

Oldham Local Authority Policy and Guidance on Academy Conversions

2022

Oldham LA Policy & Guidance on Academy Conversions 2022

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Section One: Policy

1. Introduction

- 1.1 The policy and associated guidance outlines the LA's position with regard to schools who either wish to join a MAT (Multi-Academy Trust) or those who are required by legislation to convert to academy status. The policy and guidance cannot override the requirements of primary legislation specifically the Academies Act 2010 and Schools Bill 2022
- 1.2 The introduction of the Education and Adoption Bill 2015 requires the LA to set out how it will work with schools who wish to join a MAT or establish a MAT with other partner schools, this includes those schools who as a result of underperformance become eligible for intervention by the Secretary of State. This policy provides a framework for determining LA decisions It is the governments wish that all schools become academies by 2030 and this is reflected in the White Paper (Opportunity for All, March 2022) and will be further strengthened by the Schools Bill 2022.
- 1.3 Academies are independent of local authorities and conversion leads to changes in responsibilities, finance and working relations between local authorities and academies. This policy and guidance outlines the approach that will be taken by the LA and offers practical advice and guidance on how the LA will manage conversion and how governing bodies should approach the issue of conversion.
- 1.4 The educational vision of the LA includes the whole family of schools in Oldham regardless of whether they are academies or maintained schools. This vision envisages all schools, stakeholders, and the LA working together in partnership to provide the best possible outcomes for all children and young people.
- 1.5 Secondary Head Teachers and Primary Head Teachers continue to discuss matters and work together in their representative groups (OASHP) and Executive Primary Heads Group regardless of their school status. The LA's policy will be to continue to include all Oldham Schools in its communications, consultations, and discussions for the benefit of all Oldham children and young people.
- 1.6 The LA recognises that as a result of the academy conversion agenda that its overall revenue funding received from the Education Services Grant (ESG) will reduce as academies receive the Education Services Grant as part of their revenue funding. The ESG used by the LA for statutory duties relating to services relevant to the Education Services Grant. The LA undertakes that it will work to mitigate any financial or job losses by promoting the services and those of its strategic partners with MAT's in order to ensure the highest level of buyback possible. The LA will ensure that where appropriate contracts are novated as part of the CTA (Commercial Transfer Agreement).
- 1.7 The LA is the employer for staff in Community Schools and Voluntary Controlled schools and the monitoring and maintaining authority for all non-academy schools. It is a requirement that all schools will inform the LA if they are considering joining a MAT or seeking to establish a MAT with other partner schools.
- 1.8 The Education and Adoption Act 2015 extended the academies programme to:
 - Require every school judged 'inadequate by Ofsted to be turned into a sponsored academy.
 - Give new powers to the Secretary of State for Education to intervene in schools considered to be underperforming and constrain local authorities from doing so in some circumstances.
 - Extend the legal definition of 'eligible for intervention' category to include 'coasting' schools and enable (but not require) the Secretary of State to turn such schools into sponsored academies or intervene in them in other ways.

- Allow the Secretary of State to issue directions, with time limits to school governing bodies and local authorities to speed up academy conversions.
- Place a new duty of schools and local authorities in specified cases to take all reasonable steps to progress the conversion.
- Require schools and local authorities in specified cases to work with an identified sponsor toward the 'making of arrangements' with that sponsor.
- Remove the requirements for general (i.e., public consultation) to be held where a school eligible for intervention is being converted to a sponsored academy.
- Statutory Guidance (Schools Causing Concern) effective from September 2022 further strengthens the capacity of Regional Directors to intervene in underperforming schools. In most cases this means that schools with consecutive RI (Requires Improvements) Ofsted judgements will be required to convert to academy status.

1.9 For schools not eligible for intervention, under current legislation there are two routes to becoming an academy: -

- Join an existing Multi Academy Trust
- Establish a Multi-Academy Trust with other partner schools

2. Definitions and Abbreviations

DfE	Department of Education
PFI	Private Finance Initiative
TUPE	Transfer of Undertakings Protection of Employment Regulations
CTA	Commercial Transfer Agreement
CIPB	Capital Investment Programme Board
CIF	Condition Improvement Fund
ETO	Economic, Technical and Organisational
NJC	National Joint Council
STPCD	School Teachers Pay and Conditions Document
ICO	Information Commissioners Office
LA	Local Authority

3. Conversion costs

3.1 Converting schools are entitled to a DfE grant of £25,000 to prepare for conversion (up to £37,000 for PFI schools). The LA receives no additional funding in order to deal with the financial impact and increased workloads created by and associated with the conversion work.

Schools undergoing voluntary conversion will be charged for work undertaken by the LA.

3.2 As the ceding employer, and in order for each academy conversion to happen, the LA is obliged to carry out a number of functions on behalf of the school, these functions include:

- Providing initial information to the DfE
- Leading or supporting the formal TUPE process (this may be part of an SLA)
- Carrying out the financial reconciliation and closure of accounts

- Preparing documents for the transfer of land and assets
 - Liaising with the schools appointed solicitors on the CTA (Commercial Transfer Agreement)
 - Preparation of documents for the transfer of pensions
- 3.3 These activities involve a number of different departments with the LA and require a considerable amount of officer time. There is therefore a not inconsiderable cost to the LA whenever a school becomes an Academy. Therefore, the LA will make the following charges for voluntary Academy Conversions to cover these costs:
- Converter Academies £10 K
 - PFI Conversion costs will be agreed on a case-by-case basis.
- 3.4 In addition to the above, schools should note that the LA will invoice trusts/schools for any additional fees that may arise as a result of unforeseen circumstances.

