

Staffordshire County Council Introduction to becoming an Academy



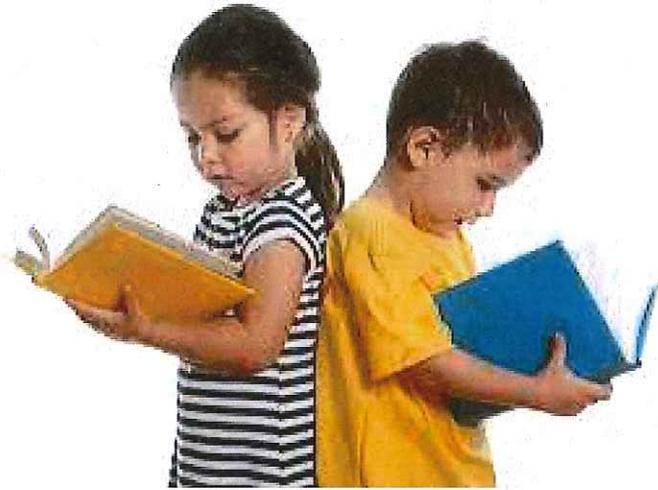
WWW.STAFFORDSHIRE.GOV.UK



Introduction

Every child deserves a good education. The right foundation of learning and skills is vital for our young people to access good jobs and live healthier, happier and independent lives.

Staffordshire's Learning and Skills Strategy sets out the way that Staffordshire County Council (the Council) wishes to engage with all schools and settings in our area to achieve excellence across the local education system.



The government's ambition is for all schools to become academies, to exercise the freedoms and undertake the direct accountabilities that greater autonomy bring. As the landscape changes the Council's role and relationship with schools adapts to reflect the duties transferred to trusts and governing bodies.

The Council's role focuses on:

- Leadership and Partnership – promoting collaboration and connectivity across the local system
- Fair Access and Infrastructure Programmes – supporting school place planning, fair access protocols, capital and transport policies
- Inclusion and Wellbeing – identifying and planning to meet the needs of those with special educational needs or pupils facing disadvantages
- Education Excellence – contributing to the drive for better standards and improved outcomes with pathways into good jobs and an independent adult life.

This short guide has been developed to assist schools in the process of converting to an Academies. In it we share the learning from early implementers and provide an outline of key steps and considerations to aid a smooth transition.

Moving from control to collaboration, united through collective ambition and with shared values and common goals, the Council is proud to work with all local schools and settings to promote the interests of children, young people and families within Staffordshire.

Executive Summary

Schools Converting to Academies - What to do when your school has submitted an application to the DfE

After your school submits a successful application to the DfE to convert to Academy status it takes an average of four months to reach the point of conversion.

In addition to the work that the school must do in order to convert, and the authorisations that the DfE must give, the Council has a conversion processes that it must carry out. When your school submits an application to the DfE to convert to Academy status you should at the same time notify the Council by e-mailing academies.trustfederations@staffordshire.gov.uk This will allow the Council to begin to plan the appropriate steps to aid your conversion.

Each conversion takes into account the unique circumstances of your school. The Council operates an Academies Board to co-ordinate activity that spans various departments including:

- HR;
- Finance;
- Payroll and Pensions;
- Legal Contracts;
- Property;
- Records, Data and IT; and
- Admissions and Transport.

Your school must appoint legal representatives to support you through the process. The Council also has to instruct its own legal representatives to act on its behalf in respect of the transfer of assets and land.

This guide is designed to help to deliver a smooth transition and to support your planning for post-conversion too.

Academies Act

What is an Academy?

Academies are publicly funded independent schools which benefit from a number of freedoms and flexibilities including:

- Greater control over the school budget;
- Freedom to spend money the Council currently spends on behalf of schools;
- Responsibility for all capital assets and their management;
- The ability to set pay and conditions for all staff;
- Freedom from following the National Curriculum; and
- The ability to change the lengths of terms and school days.

