

# Academies – Some Frequently Asked Questions



## *Questions staff frequently ask*

**Q. What will happen to my pay and conditions if my school becomes an academy?**

**A.** In the first instance, your pay and conditions would remain the same because of the protections of TUPE (Transfer of Undertakings (Protection of Employment) Regulations 2006). More detailed information on TUPE can be found on the ATL website.

New employees can be employed on different pay and conditions because academy schools are not in any way bound by the national pay and conditions framework nor any agreements negotiated locally with your local authority. Many academies have tried a variety of ways to get TUPE transferred staff to change their pay and conditions.

In a letter from Lord Hill to schools is made clear that those schools which agree to continue with nationally agreed pay and conditions will be looked at less favourably when applying to convert to academy status than those who do not. ATL believes that this clearly shows that the government intends academies to devise their own pay and conditions structures.

**Q. Will academy schools be bound by the School Teachers' Pay and Conditions Document?**

**A.** No. Academy schools are free to invent new terms and conditions for new staff. Existing staff who agree to a change of contract following conversion to academy status would be bound by any new contract devised by the academy. New contracts could be required if you wish to move from full to part-time working or change roles within the school.

Conditions in academies may not include provisions for planning, preparation and assessment (PPA) time, rarely cover and leadership and management time, and could result in teachers being required to undertake a range of administrative tasks that do not require their qualifications or skills.

**Q. Can my pay and conditions be changed after I have transferred to the academy?**

**A.** Although you are protected by the TUPE Regulations for changes associated with the transfer it is possible for your employer to change your pay and conditions. You may, for example, be required to sign a new contract if you accept a new post within the school or vary your hours or work. It is also possible that changes can be made for 'economic, technical or organisational reasons' which could include restructuring. TUPE protection is a complex issue but you should be aware that TUPE does not offer unlimited protection of your pay and conditions after the transfer. More information on TUPE can be found on the ATL website.

**Q. What sort of changes to pay and conditions might be proposed?**

**A.** All sorts of changes can be proposed. For example, in some existing academies there is Saturday working, others have longer school days and longer school years. In some, there is slightly more pay for these extensions to working hours, in others, there is not. Some academies pay less maternity pay than their neighbouring schools. In some cases, staff who have moved to an academy have not had their previous service recognised for maternity purposes and have lost all built-up entitlement to maternity pay. No academy schools have committed to implement the national pay and conditions framework indefinitely. We have an example of one academy in the North-West who have dismantled the whole pay structure, including TLRs and leadership points, and replaced it with a 120 point pay scale for both teaching and support staff.

ATL would expect that contracts and salary scales are negotiated with staff through the relevant trade unions. It is important to secure a recognition agreement with your academy.

**Q. What happens if I am working in an academy and I apply for a new job?**

**A.** If you apply for a new post outside of the academy there will be no entitlement to TUPE protection as you will have voluntarily changed employer. However, you will retain continuity of service for redundancy providing there is you move straight from one role to another. You may also have protection for sick leave and maternity benefits depending on the type of move.

**Q. What will happen to my pension?**

**A.** Currently, the funding agreement insists that academies must offer membership of the Teachers' Pension Scheme to all teachers and the Local Government Pension Scheme to all support staff.

**Q. How short a time could it be before my school becomes or opens as an academy?**

**A.** The government says this can be as little as three months – including school holidays.

You may know nothing about this process until the governing body has taken the step of voting to become an academy. It is important to seek confirmation from the head teacher and governing body on whether the school is considering conversion to academy status.

ATL believes that schools are morally obliged to consult with staff, parents and the wider community before any decision is taken to convert to an academy. ATL expects that consultation to be full and meaningful :-

- it need to be of at least 4 working weeks in length (there are legal requirements for longer periods of consultation in certain circumstances (ie 90 days when there is a possibility of more than 20 redundancies.)
- involve all unions
- allow unions to hold meetings with members
- hold meetings with staff
- communicate with parents, including a ballot of all parents where it is requested.

This is an irreversible change to the status of the school and ATL believes that the decision cannot and should not be rushed.

**Q. Is there a requirement for staff to be consulted?**

**A.** Although there is no requirement to consult with staff written into the legislation the government have made it clear that schools must consult with 'all interested parties'. Schools are required to provide evidence as to what consultation they have undertaken before final approval given.

To stop your school becoming an academy you should approach your head teacher and/or teacher and staff governors immediately for clarification on whether an application to become an academy is being considered or pursued.

