



Department
for Education

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The Chair of Governors
Orchards Church of England Primary School
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22 September 2016

To: The Chair of Governors of Orchards Church of England Primary School

Following the recent application of your governing body to convert your school to an academy, I am delighted to inform you that I am content to agree in principle to Orchards Church of England Primary School becoming an academy. I enclose an Academy Order in respect of your school in order to enable it to convert to an academy.

The purpose of an Academy Order is to enable your school to convert to an academy. For actual conversion to take place, I will need to agree with the Academy Trust a Funding Agreement and the Articles of Association of the Academy Trust. The Funding Agreement will record the date on which your school will convert to an academy.

Your DfE project lead will work with you on the next steps set out in Annexes A and B, to enable the project to progress quickly. Under the provisions of the Academies Act 2010, schools are required to carry out a consultation with appropriate people on the question of whether they should convert into an academy. Your school is likely to have already started this consultation. You will need to confirm to your DfE project lead that the consultation has been carried out by the governing body prior to the Funding Agreement being signed and you should therefore keep all of the documentation relating to this consultation.

Further information and supporting documents are available on our website at <http://www.education.gov.uk/schools/leadership/typesofschools/academies>

I enclose a copy of this letter for you to pass onto the head teacher and I am writing to Cambridgeshire County Council.

Tim Coulson,

Regional Schools Commissioner, East of England and North East London



Rt Hon Justine Greening MP
Secretary of State

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To: The Chair of Governors of Orchards Church of England Primary School

Cambridgeshire County Council

ACADEMY ORDER

1. This is an Academy Order made further to section 4 of the Academies Act 2010.
2. I hereby order that on the conversion date Orchards Church of England Primary School shall be converted into an Academy.
3. The conversion date shall be the date that the school opens as an Academy further to and as provided for in Academy arrangements made further to section 1 of the Academies Act 2010.
4. On the conversion date Cambridgeshire County Council shall cease to maintain Orchards Church of England Primary School.
5. The independent school standards (as defined in section 157(2) of the Education Act 2002) are to be treated as met in relation to the Academy on the conversion date.

Signed on behalf of the Secretary of State for Education by:

Signed:.....  Date: 22 September 2016

**Tim Coulson,
Regional Schools Commissioner**

Annex A: Next Steps

Having received agreement in principle, you can now work towards your Funding Agreement between the Academy Trust and the Secretary of State. The Funding Agreement will stipulate the date when the Academy will open.

The actions listed below will need to be completed before reaching Funding Agreement:

- set up the Academy Trust, completing the Memorandum and Articles of Association (available on our website);
- use these to register the Academy Trust with Companies House. This normally takes between 8 – 10 working days and costs £20. It can, however, be done on the basis of same day incorporation for a fee of £50;
- review your Management Information System (MIS). When you convert to an academy you can change supplier- there are many firms offering competitive licence and maintenance charges.
- set up a bank account for the newly-formed Trust and appoint an Accounting Officer, who must be the Principal of the academy and be in place from the day of opening as an Academy. Please note that bank accounts can take several weeks to set up. We advise you to identify your preferred bank and obtain the necessary paperwork in order to be able to set up a bank account as soon as possible after registering the Academy Trust at Companies House.
- agree land and building arrangements with the local authority or other landowner where appropriate. Lawyers acting for your governing body and the Academy Trust (when established) must prepare a land questionnaire, providing land ownership and other important details, and send a copy to the DfE project lead **as soon as possible**. It will enable DfE to work with your school and the lawyers to determine what arrangements should be made and what DfE documentation should be completed. A model lease and other model documents, including a land questionnaire, are available on our website and schools are advised to read the advice on land also published on the website;
- agree asset and property transfer arrangements with the local authority or other landowner (if applicable). A model Commercial Transfer Agreement is available on our website;
- the employer of the current staff should continue and complete the TUPE process;
- confirm the membership of the governing body for the academy in line with the arrangements outlined in your Memorandum and Articles of Association;
- ensure that DBS checks are completed as necessary;
- your governing body must, prior to signing the Funding Agreement, consult with the appropriate persons on the proposal to convert to an academy.

Your project lead will support you to complete these steps, and further information and supporting documents are available on our website at <https://www.gov.uk/schools-colleges/schools-types>. There are a number of other actions your school will need to take before opening, including data protection registration and pension registration (see section 4 of the guidance on pre-opening checks).