Who can convert?

All maintained schools that are performing well can submit individual applications to convert.

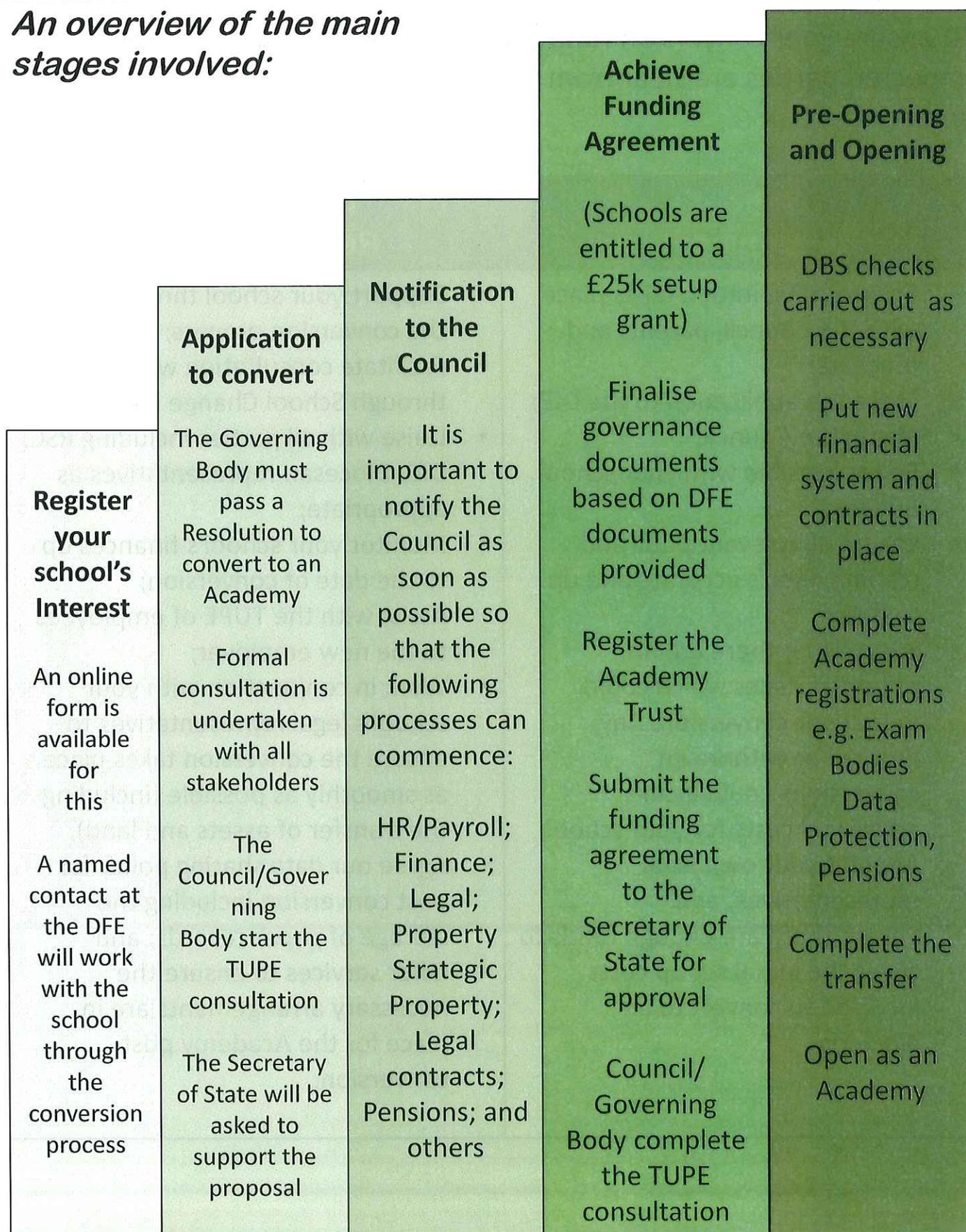
In addition, any school can apply with other schools as part of a formal partnership (Multi-Academy Trust), providing at least one is performing well. Alternatively, any school can join an existing Academy Trust with a proven track record of school improvement.

