

Church Schools Converting to Academies

All Church Schools wishing to convert to an Academy must have the consent of the Diocesan Board of Education (DBE). They will apply to the Regional Schools Commissioner who will expect them to join or form a Multi-academy Trust (MAT).

A Church School which converts to an academy will automatically maintain its religious designation.

MATs are exempt charities. This does not affect the charitable status of any existing trustees (who own the land and buildings), nor does it replace them. The existing trustees still have a duty to maintain the purposes of their Trust under charity law and specifically the duty to ensure the continuation of the Church of England character and ethos of the school. The appropriate documents for church schools which guarantee this are now available on the DfE website. The DBE would need to consult our legal advisers before agreeing any changes in individual documents.

Obtaining DBE approval

Before supporting a church school wishing to obtain academy status, the DBE will need to be satisfied that:

- Converting to an academy is in the best interest of the school, its pupils and the wider context in which the school operates. Schools must present a very clear rationale for changing their status which will benefit the student population, improve educational outcomes and be supportive of the wider community;
- It is appropriately represented at both member- and director-level on the MAT. The number of representatives required will be dependent on the size of the academy trust and will be discussed with each school. It will expect other founding members to include corporate members and will require strong evidence to support any variation from this (It is the members who appoint the directors who then appoint members of local governing bodies or advisory committees);
- The academy agreement and Memorandum and Articles of Association are those provided for Church of England schools;
- Appropriate arrangements are in place for the use of the land and buildings as an Academy. This will be by a long term lease or licence. Further advice is available from the DBE;
- The consultation processes demonstrates widespread support for the proposal, including from any other body who appoints governors.

There are three different consultations that need to be undertaken:

1. **A general consultation:** It is the governing body who will determine the exact nature of this consultation. (The DfE have produced guidance for schools about the consultation process.) The DBE expects that a wide consultation should be the norm. Documentation used in the consultation should be copied to the DBE. The DBE will expect schools to consult widely with staff, parents, students, the community and the parish(es) 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;
 - b. the impact on other schools in the area; and
 - c. the impact on the ethos of the school.

This consultation gives no one the power to prevent the change in status.
 2. **TUPE consultation:** The governing body (or LA for controlled schools) must consult the staff in respect of their prospective change of employer, as the MAT will employ the staff after conversion. The DBE advises that aided school governors obtain legal advice as to the appropriate way to conduct the TUPE consultation. The terms and conditions of existing staff will be protected under TUPE and the effect of this should be carefully noted.
 3. **Foundation consultation:** The governing body must consult the school trustees and with all those bodies who appoint foundation governors (always the DBE, usually the local PCC and sometimes trust bodies – check your Instrument of Government). Schools should note that the agreement of each of these bodies separately and independently is required. The trustees and the appointing bodies each have an absolute power to prevent the school converting if they feel that it would not be right for it to do so. It is not a majority decision.
- The school can demonstrate its commitment to collaborative working, particularly with the DBE and the wider school family;

- The proposed admissions policy is legal, appropriate, acceptable, inclusive and in accordance with DBE guidance (schools which currently admits pupils, or a portion of pupils based on faith will be able to retain those arrangements). It is essential that schools examine these issues with the greatest of care to ensure that they, the DfE and any trustees and the DBE are all clear and happy with the admissions position after conversion;
- There is a viable business plan, a due diligence exercise has been carried out and all risks arising mitigated. The business plan (covering both recurrent and capital aspects) must demonstrate continuing viability and must recognise the consequences on resources and capacity associated with the extra portfolio of duties the school will take on. Schools should obtain a very clear statement from the Local Authority about the extra money they will receive, the services they will forfeit and the cost of buying in services. A range of providers should be considered in order to get best value. Schools will have to watch out for past and future pension deficits (particularly for non-teaching staff), which will become their individual responsibility. Consideration must be given to the impact of any future change in pupil numbers on the overall budget of the academy. Governors should consider the source of future support for teaching and learning should this be required. The DBE is particularly concerned about the ability of small schools to cope with the additional burdens;
- The school agrees that any extra costs incurred by the DBE (for example legal costs) in establishing the academy will be borne by the school, using its own funds and the £25k set up grant available from DfE.

Considering applications for a change of status: the process

Before making an application for academy status, school governing bodies and headteachers should consider thoroughly a number of issues and be prepared to discuss these in detail with the DBE and other relevant parties.

1. The decision to explore the possibility of conversion into an academy must be taken at a properly called meeting of the governing body with this item explicitly on the agenda.
2. It is advisable to allow sufficient time before the meeting for the DBE, your school trustees and any other especially interested parties to be made aware by you that the subject will be raised.
3. All bodies appointing foundation governors must be consulted and all must take their own independent decision whether to agree (with or without conditions) or oppose academy conversion. It is important to remember that bodies appointing the foundation governors include those who appoint any ex-officio governors. All church schools must seek the consent of the DBE before submitting an application to become an academy. It is not sufficient for the actual foundation governors of the school to give their approval.
4. Having taken a decision to explore the possibility of conversion, the governing body should discuss the matter in detail with the trustees the school as they have a responsibility to act so as to preserve their trust and its purpose. It is important to note that trustees of any Church of England school also must consult separately the DBE about the use of their land by the MAT.
5. Each appointing body and the trustees should provide the school with written confirmation if they agree to the academy conversion. Please note that the Regional Schools Commissioner is unable to allow the governing body to proceed without these documents.
6. If a school decides to progress to a formal application, the DBE will examine each potential application for academy status with care and in relation to the principles set out above.
7. The DBE will act as a neutral critical friend in the process, seeking to ensure that a good decision is made by and with the school. However, thinking at diocesan level will also be driven by the bigger vision for the purposes and delivery of church schools
8. The DBE Directors will consider applications for academy status. Forms are available from sue.noakes@chester.anglican.org. The DBE will notify the Chair of Governors, Headteacher and DfE project lead of the outcome as soon as possible.
9. If provisional consent is granted, the DBE will require assurance that all conditions find expression in the draft Funding Agreement, the Memorandum and Articles and arrangements for the use of land. Key documents will only be signed by the DBE when the DBE Directors are content that all conditions have been met.
10. DBE officers will then establish mutually agreed monitoring arrangements.