

Moving MATs forward: the power of governance

Summary Report
June 2019



Introduction

The National Governance Association (NGA) is the expert organisation on school governance, supporting maintained schools and academies across England. Over the years, NGA has witnessed, and supported its members, through huge changes in governance as state schools join together under one board to form multi-academy trusts (MATs).

As a result of this work, NGA's own evidence base on MATs has grown extensively, and NGA can now draw upon a rich evidence base, including: over thirty MAT external reviews of governance and other consultancy commissions; five MAT case-studies; two MAT roundtables (2018 and 2019); and years of engagement with policy makers and educationalists. These specific activities confirm all the intelligence that NGA receives through surveys, the advice line, Leading Governance board development programmes, the community MATs network and conversations at NGA's and other organisations' events.

In these conversations with MATs, NGA has been enormously impressed by the commitment, skills and passion of members, trustees and those at a local level. Yet more needs to be done to build systems, processes and support networks to assist the individuals who work tirelessly and selflessly to govern their organisation.

This paper is a summary of a much larger publication which offers an assessment of the state of MAT governance in 2019 and makes recommendations on governance practice and policy for the system as a whole. This report demonstrates that getting governance right, learning from those MATs with years of experience to share, and reforming central oversight and accountability, is the key to overcome critical, but by no means insurmountable, obstacles in the MAT sector.



NGA's key findings on MAT governance

1. Right people around the table

This fundamental component to effective governance, although not new, is more relevant and urgent than ever for MAT boards. Boards are still struggling to get trustee recruitment right, many having been too focused on business and finance skills and not including and attracting individuals who know the education sector well and have the time, commitment and capacity to be effective in the role. For many MATs, who constitutes 'the right people' will not necessarily stay the same as the trust evolves and its context changes.

Diversity is not always fully appreciated, and this has led to 'group think' on some MAT boards. When the people around the table think differently, and come from different places with different skills and experiences, this facilitates challenge and helps to ensure robust decision making. Adding new trustees to the board who are reflective of (but not representatives of) the community the organisation serves, can help it make better decisions in the interest of all pupils. This poses a significant challenge for trusts spread out geographically, covering multiple areas and communities, with a community focus for the trust as a whole being lost or concentrated in clusters.

There are some more structural barriers to people volunteering which are due to the nature of the governance roles in trusts rather than any oversight of MATs themselves. NGA's recent *Time to Chair a MAT* research found chairs of MATs dedicate, on average, the equivalent of 50 days a year to governance. This may become unsustainable, with NGA finding that robust succession planning and recruitment processes can be an issue for MATs. The time commitment makes it particularly challenging for people with substantial work or family commitments to take up key roles on the trust board, further skewing the demographic.

2. Organisational identity: ethos and vision

A MAT is 'one organisation', but often does not feel like one. The language historically used to describe the benefits of the system, such as 'autonomy' should only be applied to the trust itself, not its individual schools. Autonomy is the right to freedom from external rule and influence; something which is not attainable for schools once they have become part of a MAT. Official terminology is often unhelpful in this regard and

wrongly suggests that each school is entitled to a particular ring-fenced amount of funding each year. This needs to be revised to reflect the fact that MATs are "one organisation" rather than a collection of individual schools.

The cultural change from individual standalone school to joining a MAT has too often, and by too many, been underplayed. Power debates and a 'my-school mentality' dominate too frequently in trusts, distracting the MAT from realising its charitable objectives and strategic aims. This happens where individual schools within the trust may not understand, or refuse to accept, that the board of trustees is the accountable body for academic and financial performance of all schools, and is responsible for determining the vision and ethos of the whole trust, not just that of the central team. While many trusts are embracing cultural change, some are struggling to arrive at a position of organisational integrity within a school system which is, in many ways, still geared around stand-alone schools.

Some trusts do not invest enough time in the development of a shared vision and ethos, as well as a set of 'non-negotiables', and thus are unable to establish a collective identity or strategic approach. There are advantages to schools, and their pupils, in joining a formal group – federations and MATs – some of which may not be realised if the vision, ethos and collective identity of the schools within the trust have not developed and communicated. Failure to establish this can lead to significant disputes over the movement of resources and impede the ability of the central team to act when schools need support and intervention.