If your school is converting to become an academy, as an employee, you have a separate right to be consulted on the impact of any change in the status of your school under the TUPE Regulations. This cannot happen effectively during a school closure.

**Q. My school isn't called 'outstanding' by Ofsted – is becoming an academy still a threat?**

**A.** Yes. It is now possible for all schools in England to convert to an academy. Schools judged 'outstanding' or 'good with outstanding features' are pre-approved. Other schools will need to join with another school or group of schools – one of which must meet the pre-approval criteria.

There are currently over 150 schools not judged outstanding with applications to convert lodged with the government.

**Q. Will my school need to have a sponsor to become an academy?**

**A.** If your school currently has an Ofsted judgement of 'outstanding' or 'good with outstanding features' you do not require an external sponsor.

If your school does not have either of these Ofsted gradings then it may still apply but you would be required to join a group of schools – one of which must be graded either 'outstanding' or 'good with outstanding features'.

**Q. What happens to support from the local authority?**

**A.** Becoming an academy would remove the provision of support from the local authority, such as their advisory services, special educational needs (SEN) and disability support, behaviour support, child and adolescent health and social care services, emergency contingencies, advisory services, training and professional development, payroll support, and facilitation of school networks. Any school that becomes an academy would need to fund such provision from within its own budget. If a school does not purchase services from the local authority, these may well become more expensive for schools to procure since individual academies would not benefit from the same economies of scale as the local authority. Provision in the academy is likely to cost more rather than less.

When academies enter into contracts with providers it is not guaranteed that the costs will remain the same. There is every possibility that the costs will increase once the school have taken the irreversible step of moving away from the local authority. Once contracts are entered into

**Q. Do local authorities matter to schools and staff?**

**A.** Yes they do. The local authority provides an important safety net for schools, supporting them particularly when schools encounter deficit problems with their budgets, financial management problems, and support for schools and the workforce in terms of responding to such matters as staff health and welfare, maternity provision, reasonable adjustments for disabled staff, statutory induction provision, staff training and development, safety and security, challenging parents and pupils and so on. Local authorities also facilitate effective working

relationships within schools and, as a result of mechanisms such as the Joint Negotiating Committees, provide better industrial relations.

**Q. Does the local authority have to be consulted on an application by a school for conversion to become an academy?**

**A.** Governing bodies do not have to consult with the local authority on applying for conversion to academy status. Given that the local authority may be the employer of staff at the existing school, this will have very serious implications. The reality of these changes could allow an unrepresentative group of governors to force through a change of status to become an academy without any mandate from the local authority, staff at the school, parents or the local community. ATL believes that any school considering conversion to an academy should discuss this with the local authority.

**Q. Will my school get more freedom?**

**A.** There is a general myth that local authorities exert operational control over the day-to-day running of schools. Non-academy schools already enjoy considerable autonomy over their affairs, but nevertheless are accountable for their use of public money. Academies' performance will be monitored and their test/examination performance would continue to be included in league tables.

The government argues that academies would have greater freedom from the local authority and on staff pay and conditions of service. However, the academy would be held to account by the Secretary of State and officials in Whitehall rather than an official in the local authority who is likely to know the school and its local context. Furthermore, academy schools remain subject to primary legislation, including employment law, health and safety and equalities legislation.

**Q. Will standards rise?**

**A.** Independent research and evaluation provides no evidence that academies are better than other schools in raising educational standards. In fact, the overwhelming evidence demonstrates that non-academy schools are more likely to be identified by Ofsted as 'outstanding' schools.

**Q. Will academies be freed from Ofsted inspection?**

**A.** The Secretary of State has announced that schools previously judged outstanding will no longer be subject to routine school inspection. However, that does not necessarily mean that they will never be inspected. The performance of all schools will continue to be monitored and if there are signs of deterioration or other factors are a cause for concern, these could trigger an inspection.

Other than outstanding schools which convert to academies, we expect that other academies will continue to be inspected in the normal way,

except where they have already undergone a full inspection and have been judged outstanding.

It will be possible for head teachers, staff or parents to trigger an Ofsted inspection in certain circumstances. There may be a cost to the academy for such an inspection.

**Q. Will my school get more money?**

- A.** The DfE will provide a grant to schools to assist with the costs associated with the academy conversion process (around £25,000), but this grant is only payable on completion of academy conversion and is unlikely to meet the full costs of conversion. Schools that incur costs but do not complete academy conversion would have to meet these costs from within their core budget.

