

Academisation Frequently Asked Questions

The following are outline responses to frequently asked questions. They are not legal opinion or advice. **Individual governing bodies, academies and MATs are advised to seek independent legal advice on their context.**



DIOCESE OF
CHICHESTER
EDUCATION DEPARTMENT

1. GENERAL

What does the diocese recommend?

We do not make a direct recommendation as we trust our governing bodies to make informed and appropriate decisions on behalf of the community they know and serve:

It is our expectation that:

1. At least once a year each Church school governing body actively considers academy status in a minuted agenda item.
2. Governors are fully aware of the Diocesan Board of Education's Academy Policy and our position in relating to the priority of joining one of our Diocesan led options.

What does a Multi Academy Trust (MAT) mean?

A MAT is a limited company and charitable trust which cannot make a profit. It has Members, Directors/Trustees who are responsible for the running of the MAT and the member academies within the MAT. They are also directly accountable to the Secretary of State through the Regional Schools Commissioner.

A MAT is set up to support and build a collaborative family of academies in a particular area. The Directors of the Trust generally appoint a Local Governing Body (LGB) for each academy within the Trust based on the specific context of the individual academy.

Most decisions lie with the MAT although they will delegate some roles and responsibilities through a Scheme of Delegation to each Head or Principal and LGBs of member academies, based on their individual context. Governors need to ensure they understand how this is carried out in each MAT they are considering.

Who can convert to academy status?

All schools may convert to academy status. Some will convert by choice 'converter academies', whilst vulnerable schools may be the subject of a Directive Academy Order (DAO) and may be 'required' to convert and be 'sponsored' by the MAT until they reach the required level of outcome.

Will we still be a Church school?

Yes. The Diocesan Board of Education (DBE) proactively and positively supports and engages with all their schools, regardless of their status and the statutory responsibilities of the DBE as described in the DBE Measure will still apply.

The legal documentation (approved between the Church of England Education Office (CEEO) and the DfE) include safeguards to protect the Diocesan Board of Education's position as Diocesan Authority, and preserves the character, ethos and status of Church schools upon conversion (the MOU).

On conversion Church academies still require the formal approval of the Diocesan Board of Education to any alterations to the academy site at any time.

Can we choose the MAT we join?

Please see the Diocesan Board of Education Academies Policy. The Diocesan Board of Education must give its consent for any school to convert to an academy. The policy states that schools will only be able to join a non-church led MAT once all diocesan options have been exhausted.

Early discussion with the Diocesan Director of Education or with one of the two Assistant Directors is essential.

If we join a MAT, can we move MAT in the future?

It is possible to be re-brokered into another MAT. However, this will be based on the context and the legal and funding implications.

Can we convert into a MAT in another Diocese?

Mixed diocesan MATs do exist and any discussions for this potential should take place with the Diocesan Director of Education at an early stage in negotiations.

1. GENERAL

If a community school joins a Church MAT does the Diocese take responsibility for the community school?

No. The character of the predecessor school is maintained on an “as-is” basis conversion into the MAT and the responsibility for and accountability to the Secretary of State lies with the MAT.

The diocese has a direct involvement in Church schools through the statutory nature of the DBE (Diocesan Board of Education Measure 1991).

What is the position of a federation in relation to academy conversion?

Each school must convert in its own right. Each school requires DBE written approval and RSC approval. Early discussions with the Diocesan Director of Education are advised to assist with planning.

Will the governors and Headteacher still run the school?

The MAT is responsible for running the academies within the trust and is ultimately accountable to the Secretary of State. The MAT will have a Scheme of Delegation for the individual academies within the Trust, based on the individual context of each academy, which will devolve identified responsibilities to the Headteacher (principal) / Local Governing Body.

Do academies follow the national curriculum?

No, they don't have to but most do. Academies are legally bound to provide a 'wide and balanced curriculum'.

Will the term dates stay the same?

Each MAT can set the term dates for the academies within the MAT however most will keep their term dates in line with the local authority.

Will the length of the school day change?

Each MAT can set the length of each school day however most will keep the school day the same as the local authority.

Do we use the Local Agreed Syllabus for RE?

Under the terms of their Funding Agreement, all Church of England Academies have to provide RE for all their pupils, except for those whose parents exercise the right of withdrawal. The type of RE depends on whether the predecessor school was a VA, VC or Foundation school.

If the predecessor school was VA required to convert to academy status by the Secretary of State, RE must be in accordance with the tenets of the Church of England.

If the predecessor school was a VC or Foundation school which converted to academy status, RE must be provided in accordance with the requirements for the Local Agreed Syllabus.

Parents have the right to request that their children receive RE in accordance with the tenets of the Church of England. If any parents do request this, the Academy must make arrangements for those children to receive such RE, unless because of special circumstances, it would be unreasonable to do so.

Do academies have to have a daily act of Collective Worship?

As part of the Schools Standards and Framework Act 1998, all pupils in all schools are required to take part in a daily act of worship, unless explicitly withdrawn by their parents. A Church of England academy/MAT's Funding Agreement sets out the requirements for acts of collective worship in accordance with the tenets and practices of the Church of England.