Schools that are identified by Ofsted as failing or who may be deemed as 'coasting' may be subject to an Academy Conversion Order. In such circumstances schools are "sponsored" by a Trust selected by the DfE.

Decision-making for academy conversion usually rests with the school's Governing Body and with approvals and authorisations from the Secretary of State, informed by the Regional School Commissioners (for the West Midlands).

The Conversion Process

An overview of the main stages involved:

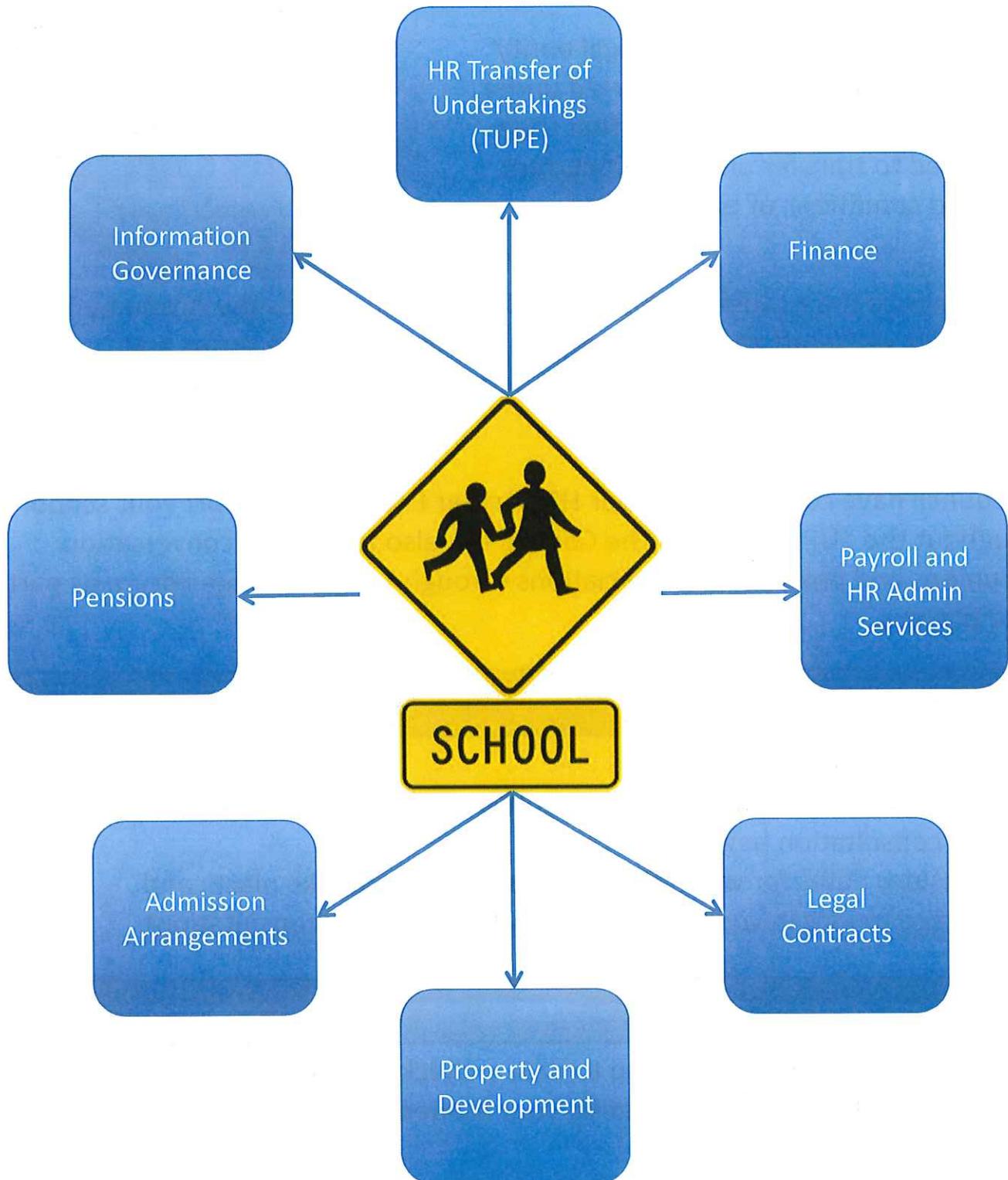


Conversion Responsibilities

To ensure your conversion runs smoothly, it is important that all impacted parties are clear from the outset what their responsibilities are...

School's Responsibilities	The Council's Responsibilities
<ul style="list-style-type: none"> • Ensure consultation takes place with the Council, parents and teachers; • Make the application to the DfE; • Notify the Council; • Be responsible with your school budget; • Ensure all relevant pupil and staffing data is accurate and up to date; • Ensure that there are no potential issues which could delay your conversion. Any delayed or withdrawn conversions could incur additional costs for your school; • Appoint your own legal representatives; and • Ensure there are enough funds to cover the initial set up costs incurred to convert to an Academy. 	<ul style="list-style-type: none"> • Support your school throughout the conversion process; • Facilitate consultation with unions through School Change Forum; • Liaise with all parties including RSC, DfE, Diocesan representatives as appropriate; • Monitor your school's finances up to the date of conversion; • Assist with the TUPE of employees to the new employer; • Work in conjunction with your school's legal representatives to ensure the conversion takes place as smoothly as possible (including the transfer of assets and land); • Agree our data sharing policy for post conversion including the storage of paper records; and • Offer services to ensure the necessary arrangements are in place for the Academy post conversion.

Departments Involved in your Conversion



HR – Transfer of Undertakings (TUPE)

An Academy Trust is a separate legal entity to which existing staff are transferred under TUPE arrangements. This means that they are entitled to transfer under their current terms and conditions of employment.



