

# Converting from voluntary aided or voluntary controlled to academy status

## What are voluntary controlled and voluntary aided schools?

Voluntary controlled and voluntary aided schools are local authority maintained schools which are supported by a charitable (normally religious) foundation. There are however key differences between the two categories of school:

### Voluntary controlled (VC)

The local authority of a VC school employs the staff working at the school and acts as the school's admissions authority. Whilst the governing body of the school will manage the school's land and buildings, the land is normally owned by the charitable foundation, with the exception of the playing fields which are normally retained by the local authority.

The foundation will appoint some governors, normally a minority, to the governing body of the school but is unlikely to have financially contributed towards the costs of establishing the school or purchasing the land used by the school.

### Voluntary aided (VA)

The governing body of a VA school employs the staff working at the school and acts as the school's admission authority. Again, the land and buildings (other than the playing fields which are normally retained by the local authority) are normally owned by the foundation.

The foundation will appoint the majority of Governors to the governing body of the school and is likely to have contributed financially to the costs of establishing the school and any capital projects.

## Is VA or VC status a barrier to academy conversion?

Until recently the foundations attached to VC and VA schools were, along with the National Society and Catholic Education Service, reluctant to promote and support the conversion of VC and VA schools into academies without assurances from the Department for Education (DfE) that the religious ethos and assets of these schools would be protected.

However the DfE has recently published various model legal documents which have been approved by the National Society and Catholic Education Service, opening the door for VC and VA schools to acquire the freedoms and responsibilities that come with being an academy. However, there are still some specific factors which the governing bodies of these categories of schools should take into account when considering conversion to academy status.

## Consultation

The Academies Act 2010 requires all VC and VA schools to obtain the consent of their foundation, as the owner

of the school's land and buildings, before the schools can apply to the Department for Education for approval to become academies. It is expected that now the issues which were concerning the National Society and Catholic Education Service have been resolved, the foundations of voluntary schools should be open minded about approving proposed applications from VC and VA schools.

### **Governance**

Whereas a maintained school has only one level of governance (the governing body), academies have two levels of governance - the members of the academy trust itself and governors of the academy trust, the body which actually runs the academy.

It is anticipated that the foundation of a VC or VA school will have a role to play in both levels of governance and that the degree of involvement of the foundation in the academy trust should mirror the level of involvement the foundation had in the maintained school which the academy replaced. Whilst the exact detail should be a matter of early discussion between the foundation and the school, it is expected that:

For VC schools, the foundation will appoint:

- one or more members and
- a minority of the governors of the academy trust

For VA schools, the foundation will appoint:

- a majority of the members and
- a majority of the governors of the academy trust

Several versions of the governing document of the academy trust have been drafted by the DfE and agreed by the National Society and Catholic Education Service and the selection of the right version and tailoring it to meet the needs of an individual school and the requirements of the foundation will be vital to ensuring the ongoing support of the foundation and, ultimately, the success of the academy.

### **Retaining a religious ethos at the academy**

Both the governing document of the academy trust and also the funding agreement, the legally binding contract entered into between the academy trust and secretary of state which determines how the academy should be operated and funded, have been tailored by the DfE, the National Society and the Catholic Education Service to ensure that the religious ethos of a voluntary school is protected.

In addition, certain provisions set down in the School Standards and Framework Act 1998 affecting voluntary schools in relation to reserved teachers, the religious beliefs of staff, the teaching of religious education and the requirement to provide collective acts of worship have been duplicated in the funding agreement, albeit with a few minor amendments.

In terms of the Memorandum and Articles of Association, the academy trust's governing document, the

charitable purpose of the academy trust (which has remained substantially unchanged for every academy established to date) has been amended for voluntary schools to include a reference to require the teaching of religious education and daily worship. Several other provisions now require the governing body to seek the consent or advice of the foundation before taking certain key steps.

Finally, should the any party require further reassurance, there is supplemental agreement which the secretary of state has agreed to enter into at the request of a foundation or school. This document provides further information on various issues including the use of land by the academy, the protection of public investment in the land, the secretary of state's powers to intervene in an academy and the importance of an open and frank dialogue between all parties.

## Land

Unlike foundation schools which convert to become academies, it is not expected that the freehold of land held by a foundation of a voluntary school will transfer to the academy trust on the school's conversion. Instead, as with community schools, a 125 year lease will be entered into by the foundation and the academy trust and the freehold ownership of the land will remain with the foundation.

## Conclusion

With the recent publication of precedent legal documents approved by the relevant religious bodies, the door to academy status has finally been properly opened for all VC and VA schools. However governing bodies of voluntary schools thinking of converting should open a dialogue with their foundations as soon as possible not only with a view to acquiring the consent necessary for them to make an application for academy status but also in order to identify the foundation's opinion on the above issues and identify potential problems early on so that an appropriate conversion project plan can be agreed.

talk to us...

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