

OPERATIONAL GUIDANCE FOR SCHOOLS CONVERTING TO ACADEMY STATUS

**Guide for schools contemplating converting to
academy status including a background to the
academies programme**

**Version 6
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A. Introduction:

The purpose of this guidance is to provide a broad analysis of the issues that Governing bodies need to consider when making the decision about whether they wish to achieve academy status.

The Local Authority (LA) supports schools taking on greater autonomy and accountability and wishes to constructively engage with schools in the process of considering academy conversion to ensure that these significant decisions can be taken in full knowledge of all relevant factors

The LA has an absolute duty to meet the needs of all children and raise their aspirations in all aspects of their lives. As part of this duty, the LA has a clear role as the strategic commissioner of the learning system and is committed to working closely with all schools in the county to ensure that provision is strategically planned in partnership. Building on the strong family of schools in the county the LA wishes to emphasise the benefits of collaboration and partnership in raising attainment for all pupils and meeting the needs of vulnerable children, as well as in addressing wider society needs.

A clear message from Heads and Governors of successful academy conversions is that the most important starting point for the process is the development of a clear vision to drive the change and sustain the trajectory of improvement. It is essential that there is a strategic approach to carefully using the relative “freedoms” of academy status to generate innovative approaches to raising achievement and support the collaborative work of the whole pyramid of schools in meeting the needs of the local communities. The expectation is that further stable long-term partnerships and collaborations will be developed to strengthen the school and the wider provision including those with the Local Authority.

Academy status brings a change in the statutory relationship with the Local Authority and a range of additional responsibilities. The Local Authority provides maintained schools with protection against risk – e.g., from industrial tribunal to building emergency – that Academies have to manage for themselves. These could generate potentially significant costs and additional workload for academy staff. An academy will need a detailed business plan and staffing capacity to manage its responsibilities as employer of staff, admissions authority, owner/lessee of buildings and site and manager of risks for the school. As the admissions authority, an academy is required to set its own admissions policy (within the national code and through local common

admissions arrangements). The Local Authority believes strongly that communities in the county will be best served by all schools continuing to work together to ensure that admissions criteria used are complementary and work to the best advantage of all.

In order to make a statutory decision to convert to an academy, a Governing Body needs to work through a process of careful balanced decision-making which can take into account the weight of advantages of freedoms and the additional responsibilities and risks that school governing body will have to manage. Robust and rigorous consultation is essential to ensure that decision making is soundly based.

Following a decision to convert to academy status there will be a number of technical matters with which a range of Council departments need to be engage in to affect a smooth transition, including:

- up to date advice about the funding mechanism for academies
- TUPE transfer of staff
- Pensions arrangements
- buildings, asset and land transfer
- transfer of existing contracts and service level agreements
- financial closedown and budget transfer
- legal advice and processes
- risk management

It is important that the Governing Body is able to consider the full scope of the processes involved with academy conversion in order to allow for a reasonable period for implementation, particularly in relation to TUPE processes. The timescale for the process may be longer than initially assessed, the workload and cost for school and Local Authority may require additional resources or be limited by existing capacity. The Local Authority wishes to co-ordinate the engagement with schools considering a change of status at the earliest possible opportunity so that we can provide information, technical support and ensure that the appropriate range of colleagues are fully involved on a timely basis. We would like to work together to ensure that all necessary matters are addressed in good time and a smooth transition can take place that maintains quality and confidence and safeguards the interest of pupils and families.

The School Organisation and Planning Team is the first point of contact with schools considering such a change and we would ask that you to contact School.planning@oxfordshire.gov.uk at the earliest opportunity to make sure that the Local Authority can co-ordinate and provide the best possible advice and guidance to the school. We would welcome the opportunity to speak to the Governing Body about these issues.

The academies programme

The Academies Act was passed on 27 July 2010. The Act enables more schools in England to become academies (state funded independent schools exempt from local authority control).

The main provisions of the Act:

- allow maintained schools (secondary, primary, special) to apply to become academies and permit the Secretary of State to issue an Academy Order requiring the local authority to cease to maintain the school on the date of conversion,
- allow the Secretary of State to require schools that are eligible for intervention to convert into academies,
- ensure there is no change of religious character as a result of the conversion process,
- allow schools that apply to become academies to keep any surplus financial balance,
- remove the requirement to consult the local authority before opening an academy (consultation can still take place, but is not required by law);
- ensure that for foundation and voluntary schools, with a foundation, there is consent from that school's foundation (often a Diocesan Board of Education) before the school can apply to become an academy,
- allow maintained schools that currently select to continue to do so as an academy,
- deem Academy Trusts to be charities,
- ensure that a converting school will continue, as an academy, to be able to occupy the land/buildings it had as a maintained school, and that the school's other assets may also transfer to the new academy for the benefit and use of the pupils of that school.