4. Data and Records

- 4.1 The LA is responsible for the accurate recording and safety of all pupil data and records prior to the school's conversion to academy status.
- 4.2 As part of the CTA (Commercial Transfer Agreement), the LA will require all converting schools to deliver to the LA all ex-pupil records boxed, logged, and stored by destruction date and alphabetically. A list of contents of each box must be attached to each box.
- 4.3 The LA will expect all converting schools to comply with the Education (Pupil Information, England) Regulation 2005 and any associated guidance produced by the ICO further information.
The link below is a useful source of further information.
- http://intranet.oldham.gov.uk/downloads/file/3533/records_responsibilities_and_archiving_guidance_for_closing_schools_merging_to_become_academies
- 4.4 The LA will expect that Academies will share with them all data and records relevant to pupil wellbeing and performance.

5. Council's Preferred Sponsor

- 5.1 The LA will work closely with schools and the Department of Education and Regional Directors to ensure that academy sponsors share the LA's vision for high performing schools which are responsive to local needs and offer a valuable contribution to the borough education offer to parents.
- 5.2 Oldham LA is an ambitious authority and good and outstanding schools are a key part of the authority's vision for a thriving forward-looking and prosperous borough.
- 5.3 The LA recognises that the educational landscape is changing at a fast pace and will work in partnership and cooperation with a range of autonomous providers of education and related services.

5.4 The LA recognises the value of a wide range of provision and to that end, the LA is committed to working in partnership with a range of providers. As part of the educational offer to Oldham parents, the LA expects academy sponsors to demonstrate the following: -

The ability to:

- Secure effective leadership which will demonstrate an ambitious vision for the school and high expectations for what every pupil and teacher can achieve and set high standards for quality and performance including management of learning and teaching.
- Offer sharp challenge and the impetus to act where improvement is needed based on clearly identifying strengths and weaknesses.
- Promote rigour in school self –evaluation enhancing a school’s capacity to drive its own improvement
- Secure rapid improvement in attainment for all pupils
- Offer targeted professional development to secure good or better teaching throughout the school
- Develop a curriculum that meets children’s needs, engages them, and prepares them for a variety of career paths.
- Gain the confidence of the community in the school and position the school so that it plays a significant part in supporting families to meet high aspirations for all pupils
- Build on existing partnerships with parents and carers and the community and ensure that all stakeholders are valued partners in the life of the school
- Ensure that residents and service users actively inform decision making and co-produce services with communities in line with cooperative values and principles
- Ensure the environs of the school are fit for learning and accessible to the community
- Work in partnership with the LA and Oldham Learning to enable the LA to fulfil its statutory responsibilities with regard to safeguarding, SEN, school performance outcomes and school admissions. This includes an agreed process for sharing key information with the LA.

In addition, the LA would expect sponsors to demonstrate: -

- A firm commitment to adhere to local terms and conditions of employment (including signing up to the Fair Employment Charter and the Real Living Wage).
- A willingness to engage local professional associations and a commitment to developing that engagement.
- That they understand and can pay heed to the values and aspirations of the local community and can contribute to the wider community served by the school.
- That they will engage in meaningful consultation with all stakeholders regardless of whether the school is eligible for intervention or converting on a voluntary basis.
- That they will actively engage with the wider work of the Local Authority, Oldham Learning and National and Local Professional Associations.

6. Capital Works

6.1 The allocation of funds to undertake capital maintenance work on schools are proposed by the LA CIPB (Capital Investment Program Board).

This body is not a decision-making body, but its role includes recommending funding allocations and priorities for capital works that are required across the school estate.

Any works identified need to be approved either by the Cabinet Member for Education or for works of a value in excess of £0.400m full Cabinet. As such, schools converting to or considering converting to academy status should not assume that because works may feature in the CIPB Plan that they are agreed by the Council.

Only works agreed by the Cabinet Member or by Cabinet if the value is over £0.400m can be deemed to be agreed by the LA. The LA will only consider funding projects prior to conversion in very exceptional circumstances such as works required immediately due to health and safety implications.

- 6.2 Academies and schools with a signed academy order are able to gain funding for capital projects through the Condition Improvement Fund (CIF). Schools with an academy order at the start of September 2021 are invited by the Dfe to apply via the CIF.

7. Financial Considerations

- 7.1 The Governing Bodies of schools converting to academies will be responsible for the school budget and financial management arrangements in the period leading to conversion.
- 7.2 School should not enter into any new leasing agreements or contracts in the name of the old school that extend beyond the conversion date. Advice should be sought regarding any existing leasing arrangements to ensure these are dealt with (which may mean termination and re-establishment) in the correct way.
- 7.3 The school will need to have an up-to-date copy of the school inventory.
- 7.4 Schools converting to academies need to ensure the only transactions that appear in their old school budget relate to the period before the school converts to an academy. Transactions relating to the academy should not be charged to the old school budget.
- 7.5 Schools looking to convert to an academy need to ensure they buy into any service level agreements up to the proposed conversion date and set up new service level agreements with services for the academy after conversion.
- 7.6 When the conversion of the school is approved a budget plan should be calculated up to the date of conversion.
- 7.7 If a school has surplus balance when it converts to academy status, the 2013 Regulations provide that:
- *The LA must determine and notify the amount of that surplus within four months of the date of conversion.*
- 7.8 If a school is a converter academy and is in deficit the Education Funding Agency will recover the deficit from the school. If a school is a sponsored academy the deficit remains the responsibility of the Local Authority. The Local Authority will work closely with schools to manage any potential deficit at conversion
- 7.9 The LA will work closely with schools to manage any potential deficit at conversion.
- 7.10 Schools converting to academy status that have chosen to operate their own bank account with either the LA bankers or an approved financial institution of their choice need to ensure all direct debits/credits are cancelled, the bank account is closed and any stationary (unused cheque books etc) are returned to the LA.

