

## Academy Conversion Toolkit

This **best-practice guide** has been designed to support Governing Bodies in giving full consideration to all the implications of conversion, and to whether it is an appropriate step for the school.

### **Topic 1: Academy Decision-making Process and Consultation**

#### **Process for governing body to decide whether to become an academy**

**This is a suggested process: the statutory requirements only require some consultation and then minuted resolution.**

1. Governing Body: Are we at all interested? Take into consideration the view of the headteacher and view expressed by staff governors about likely feelings of staff....and if a church school, obtain view of the diocese.  
If yes.....
2. Governing Body sets up working party to obtain and consider more details and make recommendation to governing body.  
The recommendation may be that:
  - on balance there are clear advantages and the governing body has the capacity to take on academy status now, so let's consult stakeholders (If this is the recommendation the working party should draft a consultation document for GB to approve).
  - on balance the advantages outweigh the disadvantages but the governing body is not yet ready to take on extra responsibility and will need to be strengthened in the following ways....
  - On balance there are insufficient advantages - and significant disadvantages - to justify continued interest
3. Working party reports back to Governing Body with recommendations
4. Governing Body considers working party recommendations and decides:
  - to proceed to consultation OR
  - to ready itself to consider academy status later OR
  - not to proceed with the idea.

**If GB agrees to proceed....**

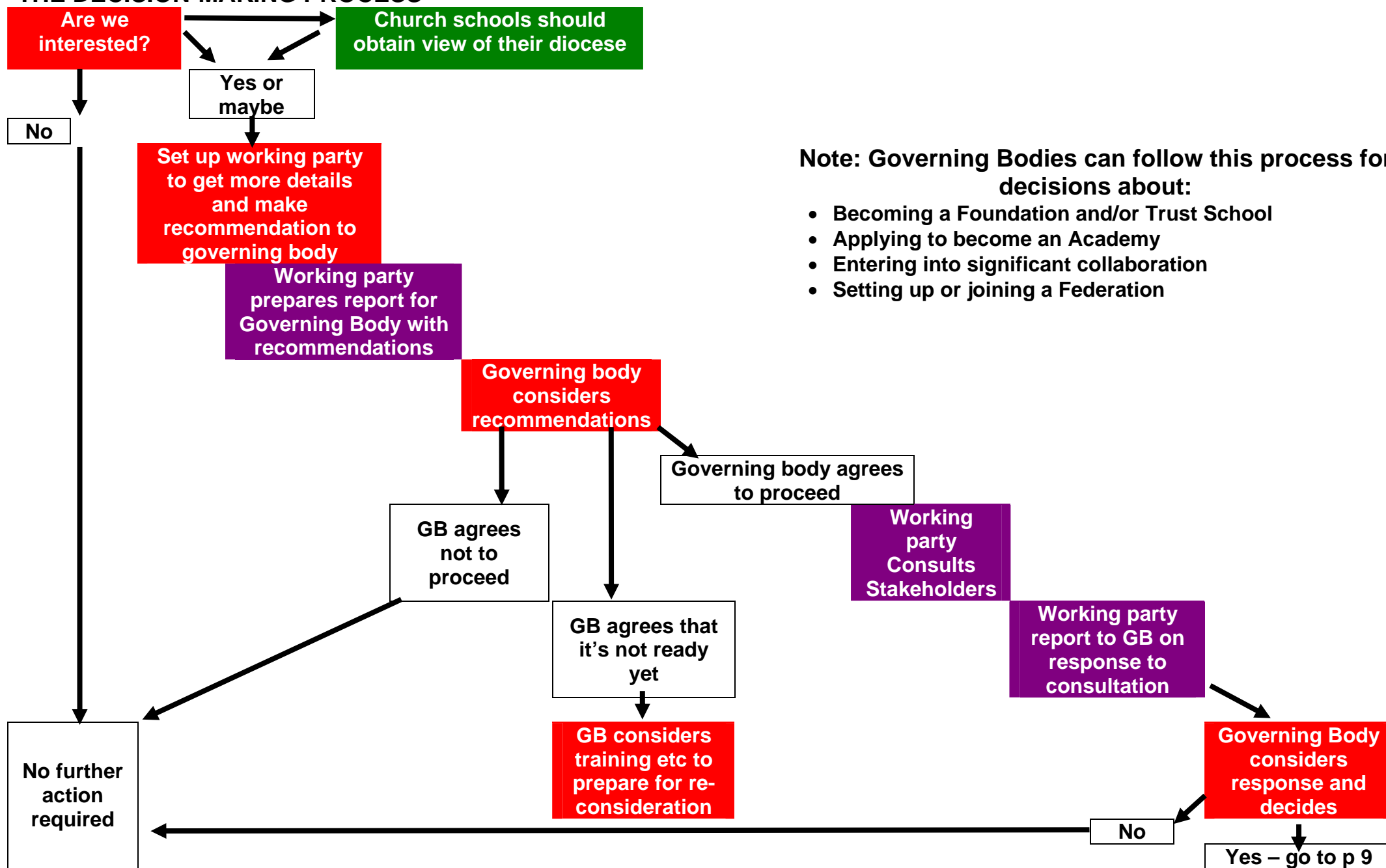
5. Working party: Consult Stakeholders (NB the GB has not made its final decision at this stage to avoid perception of fait accompli) Consultation process issues pp 4-5
  - Working Party: collate responses and provide a paper for the Governing Body
6. Governing Body considers response and decides - with formal resolution clearly minuted – its intention to pursue Academy status.
7. Ensure that the decision is communicated and explained to Stakeholders