The Government claims that schools will be better off because they would be able to spend money currently with the local authority on support services, etc. However, the academy school will still have to procure services to ensure that they continue to deliver their statutory functions. Given that local authorities have delegated a significant proportion of their budgets to schools, schools will be able to save very little, if any, money. In fact, academy schools could well have higher costs.

**Q. Will schools that convert to academy status get a new building?**

- A.** There is no additional money to support new buildings or refurbishment to existing buildings for schools that become an academy. However, academies will be responsible for their own budgets and can use the funds as they see fit. Academies may choose to make savings in other areas to pay for maintenance or new school buildings. The savings could be made from extra-curricula activities or staffing costs.

**Q. Will my school get curriculum freedom?**

- A.** Every school currently has the freedom to implement the curriculum already. Schools will continue to be accountable for how they deploy their financial resources and the standards they achieve.

**Q. Can we do anything about this?**

- A.** All the main teacher unions (ATL, NASUWT, NUT) and support staff unions (GMB, UNISON, UNITE) are opposed to the academy schools policy and are working together to oppose it. By working together, you can help to persuade governors at your school not to go down this route. You can also talk to other staff colleagues in your school about the threat that academies propose and discuss your views with the head teacher. You can also get further information from your union.

## ***Questions parents frequently ask***

**Q. What is an academy?**

**A.** An academy is an independent school funded by the state.

**Q. The head teacher at my child's school has said s/he wants the school to become an academy. Can the head teacher make that decision?**

**A.** No. A head teacher has no power to determine whether a school becomes an academy. The decision rests with the governing body and if the school is a voluntary aided or controlled school, with the relevant additional voluntary authorities. ATL believes that the local authority, parents and staff should also have a say in the future of their school.

**Q. Is the school required to consult parents about becoming an academy?**

**A.** The governing body of the school makes the decision about the school applying to become an academy. The Academies Act requires schools to undergo a consultation exercise before governors make the decision to convert to academy status. It is important that the voices of parents and the local community are heard on such a crucial and irreversible decision, and we would encourage parents to do everything they can to influence the governing body's decision.

**Q. How can parents make their views known about the school becoming an academy?**

**A.** Parents who wish to make their views known should contact the parent governors and the Chair of governors requesting that a full consultation with all parents takes place. The governing body should be asked to give details of the pros and cons of converting the school to academy status. A public meeting should be sought to provide everyone with an interest in the future of the school the opportunity to discuss the proposals. The local community may wish to call for a ballot on whether the school should apply for academy status. If the governors fail to engage in meaningful consultation with parents or the local community, then you should protest to your local council, your local councillor and your local MP.

**Q. Will becoming an academy mean that educational standards will be raised?**

**A.** There is no evidence that being an academy school raises standards. Academy schools have no better record of educational achievement than any other type of school. Some have a far worse record.

**Q. Will there be more money for my child's education if the school becomes an academy?**

**A.** The school will have no additional money. It will be allocated its share of the money that is currently held by the local authority to make provision across all schools for pupils with a whole range of special needs, pupil support, education welfare and school transport.

Once the money is allocated to the school, it will have to make provision to replicate those important services previously provided by the local authority. It may find, if, for example, it has a significant number of pupils with special needs, that it has insufficient funds to match the provision previously provided by the local authority.

**Q. Does becoming an academy mean that the school will get new buildings and facilities?**

**A.** The government has stated that it is making no provision for new academies to have new buildings or facilities. Some academies have found that the additional funding has allowed them to undertake repairs that the local authority had neglected (this may have been because there were more pressing concerns at other schools). Academies may redirect the funding from extra-curricular activities or the staffing budget to building or maintenance. The government has stated: -

*Capital funding programmes for academies for any work beyond the initial construction for 2010 converters are still under consideration (except that academies, like maintained schools, receive Devolved Formula Capital). The academy is entirely responsible for all its capital requirements, including health and safety, although it may seek grant aid.*

ATL is aware that the 'free school' programme is costing considerably more than budgeted for. From an original budget of £50 million for all 35 'free schools' £15 million has been earmarked to secure one site. It is likely that funding for all schools, including academies, will be tight to fund the government's latest type of school.

**Q. Will there be additional costs for parents?**

**A.** Academies are not allowed to charge fees for pupils to attend the school. However, there may be hidden costs by academies introducing, for example, new school uniforms or charging for certain activities and use of resources.