However, once the Academy is open, in some circumstances the Academy Trust may consult with staff and trade unions on changes to those terms and conditions, e.g. to vary the length of the school day or operate over different term times.

The Council have commissioned our HR partner Entrust to support your school throughout the TUPE process. The Council will also facilitate a conversation with unions and professional associations through School Change Forum as part of the process.

Do

- Ask questions;
- Ensure the data relating to your staff is accurate and up to date before the consultation begins;
- Consider dates for when the TUPE briefing could take place; and
- Engage unions in your plans at an early stage. (pre-consultation).

Don't

- Don't assume your data is up to date – check it. Incorrect data could lead to delays in you completing your academy conversion and also incur additional costs; and
- Don't forget that any staff absent, e.g.. on maternity leave, will also need to be consulted with.

Finance

The Council will provide you with information to determine the surplus / deficit position before and at the point of conversion.

When a maintained school converts to an Academy government legislation requires that the local authority determine the predecessor school balance within 4 months of the date of the conversion. The authority will produce a statement for the Academy which will include details of the budget and expenditure adjustments made in the determination of the balance. Once the determination has been agreed by both parties, the authority has a month to pay over the surplus balance.

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Academies receive the same basic level of funding per pupil as they would receive from the Council as a maintained school based on the Council's simplified funding formula.

They may also receive an allocation of Education Support Grant from the DfE for services and responsibilities which are no longer provided for them by the Council. Academies have greater freedom on how they use their budgets, alongside the other freedoms that they enjoy.

Do

- Confirm your budget arrangements from the point of conversion with the Education Funding Agency (EFA);
- Ensure you will have an appropriate financial system and new bank account in place;
- Confirm details of existing SLAs, contracts and outstanding loans as part of the Commercial Transfer Agreement (CTA); and
- Maintain effective controls on your school budget and spend so that you are positioned to transfer with good financial health.

