Academy Conversion
Questions And Answers
Document
Possible conversion to academy status Questions and Answers
This document has been issued by a working party made up of 5 members of the Governing body and the School Business Manager exploring academy status.

The following questions and answers provide more information about what academy status means and what the implications would be if our school converts.

The Q&A are divided into sections:

• What is an academy?
• Academy governance
• Academy funding and services
• Academy policies
• Educational implications
• Employment in an academy
• Land and buildings
• What could change in the future?
• Consultation process
• Further information

1. What is an Academy?
An Academy is an independent state school, funded directly from central government rather than through Lancashire County Council. A charitable company limited by guarantee (the Academy Trust) is responsible for the academy, and the Academy Trust signs the Funding Agreement (the contract) with the Secretary of State as part of the establishment of the academy.
Legislation requires that an academy has the following characteristics:
• That it offers a balanced and broadly based curriculum;
• That it provides education for students of different abilities; and
• That it provides education for students who are wholly or mainly drawn from the area in which the school is situated

2. How is an academy different from a Community school?
An academy has several differences to a community school, including:
• Admissions – each academy is responsible for setting and implementing its admissions policy and for prioritising applications. An academy must continue to operate within the requirements of the national School Admissions Code in the same way as maintained schools, including full participation in the local coordinated admissions scheme administered by the local authority;
• Land and Buildings – the land and buildings of the school are leased to the Academy Trust for 125 years at a peppercorn rent from the Local Authority and the academy would be responsible for the land and buildings (and reliant on the Secretary of State For capital funding);
• **Curriculum** – an academy has to offer a broad and balanced curriculum for students of differing abilities, including Maths, English, and Science, but it does not have to follow The National Curriculum;

• **Employment** – the Academy Trust becomes the employer of school staff, rather than the local authority. Academies also have freedom to set new terms and conditions for future staff, although Barrowford School intends to retain the current nationally and locally agreed Terms and Conditions for existing and new staff;

• **Funding** – the academy receives its existing school budget and also its share of the funding that is retained by the local authority for maintained schools

• **Governance** – a new charitable company (the Academy Trust) would be established for the school. The Governors of the Academy would be the directors and trustees of this Trust.

3. **What is the rationale for exploring academy status?**

The primary focus of every school is on providing the highest possible quality education to our students. The rationale for exploring academy status is that:

1. Academies have greater independence for the school to make decisions in the best interests of its students. This includes gaining the responsibility for some services currently provided by the Council.

2. Academy status would provide significant additional resources to the school. While some of this would be required to operate the academy and replace services that are currently provided by Lancashire County Council, the remainder would be available to improve facilities, invest in ICT, and improve teaching and learning opportunities.

3. Academies have greater freedom to personalise the curriculum to suit the interests and needs of each pupil.

4. **What are the arguments in favour of or against converting to academy status?**

Identification of ‘pros’ or ‘cons’ is subjective, but the following table outlines some arguments in favour or against conversion. The consultation process will provide Governors’ with a greater range of arguments in favour or against which they will consider and investigate further before being in a position to make a final decision about whether to convert.

<table>
<thead>
<tr>
<th>For conversion</th>
<th>Against conversion</th>
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<tr>
<td>Full receipt of income i.e. no top slice from the authority for services provided by them. This gives the opportunity to seek best value from external providers whose service can be tailored to our schools needs.</td>
<td>Loss of the local authority as a ‘safety net’ in the event of major building fabric failures that cannot be insured against, and uncertainty regarding how the Secretary of State would react in that situation. (It is noted that there is likely to be limited scope for capital investment irrespective of school.</td>
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<tr>
<td>for money, including those provided by the LA, but we will not be constrained by having one provider who has a monopoly on a service irrespective of quality or cost.</td>
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<td>status in the foreseeable future)</td>
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<tr>
<td>Increased autonomy to make decisions in students’ best interests, including responsibility for services currently provided by the local authority.</td>
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<td>A fear that academy status represents the fragmentation, or privatisation, of state education.</td>
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<tr>
<td>Greater freedom to personalise and develop the curriculum, including greater freedom to respond to the National Curriculum changes in accordance with students’ needs.</td>
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<td>The greater responsibilities could deter people from wanting to become Governors, and there is a restriction of 19.9% of Governors who can be linked to local government (as Councilors or employees) which could restrict the range of individuals who would be eligible.</td>
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<td>The school could protect and continue its ethos, including establishing an appropriate governance structure.</td>
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<td>Increased statutory requirements and costs e.g. accounting</td>
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<tr>
<td>Increased VFM via procurement of bespoke services</td>
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<tr>
<td>Isolation</td>
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5. Would there be any external sponsors involved, like there are in the ‘sponsored’ academies?  
No.