**If GB agrees to get itself ready to consider academy status when it is has improved capacity**

1. Identify training needs
2. Arrange for governors (and senior staff) to attend relevant training
3. Identify organisational (and staffing) requirements
4. Decide and implement strategy to strengthen organisation and staffing
5. Meanwhile, keep abreast of developments which may change the advantages vs disadvantages assessment.
6. When governors feel the time is right, the governing body will need to check that:
  - a. The balance of advantages points to academy application
  - b. The governing body and school now has the capacity.

See flowchart overleaf

# THE DECISION-MAKING PROCESS



**Note: Governing Bodies can follow this process for decisions about:**

- Becoming a Foundation and/or Trust School
- Applying to become an Academy
- Entering into significant collaboration
- Setting up or joining a Federation

## Consultation on whether to apply for Academy status

### Suggested issues for the Working Party to consider

Issue	Suggestions	Notes
Who?	Foundation/ Trust Parents Pupils Staff LA: Staff unions/ associations Diocese Other local schools	Would we want to give notice to all these groups prior to formal consultation? Do we have contacts for all these groups before proceeding to consultation? If emboldened this is a statutory requirement? Staff don't <b>have</b> to be consulted except for TUPE later in the process Consulting the full list would be considered good practice.
When?	Before the Governing Body makes its final decision	Avoid perception of decision already having been taken
How To Inform?	Hard copy letter On-line website Newsletter Meetings – School Council, Parent Forums, staff Letter/ email to Headteacher and Chair of Governor of local schools Community or parish magazine	Who decides on the way in which groups are informed? GB/ Working Party/ school Questions raised in Meetings of e.g. School Council, Parent Forums GB should publish the answers
What information should be provided	We suggest you consult parents, students, staff and local partners. In order for the consultation to be meaningful, full information on the implications would need to be provided. Information could include: <ul style="list-style-type: none"> <li>• Main advantages identified by the governing body – including what you would do differently with constraints removed</li> <li>• <b>The disadvantages that the governing body considered</b></li> <li>• details of the proposed academy arrangements;</li> <li>• details of the proposed governance arrangements including details of the directors of the company which will enter into the Academy arrangements and details of the composition of the governing body;</li> <li>• any proposed changes in the arrangements for the curriculum, for special educational needs, for pupil discipline, exclusion and for complaints, and confirmation that there will be no change in the admissions arrangements;</li> <li>• details of the additional money which would be available to the school</li> </ul>	The conclusions you reach as you consider each of the 'differences and implications' should have been noted so that they can be included in your consultation document.  See suggested consultation pro forma below.