Don't

- Don't assume that things will sort themselves out – talk to the EFA and the Council to clarify any queries at the earliest opportunity; and
- Don't run into deficit as you could risk losing control of your budget prior to conversion.

Payroll and HR Administration services

Under the conversion an Academy becomes an employer in its own right and is responsible for all PAYE requirements.

In conjunction with our partner Entrust we can provide an ongoing payroll (and transactional HR) service to you.



Please note your current payroll and transactional HR service includes:- Payroll calculations and payment, costing reports, Real Time Information to Tax Office, Pensions administration and returns for both Teachers and Local Government, contract and letter production, recruitment, pre-employment checks and guidance.

Do

- Get your Company registered and set up your new bank account, including BACS arrangements for your payroll;
- Consider how your new payroll arrangements will integrate with other systems e.g. your new finance system;
- Remember you will have additional responsibilities e.g. payroll sign off, pensions administration;
- Review the 'Buyer's' guide found within the schools budget pack on the Entrust Portal, to understand what is currently covered in your existing service, and compare with new service provision; and
- Communicate with us to assist a smooth transition.

Don't

- Be unrealistic with timelines - allow enough time for transition to a new payroll;
- Assume the services of all payroll providers are the same. Some are 'payroll' only; and
- Assume charges are like for like, some may be per contract rather than per employee.

Legal Contracts

Staffordshire responsibility of the Legal Contract's team throughout each individual conversion process is to prepare the Commercial Transfer Agreement (CTA). The CTA ensures that **all** school/staff information transfers to the Academy Trust.

The CTA will include assets or contracts that may/may not transfer to the Academy Trust.



- The Contracts team also need to identify and transfer the responsibility of any recently completed or on-going building works carried out at your school;
- The Contracts team carries out due diligence during the initial stages of drafting the CTA which can identify any existing contracts which need to be transferred to the Academy Trust such as catering contracts or building maintenance contracts;
- The Contracts team need to ensure that any outstanding loans your school has are novated to the Academy Trust by way of a Deed of Novation of Loan;
- The Contracts team liaise with the Legal Representatives of the Academy Trust together with their Legal Property colleagues to agree all documentation in line with DFE timeframes; and
- Once the CTA is completed, notice is served on the relevant parties to advise them of completion and to ensure that the relevant contracts are transferred to the Academy.

Do

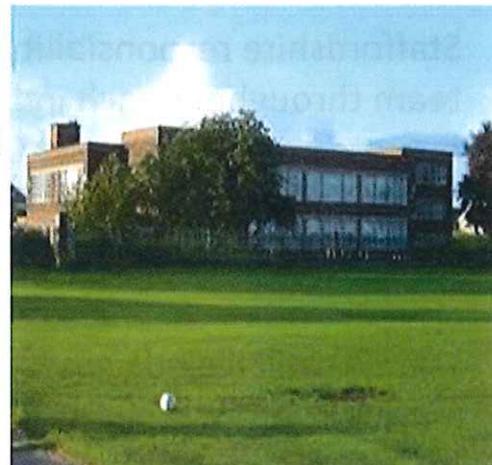
- Be aware that any loans your school currently have will be transferred to the Academy as part of the conversion.

Don't

- Don't delay in instructing your Legal Representatives.

Property and Development

Under the Academy conversion process the transfer of land and/or buildings held by the Council is undertaken by the Legal Property and Development Team. The Department for Education (DfE) has pronounced key principles for the protection of public land and to secure the future of Academies on site. Land and buildings occupied and used by a school at the date of an application to convert should be made available for the use of the Academy upon the conversion date. The designation of the school will decide the process. Usually the transfer is effected by a long lease of the school site and/or playing fields.