Monthly cheque book returns will still need to be completed and balanced by the school until the bank account is closed. Schools converting to academy status that have an imprest account

need to ensure the bank account is closed and any stationery is returned to the LA. Schools will also need to ensure that the initial imprest advance is returned to the LA.

8. TUPE and Service Recognition

8.1 Staff in schools that are re-designated as academies have their employment transferred from one establishment to the other, following the Transfer of Undertakings (Protection of Employment) TUPE Regulations. The LA directly and via its HR Service provider will support converting schools to ensure that correct processes are followed. This will include the following:

-

- Due diligence work on HR records and personal data.
- Completion (where possible) of all outstanding HR issues
- Support and attendance for all consultation meetings with staff and associated paperwork.

8.2 The LA will not fund any staffing changes or school restructures that occur for ETO reasons as a result of measures taken by the Academy Trust in connection with the conversion.

8.3 Staff transfers from an LA school or voluntary aided school to an academy have ALL employment rights protected upon transfer, however, if a member of staff accepts a new academy contract or subsequently moves of their own volition back to the LA the contractual rights that transfer are different for support and teaching staff.

8.4 Support staff

NJC terms are protected because of TUPE and continuous service is protected by the Modification Order. Academies are members of the Modification Order and as such should an employee return back to the LA from an Academy their continuous service will be recognised for calculation of the following: -

- Redundancy pay entitlement
- Occupational maternity pay
- Occupational sick pay
- Annual leave entitlement

8.5 Teachers

STPCD (School Teachers Pay and Conditions) and Burgundy Book are primarily concerned with LA employment only. Continuous service for the purposes of calculating Redundancy pay entitlement is recognised under the Modification Order, however, the following elements would not be recognised by the LA for teachers who return from an Academy to an LA School.

- Teacher's maternity pay starts from zero as teachers' maternity rights are linked contractually to LA service and continuity is broken once a teacher leaves LA employment.
- Teacher's occupational sick pay is also linked to LA service and so continuity is broken as soon as they leave the LA. Employment with the Academy will not count. However, sickness entitlement is based on aggregated LA service therefore prior LA service will be recognised but not the intervening period of employment with the Academy.

In the event of any member of staff returns to the LA as a result of a TUPE transfer from the Academy then all employment rights and continuous service are again protected (in reverse) and in accordance with TUPE legislation.

9. Pensions

- 9.1 With regard to the treatment of existing pension the liabilities the following will apply in respect of schools that have converted to academy status and free schools within the borough: -
- 9.2 The LA will give consideration to pension pooling arrangements on a case by case basis for converting Academies and Free Schools within the borough of Oldham in respect of non-teaching employee pensions. This will be subject to an assessment of the following criteria: -
- A commitment to adhere to the criteria listed in section 5 of this policy.
 - The LA is satisfied that such schools are financially secure and can demonstrate that they can meet their obligations as a scheme employer.
 - The extent to which Academy or Free School Sponsors will assist with the mitigation of any residual LA risks that are associated with Pension Fund transfers, pooling, and Admitted Body arrangements.
 - That the establishment of such schools is aligned to the Council's overall strategy for pupil place planning.
 - That Trusts agree to sign up to and adhere to the 'Local Authority Pooling Agreement'

10. PFI Schools

- 10.1 The LA has a number of PFI (Private Funded Initiative) schools within the borough. Three secondary schools in Oldham have either been built or refurbished using PFI funds.

The conversion process is more complex as these schools operate under PFI contracts. To allow these conversions to take place the LA, Governing Body, MAT, DfE and PFI Contractor must enter into a suite of contracts to reflect the schools change in status and transfer the assets required for the Academy Trust to operate the school.

- 10.2 To enable PFI schools to convert to academy status the LA will require that the Academy Trust enter into the following agreements.
- 1) Commercial Transfer Agreement (CTA). This covers the transfer of staff, assets and contracts held by the Governing Body and the LA in respect of the converting school to the Academy Trust.
 - 2) Lease Agreements to grant a 125-year leasehold to the Academy Trust.
 - 3) A 'School Agreement' to flow down the relevant rights, obligations and liabilities enjoyed by the LA pursuant to the Project Agreement to the Academy Trust
 - 4) Deeds of Variation to the Project Agreement to vary the Project Agreement in recognition of the school's change in status. The LA will also provide an LGCA Certificate in respect of this agreement.
 - 5) Principal Agreements to provide a guarantee from the DfE in respect of some of the payment liabilities of the Academy Trust in the event of non-payment.
- 10.3 The LA can contribute towards the annual repayments (a contribution towards the building running costs/facilities management charge) and to capital repayments (affordability gap).