6. Is this privatisation?  
No. The Academy Trust is a charitable trust and is not a profit-making organisation. The only objective of the Trust is to promote education for public benefit.

7. Does Ofsted inspect academies?  
Yes, in exactly the same way as for maintained schools.
8. How would the academy be governed?
If a school decides to convert, it would establish its own new charitable company, the Academy Trust, and this Trust would be responsible for the academy. The Trust would sign the Funding Agreement (the contract) with the Secretary of State. The Governing Body is the key ‘decision-making’ group for the academy, in the same way as it is for the school now. The academy Governing Body is able to exercise all the powers of the Academy Trust. The current Governing Body would decide the size and structure of the Governing Body for the academy.

An Academy Trust also has a small number of Members (often only 3 or 4). These Members have a similar role to ‘shareholders’ in a private company limited by shares. They hold and vote at an AGM and other General Meetings as convened. They appoint some of the Governors. The current Governing Bodies are keen that the members of the Academy Trust are ex-officio to ensure that they always have a current and substantial interest in and knowledge of the school and its local community. The member appointed governors should be similar in concept to the ‘community’ governors at maintained schools – people who bring local knowledge and appropriate skills to the Governing Body.

9. How are parent governors identified / appointed in an academy?
The same process as for the school currently. When there is a vacancy, applications are sought from the parents at the school. If there are the same number or fewer applications than vacancies then those individuals who applied are appointed. If there are more applications than vacancies, the parents vote to decide who becomes a governor.

10. Are there any restrictions on who can be governors of an academy?
There are a series of eligibility criteria for being an academy governor, which are very similar to the criteria used for maintained schools. There is also a restriction for academies that individuals who have an association with local government (i.e. are an elected councilor or an employee) cannot exceed 19.9% of the votes available at the Governing Body.

11. Does the Governing Body have the technical expertise or the time it will need to take on its new responsibilities to protect the school in areas such as finance, the law, personnel and other technical areas?
The current Governing Body of the school includes individuals with a range of backgrounds and skills that help the school. The Governing Body of an academy has a greater range of legal responsibilities as a result of the additional services and the legal status as a charitable company. The Governing Body would want to ensure that it had access to the appropriate advice for these new areas, which may include Governors with backgrounds in specific areas (and the Governing Body of an academy can, just like the current school can, co-opt Governors if it feels it needs a Governor with specific skills). In addition to the skills within the Governing Body, the Governors of any
maintained or academy school may seek additional professional advice in areas such as legal responsibilities.

12. How can the Secretary of State intervene in an academy?
Within the template Articles of Association (which are the governing documents of the Academy Trust), the Secretary of State has the ability to appoint 'Additional Governors' and 'Further Governors' in different situations and can terminate the Funding Agreement if an academy is placed in Special Measures and fails to make adequate progress. For 'Additional Governors' to be appointed, the criterion is that the Secretary of State has first to have served a warning notice to the Governors (relating to standards, management /governance, or safety) and the Secretary of State believes that Governors have failed to take the necessary action. He can also appoint 'Additional Governors' if the school drops two Ofsted grades between inspections (for instance, from ‘outstanding’ to ‘satisfactory’). He can appoint 'Further Governors' if a Special Measures Termination Event occurs (which is where academy is put into special measures and fails to make adequate progress). If the Secretary of State does appoint Additional or Further Governors then any governors appointed by members have to resign and members can not appoint any more until the Secretary of State starts removing his Governors.