The lease is settled by agreement between the Legal Property and Development Team and the Academy Trust's legal advisers. The lease term is 125 years, fully repairing with a peppercorn rent. It is based on a long-term lease model suggested by the DfE and contains covenants imposed on the parties rights granted and reserved, repair and upkeep, insurance, risk protection arrangement issues and other property arrangements.

Do

- Note the DfE deadlines;
- Understand the extent of the school site and its current ownership;
- Recognise the position of children's centres, licenses and ad hoc arrangements that exist on the site that will reflect into property arrangements;
- Understand where there are community leisure or sporting facilities on site the need to negotiate suitable agreements with all parties;
- Prepare well, particularly in multi-academy or multi-site conversions; and
- Recognise that there may be some negotiation involved and compromise may be sought in regard to shared use.

Don't

- Don't forget that the council has a duty to fulfil in regard to protecting public assets for the future so has to act in the wider public interest;
- Don't under-estimate the complexity of some legal property elements – which vary case by case.

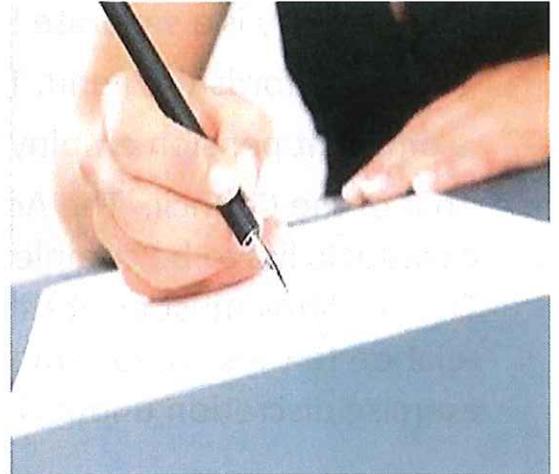
Admission Arrangements

As an Academy, you will become the relevant admitting authority for your school and as such will have responsibility for ensuring that your admission arrangements are fully compliant with relevant legislation and the statutory Admissions Code. This will include a requirement to determine your admission arrangements on an annual basis, and to carry out full consultation on any proposals to alter aspects of your admission arrangements or at least once every 7 years.

Academies are required to:

- be part of the Coordinated Admissions Scheme for admissions at the normal age of entry;
- participate fully in the Fair Access Protocol;
- inform the Council of all in-year applications and their outcome;
- ensure that parents are advised of their right of appeal against the refusal of a place and to ensure that those appeals are heard by an Independent Appeals Panel.

The School Admissions and Transport Team are available to offer advice and guidance on any school admission related query.



Post conversion, the Council offers a service which supports and assists Academies with the application of individual admissions criteria where a school receives more applications than places available at the normal age of entry.

The Council also offers an SLA which covers certain aspects of the independent admission appeals process.

Do

- Ensure that you are fully conversant with the Admissions Code and associated Admission Appeals Code;
- Ensure that your admission arrangements are included on your website and are forwarded to the School Admissions & Transport Service; and
- Consider what systems and arrangements you may need to put in place in order to apply your admissions criteria in cases of oversubscription.

Don't

- Don't propose any changes to your admission arrangements without ensuring that the requirement of the Admissions Code are followed and the School Admission and Transport Service are notified.

Pensions

An Academy is a separate Scheme Employer in the Staffordshire Fund. The Academy will have a different pension employer contribution rate to that of the Council. The Academy will be asked for a contacts list to be completed by Pension Services. The academy must establish its pension policies in relation to those areas where the Academy can exercise discretion under the pension regulations.



The Academy will need an actuarial statement from the Fund actuary to establish their funding position as a new employer. Pension Services arrange this when the final TUPE list has been established. The Academy must comply with the Local Government Pension Scheme Regulations as an employer. The employer is responsible for notifying Pension Services of:

1. Changes to employees records, for example, change of address, change of contractual hours, absence without pay, etc.
2. Notification of new employees
3. Early leavers and retirements

If the Academy is continuing to use the Council as its payroll provider the above transfer of information happens automatically.