In the event of any of these schools either being subject of an Academy Order or opting to join a MAT then neither the Academy nor the LA should be better or worse off financially than if the Academy had remained an LA maintained school.

LAs and schools will honour the payment commitments that were agreed at the time that the PFI contract was signed. The contract remains between the LA and the contractor, regardless of the number of schools within that contract converting to academy status.

11. Leases

11.1 As part of the conversion process a school's land and buildings will transfer to the academy on a 125-year lease. The terms of such leases will be as required by the DfE and the following will be key features of all leases to academies.

- The property can only be used for educational purposes set out in the Academy Trusts 'Article of Association'.
- The lease cannot be assigned to another body without the permission of the Secretary of State.
- The lease will allow the LA to forfeit the lease and re-enter the Property if the Academy Trust fails: -
 - To use the property for the purpose originally agreed
 - Becomes dissolved, struck off or removed from the Register of Companies or otherwise ceases to exist.
- The lease will automatically end if the Academy funding agreement is terminated and there is no replacement funding agreement for educational purposes.
- In the event of the lease being forfeited or ending due to some other reason the site would revert back to the Council as the freehold owner

11.2 Where the LA considers that a school has land surplus to its needs the LA will seek to retain any surplus land if this land forms part of a strategic need.

11.3 The LA will, as part of any lease negotiations seek to protect the interests of third parties such as community groups or before and after school clubs who share facilities with schools seeking academy status.

11.4 The LA reserves the right to include or exclude land beyond the school's physical boundary if that land formed part of the original school footprint.

12. Sources of Information and Support

- Department of Education website - www.education.gov.uk
- Finance (Liz Caygill - liz.caygill@oldham.gov.uk)
- HR & General Information (Andy Collinge – andy.collinge@oldham.gov.uk)
- Legal (Debbie Taylor– debbie.taylor@oldham.gov.uk)
- Pensions (John Hoskins – john.hoskins@oldham.gov.uk)
- Pupil Records (Tim Hanstock – tim.hanstock@oldham.gov.uk)
- Capital Works (Alan McCarthy – john.winterbottome@oldham.gov.uk)
- PFI Projects (Chris Kelsall – chris.kelsall@unitypartnership.com)

13. Interpreting the Policy

In the event of a dispute regarding the interpretation of this policy, advice must be sought from the LA Legal Department. The LA may seek further advice before issuing any guidance.

Any advice regarding interpretation will automatically become incorporated into this policy.

Section Two: Guidance

Guidance for Schools on Academy Conversion.

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Introduction and Content

This guidance has been designed to support Governing Bodies in giving full consideration to all implications of joining a MAT (Multi-Academy Trust) or establishing a MAT with other schools, and whether it is an appropriate step for the school.

Conversion to academy status is probably one of the most important decisions any Governing Body can make and has significant and far-reaching implications for the school.

There are a number of different forms academy conversion can take and this guidance is specifically focused on those schools who are considering becoming 'converter academies' and joining or forming Multi-Academy Trusts with other schools, however, schools who are eligible for intervention should also follow this guidance in order to ensure that the conversion process is well managed and full consideration is given to all the implications of conversion and the necessary practical steps that need to be taken.

There are several requirements in order for a school to be able to convert to academy status and these can be summarised as follows: -

- Conversion follows governor led local consultation, and governor application to the Secretary of State for approval to convert.
- Converter academies are not new schools and retain their original DfE number.
- The process typically takes around 4 to 5 months to complete.
- The process for PFI schools can take up to 12 months to complete.

This guidance is non-statutory but represents good practice and assists Governing Bodies in giving full consideration to the key aspects of conversion which include: -

- The decision-making process.
- Consultation
- Cost and practical implications
- The application process

Academy Conversion Guidance

The Academy Decision Making Process and Consultation

Initial Considerations

Step One

The GB should consider the following:

- 1 The views of Governors
- 2 The view of the Head Teacher and views expressed by staff governors about the likely feelings of staff.
- 3 In the case of VC/VA schools, obtain the view of the diocese.
- 4 Invite the LA to discuss the process with the full Governing Body.

If the view is that the GB wish to explore academy conversion, they should move to step two.

Step Two

The Governing Body (GB) sets up a working party of 2-3 governors to obtain and consider more details and make recommendations to the GB.

The recommendation may be that:

- On balance, there are clear advantages in joining or forming a MAT now (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 GB and school is not yet ready and will need to be strengthened in a number of areas.
- On balance, there are insufficient advantages – and significant disadvantages – to justify continued interest.

Step Three

Working party reports back to GB with recommendations.

Step Four

GB considers working party recommendations and decides:

1. to proceed to consultation OR
2. to ready itself to consider joining a MAT later or collaborating with other schools to form a MAT
3. not to proceed with the proposal.

Step Five

In the case of (1) the working party should proceed as follows: -

- a. Consult stakeholders.
- b. The GB should consider stakeholder responses
- c. If following consultation exercise, the GB wish to join a MAT or form a MAT with other schools the GB should record their decision and communicate this to stakeholders.

Step Six

In the case of (2) the working party should proceed as follows:

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 a strategy to strengthen the organisation and staffing
5. Meanwhile, keep abreast of developments that may change the advantages vs. disadvantages assessment.
6. When governors feel the time is right, the GB will need to check that:
 - a. The balance of advantages points to academy conversion.
 - b. The GB and school are now in a position to join a MAT to form a MAT with other schools.