3. Ethics, behaviour, culture and relationships

NGA is aware of several MATs where trustees have failed to register conflicts of interest, including business interests and related party transactions, and have failed in regards to their legal compliance, for instance when reporting on the trust website. However, beyond these commonly occurring examples, it is the rare but detrimentally high-profile cases of trusts operating unethically which have led to negative press and public perceptions. The latter have, in some places, been exacerbated by a perceived distance felt by communities and

a lack of perceived legitimacy in the governance model. The *Framework for Ethical Leadership* in Education, which builds on the Nolan principles of public life, aims to be an important vehicle for change. Its principles should ultimately form a key part of the culture of the wider sector and each organisation – i.e. the norms, customs and behaviours of staff and those who govern.

There is a lack of governance knowledge prevalent across the sector, which sometimes lends weight to the incorrect and damaging accusation of the ‘privatisation’ of state schools. While this language is commonly used by some opponents of academies, the DfE has played into this discourse by frequently comparing (incorrectly in our view) trust membership to company shareholders and more generally promoting use of private sector practice. Such a portrayal of the governance workings of MATs has been unhelpful as it has masked the charitable status of academy trusts, and slowed down the adoption of third sector practice. If trusts – which are providing a crucial public service funded by the state – continue to be marketed, either intentionally or otherwise, as equivalent to commercial enterprises, the antagonistic attitude of communities and negative reporting of trusts is likely to continue.

Relationships between all those involved need to be built on respect and trust. The decision-making within trusts must not be too easily swayed, or even worse, exclusively taken, by the executive tier. NGA has come across a number of concerning cases where governance is being subtly undermined by the executive tier. CEOs and executive teams in trusts need to accept governance for its intended purpose: when governance is misunderstood, underplayed or unappreciated, organisations put themselves at higher risk of failure. When they can have such a long-lasting impact on the lives of the future generation, it is essential that key decisions are not taken lightly, without proper process, lawfulness and debate.

Principles of ethics, public service and fairness should be the foundation of trustees’ pay decision for their executives, but this has not always been the case. As set out in NGA guidance, trustees must be conscious that it is public money that they are spending and, therefore, they need to accept that executive leadership roles cannot attract the same premiums as they would in the corporate sector. NGA remains alarmed that, while it may be only a small number of cases, some prominent voices in the sector continue to defend excessive salaries at a time when the sector as a whole is campaigning rigorously for adequate school funding.

4. Who does what?

There is still often confusion about roles and responsibilities within MATs, both for the non-executive and the executive layers, despite the work done by the Department for Education (DfE) and NGA to help clarify the expectations of different tiers. For example, the DfE needs to make more of the distinction between the roles of members and trustees and correct the *Governance Handbook* to reflect that the phrase ‘eyes on hands off’ applies to trustees not members. In particular, government advice and guidance on various roles and responsibilities, in particular members and the ongoing reference to the local tier as ‘local governing bodies’, creates a sector wide issue of miscommunication and confusion.

Although there has been a shift in DfE thinking on the need for separation of individuals between layers, more remains to be done. There needs to be a firm expectation that there will be complete separation between those at a local level, trustees, the executive and members. While many trusts outline that such overlap helps with communication, it concentrates power in the hands of too few individuals, blurs lines of accountability, creates confusion over roles and responsibilities and compounds already existing concerns with the time it takes to govern in a MAT. Furthermore, the introduction of executive line management structures has often left headteachers/ heads of school looking in two different directions in terms of accountability – to their line managers and to their academy committees/councillors. More clarity is needed in this regard.

The importance of the scheme of delegation (SoD) must also be maintained, and not watered down; it should be a key vehicle for clarity, transparency and the commitment to building a culture of openness and honesty. Some SoDs are not yet of sufficient quality to achieve this.

A commitment to developing knowledge of MAT governance is not widespread. Despite the DfE’s increased investment on the governance development programmes (including £2,000 for each MAT board) and its advice to trustees to take professional development seriously, this message has not been embedded. Executive leaders also have not generally been provided with enough governance knowledge in order to cater for the growing needs of a school led system.

