

Academy FAQ

Supporting schools at various stages of the Academy conversion process, we are able to offer assistance with the challenges faced.

Here we list and provide answers to some of the most frequently asked questions we receive. We are also able to attend your meetings or consultations to offer further advice.

Academy FAQ - before and during an Academy conversion

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General questions

1. What does Academy status mean to our school?

Upon conversion to an Academy you will become independent from the Local Authority but will still receive funding from the state. How it must operate is directed by the Funding Agreement which lasts 7 years. The purpose of the Academy must be to promote community cohesion and sharing expertise. Academies have their own admissions code and their own admissions panel. Academies are not allowed to charge for the education of their students but can charge for the education of students who are not on roll at the school. The school does not have to change its name or mention Academy in the title. Student attainment is reported directly to the Secretary of State.

2. What does Academy status mean to parents?

An Academy is a Charitable Trust and is therefore entitled to apply for additional funding as a charity such as the National Lottery and other organizations that support charities. This could mean more resources and equipment for students and improved facilities. Upon conversion, the governors of the school will become trustees and directors. There is no maximum number of directors but at least 2 must be Parents.

3. How is the Academy funded?

The school will be funded by a grant directly from the government instead of via the Local Authority. This will mean that it will receive a greater sum as the present system allows for the Local Authority to retain a proportion of the School Budget to provide central services. This top slicing of the funding means that there are less funds available to devolve to schools and payment for services which are not always used. The school will receive £25,000 for setting up the Academy. This can be used for such items obtaining financial or legal advice on the conversion process, software license transfer and TUPE advice for staff. Any additional costs upon conversion are subject to assessment by the Secretary of State. After conversion, the school will receive a number of grants including a VAT grant as Academies cannot reclaim their VAT. An Academy is not allowed to carry forward more than 12% of the funding received and the funding runs in line with the Academic Year, so September to August. It is anticipated that schools can expect to receive an increase of 17% more funding as an Academy.

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Financial management and taxation

4. Will schools be worse off financially if they convert to academies?

The general principle is that schools are no worse off as academies than they would have been as maintained schools. Academies are funded on a like-for-like basis with local authority maintained schools, with the addition of funding for services that the authority provides free of charge to its schools.

The YPLA is responsible for funding Academies. Under the remit letter from the Secretary of State, the YPLA is required to support the success of Academies by funding them fairly; providing high quality support and offering rigorous challenge. Funding for Academies is paid from money transferred to the YPLA from DfES. Funding Agreements for all open Academies can be found on the DfES website.

Sponsored Academies are established by the Secretary of State entering into a contract (the Funding Agreement) with a charitable company, which is often referred to as the Academy Trust. This Academy Trust is incorporated with the sole intent of running one or more Academies, and the Funding Agreement provides the framework within which the Academy must operate. It is important to stress, the exact nature of each Academy's Funding Agreement will vary and will reflect the needs of the area and the Academy Trust.

Converter Academies receive similar funding to local maintained schools together with a grant based on services previously provided by the LA which the Academy will now have to provide. Academy funding is based on funding in the relevant local authorities because the funding level reflects local needs. There are three types of funding for Academies:

1. Initial grants for the revenue costs of feasibility planning and the implementation of plans to establish an Academy;
2. Capital grant for buildings;
3. Funding for running costs once the Academy is open

5. What support is available to academies if they get into financial difficulty?

Academies, like all schools, are expected to maintain strict budgetary controls and are required by their funding agreement to balance their budgets.

The academy receives ongoing Grant ('General Annual Grant') which covers the running costs of the school. The YPLA monitors academies' financial position on behalf of the Secretary of State, and if a deficit occurs or appears likely, will intervene. It will provide advice and support to the academy to find an appropriate solution to bring costs and income back into balance, usually in the form of a restructuring plan, and will give additional contingency funding if absolutely necessary.

