

There is a requirement within the Academies Act 2010 to consult prior to conversion to academy on the question of conversion. The requirement does not prescribe who should be consulted, or the length of consultation required. However, the advice below takes into account the general law on public consultation.

The law

Where a consultation is undertaken it should be:

- undertaken when proposals for the subject of the consultation are at a formative stage
- provide enough information to those consulted to enable them to comment intelligently on the proposals
- allow enough time for those consulted to enable them to properly consider the proposals
- consultation responses should be specifically considered by the decision maker when deciding whether or not to implement the proposal

When should consultation take place?

It is up to you whether you run the consultation exercise before or after receipt of the Academy Order. However, consultation must be completed before the funding agreement is signed.

Who should be consulted?

We would recommend that the following groups should be consulted as a minimum:

- parents/carers of pupils at the school
- for secondary, parents/carers of pupils in years 5 and 6 of any primary schools in the area
- for primary, parents/carers of pupils offered a place at the school for the next academic year
- staff working at the school and any staff due to be employed at the school from the next academic year
- for secondary, pupils at the school
- the wider local community

In addition, schools will need to consider whether there is any other organisation, person or group who should be consulted about the proposed conversion.

How should these groups be consulted?

We recommend that letters are sent to the parents of pupils. The letter does not need to contain every last detail about the proposal, and can refer the reader to the school's website/other information source. Information should also be placed on the school's website to enable parents, and wider members of the local community, to access details of the proposal. **Precedent wording is attached below.**

In addition, some schools are proposing to hold a meeting at the school for parents/interested members of the wider local community to get more information/ask questions. If it is possible to hold a meeting within the timescales available, we would recommend that one is held.

In relation to staff, we recommend that meetings are held. Schools have found that making a PowerPoint presentation can be useful. Note that unless changes are being made to the staff's terms and conditions these meetings do not technically form part of the TUPE process (because in circumstances where pay and conditions are not being changed TUPE simply requires staff to be 'informed' of the change in employer etc in writing), although clearly many of the staff's interest/concern will focus around employment issues.

We anticipate that in all cases schools will be explaining the proposed change to their pupils in assemblies, or other similar forums. For secondary pupils it would be sensible to advise them that they can make representations as part of the consultation process and provide them with details of how to do this.

What information should be provided as part of the consultation?

As set out above, the consultation should provide enough information to those consulted to enable them to comment intelligently on the question of **whether the conversion should take place**.

It is acceptable for the consultation document to set out the preference, or predisposition of the governing body, in relation to the question of conversion. For example, if a school has already decided in principle that it wishes to convert to an academy, this can be explained in the consultation document. The school may also wish to set out what it regards to be the advantages of academy conversion, but should make it clear that this is opinion rather than fact. In addition, the school may wish to indicate how the governors intend the academy to be managed following conversion. It should though ensure that no promises are made in this regard which would restrict the freedom of the academy to make operational decisions in the future.

Other than setting out the school's predisposition or preference, and opinion on advantages and disadvantages (which should be clearly expressed as opinion), the consultation document should clearly set out factually accurate and neutrally expressed information about what conversion means. Sufficient information should be provided to enable those consulted to comment intelligently on the process. It is also generally sensible to provide references to other available sources of factually accurate information in order that consultees can also scrutinise those sources.

If a school is aware that its consultation is likely to be closely scrutinised by the unions or other stakeholders, schools may choose to retain a neutral stance throughout the consultation process on the question of whether or not conversion is a 'good thing' for the school as this may be a less controversial stance to take. However, as set out above, adopting a position on the proposal is not unlawful. The important thing is that if a position on a proposal is adopted, the school does not appear within the consultation document to have pre-determined the question of whether or not conversion should go ahead,

the rationale behind any position adopted should be explained as being the view of the school, and the consultation document should also contain sufficient accurate and unbiased information about conversion. As mentioned above, precedent documents are attached for use by schools. These documents assume that the school has already made a preliminary determination that conversion should take place. If this is not the case, the precedents will need to be refined to match the particular circumstances at the school.

How long should the consultation run for?

We recommend a consultation period of 4-6 weeks, which should take place during term time.

Consideration of responses?

Responses must be formally considered before the funding agreement is signed. If significant numbers of responses are received, these should be summarised in a report.

The responses can be considered at the governing body meeting at which the decision is taken to sign the funding agreement, prior to that decision being taken, or at an earlier governing body meeting. Even in schools where an academy working party (sub-committee) has been set up, we would suggest that the consultation responses are considered by the full governing body either at the meeting at which the articles and memorandum are approved, or at the meeting at which the funding agreement is approved (which in both cases we would advise are full governing body decisions). The fact that the consultation responses were considered should be properly minuted in the minutes of the relevant meeting.

Report to DfE?

The DfE requires confirmation that consultation has been completed prior to the signing of the Funding Agreement by the Secretary of State. You will only need to provide a simple account of what consultation took place and when.