The role of the clerk, or governance professional, is still undervalued. The skill set, capabilities and pay levels vary hugely across the sector. Clerks and governance professionals

should be a key part of addressing the enduring issues of enabling effective governance, including communication channels in a trust.

The roles and responsibilities of the executive employed by the trust will need to change as the trust develops, which may include growth in terms of pupil numbers or school numbers. The roles required for leading MATs are different to the roles required to lead a stand-alone school, whether maintained or an academy. The executive roles within one MAT will not always be transferable to another. The executive and central teams within MATs – their structure and recruitment – require much consideration by the board of trustees, as they represent a significant financial investment that needs to provide value in children's education. An individual who is a successful headteacher/head of school, does not necessarily have the required skill set to be an executive principal or particularly a chief executive. There also needs to be more awareness that the role of headteacher/head of school in a MAT is different to that of a standalone school.

5. Community engagement and accountability to stakeholders

Many MATs report that they struggle to engage with stakeholders, including, staff, parents, pupils and those in the local community. Understanding the views and experiences of stakeholders is a crucial part of the governance role (and, indeed, NGA would argue it constitutes the fourth core function of governance). This is different from but very much linked to the issue of accountability to stakeholders.

For a number of years, NGA has been highlighting concerns that the power in academy trusts is being concentrated in the hands of too few people (their members) and, in some cases, boards which are distant from their schools and communities. NGA has questioned how legitimate a model this is for a public service and has been leading the debate on improving the accountability of schools to their stakeholders.

A connectedness between the school and its community helps ensure stakeholders feel valued and increases their confidence in the organisation. There is a perception that those making decisions understand the lives, context and aspirations of the community they serve, and have their children's interests at heart. For many growing MATs and particularly dispersed MATs, this presents a huge challenge which is not easy to answer. Stakeholders, staff, parents and pupils are therefore unclear

how the trust is held to account for the decisions it makes which impact on them. While some trusts have a great focus on their local communities and a commitment to community engagement, as others have grown and dispersed, their focus on place has drifted or been lost.

This has compounded a general feeling that trustees are disconnected from the localities they serve. It is one of the reasons why the DfE was persuaded to keep a requirement for elected parents in academy governance to aid robust decisions making. At the same time, the DfE has also rightly argued that the board as a whole should take responsibility for understanding what parents think.

6. The future of the local tier

There is currently a local tier in the governance structure of the majority of trusts, but the evolving picture of the local tier remains unclear. While NGA appreciates that different models will suit some trusts and not others at different times in their development, the sector as a whole can support further consideration as to what is likely to be needed at a local level and what works well. Although there is much talk of regional or hub level governance, this has not yet proved its purpose or effectiveness.

Acknowledging the importance of community engagement and accountability to stakeholders, a number of trusts are moving the local tier into a specific community or stakeholder engagement role. This is a valid move, as those at academy level often have a strong connection to their individual school and are part of the local community. As such, they volunteer at school level because they want to put something back into the community and help improve education for local children.

Emphasising this link between community and the local tier could herald a renaissance of meaningful engagement of communities and parents in influencing the governance of schools. Yet, because individuals at academy level have a strong connection to their individual school and are part of the local community, they are often geared towards preserving and strengthening their delegated functions. The role of the local tier needs to be very clearly defined and, while those at a local level should retain influence, they also need to understand and accept that their delegated functions may be limited.

7. Communication and information management

Our evidence shows communication and information management are amongst the biggest concern for trusts, but also ones where there has been the least amount of progress. Many trusts are not finding a quick fix to these issues. Communication channels in a trust require constant review and modification as trusts adapt to changes in context. Too many trusts have neglected communication channels and have allowed them to go unchecked and unchanged for long periods of time, often being stretched to breaking point, resulting in a lack of transparency and a culture of distrust developing across the organisation. It is also important to note that communication problems do not necessarily mean a lack of information, but a lack of coordination. Trustees need to receive relevant, accurate, succinct, timely and comprehensive information from a varied range of sources.

Trusts must invest time in getting communication right and celebrating success together. Local conversations and intelligence also needs to find its way back to both the board and the executive – communication channels need to be designed to do this, and should not be a one way system. Effective communication operating across a trust helps to provide clear assurance at every level that the governance structure is well thought out and working, and that the values of the trust are being shared and lived.

