

Proposed conversion to an Academy under the Academies Act 2010 as part of Bath & Wells Diocesan Academy Trust (“the Academy Trust”)

Information for all stakeholders

This document contains information about the part played by the governing body (“GB”) in the conversion process, and what happens to the school and GB on and after conversion.

Public Consultation

Each Governing Body of a school intending to convert must consult with stakeholders, including parents, staff and local community, about the proposed conversion.

- Make information available on the website and in hard copy at school
- Information must include your reasons for conversion
- Send an invitation to parents, other local schools, parish council, your MP, Parochial Church Council (if you are a Church School)

The Process of Conversion

Conversion to academy is a legal process by which, technically, the maintained school closes and a new academy school is opened. In order to achieve this, the Academy Trust needs to have all the things any new school needs:-

- Land and Buildings
- Staff
- Funding
- Books, Computers, Desks etc
- Children
- Distinctive Christian Ethos
- (Local) Governors

This information sets out how the Academy Trust gets all of these things (Governors come last in the list only because this is the part that runs over into the “After Conversion” section below).

Required Governing Body Involvement – post Academy Order

Taylor Culshaw – Information for Governors re Academy Conversion

The Governing Body must carry out the public consultation, and in the case of a VA School, must be a party to the TUPE consultation.

You will see from the information set out below that the only document which needs to be signed on behalf of the Governing Body is the Commercial Transfer Agreement. Towards the end of the process, once all of the relevant information about staff, assets and contracts has been agreed between the Academy Trust, the Headteacher and or School Business Manager and the Local Authority, you will be asked to sign it. If you have not already done so, make yourself familiar with the model.

The Supplemental Funding Agreement (and Church Supplemental Agreement) will be agreed between the Academy Trust, the Department for Education (and the Diocesan Board of Education). The Local Authority Lease will be agreed between the Academy Trust and the Local Authority. You can see the model of each of these documents on the Department for Education Website.

Land & Buildings

Community School sites are usually owned by the Local Authority.

The site ownership of most Church of England schools is split between the Diocese, or local sometimes local trustees, on Trust for use as a Church of England School, and the Local Authority, who owns the playing fields and possibly some other outdoor areas like car parks.

The Diocese or Local Trustees are asked to grant a Church Supplemental Agreement (“CSA”) to the Academy Trust. This enables the Academy Trust to use the site for the academy school.

The LA will grant a 125 year lease to the Academy Trust for the purposes of the school. In neither case can the Academy Trust sell or grant a lease of any of the site (except the usual short term letting for clubs and other groups).

At couple of months before your conversion date, the Academy Trust must submit a “Land Questionnaire” to the DfE, with a site plan, showing who owns what, whether anyone else uses the site (e.g a pre-school or children’s centre) and confirming the Lease from the LA (and CSA from the Diocese / Local Trustees) have been agreed in principle.

The Lease and the CSA are based on the Models available on the Department for Education website. The Governing Body of the maintained school is not a party to either of these documents so you will not be asked to sign them.

Staff

Conversion to academy is a “Transfer of an Undertaking” for the purposes of the TUPE Regulations. This means that every member of staff employed to work at the school on the conversion date will transfer to the Academy Trust, automatically, taking all of their accrued rights and benefits with them.

There must be a TUPE consultation process - this is not the same as the public consultation about conversion, though staff are entitled to take part in that too, of course – during which staff (and recognised Unions) should be informed of the proposed transfer of their employment and consulted on any proposed changes to terms and conditions. If you are a VA school then the GB is the current employer and should be involved with this consultation (though it may only be one or two of you), if you are a VC school the Local Authority is the current and should be involved with this consultation.

In either case, the Academy Trust is the proposed new employer and will be involved in the consultation – in practical terms your staff are more likely to want to hear from the proposed new employer as to what their plans are.

The Commercial Transfer Agreement (“CTA”) made between the Local Authority, the Governing Body of the School and the Academy Trust includes information about the employment of all of the staff transferring, including details of any grievance, disciplinary, capability or other staff related process which is ongoing.

Funding

Each multi Academy Trust has a Master Funding Agreement and a Supplemental Funding Agreement for each of its schools. This sets out the basis upon which the school is funded, usually on pupil numbers from the previous year. It sets out the school’s age range and capacity (usually the Public Admissions Number times the number of year groups at the conversion date).

There are special clauses which apply to former VA and VC schools which specify things like collective worship and RE (the requirements are the same as in a maintained counterpart),

Supplemental Funding Agreements are made between the Academy Trust and the Secretary of State after approval by the Diocesan Board of Education. The GB will not be asked to sign this document.

Children

The Supplemental Funding Agreement referred to above specifies that all children on roll at the maintained school will transfer automatically to the new academy school.

Books, Computers, Desks etc

The CTA made between the Local Authority, the Governing Body of the School and the Academy Trust transfers all of the assets used by the school – Books, Computers, Desk etc – to the Academy Trust. It also sets out that the Local Authority and the Governing Body will “novate” (transfer) any existing contracts for services to the Academy Trust (for example lease hire agreements for photocopiers, catering contracts).

The CTA also deals with services provided by the Local Authority, indicating which will continue to be provided to the Academy Trust.

Money held in the bank accounts of the “old” school remains the property of the Local Authority at the point of conversion. After a balancing period, the Local Authority will pay any surplus to the Academy Trust.