There is a decision-making process flow chart at **Appendix A**

There is suggested Pro-forma for initial consultation at **Appendix B.**

Working Party Considerations (Pre-Consultation)

Issue	Suggestions	Notes
Who to notify/consult?	<ul style="list-style-type: none"> • Foundation/Trust • Parents • Pupils • Staff • LA: Staff unions/associations • Diocese • Other local schools 	<p>Do we have contacts for all these groups before proceeding to consultation?</p> <p>Staff don't have to be consulted except for TUPE later in the process, however, we would recommend that they are. Consulting the full list would be considered good practice</p>
When?	Before the GB makes its final decision	Avoids the perception of the decision already having been taken
How to inform?	<p>Hard copy letter</p> <p>Online website</p> <p>Newsletter</p> <p>Meetings – School Council, Parent Forums, staff meetings</p> <p>Community or parish magazines</p>	<p>Who decides on the way in which groups are informed?</p> <p>GB/Working Party/school</p> <p>Questions raised in Meetings of e.g., School Council, Parent Forums. The GB should publish the answers to any formal questions.</p>
What information should be provided	<p>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:</p> <ul style="list-style-type: none"> • main advantages identified by the GB including what you would do differently • the disadvantages that the GB considered • details of the proposed academy arrangements • details of the proposed governance arrangements 	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.

Issue	Suggestions	Notes
	<ul style="list-style-type: none"> 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. details of any additional obligations and costs which fall on the school if it joined a MAT 	
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 pre-consultation process?</p> <p>What kind of information would be useful?</p> <p>Methods of collection – questionnaire/statement inviting comments/interviews/meetings? Sample size?</p> <p>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.</p> <p>Schedule working party meeting to agree report for GB</p>	

Academy Conversion – Considering Differences, Implications & Costs

Before focusing 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 the decision they make.
- The Headteacher still needs to work in partnership with the governing body/trust/LA on strategic matters.
- Academies are still subject to the law on employment, equality, admissions, and 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 legislation.

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 may 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.

School Performance

Differences	Questions	Notes	Indicative costs
Freedom from National Curriculum – although still required to be 'broad and balanced'	Do we currently feel constrained? What would the trust 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/trusts 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 'The National Curriculum 2014' when considering options.	
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. On joining or forming a MAT the GB need to consider what governance arrangements/decision making powers/delegations will be in place post-conversion	

Differences	Questions	Notes	Indicative costs
		A major part of the school's budget is generated through pupil formula funding. Spending decisions are then delegated to schools.	
Trusts 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 schools?</p> <p>What effect would becoming an academy have on our local and partner schools?</p>		

Governance

Differences	Question	Notes	Indicative costs
GB no longer subject to existing statutory governance regulations but following them is deemed to be good practice	<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>	GB must be familiar with articles of association for the MAT they are seeking to join or in the case of schools seeking to form a MAT they should be clear on how governance will operate in the MAT	
Composition of GB 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>Schools opt who join a MAT (Multi-Academy Trust) should note that Trusts are under no legal obligation to have a GB in each school within the trust.</p> <p>Where local GBs are in place it is the Trust Board who decide, what powers are delegated to local GB's/Advisory Boards.</p>	

HR

Differences	Question	Notes	Indicative costs
The Academy Trust is the employer of staff	<p>Have we considered the implications?</p> <p>Do we currently feel constrained?</p> <p>What would be different?</p>	Only different for community and VC because in VA and Foundation schools and Trusts the GB/Trust is already the employer.	

Differences	Question	Notes	Indicative costs
	How would our children benefit? Is HR advice provided by the Trust or externally? On balance what do we gain?	Any redundancy costs must be met from academy/trust budget. The Trust is the legal respondent in Employment Tribunal Cases and other legal challenges.	
Ability to set own pay and conditions	Have we considered the implications? Do we currently feel constrained? Do we use current flexibilities? 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 some pay, and conditions are likely to apply initially. but may change subsequently following consultation with staff and unions. In practice, very few academies have deviated from national or local terms and conditions.	

Finance

Differences	Question	Notes	Indicative costs
Academies will receive funding from the LA to pay for 'EHC' plans for mainstream and early years pupils. Funding is also paid by LA's for 3 and 4-year-old children accessing free entitlement to early education.		In addition to the individually assigned resources (IAR) i.e. Notional SEN, for pupils requiring more support above 9.5 hours, academies will receive funding for SEN pupils from the High Needs Block. Academies must comply with 'SEN obligations imposed on governing bodies of maintained schools.	
		Note: Funding of Academies is for the academic year – not financial year. Trusts will still need to purchase services. They may be able to purchase services from LA. Do individual schools in the trust have a choice about what services they buy?	
Surplus or deficits – On becoming an academy, schools may be able to carry forward any surplus. Circumstances,	What is our current financial situation?	If the school is in deficit, the repayment plan needs to be agreed by the Education Funding Agency (EFA) not the LA.	