6. What are the financial reporting requirements for Academy Trusts?

As charitable companies, academies must comply with company law as set out in the Companies Act and with charity law. This includes a requirement to prepare a governors' report and financial statements and to arrange for these to be independently audited by a registered auditor.

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The financial statements should be prepared to **31 August each year** and should give a true and fair view of the academy's financial position at the balance sheet date and of the financial activities and cash flows for the period ended on that date.

By 31 December at the very latest (4 months after the end of the accounting year) hard copies of the audited accounts, comprising the governors' annual report and the financial statements, containing signatures of the governing body and auditor, should be submitted to the Department for Education and Skills

The Governing Body should prepare and agree with their auditors an accounts preparation and audit timetable which enables the 31 December deadline to be achieved. The timetable should incorporate the date of the governors' meeting at which the accounts will be approved. **As soon as possible after the above DfES deadline, but by no later than 31 May , 9 months after the end of the accounting year),** a copy of the governors annual report and audited financial statements must be sent to the Registrar of Companies.

7. Are there limits to running a deficit as an academy? Is there a legal limit to this?

Academies are not allowed to run a deficit without remedial action. Any converter academies that open with a transferred deficit will need to have an agreed plan with YPLA to repay it from their grant instalments. Any which develop a deficit after opening will have to agree a restructuring plan with the YPLA.

8. Will Academies have to complete a Whole of Government Accounts (WGA) return?

The Government Resources and Accounts Act 2000 creates a legal duty on Academies to provide a WGA return and each Academy is individually designated (by Order) for these purposes. The Department and the YPLA are working closely with the National Audit Office to produce a simplified version of the WGA return for Academies' use this year. The YPLA will write to all academies in April to confirm what is required.

9. We already have our own bank account; do we need to set up a new one?

Yes. The funds in the current bank account belong to the LA, even though there will be provision to pay over the surplus. The academy trust needs to set up its own new bank account to receive YPLA grant payments.

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10. Given that September will be part-way through the financial year, and LAs have already allocated budgets to schools and top-sliced the budgets for the full year – will schools converting in September get any further resource for the remainder of the year (a pro rata top-slice allocation from September)?

Local Authority Central Spend Equivalent Grant for the academic year 2011/12 is based on financial year 2010-11 local authority data, and academies will be paid grant at the same rate from their conversion date, whatever point of the academic year that takes place.

11. How much additional responsibility and liability is involved for the governing body and how is it protected/insured?

The academy trust (a charitable company limited by guarantee) is the legal entity that will be responsible for the running of the school and entering into contracts. The academy trust will be able to take out employers' liability insurance (like any other employer of staff). Liabilities to external parties would ordinarily be those of the academy trust (a company with a separate legal entity and not the governors themselves). Under the articles of association, the academy trust is required to provide indemnity insurance to cover the liability of its governors. The members of the academy trust will be liable to contribute up to £10 if the academy trust is wound up. As the academy trust is a charitable company, the governors are also directors and charitable trustees, and will therefore need to comply with obligations under company and charity law.

12. Are governors personally liable if the academy fails?

Personal liability will not arise if governors carry out their duty acting in good faith. Academies are required to have governor liability insurance with minimum cover of £10 million which insures against collective liability of the governing body acting in good faith.

13. Do 'converter' academies still need to register with the Charity Commission?

No. Under the charitable status clause of the Academies Act 2010, academies will be exempt from registration. Instead a Principal Regulator will be appointed to ensure that academies comply with charity law.

14. Will my school get a VAT grant?

Until now, academies have received grant funding to meet the additional VAT costs they incur because they cannot use the local authority's VAT refund facility. From September 2011, and subject to the necessary legislation, academies' non-business VAT costs will be reimbursed by Her Majesty's Revenue and Customs (HMRC) through a refund scheme similar to the scheme that applies to local authority maintained schools. More details will be provided over the coming months, and guidance will be issued to help academies prepare for the new scheme.

