

Academy Conversion Toolkit



'Children and young people are the heart of
our city and of everything we do'





Introduction

The purpose of this toolkit is to provide governing bodies, school leaders and existing multi-academy trust boards with information about the academy conversion process and the role that City of York Council plays in this process.

The toolkit is designed to provide you with information about how City of York Council will work with you during the process. We will provide you with indicative timelines to help inform planning and decision making.

It is important that you fully explore all the options open to you and that you have an in-depth understanding of the implications of academy status for your school, either as a single academy trust or as part of a multi-academy trust.

There are currently two types of academy. Both involve similar processes around conversion but have different management and governance arrangements:

- a. **Convertor Academies** – This is the route for schools defined as ‘performing well’ (good or outstanding schools). An academy trust is set up which is funded by the DfE to manage the academy. Under most circumstances, the conversion process is managed between the converting school and the local authority. Whilst the DfE appoints a project manager to oversee the process, this role is often not high profile and often only become involved if there are particular challenges.
- b. **Sponsored Academies**– All schools which are defined as ‘low performing’(requiring improvement or schools in a category of concern) are expected to have an academy sponsor, an external organisation which becomes accountable for improvements to performance in their schools. A project board is established by the DfE which involves all parties, to oversee the process. Since the introduction of the Education and Adoption Act in April 2016 there is now a requirement for all schools in an Ofsted category of concern to become a sponsored academy. The academy sponsor will be assigned by the Regional Schools Commissioner.

The majority of maintained schools in York are currently good or better, therefore are eligible to become convertor academies. In York the number of schools that have converted to academy status remains relatively low, however, due to changes within the national education landscape the Council is aware that more schools are likely to begin to consider academy conversion in the future.

The Academy Conversion Timeline

It is important that you give sufficient time to explore the academy conversion process to ensure that you have developed a clear vision and rationale which you can share with all stakeholders as part of the consultation process. In order to fully examine the pros and cons of academy status best practice suggests that governing bodies and school leadership teams should begin the preparation phase at least 12 months before the planned date of conversion. This will allow time to fully explore your options, including the potential benefits of joining existing multi-academy trusts and will allow you to plan a full consultation and engagement process with the local community and key stakeholders.



Spending time in the preparation phase will ensure that you have all the information you need to make the decision about the future of your school.

Important questions for you to ask during the preparation phase are:

- **Why** do we want to become an academy?
- **Who** is it that wants the conversion? This is an important element to test as part of your consultation process.
- **When** will be the best time for us to convert? This will be an important consideration for you in preparing for and submitting your application.

Throughout the exploration of academy status it is important to be clear about why you believe the change of status will benefit the children and community you serve. During the preparation and conversion phases it is important to remain focused on the core business of your school which is to provide a great education for all children.

It is our expectation that any schools considering academy conversion would formally notify the City of York Council via communication with the Director of Children’s Services, Education and Skills and the Assistant Director, Education and Skills.

The table below provides you with an overview of the conversion process, with indicative timescales for each stage of the process. These timescales are indicative and subject to change dependent on the circumstances of your school and the complexity of the conversion process, particularly related to the ownership of land. The conversion process is likely to be longer for PFI schools due to the additional legal work that needs to take place :-

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| <p>Preparation Phase (12 to 6 months before you plan to convert. NB in the case of PFI schools it is important to begin the preparation phase as early as possible)</p> | <ul style="list-style-type: none"> • Establish your rationale, business case about why you want to convert and discuss this with the governing body. Fully explore your options for structural partnerships e.g. develop your understanding of the implications of joining an existing multi-academy trust. • It would be useful at this stage to inform City of York Council (Director of Children’s Services) that you are exploring academy status. CYC will be able to provide you with an indicative timeline and details about the conversion process. CYC will publish an overview of ‘live’ conversion processes each academic year. Schools wishing to convert will be advised about a reasonable timeline for conversion based on a maximum of three schools within each three-four month period due to the substantial resource implications and workload entailed in the conversion process. • Speak to the Regional Schools Commissioners Office |
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| | <ul style="list-style-type: none"> • Register your interest on the DfE website • Your DfE project lead will be allocated to assist with the conversion process • Meeting of Governing Body - obtain resolution to convert • Prepare for your application: discuss finances with DfE project lead, consider legal advisors, obtain actuarial assessment and land registration documents |
| <p>Consultation and Application Phase (at least 5 months before you plan to convert)</p> | <ul style="list-style-type: none"> • Start statutory consultation with interested parties – staff, parents, pupils, the local authority and the wider community. Inform local ward councilors about your intention to consult and send your copies of your consultation documents to them. • Start informal employment consultation with staff. Ensure that the City trade union representatives have been informed about your intentions to convert to allow them to plan support for their members. • Submit application to convert to DfE (it takes between 2 – 6 weeks for the DfE to assess an application and grant an academy order) • Academy Order issued approving application • Appoint a solicitor if you have not already done so |



