

special school academy conversion

This briefing note provides further information on the conversion of special schools under the Academies Act 2010.

Characteristics of special academies

On conversion to academy status, a special school will become a 'special academy'. Like any other academy, a special academy will be able to enjoy certain freedoms associated with academy status. These include more freedom around the delivery of the curriculum and a move away from local authority control.

The legal structure of the academy will be the same as for other academies. An academy trust will be established and registered as a company limited by guarantee at Companies House. This company will have members and governors. The numbers and categories of members and governors will be set out in the articles of association, the academy trust's governing document.

Certain characteristics of the special school that existed prior to conversion will remain the same once it becomes a special academy. For example, the funding agreement sets out that the academy is established to make special education provision for pupils with special educational needs ('SEN') and that it will make this provision in certain categories. These categories will be the same categories of SEN designated to the school prior to conversion.

Conversion documents for special schools

The conversion process for special schools is very similar to the process for mainstream schools. However, the Department for Education ('DfE') has prepared a suite of model documents which are specific to special schools. The standard model articles of association are now suitable for both mainstream and special academies but there remains a bespoke single funding agreement for standalone special school convertors. There is also a specific admissions annex to the funding agreement for special academies which reflects the admissions law that applies to maintained special schools.

Funding

General

Like other academies, special academies receive their basic funding direct from central government, rather than via the local authority. Funding arrangements has proven to be the area which has prompted the most questions from special schools, who understandably want clarity and reassurance from the DfE regarding funding calculation and levels. The DfE is keen to emphasise the principle that special academies should not be financially disadvantaged through converting to academy status.

Numbers used to calculate funding

Special academies receive General Annual Grant ('GAG') to cover running costs of the academy. The 'planned number of places' at the academy will be set out in the funding agreement and the Secretary of State will consult the school and the local authority in deciding what figure will be used for these purposes. However, the funding agreement is clear that this planned number of places is itself not determinative of the amount of GAG that the academy will receive. While the GAG calculation will therefore take account of the number of pupils at the academy, the funding agreement is worded more widely to state that the determination will be made taking into account 'relevant factors'.

The level of funding will be set out in the Annual Letter of Funding. Schools should take care to examine this and the indicative letter of funding which they will receive in advance of conversion carefully and notify the EFA without delay of any apparent errors.

In-year adjustment

For special schools, it is likely that pupil numbers will fluctuate during a financial year. The special school funding agreement states that the Secretary of State may make a GAG adjustment in-year if the number of pupils attending the special academy falls below or above certain thresholds. These thresholds should be set out in the Annual Letter of Funding each year. However, note that the decision to make the adjustment is at the discretion of the Secretary of State, there is nothing in the funding agreement which places an obligation upon him to do so. In practice, the position seems to be that this will be discussed at a local level between the Education Funding Agency ('EFA') and local authority, with the intention being to replicate as closely as possible the arrangements that that were in place when the school was maintained.

Particular issues for special schools to consider

In addition to the usual matters to be dealt with during the conversion process, based on our experience of successful special school conversions to date, we encourage special schools to also consider the following:

- prepare for the fact that funding will be received from both the EFA and the local authority. To assist with managing budgets and cash flow as an academy, schools may find it useful to discuss in advance the arrangements for recovery of the high needs top-up funding with the relevant local authorities. This is particularly prevalent where a school is dealing with multiple commissioning local authorities and will therefore need to manage recovery from various agencies
- look to engage the local authority and EFA in agreeing the number of planned places at your school as soon as possible - disagreement over this figure can sometimes cause delay to conversion
- it is usual for special schools to have a higher percentage of support staff than mainstream schools. In light of this, special schools should consider that, on conversion, they will become a scheme employer in the Local Government Pension Scheme ('LGPS'). We recommend you contact your pension authority early on in the conversion process to ascertain your employer contribution rate into the LGPS.

Talk to us...

We have supported a number of special schools on their conversion to academy status and are familiar with the particular issues special schools face and the matters they need to consider before, after and as part of the conversion process. Please do not hesitate to contact one of our specialists if you would like further information on special school conversion.

talk to us...

Adrian Shardlow | 0115 976 6091 | Adrian.shardlow@brownejacobson.com

Katie Michelin | 0115 976 6189 | Katie.michelon@brownejacobson.com



brownejacobson
education advisors