Minimizing the cost of conversion

There are steps you can take to keep your costs of conversion as low as possible. The following can be used as a checklist but does not replace existing guidance on becoming an Academy:

- Shopping around for solicitors to get the best value for money-. It may help to ask other Academies in your area which firms they used and whether in their opinion they offered good value for money. We would also recommend that you obtain an estimate for the cost of the legal work or if possible, a fixed price for the legal work required.
- Ensuring your solicitors know the requirements for conversion by supplying them with the land transfer advice and 'Guide to Becoming an Academy' document available on our website: <https://www.gov.uk/become-an-academy-information-for-schools>
- Our guidance states that converting schools are not expected to make changes to the model documentation. If you consider that changes are required then we suggest you discuss these with your project lead before approaching your solicitors as this can save time and considerable expense.
- Make sure that you have adequate insurance cover in place before the academy opens or have opted into the <https://www.gov.uk/academies-risk-protection-arrangement-rpa>

Support Grant

The Secretary of State has agreed to allocate a grant under **Section 14** of the **Education Act 2002** of no more than £25,000, to contribute towards expenses incurred by your school in converting to an Academy.

The grant is subject to the following conditions:

1. Grant may only be used for the following purposes
 - a) obtaining legal advice in respect of the conversion process;
 - b) the costs of software licence transfers;
 - c) HR/TUPE advice;
 - d) re-branding costs; and
 - e) expenses incurred in setting up the Academy Trust.

2. You should retain records to show that the grant has been used for the purposes outlined in 1 above for 6 years after the end of the financial year in which the expenditure has taken place. The books and records relating to claiming and using the grant will be open to inspection by the National Audit Office and representatives of the Secretary of State as and when they may require.

3.
 - a. In the event of a successful conversion, any unused element of Grant should be transferred to the Academy Trust for the purposes described in its charitable objects, typically the advancement of education. The Chair of the governing body will be expected to sign a declaration confirming how much of the grant has been spent at the point of conversion to academy status and, if relevant, how much has been transferred to the academy budget. The Chair will send a certificate (see Annex) to the Secretary of State declaring this and including the exact amounts of grant spent and transferred. This will still apply if the total amount of the grant has been spent.

 - b. In the event that the conversion does not occur then any unused grant should be repaid to the Secretary of State within 10 working days of notifying us that you are withdrawing your application to convert.

4. When procuring goods and services for the school or academy, you are reminded of the requirement to comply with EU and UK procurement law and regulations when appropriate.

Annex B – Setting Up Financial and Governance Arrangements

We have put together a list of the main financial and governance arrangements that academies need to have in place, including highlighting the new requirements for academies. It may be that you have already set up many of these systems and processes, but this is an ideal opportunity to review all your school-based policies and to check their continuing suitability. The list below is intended to support your smooth start up and offers a helpful checklist but is not a substitute for published documents such as the Academies Financial Handbook, the Governors' Handbook and the Academies Accounts Direction which are available on the <https://www.gov.uk/schools-colleges/schools-types>.

As a new academy you will need to complete a Financial Management and Governance Self-Assessment (FMGS) within four months of opening, unless you agree an alternative with the EFA. Feedback from academies that have completed the FMGS return shows that it is a very useful tool for new academies when setting up their financial management and governance arrangements, and provides helpful assurance to the board of trustees that arrangements meet the mandatory requirements. It will also help you create an action plan to address any areas of non-compliance identified.

EFA's wall planner will help academy trusts plan for some of the requirements which are set out in more detail below.

1. Understanding the framework

- Be familiar with the statutory and regulatory basis of academy trusts. They are charitable companies and therefore must operate for public benefit rather than for the benefit of the people running them. They are also public sector bodies, and must apply high standards of accountability and transparency in the manner that Parliament expects. Much of this is set out in the Academies Financial Handbook (AFH).
- The Secretary of State is the Principal Regulator of Academy Trusts, Voluntary Aided Schools, Foundation Schools and Sixth Form Colleges. This duty requires him to promote and monitor the compliance of Academy Trustees with Charitable and Company Law and removed the requirement for them to register directly with the Charity Commission. There are some changes to an Academy's Memorandum and Articles that can only be agreed by the Commission. These are the amendments regulated by S198 of the Charities Act 2011. The Commission provides a significant amount of guidance on how Trustees should carry out their responsibilities on its website.
- Ensure that your governors know they are charity trustees **and** company directors and that they understand the responsibilities that this conveys. Again, the AFH, and also the Charity Commission's publication CC3: The Essential Trustee, provides information about this.
- It is important that you read both your **funding agreement** and the AFH thoroughly and review them regularly to ensure your academy remains compliant with all the terms of them. Non-compliance can happen simply because you fail or forget to do something which you are required to do, for example not getting approval to enter into a leasehold.