Differences	Question	Notes	Indicative costs
when budgets can be carried forward, are included in the 'Scheme for Financing Schools'. Schools with deficits must have a repayment plan in place			

Legal

Differences	Question	Notes	Indicative costs
GB subject to Trust which will: 1) Register land 2) Appoint governors 3) Have a broad strategic oversight	How helpful will this be? On balance what do we gain?	Governors will be appointed to the GB by the academy trust (made up of members)	
Academy Trust is a charitable trust subject to charity law	Have we considered the implications? What will we do differently? On balance do we gain?	Academies are charitable trusts that are publicly funded independent schools. 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.	

Premises

Differences	Question	Notes	Indicative costs
Trust has total premises responsibility	Have we considered the implications? Do we currently feel constrained? What will be different? How would our children benefit? On balance do we gain? What condition is our school building in? What are the trust's plans for the building?	Do we have local support in the event of emergencies? Refer to your LA's current schedule of centrally funded repairs and maintenance which would no longer be available to Academies.	

Behaviour & Attendance

Differences	Question	Notes	Indicative costs
Trust does not have to consult LA when considering an exclusion Attendance service free for maintained schools but academies must pay for services except for prosecutions and statutory work.	Do we currently feel constrained?	GB is not expected to seek the advice of an LA officer when considering exclusion, but parents can request LA Officer attendance and/or an SEN expert attendance. Trust will need to organise (or buy-in) Independent Review Panel for Permanent Exclusions. Academies must comply with all other requirements in national guidance on exclusion.	
		In addition to the individually assigned resources (IAR) for pupils requiring more support, academies will receive funding for SEN pupils. Academies must comply with 'SEN obligations imposed on governing bodies of maintained schools.	

Admissions

Differences	Question	Notes	Indicative costs
Trusts have the ability to determine own admission arrangements; however, can be subject to direction from the SoS.	Do we currently feel constrained? What would we do differently? How would our children benefit? On balance what do we gain?	VA and Foundation schools already set their own admissions. This will only be different for community and VC schools. All schools must comply with the National Admissions Code of Practice and participate in Coordinated Admissions organised by the LA. Trusts are not allowed to introduce selection but may continue existing selection arrangements. The Trust will be responsible for independent Appeal Panel arrangements for school admissions.	

Insurance

Differences	Question	Notes	Indicative costs
Academy Trust needs to purchase own indemnity insurance	What are the options?	A governor as trustees/director has a limited liability of £10. Governors need liability insurance because anyone acting as a trustee/director of an Academy Trust	

Differences	Question	Notes	Indicative costs
		<p>has unlimited liability for his/her own defaults.</p> <p>A trustee/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 trustee/director can be liable, without limit, for the loss caused to the Academy Trust. Liabilities to external 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 charity law. Whereas GBs of maintained schools have their own legal identity and corporate responsibility and local authorities normally provide indemnity insurance.</p>	

Health & Safety

Differences	Question	Notes	Indicative costs
<p>Trusts has total responsibility for Health and Safety</p> <p>No 'employer' role or responsibilities exist for the LA.</p> <p>Trust must obtain H&S advice/support from a 'competent person'</p>	<p>Have we considered the implications? What will we do differently? As we will have no health and safety support from the LA, will we need to spend more than we do currently on H&S advice and support? On balance do we gain?</p>	<p>VA and foundation schools already are responsible for their premises, staff, and visitors. This will only be different for community and VC schools.</p> <p>Trusts will need to purchase specialist advice from a 'competent health and safety person' and implement sufficient H&S management systems. These systems will need to be regularly reviewed and audited to ensure compliance with all H&S related legislation.</p>	

Other Considerations

Differences	Question	Notes	Indicative costs
Academies/Trusts accountable to SoS	<p>How do we feel about this? What would we do differently? How would our children benefit? On balance what do we gain? Do we continue to manage the HT or is that the Trust?</p>	<p>SIPs employed by DfE will support and challenge academy. SIPs will not support Performance Management of the Headteacher.</p> <p>This is deemed to be the responsibility of the Trust or Academy governing body. Academy can purchase external adviser time to support governors in headteacher Performance Management</p>	
Sustainability – of senior leadership team	<p>Do our current headteacher and senior leadership team have the skills and attitudes to lead the 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 skills and commitment can be maintained as governors and trustees retire?</p>	A Governance Handbook is available for trustees of academies, and multi-academy trusts and governors of maintained schools.	
Changing role of clerk and administrative staff	<p>How keen are staff who would have to take on new responsibilities, for example, 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>		

Academy Conversion – 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.

In addition, the LA will also charge schools (who convert on a voluntary basis) for work undertaken by LA Officers for the purpose of conversion.