Will the academy still have an Ofsted and SIAMS inspection?

Yes, in line with the Ofsted and SIAMS frameworks.

Will we retain our autonomy?

The MAT through its trust board of directors is ultimately accountable for each school's performance and financial viability to the Secretary of State. The CEO is responsible for oversight of all the schools within a MAT.

The level of autonomy each school has is dependent on the local context. The MAT will create a Scheme of Delegation which will give clarity on the delegated matters to the headteacher and the LGB (where there is one).

1. GENERAL

Will the Local Authority still be involved with the school?

MATs can buy services from LAs if they choose to do so.

LAs will continue to be responsible for all maintained schools until they convert to academy status. Local authorities also retain statutory responsibilities for safeguarding and SEND.

Will the name of the school change?

Only if the MAT decides it is in the best interests of the school to be rebranded and formal DBE approval to the proposed name change is obtained. Most MAT's will retain the original name of the school.

Will the uniform change?

Only if the MAT decides this is appropriate, most schools will retain their original uniform.

What if there are any outstanding claims against the school?

The receiving academy/MAT may wish to seek indemnity from the converting school's LA. You will require specific legal advice on this

2. PROCESS

Who decides whether our school should become an academy?

In a Church school a decision of the governing body working in partnership with the diocese is required. Formal written diocesan consent to the conversion must be received. The site trustees also must consent to the conversion, in most cases this is either the Diocesan Board of Finance or the Vicar and Church Wardens of the local church.

The Secretary of State, following an application, will then decide whether their support for conversion is granted, and if so, will issue an Academy Order.

What if the Diocese do not provide their consent?

The school cannot convert until formal written diocesan consent is given.

The diocese will continue to work in partnership with the school to review their status.

What support can the Diocesan Education Team offer in relation to conversion?

The Education Team can assist with support and advice and facilitate legal advice/representation.

How does a school apply to convert?

The DBE is a statutory body with responsibilities for all Church schools in the diocese. The written consent of the DBE must be sought to enable schools to convert to academy status and it is expected that you engage with the Diocese at a very early stage in your conversations.

What is the process for conversion?

A brief outline of the process is available at: <https://www.gov.uk/guidance/convert-to-an-academy-information-for-schools>

How long does it take to convert?

Approximately 4-6 months if there are no site issues or other problems. This will depend on the complexities of the school site and whether the school is part of a PFI arrangement.

What legal documents are required?

For schools joining a MAT:

Supplemental Funding Agreement (SFA) (for academies within a MAT)

Church Supplemental Agreement (CSA) (in relation to the trustees' land)

Commercial Transfer Agreement (CTA) (transfers contracts/services from the LA to the Trust)

Side Letter (SL)/ Members Agreement (MA) (trustees releasing the Trust from arranging commercial insurance if they are participating in the DfE Risk Pooling Agreement, unless this is covered in the CSA)

Trust Modification Order (TMO)(if required)

125 Year Lease over LA owned playing fields

Who makes the final decision on whether the school converts?

Subject to Government policy, the governors make the final decision on whether to convert. Governors must make an informed decision based on negotiations with the diocese. Diocesan written consent is required for conversion.

Who must be consulted and when?

There is no prescribed consultation process or timescale; however, the Secretary of State will require evidence that consultation has been carried out before the funding agreement is signed. The following key stakeholders should be consulted, and a record kept of meetings, responses and governors' action taken: Staff, parents, pupils, local church, trustees, wider community.

Governors should commence the process as soon as possible following the initial discussion and approval to proceed from the DBE and ongoing discussions with the MAT.

2. PROCESS

Will the current Governing Body continue?

The MAT directors are the governors of the trust. They will often delegate certain responsibilities to a Local Governing Board (LGB), depending on the individual context of each academy. The LGB may reflect the current make up of the governing body.

LGBs have a smaller constitution than maintained school governing bodies, expertise and local knowledge being important factors when appointments are being considered by the trust.

Where will the local community representation be?

At LGB level and may be at member or trustee level if they have the relevant skills and experience.

Will we still have parent and staff governors?

On conversion the governing body ceases to exist. The MAT may create an LGB, depending on the local context. If an LGB is created membership is based on skills, expertise and knowledge of the local community context. This could include parents and staff.

3. FUNDING

What will be the cost of converting and who pays for it?

The LA's may levy a charge for their work, this can be in the region of £8,000- £12,000.

The diocese may levy a fee for their work, this is currently £2,000 in addition to any legal and professional fees incurred and may be subject to change.

A £25k conversion grant is currently paid by the Department of Education to assist with set up costs. Experience shows that this is likely to cover all normal conversion costs, however, in schools where there are complex land matters, governors should be aware of additional costs and may well be required to allocate money from the school's revenue budget to cover these.

Independent legal advice can be sought and engaged; however, it will be up to the Trust to enter negotiations on the fees that legal advisers will charge. The diocese can facilitate a discussion with the legal advisers for the DBE/DBF, which may provide economies of scale.

The Trust will indemnify and pay all the DBE/DBF's costs in relation to the conversion process, including any costs in regularising the school site which are not funded elsewhere.