The Act can be read in full at

<http://www.legislation.gov.uk/ukpga/2010/32/contents>

and the accompanying explanatory notes can be found at

<http://www.legislation.gov.uk/ukpga/2010/32/notes/contents>

The subsequent Education Act 2011 extended the types of academies that can be set up to include 16-19 academies and alternative provision academies. Secondary schools will no longer need to have a specialism. The Department for Education's advice and guidance on academy schools can be found at <https://www.gov.uk/education/set-up-or-convert-to-an-academy>.

The Education and Adoption Act 2016 extended the academies programme to:

- Require every school judged 'inadequate' by Ofsted to be turned into a sponsored academy.

- Give new powers to the Secretary of State for Education to intervene in schools considered to be underperforming and constrain local authorities from doing so in some circumstances.
- Expand the legal definition of the 'eligible for intervention' category to include 'coasting' schools and enable (but not require) the Secretary of State to turn such schools into sponsored academies or intervene in them in other ways.
- Allow the Secretary of State to issue directions, with time limits, to school governing bodies and local authorities, to speed up academy conversions.
- Place a new duty on schools and local authorities in specified cases to take all reasonable steps to progress the conversion
- Require schools and local authorities in specified cases to work with an identified sponsor toward the 'making of academy arrangements' with that sponsor.
- Remove the requirements for a general consultation to be held where a school 'eligible for intervention' is being converted to a sponsored academy.

DfE guidance says:

There are 2 different models for running an academy. We recommend that you discuss the different academy models with your project lead before you apply. Your project lead will help you understand which of the 2 models is most appropriate for you.

The 2 academy models are:

Single academy

Not all schools are able to convert as single academies. To be able to convert as a single academy:

- your latest Ofsted rating must be at least good
- your pupils' attainment and progress must be high
- you will need to prove that your schools' finances are healthy

If you convert as a single academy, we will expect you to support at least 1 other local school. We will ask for details of the school or schools you will be supporting in the application form.

Multi-academy trust

All academies in a multi-academy trust are governed by a single trust and a single board of trustees. They also share staff and expertise and make savings when buying goods and services.

The Academy Trust can establish a separate governing body for each of its academies. These are called local governing bodies. The board of trustees can then delegate some of its functions to the local governing bodies.

To convert as a multi-academy trust you can either join an existing trust or you can work with other schools to set up a new trust.

There are 2 ways to create a new multi-academy trust. You can either:

- convert with schools you already work with
- start a relationship with a new school to convert as a multi-academy trust, each school in your proposed trust needs to submit a separate application and each governing body must pass a resolution to convert to become an academy.

As part of your application, you will also need to provide evidence of how the stronger schools in your proposed chain will help the weaker schools to improve.

Further information can be found here:

[Before you apply - Convert to an academy: guide for schools - Guidance - GOV.UK \(www.gov.uk\)](http://www.gov.uk/guidance/before-you-apply-to-convert-to-an-academy)

B. FAQ / Guidance for Schools Considering Conversion to Academy Status

1. Should we consider becoming an academy?

Heads and governors of successful converter schools have commented that the key first step is to establish a clear purpose at the outset to drive the conversion process, with consideration to the following key points:

- Why is the school considering conversion to academy?
- Can those aims be achieved by other means – the virtues of maintained status?
- Are the positives that are well publicised by the DfE and SSAT strong enough to balance the additional responsibilities and liabilities?
- What is the long-term vision for the school that will sustain the conversion process?
- There is a minimum term of 7 years as an academy.

2. Will we get extra funding?

- Academies are funded directly by the Education and Skills Funding Agency (ESFA) rather than through the local authority.
- The Government has stated that becoming an academy will not provide more money for a school: the school will receive the equivalent per-pupil amount that the local authority would have spent through the **General Annual Grant (GAG)**.

- Early Years and High Needs funding will be allocated in the same way as is done for maintained schools and will be passed to Academies by the Local Authority.

3. What are the extra costs?

- Oxfordshire County Council schools buy back into a wide range of central “traded” services. Governing Bodies decide every year which services they wish to use and which they wish to source elsewhere. Academy Trusts may have their own preferred services and providers. Back-office functions provided by the local authority, such as Personnel HR, Payroll and finance related services, will not be available to you as an academy. Other services may be available and can be purchased, usually on an annual basis by your academy in the same way as you buy services now.

4. What are the additional responsibilities of becoming an academy?

- How good is the school's/Trust's business plan and staff capacity to manage future (unknown) budget shares against key demands and costs areas that the local authority carries now:
 - Admissions – Academies are their own Admissions Authorities (see FAQ 10)
 - Personnel and payroll and other HR employment related support issues
 - Health and safety management
 - Mandatory staff training
 - Public liability and insurance SEN provision and behaviour services (see FAQ 8 below)
 - ICT and other contracts and licences
 - Equalities legislation – race, gender, disability – impact assessments are required
 - Legal costs – as charitable trusts, academies need their own independent legal advice
 - Pensions – Academies are responsible for the true costs of the Local Government Pension Scheme for support staff (see FAQ 9)
 - Maintenance of all buildings, planned repairs and lifecycle replacements
 - Annual external audit
 - Publication of annual accounts

