

Children, Young People and Learning

Guidance to Becoming an Academy School in Poole



September 2015
Review Date: September 2017

1. Introduction

The Borough of Poole is clear about its role with schools, whether they be maintained, foundation, academy or free schools. We want to achieve the very best learning opportunities for our children and young people and therefore want to work in partnership with all our education providers, whatever their status. We welcome a diversity of provision which serves the best interests of children, young people and their families.

This guidance has been provided to support the ongoing relationship we want to have with our schools as they consider their status.

2. What is an academy?

The Academies Act, passed on 27 July 2010, enables maintained schools to apply to become academies.

Academies are charitable companies limited by guarantee. Their funding comes via the Education Funding Agency (E.F.A) and they are directly accountable to the Secretary of State for Education.

Academies remain part of the Poole school community and serve Poole children, young people and families and retain the same responsibilities as any maintained school as part of the Poole learning community.

3. Which schools can apply to become academies?

Primary and secondary schools that are 'performing well' can now apply to DfE to be converted into an academy. This includes faith schools and special schools. In addition, primary or secondary schools can apply to join an existing academy trust with a proven track record of school improvement, providing at least one is 'performing well'.

4. Can a school convert without the support of the governing body?

No. Anyone can register an interest in their school becoming an academy but the governing body (and the foundation, where applicable) has to agree for the school to apply to become an academy. This must be a resolution made at a full governing body meeting with a majority vote to support it.

5. What is a sponsored academy?

A sponsored academy is an underperforming school that is supported by another organisation committed to educational excellence. For example, the sponsor may be a business, a charitable trust or a high performing school. An underperforming school may be directed by DfE to become a sponsored academy.

6. Does the school have to change its name?

There is no need for a school to change its name. Schools can also keep the same uniform, signage and school badge.

If the school has a faith designation this will be retained on conversion. Any selective or single sex status will also be retained.

7. What is different about being an academy?

Academies have an 'academy trust' which is responsible for the land and assets of an academy. It is possible for the members of the Trust Body and the governing body to be the same.

Academy governors are the direct employers of staff, have direct health and safety responsibilities, are the school's admission authority and are responsible for ensuring an annual external financial audit.

Some services previously provided by the local authority, such as free school meal eligibility, will have to be provided by the school but can be procured from the Borough of Poole or elsewhere.

8. What are Articles of Association?

The governance arrangements of an academy are constituted under the academy's Articles of Association which describe the powers of governors and the procedures and rules governing them, so it is important that these are discussed and agreed by the governing body. For example, as well as defining the membership of the governing body, the articles will set out the quorum and notice period required for meetings.

In order to set up an academy trust, the Memorandum of Association (DfE's approval to establish the Academy Trust) will need to be completed and the Articles of Association will need to be drawn up and agreed with the Secretary of State and registered with Companies House.

Model Memorandum and Articles of Association (single academy and multi academy models) can be found on the DfE website.

9. Who appoints the governors?

Although the current governing body is dissolved on the date that the school changes into an academy, the make up of the governing body does not have to be different, and most Poole schools which have converted so far have kept their existing governing body. The governing body should record in its minutes what the make up of an academy governing body should look like, so this can be specified in the Articles of Association.

The minimum number of governors is 3, but there is no maximum. There must be a minimum of 2 elected parent governors and up to one authority governor can be appointed. The headteacher will be an ex-officio governor.

All academy governors are required to undertake enhanced DBS checks before being appointed. Any check on the chair of governors must be sought through the DfE and countersigned by the Secretary of State.

Once the new academy governing body is in place, it is the Trust Body which will have the power to seek any future changes to the composition of the governing body by seeking amendments to the Articles of Association.

It is usual for all governors to become Directors (also known as governors). Some or all of the governing body also become members of the Trust Body. Members have a number of additional statutory rights such as the right to appoint Directors and receive accounts.

10. Do schools get financial help to convert to an academy?

Yes. Each school can apply for a £25,000 conversion grant once the DfE has approved the conversion application and the Secretary of State has issued the school with its academy order. This is not intended to cover the whole costs associated with conversion, but to be a contribution.

The biggest single cost of conversion is likely to be legal costs – governors are recommended to ask for quotes from more than one firm to ensure the best value service. The DfE has produced [model legal documentation](#) which is available to download. Your chosen legal adviser will advise you on the issues which are relevant to your school's circumstances and negotiate the final forms with the Borough's solicitors.