Academy funding and services

13. What start-up costs will the school face on transfer to academy status?
Each school receives a £25,000 grant from the Department for Education (DfE) if its application is approved. This grant is towards the detailed exploration of academy status and, if the school decides to proceed, the implementation costs. There are costs relating to the legal conversion (i.e. setting up the Trust, preparing the lease and Funding Agreement, and the TUPE process) and other ‘one-off’ costs relating to preparing each academy for successful operation, such as ICT licensing. Whether this grant is sufficient for the conversion will form part of the financial appraisal that the Governing Body of the school will consider before they make a final decision.

14. Do academies receive extra funding?
Academies receive their funding direct from the Government rather than via their local authority. The main academy revenue budget consists of two elements:
• The school budget – which is currently worked out in exactly the same way as it is currently for maintained schools
• Their share of the funding that is retained by the local authority from all maintained schools—this is calculated based on the academy’s share of the total number of students. It is this local authority retained funding, called the LACSEG, that enhances academy budgets. This money is directed to the academy rather than the local authority; it does not come from the budgets of other schools.
As long as there is a local authority and there are maintained schools, then there is always going to be an amount retained by the local authority. The amount of funding
that is retained varies between councils and can vary over time. The following table shows the figures for

**Education Services Grant Calculator**

<table>
<thead>
<tr>
<th>School Information</th>
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<tbody>
<tr>
<td>LA Name</td>
</tr>
<tr>
<td>LA Number</td>
</tr>
<tr>
<td>Academy Type</td>
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<tr>
<td>Total funded pupils aged 3-19 (include Post 16 if applicable)</td>
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<table>
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<tr>
<th>AY 2013/14 ESG per pupil rate</th>
<th>£150.00</th>
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<tbody>
<tr>
<td>AY13/14 ESG allocation</td>
<td></td>
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<tr>
<td>Total AY 2013/14 ESG unprotected allocation</td>
<td>£55,500</td>
</tr>
<tr>
<td>10% Year-on-Year Protection</td>
<td>£0</td>
</tr>
<tr>
<td>Total AY 2013/14 ESG allocation</td>
<td>£55,500</td>
</tr>
</tbody>
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*I have made a presumption of 370 children in September 2014. This figure will be higher.*

15. **What functions currently carried out by the local authority would be carried out by the school if it converted to academy status?**

Functions that are currently funded by the ‘LACSEG’ (which is the money retained by the local authority for maintained schools, but provided directly to academies) would become the responsibility of the academy. These include

- education welfare service
- pupil support (eg school uniform grants)
- music services (eg instrumental tutors)
- outdoor education including environmental and field studies (not sports)
- therapies and health-related services, that aren’t funded by the health service
- visual and performing arts
- monitoring national curriculum assessment
- school improvement such as continuous professional development for staff
• determination of terms and conditions of service of staff
• early retirement and redundancy costs
• asset management
• producing financial accounts
• internal auditing

Having the funding would allow an academy a greater degree of control of the quantity and quality of these services compared to the current situation.

Services that will remain with the local authority

The following duties remain with the local authority and do not become your responsibility:

• home to school transport, including transport for pupils with special educational needs (SEN)
• education psychology, SEN statements and assessment
• assigning SEN resources for pupils who require high levels of additional resource (this is a top-up to formula funding under a separate contract with the local authority)
• monitoring of SEN provision and parent partnerships
• prosecuting parents for non-attendance
• provision of pupil referral units for a pupil no longer registered at an academy

16. How would the academy re-provide the services that Lancashire County Council currently manages using the LACSEG funding?

For any services that the school would become responsible for upon conversion, it would need to ensure that it chooses the most appropriate method to meet the needs of the school and provide best value for money. The options available to the school would include providing it in-house, working in partnership with other schools / academies to provide the service, or purchasing it from a provider (which could be Lancashire County Council). Schools would want to consider how to work together to provide services, ensuring both high quality and effective value for money.