	<p>(either as capital or revenue funding) if it became an academy;</p> <ul style="list-style-type: none"> <li>• details of any additional obligations <b>and costs</b> which fall on the school if it became an academy; and details of the support that is proposed to be given to other schools and any other possible effect on other schools.</li> </ul>	
Timescale	Deadline for responses	Allowing reasonable time for stakeholders to respond while maintaining momentum
How to collect and collate views?	<p>Do we know what we want to get out of the consultation process?          What kind of information would be useful?          Methods of collection – questionnaire/statement inviting comments/interviews/meetings? Sample size?          Responses to go to.....</p>	Once you have the data, will it be easy to analyse?
Reporting the results of consultation to the GB	<p>Agree working party members who will collate responses.          Schedule working party meeting to agree report for governing body</p>	

## Suggested Pro Forma Consultation Document

### XXXXXXXXXXXXX School Consultation on the proposal to apply for Academy status

As you will know, the government is encouraging schools such as ours to apply for Academy status. The governing body set up a working party to consider the differences and implications. It has recommended that we consult on a proposal to move to Academy status. When we are considering significant changes we always take into account the views of our stakeholders and this is what we are now doing.

The governing body has not made the decision on whether to apply for academy status. We are interested to hear and consider the views of stakeholders before we make a final decision.

The working party consider the following factors to be significant advantages which will lead to benefits for pupils at the school.

The main things that the school would do differently if it were to become an academy are:

(include here any proposed changes in the arrangements for the curriculum, for special educational needs, for pupil discipline, exclusion and for complaints.....)

There are a number of things which will remain unchanged. These are:  
(.....and confirmation that there will be no change in the admissions arrangements)

- All academies must comply with the Admissions Code of Practice.

The working party identified the following possible disadvantages:

We believe that we can avoid or overcome them in the following ways:

The school could expect to receive additional funding because it will receive its share of the Direct Schools Grant currently held by the local authority to provide specified services.

We have calculated the extra amount we would receive as £XXXXXX per year. This represents approximately X% of the school budget.

The services that were previously provided through the Direct Schools Grant and that we would need to purchase are shown below, together with the anticipated cost of purchasing.

<b>Services that the school would need to purchase</b> <b>Examples: This will vary between Las and governing bodies</b>	<b>Anticipated cost per year</b>
Legal services	
Insurance	
Licences	

There are additional costs associated with the following features of academies

<b>See examples below</b>	<b>Anticipated cost per year</b>
Academies are subject to company law and trust law	
Academies are liable for VAT	

There are additional costs associated with increased freedoms and responsibilities

<b>Freedom</b>	<b>Responsibility</b>	<b>Estimated additional costs per year</b>
Control own premises	Pay for professional premises advice	
Direct Employer of staff	Pay for HR Services and pay roll	
Control own admissions	Pay for admissions appeals	

The working party considered whether the school has the capacity to complete all the processes which would be required if the governing body were to agree to make an application for academy status.

There will be a grant of £25k to help with this but the costs we have estimated are:

A few examples are shown below	Estimated cost
Land transfer	
Legal advice	
Administration of application process	
Cost of rebranding, signage etc	
etc	
etc	
Total cost	
Net cost (subtract £25k grant)	

If the school were to become an academy it would support at least one other local school. Our current thoughts on this are:

The school recognises that it has a responsibility, shared with all other schools in its locality, for the young people and families in the area. We would seek to work with other schools and agencies in the following ways:



The company directors or trustees who propose to enter into the Academy arrangements will be:

The governing body of the proposed academy will be made up of:  
Headteacher ex-officio ...plus

The consultation process will run from .....date to .....  
date.

If you have any comments on these proposals please provide them in writing and send them to:

The governing body plans to consider the outcomes of this consultation at its meeting on ..... Date.

