

To all Chairs of Governing Bodies and Head Teachers

Converting to Academy Status for all Church Schools

The Process

Before making an application for academy status

Schools, considering conversion to an academy should, before they do anything else, discuss their intentions with the DDE and DBE. The DBE's consent to an application for conversion is generally needed and the DBE will insist that certain key issues are addressed. In particular, if a church school is proposing to go into a school grouping of some sort the DBE will be concerned to ensure that arrangements made do not in any way weaken a requirement that the character and ethos of the school as a Church of England school is sustained. It is important that there is informal and frank discussion about this at an early stage so as to hopefully avoid confrontation and disagreement. The aim of such early discussions is to reach agreement on a proposal which both DBE and school GB can then fully support and take forward.

School Governing Bodies and Head Teachers should then thoroughly consider the issues below and be prepared to discuss these in detail with relevant stakeholders and the DBE.

They are:

- the consequences on resources and capacity associated with the extra portfolio of duties they will take on. The extra administrative and managerial burden must not be underestimated. Schools should obtain a very clear statement from the LA, or otherwise be clear as to the extra money they will receive, the services they will forfeit and the cost of buying in services they will require. A range of providers should be considered in order to get best value
- terms and conditions for staff employment - the National Society advises that academies should not deviate lightly from national terms and conditions, but there could be a case for properly negotiated change. TUPE, of course, applies to the existing staff upon conversion
- the diocese will need to be sure that schools have considered an operational and strategic business plan (covering both recurrent and capital aspects) which demonstrates continuing viability. This need not be a formal document
- governance structures. - academy governors are appointed in the main by the academy company members. For VA converters the majority of the members will be church bodies and so the majority of governors appointed will be church appointees. For VC converters the church will retain its minority at both member and governor level, but this should not be diluted further. There must be at least three founding members. The National Society advises that it is essential that church foundation members should be corporate members (not individuals) in order to ensure future continuity. Foundation members would most usually come from among those bodies under the school's Instrument of Government, who appoint foundation members and possibly also the foundation trustees. There might be only one foundation member in a VC school converter, but certainly more than one for a VA school converting to an academy. This model should ensure that the ethos of the academy is not weakened over time. Consideration should extend to the size, the balance of representation and the functionality of the new governing body.

- consultation is required and we will expect church schools to consult widely with staff, parents, students, the community and the parish and to prepare a balanced report on the outcomes. The key feature of the consultation should be the perceptions of stakeholders on
 - a) the impact of the new status on standards and ethos
 - and
 - b) the impact on other schools in the area
- schools wishing to become academies should be able to demonstrate their commitment to collaborative working, particularly with the wider school family
- careful consideration will be needed on how the new status will impact on the development of religious character. SIAS inspections will still happen, RE to an agreed syllabus will be required and collective worship will still be expected and will be required by the funding agreement
- **the application and all that ensues must not lead to the DBE incurring extra costs. Any diocesan legal costs in establishing the academy must be borne by the school, using its own funds and the £25k set up grant**
- Governors in academies will have a more extensive and demanding role. The implications of being a trustee or director of the academy company must not be underestimated

Conditional Agreement – the formal process

This section is built on the assumption that there are foundation governors in the current school and that the 'person or persons by whom the foundation governors are appointed' includes the DBE whether or not it is the trustee. The steps are:

- the DBE will review the proposed application from the school
- each separate body who appoints foundation governors will provide its own letter indicating agreement, with or without conditions, or dissent. As a DBE we will obtain legal guidance on the substance of the consent letter
- these letters will be lodged with the Head Teacher and the DFE project lead
- The DBE will then ensure that the conditions find expression (where appropriate) in the draft funding agreement and/or the memorandum and articles or other documentation needed for the school to convert. The academy trust's occupation of a school site will continue as it is now without any lease being put in place.
- these key documents will not be signed off until all parties are happy

- the DBE will then seek to establish mutually agreed monitoring arrangements
- the school must pay if the diocese incurs significant extra costs to achieve this process.

The Funding Agreement and Memorandum and Articles

These are the pivotal 'outcome' documents and great care will be needed to ensure they are appropriate and correct before signing. They are the means of expressing and ensuring that conditionality is secured and acted upon. The Funding Agreement is the legal contract between the Secretary of State and the Academy Company to provide educational services in return for funding. The Memorandum and Articles are the constitutional documents of the academy trust which determine governance and management arrangements. Model documentation settled by the National Society with the DfE will be used at this stage in the process.

Key aspects around conditionality are:

- The foundation members of the academy will be church corporate bodies chosen by those with power to appoint foundation governors in a school's Instrument of Government and possibly the trustees. It is not appropriate for foundation members to be named individuals although other members may be individuals.
- the 'foundation' governors must remain as a majority for a VA school and there must be no dilution of a minority for a VC school. The proposals must be acceptable to the foundation/trustees
- The consultation processes must demonstrate support for the proposal.
- The religious character will be sustained and developed
- There is an expectation of collaborative working with local schools and other Church schools
- There must be clear expression about how the academy will add value and improve educational outcomes
- For secondary schools, there should be a commitment to support and work in partnership with existing 14-19 partnerships
- The diocese will need to be sure that schools have considered an operational and strategic business plan which demonstrates continuing viability. This need not be a formal document
- The DBE will expect to continue with advisory rights, particularly on Head Teacher appointments
- The transition must be carried out at no additional cost to the DBE
- A due diligence exercise should be carried out and all risks arising mitigated

- The admissions policy, present and future, is legal, appropriate, acceptable, inclusive and in accordance with diocesan and National Society guidance

Legal Issues

The National Society and our own Legal Advisers, Lee Bolton Monier-Williams ('LBMW'), have provided a number of detailed legal and technical briefings aimed at supporting dioceses and church schools proposing to convert to academies. The briefings published to date are accessible on the National Society and LBMW's website. LBMW also settled with the DfE a suite of model documentation suitable for church schools proposing to convert to academies.