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| <p>At least 4 months before</p> | <ul style="list-style-type: none"> • Apply for £25,000 conversion support grant and any other applicable grants Start opening bank account <p>Instruct your solicitors to:</p> <ol style="list-style-type: none"> 1. Set up the Trust by drafting the memorandum and articles of association; 2. Contact City of York Council legal services in connection with the commercial transfer agreement (CTA); 3. Draft the funding agreement; 4. Review the Land Registry documents/title deeds for the school site 5. Complete the land questionnaire and agree leasing arrangement for school land and buildings; Nb start discussions about the leasing arrangements as early as possible with CYC, significant delays may occur if there are any complex issues to be resolved. 6. Advise on the formal TUPE process with staff <p>Start TUPE consultation</p> |
| <p>2 MONTHS BEFORE</p> | <ul style="list-style-type: none"> • Submit to DfE lead fully completed land questionnaire; draft memorandum and articles of association; and draft funding agreement. • Register new academy trust with Companies House. • Complete TUPE consultation. • Complete statutory consultation (must be done before funding agreement signed). • EFA provides school with indicative funding letter • Meeting of Governing Body - to give final approval to conversion (including approval of the draft CTA and funding agreement) |
| <p>ONE MONTH BEFORE</p> | <ul style="list-style-type: none"> • CTA and lease between local authority and academy trust has been agreed. • Submit to DfE lead signed but not dated funding agreement and memorandum and articles of association and confirmation that leases and CTA signed by all parties. • Send academy bank details to EFA and copy to project lead. |



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| | <ul style="list-style-type: none"> • DfE signs and seals academy funding agreement. • Register Trust with the Information Commissioner’s office. • Take out insurance. • Carry out DBS checks. • Notify exam boards. <p>School opens officially as an academy on the first day of the month.</p> |
| <p>After conversion</p> | <ul style="list-style-type: none"> • Submit your financial support grant expenditure certificate • Complete your land and buildings valuation within 6 weeks of converting • Publish your final funding agreement on your website – some work with the CYC school funding team will need to be completed after your conversion date. |

The Preparation Phase

It is important allow sufficient time to full explore the reasons why you want to become an academy and to spend time finding out about the implications of conversion for your school and local community. The governing body will need to form a working party to facilitate this work in order to ensure that the governing body has all the detailed information they need to take an informed decision about whether they would want to pass a resolution to consult on academy status. During the preparation phase it is important to be clear about the advantages of academy status for your school and the difference it will make for your children. Developing a clear vision and business case will be a very important part of the work you need to undertake during the preparation phase. The Local Authority will be able to provide you with advice and guidance during the preparation phase and it would be useful for you to make contact with the School Improvement and Governance Services during the preparation phase. They will provide you with informed, impartial advice to inform your scoping work.

The Consultation and Application Phase

Under the Academy Act 2010 prospective convertor academies are required to run statutory consultation with stakeholders. In line with the Council’s policy statement we would expect prospective convertor academies to conduct a thorough consultation with their stakeholders and the local community. This consultation process should include:

- Public meetings with parents and members of the local community
- Publication of consultation documents using letters addressed to parents and local residents, school websites and the local press



Whilst City of York Council fully acknowledges that the decision about academy conversion lies with the governing body of each school and in no way wishes to imply interference in the decision making powers of governing bodies, the Council would strongly encourage governing bodies to run independent ballots of parents and the local community to inform their decision making.