17. After considering the costs of re-providing services, would the school be better off as an academy?

Yes

Further work is being undertaken to test and improve the financial appraisal so that Governors have sufficiently detailed and robust information to inform their decision.
18. Would the academies receive their extra funding at the expense of other schools, including the primary schools, which in the long run will harm other primary schools?
The conversion of any school does not affect the delegated budget of any other school.

19. How certain is LACSEG funding in the future?
Funding is never certain. Should this not be available in future years it will not be detrimental to the academy performance.

20. What is the medium term funding position if a school remains maintained by the local authority or if it converts – is a school definitely better off as an academy?
As independent schools, academies are responsible for their own financial management and the Funding Agreement effectively requires them to operate within their budget. In the medium term there are financial uncertainties irrespective of the status of the school. All that can be said for certain is that academies would have a larger initial budget (because of the LACSEG) to act as a buffer.

21. What happens to the current surplus or deficit of a school if it converts to academy status?
The principle is that the surplus or deficit transfers from the current school to the academy – i.e. there is no change. If a school has a surplus, then this is paid by the local authority to the academy. If a school has a deficit, the deficit would transfer from being owed to Lancashire County Council to being owed to the Young People’s Learning Agency (YPLA) and the YPLA would then Lancashire County Council. The academy would need to agree a ‘deficit recovery plan’ with the YPLA to pay the deficit back, in a similar way to the current process with the council.

22. What information is there about the insurance costs an academy would incur to cover the significant risks posed by potential emergencies such as fire, flood, pupil accidents, major crimes etc?
All academies are required to take out a wide range of insurances, often to levels specified by the DfE. The academy receives a grant equivalent to the cost of insurance from the DfE so it has no net effect on the academy budget.
Academy policies

23. Would there be changes to the number of pupils admitted into Reception class each year?
No

24. Would there be changes to the admissions over-subscription criteria of the school?
Admissions process and criteria will stay the same.

25. How would the relationship with the Local Authority change? What support does a Council provide to an academy.
The school would continue to work with the Council on common issues and would remain part of the local ‘family of schools’. The Local Authority would retain responsibility for numerous statutory duties, including ensuring sufficient school places and Special Educational Needs.

26. Would the school day and school year change?
No

27. Would the school name change?
No

28. Would the school uniform change?
No

Educational implications

29. What are the educational reasons for converting?
Academies have greater curriculum and operational freedoms to ensure that they meet the needs and interests of all their pupils. Academies have a larger budget (due to their share of the LA funds) with which to target their educational priorities.

30. What are the safeguards for vulnerable students?
Under the terms of the Funding Agreement (which is the contract between the Academy Trust and the Secretary of State), an academy has to act in exactly the same way as a maintained school in relation to Special Education Needs, behaviour, and exclusions.

31. Who is responsible for deciding if a student needs a Statement of special educational needs?
The local authority would retain the legal responsibility for statementing, although the processes involved would be carried out by DfC, who would determine whether the academy is named on the statement. The Green Paper on SEN proposes changing a
range of aspects of the current processes / requirements / accountabilities around SEN – these appear likely to affect the school equally whether it converts or not.

32. What does the academy have to teach?
The Academies Act 2010 requires an academy to:
• Offer a balanced and broadly based curriculum
• Provides education for pupils of different abilities
The DfE template Funding Agreement requires the curriculum to include English, Maths and Science, and that it shall make provision for the teaching of Religious Education, and to have a daily act of collective worship.

Employment in an academy

33. What is the impact of Academy status for current staff?
All qualifying staff would transfer from their current employer (which Lancashire County Council) to the employment of their Academy Trust. Qualifying staff are generally those who would have been employed at the school on the date of conversion to academy status. This transfer would take place within the TUPE regulations for staff transfer, which ensures that staff retain all of their existing rights, terms and conditions and pension arrangements, including continuity of service. Pension rights would also be maintained as part of any conversion to academy status.

34. What is the effect of TUPE?
The TUPE Regulations provide that the current employer’s "rights, powers, duties and responsibilities” under the contract of employment of any transferring member of staff would be transferred automatically to the new employer, in this case the Academy Trust.