5. What are the extra liabilities?

- The Local Authority provides a “safety net” against all risks for its maintained schools and so an academy requires a range of policies and compliance systems that need to be in place to manage risk

e.g., redundancy policy. There are a wide range of liabilities and risks associated with the employer role of an academy including:

- Maternity /parental leave
- Staff and governors will need legal indemnity against a range of liabilities
- There are additional costs of managing staff disciplinary and misconduct policies

6. What do we need to consider and plan into the conversion process?

- The DfE Guidance “Convert to an academy: guide to schools” available via the link <https://www.gov.uk/guidance/convert-to-an-academy-information-for-schools> gives a thorough description of the process. Further information and guide are available on the OCC website through the link <http://schools.oxfordshire.gov.uk/cms/content/guide-conversion>
- Schools considering conversion need to include sufficient time to complete the complex processes (taking into consideration school holidays or busy times that may impact on workloads)
- The TUPE transfer of staff requires time and careful management
- The school needs staff capacity and skills to support the additional workload
- The Local Authority must manage its capacity to ensure proper engagement and support – engaging with the Local Authority as early as possible will help to agree realistic expectations
- There is a significant requirement for independent legal advice, and it has variable costs depending on the complexity of individual school situations. This must be organised by the converting school. There is a government grant to contribute to this.
- Schools should not underestimate the challenges and reputational risks associated with the process and need to consider how they maintain staff and parental confidence

7. What consultation should we carry out? How do we do it?

The Education and Adoption Bill 2016 removed the requirement for a general consultation to be held where a school ‘eligible for intervention’ is being converted to a sponsored academy. For all other conversions:

- Consultation is intended to support and enable good and secure decision-making
- Good practice is rigorous and transparent so that the process has the confidence of key stakeholders and is not open to challenge
- There is no laid down prescription for academy consultation but there are strong guidelines for other prescribed alterations to schools that inform best practice.
- Some key questions are:

- **How long should be allowed?** – Good practice suggests 6 weeks in term time with a minimum of 4 weeks.
- **Who should be consulted?** – Good practice includes all those likely to be affected by the change – parents, pupils, staff and other key stakeholders.
- **What question is being asked?** – Consultation documents and presentations need to make clear what you are proposing and want to find out, the reasons behind the proposal and how the proposed change is likely to affect the consultee.
- **How can consultees respond?** – Stakeholders need to know how to make their views known – by response sheet, letter, email etc. and where to send their views before the deadline for the end of the consultation to make sure that they are considered by the decision-makers.
- **How are you going to acknowledge, collate and analyse responses?** A system needs to be in place before the consultation starts to manage and process the responses. How are the responses going to be analysed and reported rigorously to the Governing body to support the decision-making?
- **How and when will responses be used** to support and inform decision-making? – When will governors meet to decide?
- **How will consultees find out about the decision?** – What method will be used to feedback the outcome of the consultation to the key stakeholders?

8. SEN PROVISION AND BEHAVIOUR SUPPORT SERVICES. What support will be provided by the Local Authority and which services will an academy have to obtain?

- SEN services, not already delegated to schools and academies through formulaic mechanisms, are retained by the Local Authority and will continue to be provided for pupils with SEN as now.
- Behaviour support services will need to be procured by an academy as required. The Local Authority will continue to offer high quality placements and support on a buyback basis.

9. PENSIONS: What are the true costs of staff pensions?

- Teachers' pensions are part of the national scheme and so the employer's contributions are unchanged by conversion to an academy.
- An academy is required to offer support staff membership of the Local Government Pensions Scheme (LGPS). Existing staff who are already members of the LGPS will be unaffected and any new staff will also be eligible to join the LGPS.
- The employer's contributions to the LGPS consider the age and contribution profile of the staff. An actuarial assessment of the costs has to be carried out to determine the employer's contribution and this will also include a share of the liability for any deficit in the LGPS.

10. ADMISSIONS: How will becoming an academy affect admissions arrangements?

- When a school converts to become an academy, the academy will be the admission authority for the school and is responsible for its own admission arrangements. This will mean little change for some schools such as Foundation (and Trust) and Voluntary Aided schools which already are self-standing admission authorities. But for community schools and Voluntary Controlled schools there would be a significant change - the academy will need to manage its own admissions process.
- All academies are required to adopt clear and fair admission arrangements in line with the admissions law and the School Admissions Code. This will involve periodic consultation and regularly publishing the academy's admission arrangements.
- In drawing up the schools' admission arrangements, admission authorities must ensure that the criteria used to provide the allocation of school places are clear and fair for all groups of children.
- Admission authorities are responsible for arranging Independent Appeal Panels to consider admission appeals. This can generate significant additional workload for academies that are over-subscribed.
- Further information about School Admission Rules can be found here <https://www.oxfordshire.gov.uk/residents/schools/apply-school-place/school-admission-rules-and-policies/admission-rules>

C. Contact List

The Local Authority's School Organisation and Planning Team is the first point of contact for schools considering conversion to an academy.

Contact: School.planning@oxfordshire.gov.uk