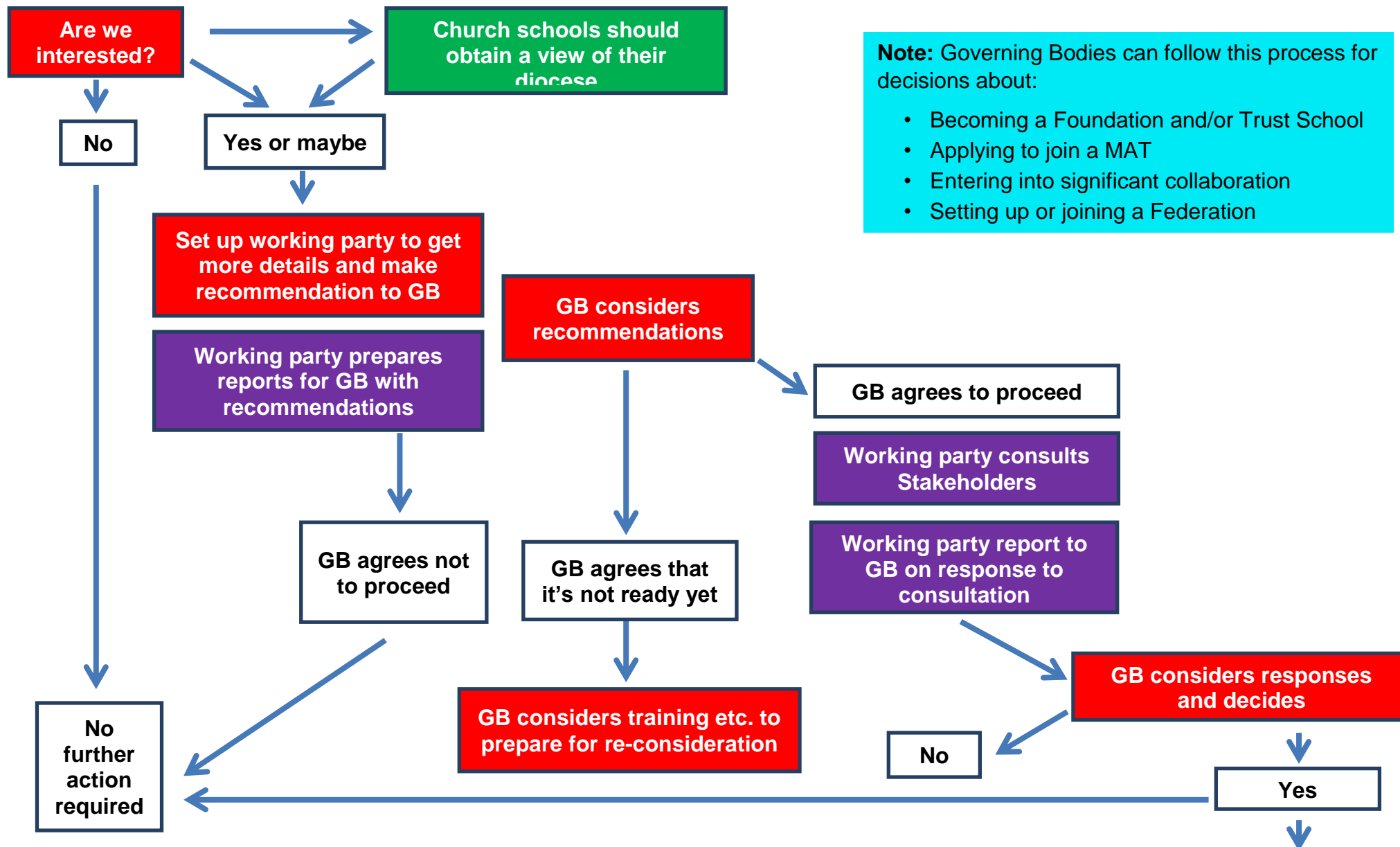
Prior to application	By whom?	With whom?	Notes including estimated time required	Indicative costs
Consultation	Governing Body	Stakeholders – see above		
Report on responses leading to governing body decision	Governing Body	All governors		

Prior to application	By whom?	With whom?	Notes including estimated time required	Indicative costs
Seek formal agreement from Trustees/Foundation and the body responsible for appointing foundation governors for example the diocese	Governing Body	Trustees/Foundation and the body responsible for appointing foundation governors	Only required if school is Foundation, Voluntary Aided or Voluntary Controlled	
Submit online 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	Trust/Governing Body	Unions, LA, and staff	Please see paragraph 3 of this policy.	
Seek Secretary of State approval and Academy Conversion Order.	Secretary of State	Governing Body		

Prior to application	By whom?	With whom?	Notes including estimated time required	Indicative costs
Completion of registration form to register the Academy as part of a MAT	Trust/Governing Body	DfE		
Establish Trust – Memorandum and Articles of Association	Trust/Governing Body		These documents will need to then be posted on the school's website	
Register the Academy Trust with the Charity Commission	Trust	Charity Commission		
Agree land and building leasing arrangements with the Foundation/Trust/LA	Trust Solicitors	Foundation/Trust/LA		
Agree asset and property transfer arrangements	Trust Solicitors	Foundation/Trust/LA		
Ensure all required consultation has been undertaken	Trust/GB/LA	LA	All considerations and decisions must be recorded in the governing body minutes	
Complete TUPE process	Trust/LA/Governing Body	Unions, staff, and LA		
Sign Funding Agreement – legally binding for 7 years	Academy Trust	Secretary of State	Funding Agreement will state when the Academy opens and the date of conversion. This is the date when the LA will cease to maintain the converting school	

Appendix A

The Decision-Making Process



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

- Becoming a Foundation and/or Trust School
- Applying to join a MAT
- Entering into significant collaboration
- Setting up or joining a Federation

Appendix B

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 to join a Multi Academy Trust. The Governing Body set up a working party to consider the differences and implications.

It has been recommended that we consult on a proposal to move to join or form a MAT. 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 to join or form a Multi Academy Trust. We are interested to hear and consider the views of stakeholders before we make a final decision.