11. What are the financial implications of converting to an academy?

Academies are funded directly by Central Government rather than through the local authority. An important change is that funding of academies is for the academic year, not the financial year. The funding for academies comes in the form of a grant, known as the General Annual Grant (GAG).

Responsibility for some services and functions transfers to the academy with the transfer of the local authority central spend equivalent grant (LACSEG) which is now known as the Education Services Grant (ESG). The ESG services include, for example, education welfare, asset management, functions as the employer such as pension administration and collective bargaining, and statutory accounting with external audit required. The full list of functions is on the government website. The school will also be responsible for its own share of the Dorset pension scheme deficit for employees in the Local Government Pension Scheme (LGPS).

12. Do schools need to consult before converting?

Yes. All schools are required to carry out a consultation but it is up to them to decide whom and how to consult. In addition, the Act requires governing bodies to consult with their foundation body, if they have one.

There is no specified length of time for the consultation and schools have flexibility in how it is conducted. Good practice is to consult with key stakeholders (e.g. staff, parents, pupils) at an early stage in the process so their views can be considered as part of the decision making process. Equality issues must be considered before conversion to an academy. It is recommended that all maintained schools share their consultation process and timetable with the Head of Children, Young People and Learning, Vicky Wales, v.wales@poole.gov.uk or write to Children, Young People and Learning, Dolphin Centre, Poole, BH15 1SA. This is because once a school starts consulting about a change parents often contact the local authority admissions team and it is helpful that a clear and consistent response is available from both the school and the local authority.

13. What is the process to convert to an academy?

The process usually takes between 3-4 months but may take longer if there are complicating factors such as joint or third party use issues which may impact on the school property transfer.

Governors will want to consider all the implications of becoming an academy before making such an important decision. It is sensible to set up a small working group / committee with clear terms of reference in place to gather the information the governing body needs to decide whether to apply for academy status and to arrange consultation with stakeholders. Members of the working group / committee should be agreed at a full governing body meeting, and would benefit from including the Headteacher and school business manager.

It is recommended that, subject to the school's governance rules, a special meeting of the full governing body is held to discuss whether to apply for academy status – the local authority does not advise that such a significant decision be relegated to an agenda item, or to any other business at a regular FGB meeting. No application for academy status can be made unless the governing body takes a resolution to do so by majority vote. Please note that the minutes of this meeting will be required by DfE as evidence.

You can find guidelines on the conversion process on the [DfE website](#). They usually appoint an adviser to guide you through the process once your application has been approved.

14. What are the land and asset transfer issues?

When the school becomes an academy a transfer of responsibility will take place on the land used by the school. In most cases this will be a long term (125 year) lease from the Borough to the Academy Trust. At that point the Trust (as the tenant) will take on all property related responsibilities from the Borough. The Trust will have

certain obligations to the Borough (as landlord) in terms of use and maintenance of the sites and buildings.

The other assets of the school which include the staff, contracts, other property and pupil records are also covered by the terms of the Academies Act and will transfer on the terms of a standard form asset transfer agreement.

15. Transfer of staff

The staff transfer is also subject to the Transfer of Undertakings (Protection of Employment) Regulations 2006 ('TUPE'). Once the agreement of the Secretary of State to the transfer to an Academy is obtained the Secretary of State advises that consultations with staff, unions and the employer should start as soon as possible, that you should ensure that any personnel files are kept fully up to date and that you have an accurate record of all staff employed at the school and their terms and conditions of employment.

Responsibility for the transfer of staff from the Local Authority to the academy, as the new employer, lies with the Local Authority as the current employer. The principles of TUPE are the same whether the transfer is arising from a conversion, the creation of a MAT or the joining of an existing MA. You must liaise with Human Resources, as the current employer's representative, to ensure the TUPE process is undertaken in accordance with the regulations. The TUPE process requires a process for consultation with affected staff and has defined timescales for the required transfer of large amounts of staff information, so early notification to HR is important.

There is a wealth of advice on TUPE matters which can be found by searching on the internet and BIS publish general guidance.

Your legal adviser will also advise you on the TUPE terms included in the asset transfer agreement.

16. Can an academy be closed?

Academies are still subject to Ofsted inspection. Any school which is not making satisfactory progress or does not meet expected standards is at risk of intervention just as it is in the maintained sector.