It is important the clear timelines are set and widely shared with all stakeholders during the consultation period. The governing body needs to make clear that the consultation is to inform the decision about whether to convert and that the outcomes of the consultation will be used to inform that decision.

Before you start the consultation it is important for the governing body to be clear about what they want to get out of the consultation process and how they will collect, collate and use the views of stakeholders.

The City of York Council Policy Statement

At a meeting of the full council on Thursday 16th July 2015 the following motion was agreed and therefore adopted as the Council's policy statement on the process of consultation prior to academy conversion:

"This Council understands the difficult choice being faced by schools following considerable pressure from the Government to change from local authority maintained to academy status. However, we fully believe that the choice is one that should be made by the whole community and not just the leadership of a school. This Council resolves to make it official City of York Council policy that all schools in York considering a change to academy status will be encouraged as strongly as the law allows to hold a community ballot of every household in the affected catchment areas to take full account of the views of local residents on the proposed change."

Guidance for governing bodies related to this policy statement

It is our expectation that any schools considering academy conversion would formally notify the City of York Council via communication with the Director of Children's Services, Education and Skills and the Assistant Director, Education and Skills.

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In order for your consultation to be as thorough as possible it is important to include information about the following in your consultation documents and meetings:

- The main advantages for the school
- The disadvantages the governing body have considered
- The proposed academy arrangements e.g. will you be a single academy trust or joining/forming a multi-academy trust
- The proposed governance arrangements
- Details about any proposed changes to the curriculum
- Confirmation that there will be no changes to admission arrangements
- Details about the financial advantages of becoming an academy – in terms of revenue and capital funding
- Details about additional obligations and costs which you would have to meet as an academy
- Details about how you will work with other schools and partners in future

In order to make the consultation as meaningful as possible think carefully about how you will:

- make it accessible to a wide range of stakeholders
- provide opportunities for feedback to be collected in different forms
- allow sufficient time for stakeholders to respond (good practice suggests allowing between 6-8 weeks)

It would be useful to contact schools who have already been through the consultation phase to ask them about their experiences. If you are joining an existing multi-academy trust, the trust will be able to provide you with support and advice during the consultation phase and help you to develop the consultation documents and communications plan.

In York there is also the expectation that you will have made contact with the Local Authority and trade unions/professional associations during the consultation phase.

What role will the Local Authority play during the conversion process?

A range of LA services and officers will be involved in the conversion process and will work with the DfE, EFA and your legal team to facilitate the conversion process. Their roles in the process are outlined below. **NB: CYC has the capacity to support 3 academy conversions in each three month period, its therefore important to agree a timeline for conversion with CYC when your academy order has been granted.**



(a) The Commercial Transfer Agreement

The commercial transfer agreement (CTA) deals with the transfer of matters necessary for the operation of the Academy and covers assets, contracts and employees. A wide range of due diligence is required by the school, council and academy company in connection with the CTA.

The Council's in-house legal team represent the Council in connection with a CTA. The CTA format originates from a prescribed DfE standard. In some circumstances reasonable adjustment to a CTA may be required to meet the specific needs of a transfer, requiring negotiation between parties. Conversions of PFI schools shall require considerable additional work and resource than a standard CTA.

A number of Council teams are also involved in the CTA process, for example:

- The school services and business teams provide general instruction to legal services regarding a CTA and collate and check information on contracts and assets.
- The human resources team instruct in relation to any employment related matters in connection with a CTA.
- The finance team instruct in connection with any pension or school finance matters.
- The building team instruct in relation to any building matters.

(b) TUPE

The local authority, as the employer in voluntary-controlled and community schools, starts the formal TUPE process after receiving notification that an academy order is in place. The governing body, as the employer in voluntary-aided and foundation schools, starts the formal TUPE process. It is strongly recommended that the employer starts informal discussions with staff as soon as the proposal to convert to academy status is being explored. It is also strongly recommended that you share plans with the local union representatives as early as possible to ensure that they are able to provide support and advice to their members through the TUPE process.

There is an obligation to provide written information about the transfer to employee representatives (see above). Governing bodies should take specialist advice to ensure they comply. In some cases there will also be a duty to consult representatives and individual staff.