Signed.....  
Chair of Governors

# THE PROCESS FROM RESOLUTION TO CONVERSION

**Governing Body has considered and formally resolved intention to pursue Academy status**

**Seek formal agreement from Trustees/Foundation and the body responsible for appointing foundation governors (all schools EXCEPT COMMUNITY SCHOOLS)**

**Note:**  
**Red** = full governing body  
**Purple** = suggest delegate to individual or special committee  
**Green** = Academy Trust

**Submit on-line application to convert (to academy) form**

**Start TUPE (Transfer of Undertakings Protection of Employment) consultation and negotiation**

**If SoS approves application and makes Academy Order**

**Completion of registration form to register the Academy as an independent school**

**Establish Academy Trust – Memorandum and Articles of Association**

**Register the Academy Trust and officers with Companies House  
 Set up bank account for the newly-formed Academy Trust**

**Agree land and building leasing arrangements with the Foundation/Trust/LA**

**Agree asset and property transfer arrangements**

**Ensure all required consultation has been undertaken**

**Complete TUPE process**

**Academy Trust signs 7 year Funding Agreement**

## Topic 2: Academies – Considering the Differences and Implications

Before focussing on the differences, governors should be reminded of the things that remain the same:

- Academies are still part of the community. They serve children and families in a particular area and they retain the same responsibilities as any maintained school as part of the learning community. Governors are advised to consider how they ensure their institution is seen as part of the community, whatever decision they make.
- The headteacher still needs to work in partnership with governing body on strategic matters
- Academies are still subject to the law on employment, equality, admissions, special educational needs
- Academies are required to follow the same rules over pupil exclusion as maintained schools
- Academies need to operate a complaints policy in the same way as any maintained school
- Academies are still subject to Ofsted inspection
- Academies are still subject to Freedom of Information

In considering the differences described below, governors are advised to refer to the governing body's vision and values. In considering each of the differences, it is suggested that governors ask themselves the questions listed in the second column. Some of the differences will mean additional income and/or additional costs. Additional staff time may be required for the associated tasks. The fourth column allows governors to set out more clearly the possible or probable financial implications for their own school. Governors should not be expected to make a decision to proceed without the best estimate of financial implications.

Differences	Question	Notes	Indicative costs
Freedom from National Curriculum – although still required to be 'broad and balanced'	Do we currently feel constrained? What would we do differently? How would our children benefit? On balance what do we gain?	Schools already have more freedom from the national curriculum than people realise. Academies must include English, Maths and Science in the curriculum for all students up to the age of 16. It is important to take account of the White Paper Autumn 2010 when considering options.	Neutral
Freedom from the LA	Do we currently feel constrained? What would we do differently? How would our children benefit? On balance what do we gain?	Schools already have considerable autonomy with issues such as finance and staffing. A major part of the school's budget is generated through pupil formula funding. Spending decisions are then delegated to schools.	

Differences	Question	Notes	Indicative costs
		<p>An Academy will need to, for example:</p> <ul style="list-style-type: none"> <li>• Ensure that leadership is secure when key leaders are out of action.</li> <li>• Have robust emergency business continuity plan.</li> <li>• Replace external audits with robust internal systems eg H &amp; S,</li> <li>• Apply for a number of registrations e.g. data controller.</li> <li>• Purchase legal advice on for example complex freedom of information requests and conflict resolution situations.</li> </ul>	<p>?????</p> <p>?????</p>
Governing body does not have to consult LA when considering an exclusion	Do we currently feel constrained?	<p>Governing body is not expected to seek the advice of a local authority officer when considering an exclusion but parents can request LA Officer attendance.</p> <p>Academy will need to organise (or buy in) Independent Appeal Panel for Permanent Exclusions.</p> <p>Academies must comply with all other requirements in national guidance on exclusion.</p>	<p>?????</p>
Ability to set own admissions	<p>Do we currently feel constrained?</p> <p>What would we do differently?</p> <p>How would our children benefit?</p> <p>On balance what do we gain?</p>	<p>VA and Foundation schools already set their own admissions. This will only be different for community and VC schools.</p> <p>All Schools must comply with the National Admissions Code of Practice and participate in Coordinated Admissions organised by the LA.</p> <p>Academies are not allowed to introduce selection but may continue existing selection arrangements.</p> <p>Academy will need to organise (or buy in) Independent Appeal Panel for Admissions.</p>	<p>???????</p>
GB: is Employer of staff	<p>Have we considered the implications?</p> <p>Do we currently feel constrained?</p> <p>What would we do differently?</p> <p>How would our children benefit?</p> <p>Will we need to spend more than we do currently on HR advice?</p>	<p>Only different for community and VC because in VA and Foundation schools the GB is already the employer.</p> <p><b>Any Redundancy costs must be met from Academy budget.</b></p> <p><b>The governing body is the legal respondent in e.g. Employment Tribunal cases.</b></p>	<p>???????</p>