17. Can an Academy convert back to being a maintained school?

No, once a school has converted to Academy status there is currently no option for this to take place.

18. Can schools withdraw from the conversion process?

Schools are able to withdraw right up until the point that they sign the Funding Agreement. Once this is signed there is a legally binding agreement between the Secretary of State and the academy, and the termination would require a long notice period (seven years).

19. What should we do if we are thinking of converting to an academy?

Firstly, it is important that all governing bodies consider on a regular basis whether converting to an academy status will benefit the pupils of the school. You may as a governing body want to consider this on an annual basis. In considering this change as a governing body, you should set up a small group of governors who are committed to doing further research into what could be the advantages to changing status. It is recommended that a report is taken to a full governing body meeting which outlines both the advantages and disadvantages to making any change and also provides due consideration to what is the right time to make any change.

As maintained schools if you are considering such a significant change you are strongly recommended to alert the Head of Children, Young People and Learning, Vicky Wales, v.wales@poole.gov.uk or write to Children, Young People and Learning, Dolphin Centre, Poole, BH15 1SA. She or another appropriate officer may well attend your governing body meeting to support you with drawing together any business case you have for making a change.

20. Will Borough of Poole Council still provide support for academy governors?

Schools will be able to continue to buy into a number of Borough of Poole support services and details of these are available via the Governor Services Adviser, Luana Girling.

21. At which stage should we advise the local authority?

It would be helpful if you let us know if you are considering an application to convert to academy status as early as possible by emailing Vicky Wales. She will ensure that all who need to know do so, either to undertake necessary statutory transfer arrangements or to advise about future services offers.

Useful Resources

DfE Academy website - <https://www.gov.uk/government/collections/academy-conversion-process>

Freedom and Autonomy for Schools National Association (FASNA) website - http://www.fasna.org.uk/academy_conversions

Guidance to Becoming an Academy School in Poole

Poole Officers who support schools with the academy transfer process:

Head of Children, Young People & Learning v.wales@poole.gov.uk Tel: 01202 262261	Vicky Wales
Governor Services Adviser l.girling@poole.gov.uk Tel: 01202 633508	Luana Girling
Solicitor and Legal Services Manager d.goldsmith@poole.gov.uk Tel: 01202 262801	Diana Goldsmith
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Head of Accountancy n.webb@poole.gov.uk Tel: 01202 633296	Nicola Webb
Strategy Manager - School Admissions j.gale@poole.gov.uk Tel: 01202 261910	Julie Gale
Asset Planning & Development Manager i.johns@poole.gov.uk Tel: 01202 633501	Ian Johns

Summary of Functions Transferring to Academies

Table of ESG Duties	
Responsibilities local authorities hold for all schools (funding may be retained centrally from all schools with agreement of schools forum)	Responsibilities local authorities hold for maintained schools (funding may be retained centrally from maintained schools only with agreement of schools forum)
<p>Statutory and Regulatory duties</p> <ul style="list-style-type: none"> • Director of children’s services and personal staff for director (Sch 1, 20a) • Planning for the education service as a whole (Sch 1, 20b) • Revenue budget preparation, preparation of information on income and expenditure relating to education, and external audit relating to education (Sch 1, 20d) • Administration of grants (Sch 1, 20e) • Authorisation and monitoring of expenditure not met from schools’ budget shares (Sch 1, 20fi) • Formulation and review of local authority schools funding formula (Sch 1, 20g) • Internal audit and other tasks related to the authority’s chief finance officer’s • responsibilities under Section 151 of LGA • 1972 except duties specifically related to maintained schools (Sch 1, 20i) • Consultation costs relating to non-staffing issues (Sch 1, 20r) • Plans involving collaboration with other LA services or public/voluntary bodies (Sch 1, 20v) • Standing Advisory Committees for Religious Education (SACRE) (Sch 1, 24) • Provision of information to or at the request of the Crown other than relating specifically to maintained schools (Sch 1, 20w) 	<p>Statutory and Regulatory duties</p> <ul style="list-style-type: none"> • Functions of LA related to best value and provision of advice to governing bodies in procuring goods and services (Sch 1, 20c) • Budgeting and accounting functions relating to maintained schools (Sch 1, 20d) • Functions relating to the financing of maintained schools (Sch 1, 20e) • Authorisation and monitoring of expenditure in respect of schools which do not have delegated budgets, and related financial administration (Sch 1, 20fii) • Monitoring of compliance with requirements in relation to the scheme for financing schools and the provision of community facilities by governing bodies (Sch 1, 20h) • Internal audit and other tasks related to the authority’s chief finance officer’s responsibilities under Section 151 of LGA 1972 for maintained schools (Sch 1, 20i) • Functions made under Section 44 of the 2002 Act (Consistent Financial Reporting) (Sch 1, 20j) • Investigations of employees or potential employees, with or without remuneration to work at or for schools under the direct management of the headteacher or governing body (Sch 1, 20L) • Functions related to local government pensions and administration of teachers’ pensions in relation to staff working at maintained schools under the direct management of the headteacher or governing body (Sch 1, 20m) • Retrospective membership of pension schemes where it would not be appropriate to expect a school to meet the cost (Sch 1, 20n) • HR duties, including: advice to schools on the management of staff, pay alterations, conditions of service and composition/organisation of staff (Sch 1, 20o); determination of conditions of service for non-teaching staff (Sch 1, 20p); appointment or dismissal of employee functions (Sch 1, 20q) • Consultation costs relating to staffing (Sch1, 20r) • Compliance with duties under Health and Safety at Work Act (Sch 1, 20s) • Investigation and resolution of complaints relating to maintained schools (Sch 1, 20t)