8. Due diligence and risk

If trusts do not undertake thorough due diligence and assess risk carefully, particularly when expanding, this can have serious financial, academic and reputational implications. Some MATs have not considered thoroughly the consequences of their growth strategy; for example, some trusts simply grow in order to shore up their finances or improve capacity. However, NGA's research shows that expansion does not guarantee school improvement nor a more financially sustainable future. Indeed, trusts are still reporting that they took on more than they could manage when it came to failing schools, with capacity within the trust to provide support often not targeted quickly enough.

While the sector's understanding of risk has improved over the years, NGA has come across examples of MATs not keeping a risk register or engaging in a professional dialogue around the risks faced by the trust. NGA's research also identified that MATs are particularly struggling with financial risk. Indeed, several MATs outlined that they have rushed into making serious financial commitments without considering the impact on the pupils within the organisation.

9. Growth, location and sustainability

There is still a lack of evidence linking size and growth to 'success'. There is general agreement that some MATs have grown too quickly and, in recent years, the DfE has concentrated on advice around how to grow sustainably. Growth has often come at the expense of community focus, and understanding of place (e.g. an understanding of where the MAT fits alongside other schools and public services in the areas it serves and how it is going to ensure it sits alongside, rather than being isolated from, the wider public sector), and it is not yet clear that this can be avoided in large MATs, especially if they are dispersed across the country.

The idea of having a vision and a growth strategy which has a moral imperative and a charitable mission at its core – helping other pupils rather than just your own – is sometimes neglected. Instead, MATs are often growing in an un-orchestrated way, without it always being clearly linked to governance decision making and without giving appropriate consideration about the rationale for growth and whether they have the infrastructure needed to deal with growth, such as if they could effectively offer school improvement/advice if the school is some distance away. The government has been keen for single academies to become MATs and for high performing MATs to expand, and some MATs have reported that they have been placed under pressure on some to do so. Naturally those approached by the Regional Schools Commissioner (RSC) are flattered to be asked, want to be helpful and can be tempted to say 'yes' too quickly..

Although it has been argued that trust growth is necessary to ensure financial sustainability and school improvement capacity, there has not been definitive evidence published to substantiate this. More recently, there has also been a focus on trusts merging to create larger, potentially more sustainable trusts. However, it is arguable that large trusts, especially dispersed ones, cannot as easily understand their schools and their communities and this impedes good decision making by senior executives and boards of trustees. It also reduces trust and accountability between the community and trustees. This challenge is not questioning the motives of individuals involved and while there are some civic minded larger trusts, the structure which allows them to be dislocated from place may not be a valid one for a crucial public service.

10. Oversight and holding trusts to account

Over the years, the DfE has produced some high quality materials for MATs, and it is encouraging to see the government

making strides in key areas that concern NGA, such as executive pay and related party transactions. Furthermore, it is encouraging to see the Information Commissioners Office (ICO) and the Education and Skills Funding Agency (ESFA) continue to publish reports on MAT audits, financial management, performance and financial notices to improve.

However, this report identifies the centrality of governance to many of the causes, and subsequent solutions, to the common problems MATs face. It is therefore vital that MAT governance is pushed further up the government's agenda and, when looking to affect change, the DfE need to better acknowledge that accountability for key decisions rests with the trust board, not the executive.

In particular, the government need to urgently correct the following in terms of oversight and accountability:

- There are contrasting messages from different parts of the DfE in relation to MAT approval, growth, development and accountability.
- The DfE need to be clearer that the trust board is the legally accountable body, not members of the executive.
- There remain historical issues with the way MATs have been set up and governance structures constituted, particularly in terms of outdated articles of association.
- The new DfE MAT league tables have come under criticism from MATs and other prominent sector voices and these system needs further revision.
- More remains to be done to ensure the sector is as transparent as it can be, with the foundations of the financial framework requiring further fortification and reinforcement.

Beyond this, NGA is concerned that the role of RSCs is still not understood by many and the composition and role of headteacher boards is still not right. These boards advise on and challenge the decisions of RSCs and, at present, there is no requirement for individuals with governance expertise to sit on them.

