

Conversion to Academy Status

Consultation

Introduction

Before Schools can convert to Academy status, Governing Bodies are required to undertake a consultation process. We understand that consultation has been one of the most contentious areas in the conversion process and the Department for Education (DfE) are keen to know what consultation has been carried out prior to conversion in individual cases. This advice note sets out what the consultation process entails together with practical steps that the School can take to ensure that they satisfy consultation requirements.

Please note that the consultation requirements set out in this note are separate to those required under TUPE legislation and the School should obtain specialist employment advice to ensure that they are compliant with their obligations under employment law. We will provide this where we are instructed to advise on employment matters.

Why do Schools need to consult?

The Academies Act 2010 ("the Act") requires the School's Governing Body to "*consult such persons as they think appropriate*". Furthermore, the Act specifies that the "*consultation must be on the question of whether the school should be converted into an Academy.*"

The aim of the legislation is to prevent Governing Bodies resolving to convert to Academy status where there is little or no support from any relevant stakeholders. The legislation ensures that interested parties are kept informed about the Academy conversion and that their views are taken into account.

The legal definition of consultation

Any public body undertaking a consultation exercise must:

- provide sufficient information to consultees upon which an informed response can be made;
- invite responses within a reasonable time scale;
- consider any responses received; and
- reply to those responses.

The Cabinet Office Code of Practice applicable to all public bodies emphasises the need for a clear, open and accessible process, which must be completed prior to any formal decision being taken.

Who should Schools consult and how should they do this?

The Act has not been prescriptive about who Governing Bodies should consult before converting to Academy status. Any consultation document should be in plain language, should detail the changes proposed and should invite representations. At the very least, it will be necessary to explain the reasons for the proposed change of status, the perceived benefits (and any drawbacks or risks which are evident) arising out of the proposed change, the date on which the change is to be effected, details of any changes to the

School as a result of Academy status (or a statement that there will be no such changes), an invitation to make representations, the deadline for responses and information about how to respond.

We envisage that it will be appropriate for the School to consult staff, pupils and parents together with any partner organisations which the School may have, e.g. the local authority, other local schools (perhaps adopting the model of consultation applicable for the admissions policy) and the local community. With respect to the local community, one would ideally consult with ward councillors, put a notice in the local press and place notices in local libraries, job centres and at other community facilities. An open invitation to attend a meeting to discuss the proposals would be very helpful.

The Governing Body will be best placed to decide how to approach consultation although Governors should consider the following steps:

- Hold a school assembly to explain to pupils what the Academy conversion will entail;
- Send letters and/or questionnaires to parents inviting them to ask questions;
- Hold a meeting with parents;
- Place an advert in the local paper, library or GP Surgery; and
- Upload general information onto the School website.

The Governing Body should properly consider any responses to consultation and keep a detailed record to show that any responses have been duly considered. Where responses raise questions, a reasoned response should be given. The Cabinet Office Code of Practice states that it is good practice to publish a summary of the representations received and a response to them and make this generally available. We recommend that the Governors (or any delegated committee put in place to deal with the process to become an Academy) consider holding a meeting to review any responses to consultation and that a note is made as to how any concerns raised during the consultation process are addressed.

Conclusion

It is important that the Governing Body takes the consultation requirement seriously as it will need to be able to confirm to the DfE that it has consulted such persons it considered appropriate, the date on which the consultation was carried out and that the views obtained were considered in the decision to convert to become an Academy. The DfE will also want to know whether there was any opposition from anyone to the conversion and if so, how was that handled.

The DfE are not being prescriptive about the documentary evidence schools need to retain at the moment. However, as a general steer, it could include copies of any reports that were commissioned, consultation questionnaires along with responses and minutes of consultation or briefing meetings. The School will not need to provide the documentation as part of the application process, but it will need to ensure that it is available on request.

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