**Q. Will there be any changes to the catchment areas or admissions?**

**A.** Academies are their own admissions authority and, therefore, set their own admissions policies. They are at present required to abide by the admissions code. Whilst academies cannot choose their intake, there is some evidence that academies' intakes are not representative of their local community. Parents should be aware that they will not have

recourse to an independent appeals panel if their child does not secure a place. The academy will run their own appeal process.

All academy funding agreements should include details of their obligations in regards to children with SEN. An academy is expected to behave as if they were a maintained school in meeting the needs of children with SEN. However, the record shows that academies have a higher exclusion rate than other types of school.

**Q. Will parents have more influence with academy schools?**

**A.** All available evidence shows that in existing academies the governing body becomes smaller as a result of either reducing parent governors and staff representatives. During the debate on the Academies Bill, ministers made a commitment that academies will now be required through their funding agreement to have at least two parent governors, but this can be many less than currently. There remain concerns that academy governing bodies will not follow the stakeholder model of governance as in maintained schools. In many existing academies, governors have not been elected but were appointed by the sponsor. Elsewhere, the governing body no longer has any power: all decisions are made by the trust board.

**Q. Once a school becomes an academy, what can parents do if they are not happy with any decisions made?**

**A.** In the first instance, as now, parents can complain to the school. However, academies are not part of the local authority family of schools and, therefore, if they are not satisfied or are unhappy with the outcome, parents cannot complain, as they can now, to the local authority or their local councillor to ask them to intervene on their behalf. Any complaints about the academy would have to be raised with the Secretary of State for Education.

**Q. If a school becomes an academy and wants to change back, is that possible?**

**A.** It would be extremely difficult for an academy to revert back to local authority control. The Secretary of State or the academy may give seven years' notice to terminate the academy agreement but this will not return the academy to the LA. In this instance the school would become an independent school without government funding which could mean that the school would close. The local authority may be able to recover the land and buildings.

The Secretary of State is also entitled to terminate the agreement on shorter notice in extreme circumstances.

**Q. Will the academy still work with the local council?**

**A.** Academies are independent schools and not maintained by the local authority. The whole basis of application for academy status is to encourage schools to break the link with the local council.

## ***Questions governors frequently ask***

### **Q. Will becoming an academy help us to raise standards?**

A. There is no evidence that converting to academy status will raise standards, particularly in schools that have already been judged 'outstanding' by Ofsted. Most governors know that high standards in their schools are the result of excellent teaching to motivated pupils. No-one has been able to explain how changes in school structures make a difference to that. Government claims about the success of existing academies are highly controversial.

### **Q. Isn't it a good thing that my school might get more freedom from local authority control?**

A. Since the introduction of local management in the nineties, schools have managed themselves. If you are a governor of a foundation or voluntary aided school, you already are the employer of staff and have almost complete control. But by opting out of local authority 'control', academies also opt out of democratic accountability at local level and 'opt in' to central government control through a funding agreement.

Freedom from local authority control also means freedom from local authority support. You might be able to buy into their services, but if too many of your neighbours become academies the local authority might not be able to afford to maintain them. You would have to get insurance at commercial rates for the costs of redundancy and serious structural problems, and staff long-term absence or maternity leave. You would need to find money for pupils who need school transport or support for their behaviour, or for legal advice and very different accountancy and audit requirements.

The governing body would need, perhaps by buying in, expertise in procuring and managing a range of services currently provided by the authority. There would be no backstop, unless, like many existing academies, you contract to a private company or trust that charges a top-slice for services, in which case you have exchanged 'local authority control' for control by a private company. The National Governors' Association (NGA) suggests that governors consult their authority about the cost of these services.

Whilst some savings could be made initially there is no guarantee that the costs of externally provided services will not increase exponentially. Experience of school meals and health service outsourcing has shown that whilst initially costs may have been lower once tied into a contract costs soon escalated. Academy staff will need to spend time tendering and monitoring external providers.

**Q. Will academy status give my school extra funding?**

A. According to the Department for Education (DfE) website, the government's policy is: "Academies are funded on a like-for-like basis with LA-maintained schools."

This means:

- Taking into account additional resources for services currently provided by your authority, if you are better off, that would be against government policy and would be due to inaccurate calculations, which presumably could be corrected later.
- If many schools become academies, the government might have to revise the amount of financial support it can give.
- If funding for all schools is reduced from April 2011, you would share the pain.

You would receive £25,000 for the conversion process, but the Specialist Schools and Academies Trust advises that legal fees alone could amount to £50,000.