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	<ul style="list-style-type: none"> • Provision of information to or at the request of the Crown relating to schools (Sch 1, 20w) • School companies (Sch 1, 20x) • Functions under the Equality Act 10 (Sch1, 20y) • Establish and maintaining computer systems, including data storage (Sch 1, 22) • Appointment of governors and payment of governor expenses (Sch 1, 26)
<p>Education Welfare</p> <ul style="list-style-type: none"> • Functions in relation to the exclusion of pupils from schools, excluding any provision of education to excluded pupils (Sch 1, 10c) • School attendance (Sch 1, 11) • Responsibilities regarding the employment of children (Sch 1, 29) 	<p>Education Welfare</p> <p>Inspection of attendance registers (Sch1, 11)</p>
<p>Asset management</p> <ul style="list-style-type: none"> • Management of the LA's capital programme including preparation and review of an asset management plan, and negotiation and management of private finance transactions (Sch 1, 10a) • General landlord duties for all buildings owned by the local authority, including those leased to academies 	<p>Asset management</p> <ul style="list-style-type: none"> • General landlord duties for all maintained schools (Sch 1, 10a (section 542(2) Education Act 1996; School Premises Regulations 2012) to ensure that school buildings have: <ul style="list-style-type: none"> ○ appropriate facilities for pupils and staff (including medical and accommodation) ○ the ability to sustain appropriate loads ○ reasonable weather resistance ○ safe escape routes ○ appropriate acoustic levels ○ lighting, heating and ventilation which meets the required standards ○ adequate water supplies and drainage ○ playing fields of the appropriate standards • General health and safety duty as an employer for employees and others who may be affected (Health and Safety at Work etc Act 1974). • Management of the risk from asbestos in community school buildings (Control of Asbestos Regulations 2012).
<p>Central support services</p> <p>No functions</p>	<p>Central support services</p> <ul style="list-style-type: none"> • Clothing grants (Sch 1, 10e) • Provision of tuition in music, or on other music-related activities (Sch 1, 15) • Visual, creative and performing arts (Sch 1, 16) • Outdoor education centres (but not centres mainly for the provision of organised games, swimming or athletics) (Sch 1, 17)

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Premature retirement and redundancy No functions	Central support services <ul style="list-style-type: none"> Dismissal or premature retirement when costs cannot be charged to maintained schools (Sch 1, 25)
Monitoring national curriculum assessment No functions	Monitoring national curriculum assessment <ul style="list-style-type: none"> Monitoring of National Curriculum assessments (Sch 1, 23)
Therapies No functions	Therapies <ul style="list-style-type: none"> This will be covered in the high needs section of the regulations
Funding from the Dedicated Schools Grant Budget proposal for the full financial year – see Table below	Retention from maintained school budget shares: Budget proposal for the 7 month period September 2017 to March 2018: Mainstream schools £33.54 per pupil Special School £142.53 per place.

05 April 2017