35. Academies are not bound to follow national or local Terms and Conditions of employment. Would any academy change Terms and Conditions for future new staff?
There is no intention to change terms and conditions for future new staff at this moment. Consultation would take place should anything arise in the future.

36. Do academies have to recognise Trade Unions?
Yes. Where TUPE applies all trade unions are recognised before the transfer and continue to be recognised by the new employer.

Land and buildings

37. Who owns the land at an academy?
The expectation of the Department of Education is that land that is owned by the local authority would be leased by the Local Authority to the Academy Trust. This lease would be for 125 years at a peppercorn rent. The local authority would retain the
freehold title to the land. The Academy Trust would become responsible for the land and buildings in accordance with the lease.

38. How does an academy access capital funding?
Academies receive some capital funding, called Devolved Formula Capital, according to the same methodology as maintained schools. This funding is provided directly to the academy. Whereas the school currently relies on the local authority for funding for more substantial works, whether these are for repair / maintenance or for improvements, academies are generally reliant on central government. Government is currently consulting on future arrangements to allocate capital funding and manage capital projects at all schools, including academies.

39. Who would be responsible if the boilers break down or a roof needs repair?
The Academy Trust would be responsible for the repair, maintenance, upkeep and insurance of buildings. Each school already has a programme of planned works that is designed to minimize the risk of things like boiler failure, and would continue this programme if it converts. If there is a significant event the academy would have to respond using its resources, including the LACSEG funding. If the academy was unable to afford the works then they would need to apply to the Secretary of State for a grant. It is not in anyone’s interests for a school to be closed to students.

40. Who would be responsible if there is a major fire at the school?
Academy insurance would be expected to cover this.

41. What could change in the future?
If the school remains as a maintained school, changes in the future could originate from central government, LCC, or the Governing Body. The Governing Body already has the powers to propose changes to the school day or year, curriculum, or how the budget is spent. If the school converts to academy status, the academy Governing Body could propose changes in the future. Many of these changes would require formal consultation with parents and / or staff and their Unions. The Governors could decide some changes, while others would require the agreement of the Secretary of State. At all times, and on all issues, the Governors’ are required to act in the best interests of the academy.

42. Can academy status be ‘undone’?
The Academy Trust or the Secretary of State can terminate the contract (the Funding Agreement) to run the academy, but there is a seven year termination clause (which could potentially be varied if both sides agreed that was in students' best interests). Converting to academy status is therefore a long-term decision. In the event that the Funding Agreement is terminated (and there is no other funding agreement in place) the lease and, where relevant, the supplemental agreement, will be terminated.
43. If the school decides not to convert to academy status, could the Secretary of State force the school to become an academy in the future?
The current intention of the Secretary of State to convert existing 'low performing' schools into academies does not apply to Barrowford School. The Government has stated that for high performing schools, academy status is optional.

Consultation process

44. Who is being consulted?
Governors want to hear the views of any interested person or group. In particular, Governors want to understand the reasons for those views to help ensure that they have considered all relevant issues before they make their final decision.

The school will distribute the consultation document to parents and staff, and will engage with students. The schools will distribute their consultation documents to LCCs, local MP who serve the area, and the Trade Unions recognised by Lancashire County Council.

45. Will the Governors’ listen to the views from the consultation?
How important will the consultation responses be in the final decision?
Yes, governors will consider every response to ensure that they consider all relevant issues. Responses are likely to include arguments for and against conversion, as well as questions or concerns about conversion. The information from the consultation will help inform the investigations that Governors’ undertake (for instance if consultation responses raise questions that Governors had not previously considered), and will be considered alongside the results of Governors’ research into areas such as finance, legal implications, land and capital, and employment.

Further information

46. Where can I get further information?
The Department for Education website has information about academies, including an extensive set of themed questions and answers: www.education.gov.uk/academies
The Anti-Academies Alliance is an organisation that campaigns against academies. Their website is: www.antiacademies.org.uk
If you type ‘academy status’ into an internet search engine you will be able to see information from a variety of viewpoints.