If the local authority employs the staff, you should formally notify the local authority that you have applied to become an academy so that the TUPE process can start.

Give the local authority as much notice as possible to ensure it has the time and capacity available to respond, to prevent your application being delayed.

As soon as the proposal to convert to academy status has been approved by the Regional Schools commissioner, the formal TUPE information and consultation process can begin.

It is important that you take legal on the TUPE process so that you are aware of your new responsibilities as the employer following conversion. During the conversion process the Council's HR team will complete the statutory elements required where the local authority is the employer, however, it is important that you are clear about the school's role and responsibilities in this process to allow the TUPE process to be completed successfully.

(c) Land Leases



It is intended that the Leases will be of a standard format as prescribed by the EFA and it is intended that no deviation will be made from the Leases unless it is to meet specific requirements of the school / EFA/ or the Council – for example subleases for third party usage. The Council's Property Services team will provide all necessary due diligence information that it has in its possession,(such as site Plan, details of any existing third party useage of school premises) to the Legal Service team to enable preparation of draft 125 year lease of the school site from the Council to the Academy Trust (and any supplemental property agreements, such as any sublease back to the Council by the Academy Trust of any Children's Centre premises within the school site). It is also advisable for the converting school to contact the Council's Property Services section in relation to information that it has in relation to the use of the School and other third party contracts in relation to the maintenance of the school so that all relevant information may be correlated.

(d) Finance, the Funding Agreement and the calculation of balances on conversion.

The funding agreement provides the framework for an academy to operate and is an agreement between the Secretary of State for Education and the Academy Trust The LA would have limited involvement in this apart from potentially supporting the school in it's budget submission as part of the approval process..

Following conversion, the Local Authority must calculate and seek to agree with the academy the final closing balance of the predecessor school or schools. In order to do this we expect the academy to ensure that all financial transactions and records are up to date to the point of conversion, and that school staff will be available to assist with the closedown process following conversion. The LA will take over the administration of the old school bank account immediately the school converts and the LA and school have four months to agree the final balance. A detailed table setting out who is responsible for the various tasks associated with the closure of the schools LA financial accounts and records is available.

The Local Authority's cost recovery policy

The workload associated with each Academy conversion will vary according to the complexity of the conversion. The work and costs involved are significant for a standard transfer but much increased in transfers involving PFI and BSF agreements or where there are complex land use issues. The academy conversion process requires extra resource, for which the school is given an allocation towards transfer costs; to mitigate some of the additional costs incurred, the LA proposes to secure a contribution of up to **£5,000** for each non-PFI conversion and of up to **£20,000** for each PFI conversion (due to the significantly more complex nature of conversion of a PFI school) from 1st September 2016. This would allow the LA to recoup costs of officer time and where necessary employ additional resources to facilitate the conversion process.

After conversion: The relationship between the City of York Council and academies

In York we believe it is important to maintain strong local partnership arrangements with all schools regardless of their status. There is no statutory requirement for any formal relationship between local authorities (LAs) and academies beyond that which is required for the delivery of LA statutory duties, such



as the making and reviewing of SEN statements, securing sufficient education in an area and provision of home-to-school transport for eligible children. However, City of York Council sees significant advantages for both academies and the LA in fostering and maintaining constructive partnership working. These advantages include:

- Maintaining an inclusive school system so that all our children can have the best possible start in life regardless of their needs or backgrounds;
- Continuing to have a strong partnership on all matters related to the education, health and welfare of children in York;
- Maintaining a constructive dialogue to support school improvement so that all schools in York remain good or better;
- Secure safeguarding.

The changing educational landscape is seeing the creation of many different forms of partnerships, networks and alliances including teaching schools alliances, multi-academy trusts, school clusters and school improvement networks. In York we believe that it is important for the strong relationship between schools and the Local Authority to continue to be maintained and developed to ensure that York's children continue to thrive and develop the skills they need to become successful adults.

As part of the continuing commitment to working with all schools to achieve educational excellence the City of York Council is also able to provide you with a range of high quality services for schools. This includes access to the York Education Services digital platform supported by the School Bus. Members of the services for schools team will be very happy to provide you with details about the contracts available and will be happy to attend meetings of trust boards to present information about the services to schools offer.