NGA is also concerned about how governance oversight is divided and duplicated between the RSC's and ESFA. Further rationalisation, such as the amalgamation of the RSCs and the ESFA, may create more coherence within the system.

Finally, in terms of Ofsted, there needs to be a continued sector-wide debate as to whether, how, and in what format Ofsted should inspect MATs. Furthermore, NGA would like to explore if Ofsted Outstanding can be adapted to incentivise collaboration between MATs and those outside of their

organisation. Although there has been much improvement in the past year, the lines of accountability in MATs need to be better reflected in Ofsted reports.

11. System leadership: collaborating and supporting other schools to improve

Government policy has meant that MATs have become increasingly disincentivised to take on challenging schools. The financial incentives that MATs used to receive to support struggling schools have reduced. Therefore, whereas MATs may be seeking to take on financially healthy schools, many MATs are understandably unwilling to take on those schools struggling with money as this may have a detrimental impact on the other pupils within their trust.

Furthermore, MATs are slowly realising that it takes a lot of capacity and resource to turn around schools with poor academic performance. Most educationalists and trustees would like to improve outcomes for as many pupils as possible; yet there is rightly a hesitation to do so if it puts outcomes of their existing pupils at risk.

The current legal framework and accountability system also means that MATs are only accountable for the schools that are part of the trust. This has meant that collaboration between MATs, between schools within MATs, and between MATs and other schools is not always evident. While the DfE need to reimagine the place of MATs within the wider sector, there is also an ethical dimension with MATs needing to live up to their role as public servants and work with schools beyond their organisation to bring about wider systemic school improvement.

The system is also short of school improvement agents with MAT governance expertise. While there is currently a National Leaders of Governance (NLG) programme in place, the system to-date has not always utilised the experience and good will of NLGs to full effect and it is not well communicated by the Department for Education and neither it is quality assured.

Finally, in addition to MATs, it is important to recognise that there are other tried and tested governance models that have been successful in driving school improvement, including federations and interim executive bodies (IEBs). There is also a growing practice of peer review, supported by a number of organisations, which is to be encouraged and could provide a real vehicle for spreading success.

Recommendations

1. Recommendations specifically for MAT boards of trustees

The *Framework for Ethical Leadership in Education*, which builds on the Nolan principles of public life, should ultimately form a key part of the culture of the wider sector and each organisation – i.e. the norms, customs and behaviours of staff and those who govern.

- a) Boards must set a culture for equality and diversity in order to thrive; boards should set an example about inclusion from the top down and be a catalyst for achieving diversity at all levels. As part of this, the under-representation of women on boards and particularly as MAT chairs should be considered.
- b) Boards should be aware that being well equipped on paper, through appointments of prominent and highly talented individuals, may not improve board capacity and could even reduce it.
- c) Boards should be clear on the time required to volunteer as a trustee and in particular to chair a MAT.
- d) Board chairs should look to reduce unnecessary time commitments to ensure the role remains sustainable, including avoiding sitting at a local level.
- e) Boards need to develop future talent of trustees and those governing at local level to ensure that effective governance continues to be sustainable through establishing a culture of succession.
- f) Boards must be proactive in learning from the experience of other trusts.
- g) Boards should be attentive to the risks of any bias/or 'my school mentality' manifesting in a potentially damaging way.
- h) MAT trust boards must commit to a separation of individuals on each tier in the governance structure.
- i) Trust boards should ensure that they have developed an accessible and usable scheme of delegation which demonstrates the trust's commitment to building and delivering openness and transparency.
- j) Trust boards should think carefully about the role applied to the local tier, how influence is maintained and name it accordingly and appropriately.
- k) Trust boards should ensure that they have effective communication channels, not built around overlap between the layers of governance and management, to facilitate effective working across the trust. These systems should be reviewed regularly.
- l) The board should ensure that any growth plan is sustainable, rooted in the vision and values of the organisation, and to retain a focus on what will improve outcomes of existing pupils.
- m) As there can be significant financial and reputational risks to growth that, even with robust due diligence, cannot always be mitigated against, trustees should always have a conversation about their appetite for risk and make a decision when taking on new schools based on the vision of the trust and the best interest of the pupils.
- n) Trust boards must be able to justify their executive pay decisions to stakeholders including parents and the taxpayer, and have the confidence to say 'no' in the interests of pupils and the public.
- o) Trust boards need to be outward looking and embrace the benefits of working with the wider sector. This includes MAT boards working closely to support and learn from other governors and trustees in an open and transparent way.