2. Reviewing your governance position

- Review your governance arrangements so that you are confident you have in place the skilled people, structures and delegated authorities you need to govern your academy effectively and ensure high standards of financial probity. It is particularly important that trusts, in their first year, review and improve their governance arrangements; you will need to set out in your first governance statement after conversion what you have done to review and develop your governance structure and the composition of the board of trustees.

- Establish a register of trustees' business interests so that any conflicts of interest can be identified and managed. Trustees should provide annual declarations of interest, as well as providing information on any changes which occur during the year. You will also need to ensure that future procurement contracts meet the Department's rules in relation to related party transactions and 'not for profit'. Further information can be found in the AFH.

3. Establishing roles

- You will need to appoint an **accounting officer**. This person is different to the school's bursar. In a single academy trust the accounting officer will normally be the head teacher. In a multi-academy trust it will normally be the chief executive or executive head teacher. The accounting officer is personally responsible for ensuring regularity, propriety and value for money in the use of the trust's funds. The role and responsibilities of academy accounting officers are set out in some detail in the AFH.
- Ensure that your **chief financial officer (CFO)** is suitably qualified or experienced to discharge the finance role required within the trust. It is not necessary for the CFO to perform the full range of financial duties personally - for example the CFO can be supported by an accountant to prepare your annual accounts; however, you should assess capacity against the requirements in the AFH and ensure that the right mix of qualifications and experience is available.

4. Developing controls

- Establish a scheme of financial delegations and have it approved by the board of trustees. This will also ensure the trust remains within its delegated authority limits set out in the AFH.
- As best practice put in place a financial procedures manual and have it approved by the board of trustees.
- Establish robust financial internal control arrangements (for example to cover segregation of duties; use of authorised signatories for ordering and payments; matching orders to invoices; monitoring and reconciliation of budgets and timely completion of VAT returns).
- Put in place a competitive tendering policy to ensure that all goods and services are procured by means of free and open competition.
- Set up a payroll system that includes adequate checks and controls to ensure the accuracy of data and that all statutory and contractual deductions are made.
- Set up and maintain a fixed assets register.

5. Handling money

- Set an annual budget, have it approved by the trustees and submit a copy to the EFA in the form specified.
- Ensure that you can produce regular, reliable and accurate financial management information, based on accruals accounting principles, to inform your monitoring of the financial health of the academy and decisions.
- Reconcile all your bank accounts on a monthly basis as a minimum.
- Ensure correct accounting and monitoring of any restricted and unrestricted funds. For example, restricted funds should be used only for the purpose intended.
- Consider the need for a strategy for investing surplus cash that also ensures access to cash

when required.

6. Being transparent

- Do the work necessary to enable you to prepare and produce annual accounts and have them audited:
 - Appoint external auditors as soon as possible after opening to ensure you have access to the necessary financial advice on the production and audit of accounts.
 - Ensure your accounting period ends on 31 August, unless DfE has specified in writing that another date can be used, and ensure it is recorded as this date at Companies House.
 - In conjunction with your auditor review the Academies Accounts Direction and ensure you know when you need to start preparing the trust's first set of accounts.
 - Bear in mind that your accounts will need to be sent to the EFA by 31 December and must be published on your website.
- From September 2012, *Schedule 4 of the School Information (England) (Amendment) Regulations 2012* requires all schools (including academies), to publish additional information online. This includes the schools: name, address, named contact for enquiries, admission arrangements, academic performance and how its Pupil Premium funding has been spent.
- Ensure you have a complaints procedure which is compliant with Part 7 of *The Education (Independent School Standards) Regulations 2010*. This factsheet can help you put in place a compliant procedure.
- You should also have a whistle blowing policy.
- You should tell the Information Commissioner's Office (ICO) in writing that the academy is opening and will now be responsible for processing personal and pupil data (*failure to do so is a criminal offence*).

7. Thinking about risks

- Ensure that the academy trust has in place an adequate risk management process to monitor and manage risks including financial risks.
- Establish an audit committee or, if permitted under the AFH, ensure that one of the academy's other committees (for example the finance committee) adopts terms of reference which will permit it to fulfil the responsibilities of an audit committee.
- Ensure that your audit committee (or other committee, as above) puts in place a process for independent checking of financial controls, systems, transactions and risks - for example the appointment of an internal auditor or equivalent, as described in the AFH.
- Make sure that you have adequate insurance cover in place before the academy opens or have opted into the Department's Risk Protection Arrangements.
 - If you don't already have a business continuity plan you will need to put one in place and have it approved by your board of trustees.

8. Other

- On opening please complete the online contacts form confirming to the EFA the key people to contact in your academy.

- Remember that as an academy you will still need to comply with the School Admissions Code and School Admission Appeals Code.



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