</sup> July 2019