2. Recommendations for multi academy trusts

- a) As public services, all MATs should have some sense of place and put community at the heart of their vision and values for the trust as a whole; the move to groups of schools should also not come at the cost of removing local connectedness and engagement.
- b) Trusts must spend more time establishing and communicating their identity.
- c) Trusts must spend time investing time in getting communication right and celebrating success together.
- d) Trusts must increasingly collaborate with other trusts, to ensure MAT-to-MAT support is at the heart of improving the system. As well as MAT-to-MAT support, trusts must work in partnerships with others across the wider sector.
- f) Trusts should promote peer-review between MAT leaders, with regular opportunities for headteachers and executive leaders from within and across trusts to share knowledge.

3. Recommendations for the sector as a whole

- a) Governance must be accepted by all as a foundation underpinning the health and future success of the education sector.

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- b) There needs to be a universally accepted understanding that a MAT is one organisation, with all players accepting and promoting the legal status of academy trusts as non-profit-making charities.
 - c) More prominence should be placed on the role of governance professionals in the MAT sector.
 - d) Debates need to be embraced on the big questions arising from our report:
 1. Power in MATs has been concentrated in the hands of too small a group of members (almost always distant) and should be opened up to parents and other local organisations.
 2. Geographically dispersed MATs cannot as easily share improvement between schools nor achieve the necessary engagement with place.
 3. Large trusts represent a major change in school structure which has not yet received public acceptance; nor has size of trust been shown to be the factor which ensures the best education. Is this the possible direction of travel and what are the future implications?
 4. MATs have altered the nature of school leadership, in particular headship, in a fundamental way which has not been discussed in a full and coherent fashion. The implications of this needs to be explored.
 - e) The lines of accountability in MATs need to be better reflected in Ofsted reports.
- #### 4. Recommendations for the Department for Education (DfE)
- a) The DfE must maintain greater focus on MAT governance; the government must urgently invest in governance resource, policy and knowledge both centrally and in regional teams.
 - b) The DfE should increase the sharing of practice on how trusts are encouraged to grow, and what happens when there are fewer schools looking to join MATs. This may lead to increased emphasis on MAT mergers and careful consideration is needed around the governance and cultural compatibility of those organisations.
 - c) The DfE should broaden its strategy for trustee recruitment and development, acknowledging motivations and capacity, as well as skills, and placing more importance on succession planning for key roles.
 - d) The incorrect and damaging idea and terminology of the “privatisation” of state schools must be corrected, with the department rethinking trust membership comparisons and avoiding exclusive promotion of private sector practice.
 - e) The move to governance through third sector practice should be emphasised and the values of the third sector not underplayed.
 - f) The DfE should commit to quickly developing and communicating a clearer distinction between the role of members and trustees. Specifically, the incorrect description of members being “eyes on hands off” needs to be removed and replaced in both the *Governance Handbook* and *Academies Financial Handbook*.
 - g) The government should look to update terminology and guidance on financial practice to reflect that MATs are one organisation, paying particular attention to general annual grant (GAG) funding allocation, the concept of ‘top slicing’ and approach to MAT/school reserves.
 - h) The government must recognise and respect that many governing boards, executive leaders and school stakeholders have chosen to remain maintained after a due diligence process and should ensure policies are designed to support all school types on an equal basis.
 - i) The government should develop and maintain a stronger line on executive pay levels.
 - j) Practice, including transparency of mistakes made and how these have been overcome, has to be shared more across the sector to improve the overall approach. When there are major public failings in the MAT sector, the DfE should consider and share the implications and be open and transparent about when things go wrong and what this means for others.
 - k) The DfE needs to expedite its development of governance expertise in system leadership and ensure that it is not relying on volunteers to carry out this important work.
 - l) The DfE needs to consider how the accountability system incentivises collaboration outside the MAT, both between MATs, but particularly importantly support for other local schools.
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