Will it make a difference to our funding?

Academy funding is currently calculated on a like for like basis with local authority schools (capital funding differs, please see question on SCA). However, academies have greater freedom to procure services from other providers and realise cost efficiencies across MATs e.g. backroom administration, HR.

Who gets the funding- the MAT or the Academy?

The MAT receives the funding for each of the academies within the trust directly from the ESFA. They also receive a note of the individual academies budget share for information.

Will the MAT take a top slice?

Each MAT is entitled to set its own top slice to cover the running of the MAT and build resources for the benefit of all the academies within the MAT. We recommend governors establish what services are included in a top slice, rather than concentrating on the amount of the top slice.

How does academy status affect SEN funding?

SEN funding is received by the academy directly from the ESFA. Funding allocated to named children continues to be funded directly by the LA.

What if the school has a deficit budget?

For converter academies, current DfE policy is to reimburse the LA and recover the money back from the academy through abatement of General Annual Grant (GAG) only if the converting school and the LA have agreed the figure.

For schools subject to an Academy Order (required to convert), the deficit remains with the LA.

What if the school has a surplus budget?

For converter academies, current regulations state that the LA and academy/MAT should negotiate and determine the amount of surplus to be transferred to the academy/MAT within a four-month timescale. If agreement does not prove possible, a Secretary of State review can be requested.

For schools required to convert, the surplus is transferred to the academy/MATs.

How do we get our funding?

Funding is paid directly to the MAT board under a Master Funding Agreement (MFA), each school then has its own Supplemental Funding Agreement (SFA) which includes specific requirements for that school (including legal protections of individual ethos). The MAT will allocate funding to each school according to their local agreed way of working.

Do we still get DFC funding?

Yes. It is provided to academy trusts as capital funding to address their own priorities. DFC funding can be used for improvements to buildings and other facilities, including ICT, or capital repairs/refurbishment and minor works.

3. FUNDING

Do we still get SCA (formerly LCVAP) funding?

Not as an individual school, but the MAT will receive SCA funding which is paid to eligible bodies responsible for maintaining school buildings. The SCA funding paid to the Diocese is only available to VA schools so academies will not be able to bid for this funding stream.

Is there any other funding available for buildings/premises work?

Yes. The Condition Improvement Fund (CIF) - supports projects which address condition issues and a small number of expansion projects for good and outstanding academies (the latter based on need to increase admissions in main year of entry and/or address overcrowding, including recently approved age range expansion).

For MATs with at least 5 academies and more than 3,000 pupils, they need not apply as they receive a formulaic allocation to deploy strategy across their estate.

MAT's will receive SCA or CIF.

Will the academy have to pay a governors' contribution i.e. 10% towards building projects?

No.

Can the academy claim VAT on building projects?

Yes.

What happens if governors have any loans?

Governors should identify any loans. Once registration and application with the DfE is complete, discuss the loan(s) with your project lead at an early date. The DfE will have to approve the transfer of responsibility for the loan from your school's governing body to your new academy trust.

Depending on the size of the loan, your project lead may ask for budget predictions that show how the academy will finance the loan.

4. STAFF

Who appoints school staff?

The MAT, but the Headteacher will continue to plan the staffing model for the school. MAT trustees may sit on the appointments panel for senior staff within schools.

Will staff be expected to teach across the MAT academies?

Staff will be TUPE'd across to the MAT with existing terms and conditions. The MAT may provide opportunities for staff to work across the MAT schools and supporting challenging schools.

Will the staff be protected?

As part of the conversion process staff will transfer to the employment of the academy trust. Under the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) staff and their representatives must be provided with information by their current employer about the transfer. (For VA schools the employer is the governing body; in VC schools, it is the LA).

What happens regarding staff pensions?

Teaching staff pensions will continue as part of the teacher's pension scheme, with the academy/MAT taking on the responsibilities from the predecessor school.

Non-teaching staff retain their eligibility for membership of the Local Government Pension Scheme (LGPS) when a school becomes an Academy. The academy/MAT replace the LA as an LGPS employing authority.

5. LAND/SITE (BUILDINGS/PREMISES)

Will the academy trust own the school site?

Church school sites are either owned by the Diocesan Board of Finance (DBF) or local trustees. The academy will occupy the site on the same basis that it did before conversion, subject to the terms set out in the CSA. The playing fields are more often owned by the LA and will be the subject of a 125-year Lease.

We have a private pre-school on the school site?

This organisation will be identified as a shared site facility and a separate agreement will be drawn up and entered into to protect both the interests of the academy/MAT and the pre-school provider. The academy's legal representatives will provide advice and deal with the appropriate legal documentation.

6. ADMISSIONS

Who decides the school's Planned Admission Number (PAN)?

The MAT Board.

Who will deal with admission appeals?

Individual MATs will decide who they will engage to deal with school admissions and appeals.

Will the admissions policy have to change?

No, however, academies are their own admissions authority and responsibility lies with the SATs/ MAT. It is possible a MAT will wish to devolve this responsibility to an LGB. Academies have to comply with the School Admissions and Appeals Codes.

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