Differences	Question	Notes	Indicative costs
	On balance what do we gain?		
Ability to set own pay and conditions	Have we considered the implications? Do we currently feel constrained? <b>Do we use current flexibilities?</b> What would we do differently? How would our children benefit? On balance what do we gain?	STPCD is set in law, so maintained schools must work within it – Academies do not have to comply. However, TUPE transfer applies for existing staff so same pay and conditions are likely to apply initially. But can change subsequently following consultation with staff and unions.	????????????
Ability to change length of terms and school days	Do we currently feel constrained? What would we do differently? How would our children benefit? On balance what do we gain?	Schools already have the power to change the length of the school day, providing they follow the appropriate Regulations. Some schools (specifically foundation and voluntary aided schools) have the ability to change the school term. Need to consider implications for families and school transport.	?????
Governing body has total premises responsibility	Have we considered the implications? Do we currently feel constrained? What will we do differently? How would our children benefit? On balance do we gain?	VA and foundation schools already are responsible for their premises. This will only be different for community and VC schools. Refer to your LA's current schedule of centrally funded repairs and maintenance which would no longer be available to Academies.	??????
Governing Body responsible for Health and Safety	Have we considered the implications? What will we do differently? On balance do we gain?	VA and foundation schools already are responsible for their premises. This will only be only different for community and VC schools. Academies may need to purchase specialist advice and audit in relation to issues such as asbestos management.	??????
Academies will receive a portion of the DSG that the LA has spent on schools' behalf	Do we currently feel constrained? What would we do differently? How would our children benefit? On balance what do we gain?	DfE Ready Reckoner (accuracy uncertain) will give indication of extra funds that can be expected in the first year. <b>INCLUDE WORDING FROM CONSULTATION PROFORMA</b>	Additional funding may amount to £XXXXXXX

Differences	Question	Notes	Indicative costs
		<p><b>Note: Funding of Academies is for the academic year – not financial year.</b></p> <p>Academies will still need to purchase services. They may be able to purchase from LA.</p> <p>Need to have extra staff and governor time to deal with additional decisions. DfE is recommending that a qualified accountant is employed.</p> <p>Responsibility for certain services and functions transfers to the Academy with the transfer of the local authority central spend equivalent grant (LACSEG) (See example in appendix 1)</p>	<p>Additional costs ???????</p> <p>???????</p> <p>???????</p>
Academies will receive money from LA to pay for 'low incidence SEN'		In addition to the individually assigned resources (IAR) for pupils requiring more support, academies will receive funding for SEN pupils. Academies must comply with the 'SEN obligations imposed on governing bodies of maintained schools.	
Surplus or deficits – On becoming an academy, schools carry any surplus forward. Schools with deficits must have a repayment plan in place	What is our current financial situation?	If the school is in deficit, the repayment plan needs to be agreed by the Young People's Learning Agency (YPLA), not the local authority.	
Academies must pay VAT	Will we need to employ qualified accountant to complete VAT returns?	Schools will receive additional funding to take account of needing to pay VAT. Governors should note that VAT needs to be paid on goods and services (not staff salaries) in their cost/benefit calculations.	
Governors need to arrange for annual audit of accounts and submit accounts to Secretary of State and principal regulator by the	Will we need to employ more/different staff?	Need to appoint 'secretary to the company' Staff training possibly required	Average pay of company secretary is £58k