**Q. Are the accounting arrangements for academies different to schools?**

Schools need to produce accounts that comply with the Companies Act. The accounts are completely different from CFR returns and need to follow charities and company law requirements. The accounts are normally for an accounting period ending at 31 August. They can be completed by the school bursar but the school may need to buy in expertise if there is insufficient experience of doing such accounts. The software requirements really depend on the volume of transactions, and professional advice should be sought. Academies' accounts have to be audited by an external auditor appointed and paid for by the academy; this takes place in autumn each year.

**Q. My school will be able to set our own pay and conditions. Doesn't this mean that we will be better able to attract top staff to the school by offering very competitive salaries?**

A. Using what money (see above)? National pay scales are very flexible and schools have a great deal of flexibility in determining the salary level of staff by using TLR payments or by creating posts on the excellent teacher, advanced skills teacher or leadership pay spines. In addition, where schools are experiencing difficulty in attracting or retaining staff, recruitment and retention allowances can be awarded.

Academies are required to offer membership of either the Teachers' Pension Scheme or Local Government Pension Scheme to eligible staff.

**Q. If we become an academy, do we have to take responsibility for pension arrangements of staff instead of the LA?**

Teachers working in an academy are eligible to join the Teachers' Pension Scheme (TPS), just as if they were employed in a local authority maintained school. Staff transferring from a maintained predecessor would simply continue their membership of the Scheme. As the employer, the academy would be responsible for remitting contributions to the TPS and for all other administrative responsibilities that fall to employers who employ teachers who are subject to the teachers' pensions regulations. Teachers' Pensions, whose contact details can be found at the bottom of this page, administer the Scheme on behalf of the Department and will provide you with full information about the role and responsibility of employers in relation to Scheme administration.

Support staff are eligible to be members of the Local Government Pension Scheme. It is important to realise that academies are separate scheme employers under the LGPS. So if you decide to convert to academy status, any deficit in respect of pensionable service for existing staff members will transfer from the local authority (LA) to the academy trust under the terms of the transfer agreement.

To determine the extent of any deficit transferring to the academy and to ascertain the employer contribution rate for the academy on conversion, the school should contact the relevant pension's authority (normally the LA) at the earliest possible opportunity.

**Q. Will becoming an academy mean we are no longer inspected by Ofsted?**

- A.** All 'outstanding' schools will no longer be subject to Ofsted inspections. If governors want some external validation of the school's self-evaluation, you will have to pay for it.

However, the Secretary of State will continue to monitor the performance of the academy and could, at any time, order an inspection.

**Q. What about other schools locally?**

- A.** Of course governors will be concerned about the pros and cons of all this in their own school. But your decision will impact on other schools locally and across the authority. What is the morality of taking a slice of the authority's budget? If too many schools become academies, the authority will be unable to offer its services to any of its schools. The average outstanding school has fewer pupils with SEN than schools around it, but perhaps you have a duty to all such children within your area? And is it right for the authority to lose its duty to monitor how your admissions policy is working? There are lots of ethical issues here as well as self-interest.

**Q. Do we have to consult with anyone before we decide to become an academy?**

**A.** Government policy is: “We expect all schools to discuss this intention with students, parents and the local community to ensure they understand the change proposed.” The NGA ‘strongly recommend that governing body carry out a formal consultation process with parents, students, staff and local partners’. The NGA’s Q&A document contains helpful suggestions of the information that parents, staff, pupils and local partners might need in order to make informed decisions. It also suggests that the governing body should enable supporters and opponents of academy status to circulate relevant materials to other consultees.

**Q. So should my school seek to become an academy?**

**A.** ATL believes the risks associated with becoming an academy far outweigh any potential benefits. The NGA’s Q&A document contains a range of important information and practical issues to consider before converting to academy status. To request a copy, email [academies@atl.org.uk](mailto:academies@atl.org.uk).

**Q. As a primary school are there additional considerations?**

**A.** primary schools are usually smaller than secondary schools and so you need to consider whether the staff have the necessary skills and time to devote to the complexities of operating without local authority support. It may be necessary for the school to employ additional support staff – for example a bursar or business manager – to fulfil the additional responsibilities. Consideration must be given as to what effect this will have on any additional funding given to the school.

**Q. Should our governing body take a decision now?**

**A.** There is no compulsion for schools to convert to academy status so there is no need to do anything. As the decision to become an academy is a major change in the school’s status, and once taken cannot be changed, ATL believes governing bodies should take time to consider all the issues, to find all relevant information and to consult with all who will be affected, before making the decision. It is possible for the Academy or the Secretary of State end the academy agreement by giving seven years notice but this does not return the school to local authority control.