The information provided within this document, and the attached precedent documents is generic advice which is not tailored to the needs of a specific school. If a school is concerned about consultation issues we would suggest that specific advice is sought. The precedent documents assume the school has applied for an Academy Order and is applying as a single outstanding/good with outstanding features school. Alternative models/scenarios should not rely on the precedents.

The information provided in this document is accurate as at **April 2017**.

precedent wording for a school's website

As you may already be aware, the governing body of the [] has applied to become an academy under the Academies Act 2010. The governing body is now consulting on whether the school's conversion to academy status should take place. Further information about what becoming an academy means, and how to comment on the proposals, is set out below.

Will [] definitely become an academy?

The governing body has submitted an application to convert to academy status and is working towards a conversion on []. However, the school is not obligated to become an academy until the contract between the academy trust and the Department for Education (known as the Funding Agreement) is signed. The governing body has not even begun to negotiate the Funding Agreement with the DfE yet.

The academy trust will not sign the Funding Agreement until parents and carers of pupils at the school [and in years 5 and 6 of our feeder primary schools,] staff at the school, and pupils themselves have had the opportunity to comment on the proposals. We have written to all parents and carers and have also invited them to a meeting on [] at [], to learn more about the proposals to become an academy, or to comment on the proposals.

We have also held meetings with staff, and will be keeping pupils informed throughout the process. Any comments or representations which are made about the proposals will be considered by the governing body before a decision is taken to sign the Funding Agreement. Details of how to provide comments and representations are set out below.

The governing body will not sign the Funding Agreement unless they are content that conversion would be in the best interests of the school taking account of all of the legal and practical ramifications.

What is an academy?

An academy is essentially an independent school which is funded by the state. It is independent of the local authority and receives its funding direct from central government.

Previously academies have tended to replace schools which have poor results or otherwise needed to improve. Under the Academies Act 2010, all schools are able to become academies. As [] is a ['outstanding'/'good with outstanding features'] school we can apply without being part of a group of schools, and without a sponsor.

What are the benefits of being an academy?

- **academies are independent of local authority control** - this means that academies have more freedom about how they conduct themselves
- **academies receive their funding direct from central government** - this means that academies receive more funding because none is retained by the local authority for the provision of central services
- **academies have more freedom over the curriculum taught** - this means that academies do not need to teach parts of the National Curriculum which they do not consider is appropriate for their pupils
- **academies can set their own pay and conditions of service for their staff** - academies have the freedom to alter the pay and conditions of their staff (subject to normal employment law protections for staff) and so can provide staff with better pay and conditions than previously
- **academies have more freedom to undertake innovative projects** - academies are companies and so have more freedom to undertake innovative projects, such as setting up and utilising trading subsidiaries

Are there any disadvantages to becoming an academy?

As an academy we will be directly liable for matters such as insurance, employment liabilities, pensions, health and safety, and, property maintenance. However, as mentioned above, academies receive more funding from central government to help them meet these additional costs.

Will the admissions arrangements change?

[As a [foundation/trust/voluntary aided] school [] already deals with its own admission arrangements. As an academy, it would still deal with its own admission arrangements and would also still be bound by the national admissions code, and Admissions Appeals Code. Accordingly, there will be no change in the way in which the admission arrangements are set if the school becomes an academy.]

[As a [community/voluntary controlled] school []'s admissions arrangements are set by the local authority, and the local authority also decides which pupils should be offered places at the school. As an academy, we will be in a position to put in place our own admission arrangements, and decide which pupils should be offered places in accordance with those arrangements. The academy will still be bound by the national admissions code, and Admissions Appeals Code.]

The current admission arrangements will remain in place for the time being. If the academy wanted to change its admission arrangements consultation would be required.

Will staff leave?

If the school converts to an academy, all staff currently employed by the [school/local authority] will automatically transfer to the new academy on their current pay and conditions. Although the academy will have more freedom to amend those pay and conditions in the future, the Governing Body does not intend to take such a step in the foreseeable future and in any event, any change to pay and conditions would need to be consulted upon with staff representatives.

Will [] change?

We want to continue to be an outstanding school. We therefore do not intend to change [] except in ways which we think will improve the school even more. For students, it is unlikely that they will see much, if any, change in their day to day school lives. Academies do have the power to vary their curriculums and vary the length of the school day, however, we do not intend to take any such steps at this stage and would engage with parents/carers, staff and students if we did ever intend to make such changes in the future.

How can I find out more?

A meeting will be held at the school on [] at []. We would encourage you to attend if you have any questions, or simply want to learn more.

There is also more information about academies on the DfE website:

<http://www.education.gov.uk/academies>

If you can't find the answer to your question here, or on the DfE website, and cannot attend the meeting on [], please email [insert contact details] who will try to assist.

How can I make representations?

To respond to this consultation on whether the conversion of the school to academy status should take place:

Representations can be made in writing to:

[address]

Or by email to:

[email address]

The closing date for representations to be made is [].