Differences	Question	Notes	Indicative costs
<p>deadline.</p> <p>Governing Body subject to Trust which will:  Register land  Appoint governors  Have a broad strategic oversight</p>	<p>How helpful will this be?  On balance what do we gain?</p>	<p>Governors (also known as directors or trustees) will be appointed to the governing body by the academy trust (made up of members)</p>	<p>???????</p>
<p>Academy Trust is a charitable company subject to company law</p>	<p>Have we considered the implications?  What will we do differently?  On balance do we gain?</p>	<p>Members of the converting school's governing body will decide, in discussion with the Secretary of State, who will be a member of the academy trust and who will be a governor (it is possible to be both a member and a governor)</p> <p>Need to appoint a 'secretary to the company'</p> <p>Academies are charitable companies limited by guarantee. If the academy was to become bankrupt the members of the Trust body could be held liable to the amount set out in the Articles of Association. The most common level of liability is set out as £10 per trustee.</p>	<p>Potential costs listed above</p>
<p>Academy Trust needs to purchase own indemnity insurance</p>	<p>What are the options?</p>	<p>A governor as trustees/director has a limited liability £10. Governors need liability insurance because anyone acting as a director of a company has unlimited liability for their own defaults. A director is not liable for any debts or liabilities providing s/he acts properly and within the powers and authority delegated to her/him. If s/he acts outside those parameters a director can be liable, without limit, for the loss caused to the company. Liabilities to external</p>	<p>Potential costs listed above</p>

Differences	Question	Notes	Indicative costs
		<p>parties would ordinarily be those of the academy trust (not the governors).</p> <p>Governors of academies need to have indemnity insurance, taken out by the Trust, and are subject to company law. Whereas governing bodies of maintained schools have their own legal identity and corporate responsibility and local authorities normally provide indemnity insurance.</p>	
Governing Body no longer subject to existing statutory governance regulations	<p>Do we feel constrained?</p> <p>What would we do differently?</p> <p>How would our children benefit?</p> <p>On balance what do we gain?</p>	Governing Body has to agree articles of association, with the SoS, which contain operating rules, e.g. proxy voting allowed; variations in quorum, agenda (and papers) sent out 14 days in advance. (See Section 3 on Governing Body Procedures).	
Composition of governing body may be different as outlined in the Articles of Association	<p>Do we feel constrained?</p> <p>What would we do differently?</p> <p>How would our children benefit?</p> <p>On balance what do we gain?</p>	<p>Governing Body/ Trust can retain its current members if it so wishes but would need to agree it in a new article of association agreed with DfE.</p> <p>There should be at least two parent governors.</p> <p>Up to a third of an academy's governing body may be made up of staff governors (including the Principal).</p>	
Principal (Headteacher) is governor ex-officio (no opportunity to opt out)	Will this make any difference?	Will only affect headteachers who have previously decided not to be governors	
Academies accountable to SoS	<p>How do we feel about this?</p> <p>What would we do differently?</p> <p>How would our children benefit?</p> <p>On balance what do we gain?</p>	SIPs employed by DfE will support and challenge academy. SIPs will not support Performance Management of the Headteacher. This is deemed to be the responsibility of the Academy governing body. Academy can purchase external adviser time to support governors in headteacher PM.	???????
Academies are expected to support other schools	<p>Do we already work in partnership?</p> <p>Might we prefer to federate/collaborate?</p> <p>What more can we offer and to which school?</p>	<p>Formal contractual arrangement with SoS</p> <p>DfE contact person helps broker the support</p>	???????



Differences	Question	Notes	Indicative costs
	What effect would becoming an academy have on our local and partner schools?		

## Other considerations

	Questions	Notes	Indicative costs
Sustainability – of senior leadership team	<p>Do our current headteacher and senior leadership team have the skills and attitudes to lead a successful academy? When the time comes, how likely are we to be able to appoint a headteacher with the skills to continue academy development? How can we ensure that the leadership is secure when key leaders are out of action? Who will facilitate finding acting headteachers for us to consider?</p>	Academies are tied into a seven year funding agreement. The decision to become an academy cannot be reversed.	
Sustainability of governors and trustees	<p>Do governors have the capacity to be effective trustees as well as governors? How likely is it that the level of skill and commitment can be maintained as governors and trustees retire?</p>	Currently no Guide to the Law for academies, there is the Principle's Handbook for established academies but this is not as detailed. At the moment information is unclear on the new requirements and responsibilities.	
Changing role of clerk and administrative staff	<p>How keen are staff who would have to take on new responsibilities, for example the secretary to the governing body and those dealing with finance. Do they have the appropriate skills? Will they require additional training and more time to complete additional tasks?</p>		

## Considering the application process

When you have considered the differences and implications above, you are advised to consider the additional work and costs involved in making an application. The process is outlined below so that you can take this into account in your recommendation.