<p>The working party consider the following factors to be significant advantages which will lead to benefits for pupils at the school.</p>	
<p>The main things that the school would do differently if it were to become an academy are:</p> <p>(Include here any proposed changes in the arrangements for the curriculum, for special educational needs, for pupil discipline, exclusion and for complaints....)</p>	
<p>There are a number of things that will remain unchanged. These are: (...and confirmation that there will be no change in the admissions arrangements)</p>	

The working party identified the following possible disadvantages:	
We believe that we can avoid or overcome them in the following ways:	
Services that the school would need to purchase either separately or via the Trust Examples may include:	Anticipated cost per year
• Legal Services	
• Insurance	
• Licences	
• Property Services	

There are additional costs associated with the following features of academies		
See examples below	Anticipated cost per year	
Academies are subject to charity law		
Academies are liable for VAT		
There are additional costs associated with increased freedoms and responsibilities.		
Freedom	Responsibility	Estimated additional costs per year
Control of own premises	Pay for professional premises advice	
Direct employer of staff	Pay for all HR services and payroll	
Control own admissions	Pay for all 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 to join a MAT.

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.	
• LA charges	
Total cost	
Net cost (subtract £25K grant)	

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 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:

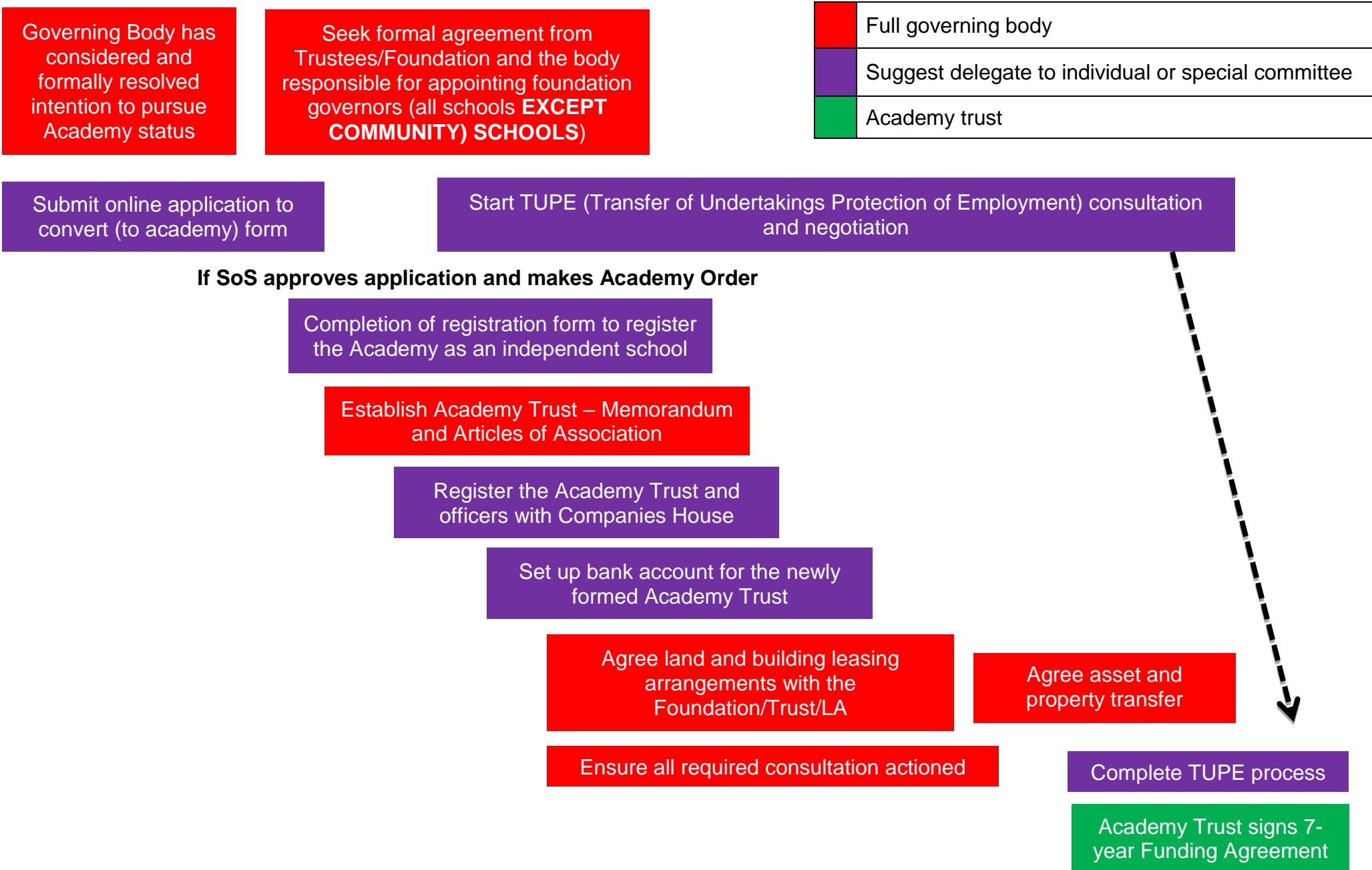
The Governing Body plans to consider the outcomes of this consultation at its meeting on.....date.

Signed

Chair of Governors

Appendix C

The Process From Resolution To Conversion



POLICY ADOPTION AND REVISION DETAILS			
LEAD ADVISER	Andy Collinge	NEXT REVIEW DUE	
SIGNED BY LA DATE	October 2022	L.A	October 2023