It is the Academies responsibility to ensure that its payroll provider has the resource to manage the employer role in respect of pensions administration.

An Academy that awards an existing contract to a new contractor must ensure any TUPE transferred employees continue to have access to LGPS through an Admission Agreement.

Information Governance

Records created before and up to the Academy conversion date are generally the responsibility of the Council.

Therefore records must be transferred to the Council, with the exception of the following:

- Current employee records;
- Current pupil records; and
- Former employee records where the Governing Body was the employer and not the Council.

Do

- Read through the leaflet – *School to Academy Conversion Process Information Governance Requirements* – which is provided as part of your Conversion Pack. This contains support and more information in regards to your IG responsibilities during the conversion process;
- Check what records you have which are relevant and process in accordance with the leaflet instructions; and
- Consider signing up to the service with Entrust to continue to receive Information Governance support, for example in regards to Data Protection Act and Freedom of Information Act.

Don't

- Don't forget that the appropriate management of records, disposal and transfer, is an important aspect of the conversion to an Academy and it requires compliance with information security and legislation; and
- Don't neglect planning and arrangements for your records management systems post-conversion.

Core and Traded Services

The Council, in conjunction with its partner Entrust, continue to offer a wide range of services at a competitive rate and we will be happy to provide you with further insight around the options available to you. This includes

Services which the Council has a statutory responsibility to provide such as SEN assessment and planning, school organisation, participation and inclusion, safeguarding etc.

Core services which are currently provided through collective agreement at Schools Forum with no direct cost to individual schools e.g. preventative services, school improvement, collection and provision of data and some aspects of health and safety.

Traded services currently bought back by schools and Academies (e.g. Legal Services, Finance, HR and Payroll, E-learning and Information Management, Health and Safety, Governor Services, management and support of NQTs, a range of courses and Admissions);

www.staffordshirelegalservices.org.uk

Further information is provided in the buyer's guide which will be available via Entrust

www.entrust-ed.co.uk

Costs to Convert

A conversion to an Academy is a time consuming process for the Council. Each conversion costs the Council an average of £12,000.

It has been agreed that the Council will seek a flat rate contribution of £6,000 per school conversion. This is based on the rationale that this represents half of the average cost of the Council's activity to undertake the conversion process, and is a sum affordable within the grant of £25,000 that each converting school receives to facilitate their conversion.

This will mean that the Council can:

- Provide the capacity needed to manage the Council contribution to the conversion process more effectively in support of the school's decision;
- Manage the cost pressure on the Council of more schools converting to become an Academy requiring additional short-term capacity; and
- Process conversions in an efficient manner to support schools in their change of status to reasonable timescales.

Your school contribution will support the areas of activity set out in this guide. The County Council will also continue current resources and fulfil all statutory duties related to conversion. Any additional services or support requested by your school or Trust will be subject to individual negotiation and agreement.

This contribution will take effect and apply to schools where an Academy Order is issued after 1 April 2016.

Further Support

This guidance document is only intended to provide a brief overview of what your school can expect when applying to convert to an Academy.

Pre Conversion

Whilst converting, if you have any issues or problems then in the first instance please contact:

Geoff Crockett, County Education Manager

t: 01785 854064 e: geoff.crockett@staffordshire.gov.uk; or

Sam Ward-Best, Governance Assistant

t:01785 276006 e: sam.ward-best@staffordshire.gov.uk

Post Conversion

Post conversion, it is important that relationships are maintained to support the school's contribution as part of our local network and community of schools in Staffordshire.

Our framework sets out roles and responsibilities post conversion to assist us in maintaining healthy relationships that continue to put children's education first across Staffordshire.

Click here to see our Partnership framework in more detail

www.staffordshire.gov.uk/partnerships

Useful Links

<https://www.gov.uk/guidance/convert-to-an-academy-information-for-schools>

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