Note: Schools seeking Academy status will receive a one-off grant of £25k. Governing bodies will need to consider whether the school and governing body have the capacity to complete the application and how might the one-off grant be spent to increase capacity? It will be essential to agree who or what group will be involved in each aspect of the application process.

<b>Prior to application</b>	<b>By whom?</b>	<b>With whom?</b>	<b>Notes including estimated time required</b>	<b>Indicative costs</b>
Consultation	Governing Body	Stakeholders – see above		
Report on responses leading to governing body decision	Governing Body	All governors		
<b>Application task</b>	<b>By whom?</b>	<b>With whom?</b>	<b>Notes including estimated time required</b>	<b>Indicative costs</b>
Seek formal agreement from Trustees/Foundation and the body responsible for appointing foundation governors <b>for example the diocese</b>	Governing body	Trustees/Foundation and the body responsible for appointing foundation governors	Only required if school is Foundation, Voluntary Aided or Voluntary Controlled	
Submit on-line application to convert (to academy) form	Governing body	DfE	DfE will assign a Civil Servant to advise and assist the governing body through the conversion process	
Start TUPE (Transfer of Undertakings Protection of Employment) consultation and negotiation	Governing body	Unions and staff		

<b>Application task</b>	<b>By whom?</b>	<b>With whom?</b>	<b>Notes including estimated time required</b>	<b>Indicative costs</b>
Following Secretary of State approval and Academy Order conversion process will involve:	Secretary of State	Governing body		
<ul style="list-style-type: none"> <li>• Completion of registration form to register the Academy as an independent school</li> </ul>	Governing body	DfE		
<ul style="list-style-type: none"> <li>• Establish Academy Trust – Memorandum and Articles of Association</li> </ul>	Governing body		These documents will need to then be posted on the school's website	
<ul style="list-style-type: none"> <li>• Register the Academy Trust with Companies House</li> </ul>	Governing body	Companies House		
<ul style="list-style-type: none"> <li>• Set up bank account for the newly-formed Academy Trust</li> </ul>	Governing body	Bank		
<ul style="list-style-type: none"> <li>• Agree land and building leasing arrangements with the Foundation/Trust/LA</li> </ul>	Governing body	Foundation/Trust/LA		
<ul style="list-style-type: none"> <li>• Agree asset and property transfer arrangements</li> </ul>	Governing body	Foundation/Trust/LA		
<ul style="list-style-type: none"> <li>• Ensure all required consultation has been undertaken</li> </ul>	Governing body		All consideration and decisions must be recorded in the governing body minutes.	
<ul style="list-style-type: none"> <li>• Complete TUPE process</li> </ul>	Governing body	Unions and staff		
<ul style="list-style-type: none"> <li>• Sign Funding Agreement – legally binding for 7 years</li> </ul>	Academy Trust	Secretary of State	Funding Agreement will state when the Academy will open and the date of conversion. This is the date when the LA will cease to maintain the converting school	

## Appendix

**Note: Each local authority will have different schemes of delegation. The list below is illustrative of one LA. Colleagues using this with schools in their LA are advised to insert a table which matches the local provision and clarifies the cost.**

### EXAMPLE ONLY

Services and costs funded from the local authority's Schools Budget	Estimated cost of purchasing
• Special educational needs (SEN) support services (see next section)	
• Behaviour support services	
• 14-16 practical learning options	
• School meals and milk	
• Assessment of free school meals eligibility	
• Repair and maintenance of kitchens	
• Museum and library services	
• Licences and subscriptions	
• Central staff costs (maternity, long term sickness and trade union duties)	
• Costs of certain employment terminations	
<b>Services and costs funded from other local authority sources</b>	
• Costs of a local authority's statutory/regulatory duties	
• Asset management costs	
• School improvement services	
• Monitoring national curriculum assessment	
• Education welfare service	
• Pupils support (e.g. clothing grants)	
• Music services	
• Visual and performing arts services	
• Outdoor education services	
• Certain redundancy and early retirement costs.	
• Admissions appeals	
• Independent exclusion appeals	