Christian Ethos (if applicable)

As referred to briefly above, the Supplemental Funding Agreement for a VA or VC school includes various clauses which relate only to schools designated as Church of England schools. This designation is automatic, and is further protected by the Articles of Association of the Academy Trust (any changes to which must be approved by the Diocesan Board of Education), The Church Supplemental Agreement and the Supplemental Funding Agreement.

Governors

At midnight on the night before conversion, the maintained school is closed and its GB dissolved. This happens by operation of law – you do not need to resolve either to close the school or to dissolve yourselves as a GB. The old “Instrument of Government” which set out how the GB was constituted is no longer in force.

You should find out from your Academy Trust how they intend to appoint the LGB for your school, and what they require the current Governors to do in terms of planning for the appointment to the new LGB.

After Conversion

An Academy Trust is a company which has a board of directors (often now called Trustees, but in legal terms they are company directors). As with any company, these directors are registered at Companies House and responsible for running the company. In an Academy Trust, this Board is also the statutory governing body of each of its schools.

Usually (and always in the case of our Diocesan Church schools), an Academy Trust with multiple schools will appoint a Local Governing Body (“LGB”) for each school, and delegates various functions of governance to that LGB.

Your Academy Trust may have a different name for the LGBs – School Advisory Boards, Local Governing Boards, Academy Boards are some examples (each Academy Trust states the name they use in their Articles of Association). Whatever they are called, these groups are sub-committees of the Board of Directors/Trustees and have functions delegated to them.

The functions of an LGB differ from Trust to Trust, varying from delegated decision making to being an advisory body, and may change over time (with or without the agreement of the LGB itself).

Parent & Staff Local Governors

Numbers of types of Local Governor vary in different Academy Trusts, but they must include at least two elected parents (unless the Board of Directors/Trustees itself includes elected parents).

Staff Local Governor numbers vary, but as with the Governing Body of a Maintained school (and as with any other charitable governance committee) no more than one third of its members may be employees of the Academy Trust.

Foundation Local Governors

As referred to above, each Academy Trust which includes a Church School in this Diocese has an obligation to ensure that the LGB includes an appropriate ratio of members who are approved by the Diocesan Board of Education as having the requisite skills and experience to maintain and develop the distinctive Christian Ethos of the school. Applications for approval are submitted to the Education Department at the Diocesan Board of Education office at The Old Deanery, Wells. The process, and criteria for approval, are available on the Bath & Wells DBE website.

In the case of an applicant stated to be a member of your parish Church, or one of them, the Education Department staff will contact your Incumbent and/or PCC to seek their view as to the suitability of the applicant.

Once approved, the local governor is appointed either by the Academy Trust Directors (aka Trustees), or by the Diocesan Board of Education directly, depending upon your Academy Trust’s Articles of Association and Memorandum of Understanding with the Diocese.

Ex-Officio Local Governors

Ex-Officio positions are those which are offered automatically to someone because that person holds a specific post. In a maintained Church School governing body, this usually applies to the Headteacher and the local Incumbent.

A Local Governing Body will not *necessarily* have Ex-Officio positions, or may have the Headteacher as the only Ex-Officio.

If you are an Ex-Officio Governor at a maintained school and you know you want to continue as a Local Governor post conversion then please make sure that you make your position clear to the Academy Trust. If you do not continue as a Local Governor then this should not diminish your role in the life of the school, for example leading collective worship either in school or in Church.

Local Authority Local Governors

Academies do not have local authority appointed governors, but current local authority governors who want to continue can apply to be appointed.

Equalities Impact Assessment of the conversion to a Multi Academy Trust.

Admissions policies will not change as a result of the conversion.

HR Policies from the predecessor employers have been assessed and the impact of conversion to the Academy Trust will be minimal, with no adverse on equalities.

Equality and Diversity Policies will be harmonised without any adverse impact on each school's commitment to equality and diversity.

Community and Church of England Schools and the Diocese of Bath & Wells

The Academy Trust will include Church of England Schools within the Diocese of Bath & Wells and include a majority of "foundation" Members and Trustees (Directors). Foundation members and trustees are those approved by the Bath & Wells Diocesan Board of Education as having the relevant skills and experience to maintain and develop the distinctive Christian characteristic of the Church of England Schools (in addition to the other skills and experience they bring to the Academy Trust).

The Articles of Association of the Academy Trust, and the Funding Agreements (according to which the Secretary of State will fund the schools if they become academies) protect the individual Ethos of each school. This means that all of the members and Trustees (Directors) of the Academy Trust are committed to the protection and development of the secular ethos of the Community Schools within the Trust.

Each school will have its own Local Governing Body. The Church of England schools will have foundation local governors and a Community School will not have any foundation local governors.

The Church of England in general, and the Diocese of Bath & Wells in particular, will have no influence over the Community Schools within the Academy Trust, and their influence over the Church of England Schools within the Trust will remain the same as it is now.

Church of England Schools and the Diocese of Bath & Wells are committed to the provision of excellent education for children of all faiths, and of no faith. Church of England Schools do not, and may not, discriminate against pupils and parents of other faiths or of no faith.

The Academy Trust does not consider that the inclusion of Foundation Members and Trustees will impact adversely on equality and diversity within the schools or the Trust itself, those Foundation Members and Directors being appointed on the basis of the skills required by the Trust, and the “foundation” element of their role being restricted to the Church of England Schools.