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Pensions

15. What happens to pension schemes of employees?

Once the Academy Trust has been established it will be responsible for the pension arrangements for staff employed by the Academy - even if the local authority is acting as the payroll provider for the Academy. The occupational pension schemes are the Local Government Pension Scheme (LGPS) for non-teaching staff and the Teachers' Pension Scheme (TPS) for teaching staff. Both schemes are statutory schemes.

Teachers' Pensions Scheme - The TPS is administered on the DfES's behalf by Capita Teachers' Pensions (TP). The DfES notify TP about each Academy's approval and this will prompt TP to supply the Academy with information about the TPS. If you have not heard from TP within a week of receiving confirmation from the Secretary of State regarding approval of your application to convert to Academy status, you should contact by email: chris.mcmaster@teacherspensions.co.uk

Local Government Pensions Scheme - Academies' Funding Agreements require them to offer Local Government Pensions Scheme (LGPS) membership to all non-teaching staff. When a maintained school becomes an Academy, existing staff who are already members of the LGPS will be unaffected and their membership of the LGPS will continue. After conversion, any new non-teaching staff will also be eligible to join the LGPS. Further information about the LGPS is available on the DfE Academies website. The first step will be for the school to contact the local authority to obtain the details of the relevant pension authority which presently administers the LGPS scheme.

16. If there is a shortfall in teachers' pensions in the future, who will provide the money to plug this gap?

The Teachers' Pension Scheme (TPS) is not insurance based, but a statutory defined benefit scheme, which is unfunded. Scheme benefits, including index linking under the Pensions (Increase) Acts, are paid out of monies provided by Parliament and contributions and other income are credited to the Exchequer.

The Scheme Actuary undertakes a formal review not less than every four years to set the contribution rate (currently 20.5 per cent). The contribution is shared between employers and scheme members. The TPS is a group scheme and every TPS employer pays the same share of the contribution (14.1 per cent) - and every scheme member pays the same contribution (6.4 per cent). When a school ceases to be maintained by the local authority and becomes an academy there is no 'transfer of accrued liability'. However, there is a change of responsibility whereby the academy becomes responsible for all matters relating to the TPS, including payment of the employer contribution which must be remitted, with the employee contribution, to the TPS. While the school was maintained by the local authority, the local authority would be responsible for such matters.

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Buildings and land

17. How will ownership of the land work if we become an academy?

In most cases academies will lease the public land from the freeholder on a long lease (125 years). Where private land is concerned, it will be for the land owner and the academy trust to reach agreement on the academy's continued use of the land. This could be via an informal agreement or via a lease arrangement similar to that described above.

We expect most schools should convert very much "as is" with as little disturbance to existing arrangements as possible. Therefore, where it is considered preferable for existing foundations (such as those at many voluntary-aided schools) holding land to continue to do so, we are in favour of this arrangement provided there are no legal restrictions.

18. What happens to part completed capital projects such as building work?

If there is any building work due to be completed after a school converts to Academy status, agreement needs to be obtained before the Funding Agreement is signed. This will include responsibilities for completing the building work (for example with the local authority), and ensure that unfunded liabilities do not pass to the Academy Trust.

This agreement should be sent to the named DfES contact for approval prior to signing the Funding Agreement.

19. What if an academy has an unexpected emergency which needs capital funds?

If an academy has an emergency which requires capital funding, it should first see if it is covered by its insurance policy, which it is compulsory for all academies to have. If the need cannot be covered by the insurance policy, then the academy should contact their YPLA Academy Lead Officer to discuss the options for emergency funding.

The general guidance included in this list of FAQs is our summary of the most frequently asked questions and based general guidance available on the DfES and YPLA websites - www.education.gov.uk and www.ypla.gov.uk. For detailed advice or if you have questions on any of the areas covered in this FAQ document, please contact our Education Team on 01494 675321 or email info@rousepartners.co.uk

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