

# Frequently asked questions and other information

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### The basics

#### 1. Does the school have to become a Trust school?

No. This is a voluntary decision for the current governing body, after consulting with parents and other local stakeholders and publishing formal proposals.

#### 2. Will it change what children and young people learn?

The school chooses which partners can help to support its vision and priorities – it could choose a Trust with expertise in a particular area in order to give pupils more opportunities and to raise standards.

Like all maintained schools, Trust schools will teach the National Curriculum and will still be inspected by Ofsted.

#### 3. What would change if our school became a Trust school?

It depends on whether the school is currently a community, foundation or voluntary school. As Monkseaton is a community school the following changes would apply:

Community schools: The school would change category (a Trust school is defined for the purposes of this document as a foundation school with a foundation acquired under the provisions of the Education and Inspections Act 2006). This means that the school will take on two new areas of responsibility:

- The governing body will be the employer of staff rather than the local authority; and
- The governing body will be responsible for setting admissions arrangements (in accordance with the law and the Admissions Code).

In addition:

- The governing body would continue to have day to day control of the school's land and assets (which the Trust would hold on trust for the school).

Having a Trust which appoints governors means that the school can strengthen its relationship with partners, and their energy and expertise can support the school's leadership and direction.

#### 4. How is it different from a maintained school?

It isn't: Trust schools are part of the family of local authority maintained schools.

#### 5. Isn't this the same as the old Grant Maintained schools?

No. Trust schools remain part of the local authority family, whereas GM schools 'opted-out' and were funded directly. GM schools were allowed to select pupils by ability, whereas Trust schools will have to act in accordance with the Admissions Code and will not be able to introduce any new selection by ability.

### Flexibilities: admissions, staffing, assets

#### 6. Will this give us more freedom from the local authority?

Trust schools manage their own assets, employ their own staff and set their own admissions arrangements – this is more freedom for community (and VC) schools which become Trust schools.

The school will remain part of the family of local authority maintained schools:

- it will still be funded by the local authority on the same basis as other schools;
- it will have to act in accordance with the Admissions Code, will be entitled to be represented on the local admissions forum and will take part in co-ordinated admissions arrangements;

- the local authority will be able to intervene in a Trust school as in any other school if it is failing or underperforming; and
- the local authority will be able to publish proposals to close the school and to make certain changes to the school.

### **7. What will happen to admissions?**

The school will set its own admissions arrangements. It will operate within the same legal framework as all other maintained schools, which means it will act in accordance with the School Admissions Code and will not be allowed to introduce selection by ability.

Trust schools will be required to play their full part in taking hard to place pupils, having fair admissions and working with other schools in admissions forums and co-ordinated admissions arrangements.

### **8. What does Trust status mean for staff?**

Staff will be employed by the governing body. In the case of a foundation or voluntary aided school this will not represent any change. For community and voluntary controlled schools, when the school acquires Trust status, existing staff will transfer to a new employer (from the local authority to the governing body). They transfer under TUPE which protects their existing conditions of service. Existing and new teaching staff will continue to work under the terms of the School Teachers' Pay and Conditions Document (STPCD). The school will set the terms and conditions for new support staff.

The Trust does not employ staff, and does not have any direct control over staffing issues in the school.

### **9. How much more work is involved?**

This section draws on the FASNA *Fast-track to Foundation* pack. Schools which already have these freedoms find that they benefit from the additional freedom and control. FASNA can offer practical advice and support on the change to Foundation status. Further information can be found at [www.fasna.org.uk](http://www.fasna.org.uk).

Admissions Schools would need to formulate, consult on and agree an admissions policy to a statutory timetable. An appeal panel would also need to be set up and its members trained. If they wanted to reduce the work, they could set their oversubscription criteria and then ask the local authority to manage the process.

Staffing Community (and voluntary controlled) schools would need to review contracts and policies to remove references to the local authority as an employer – this could be done over a period of time. They should ensure the school has access to good quality personnel advice – either via the local authority or an independent provider.

TUPE regulations protect the terms and conditions of all existing staff. In future teachers would continue be covered by the School Teachers' Pay and Conditions Document, but the school could set pay and conditions for new support staff: if the school wanted to minimise the work they could continue to follow the local authority's terms.

Finance There may be some additional work to open bank accounts etc if the school has not already done this. Foundation schools have found that the additional control and financial awareness of staff and governors more than compensates for the initial re-organisation.

Premises The amount of work depends on what the school wants to take on. It is often possible to progress building work more quickly, efficiently and at a more competitive price.

## **Wider partnerships**

### **10. How do Trusts fit with specialist status?**

A specialist school can become a Trust school. Some schools will work with the same partners to form a Trust – many already have sponsor-appointed governors, and so this is a natural next step. A shared Trust could underpin work with local secondary and primary schools to spread the subject specialist expertise.

A specialist school could equally choose to work with different partners and draw on a different set of ideas and experience.

### **11. How do Trusts fit with federation?**

Schools can federate without a Trust, and equally a Trust can support several schools with no federation. However, federations may find it helpful to have a Trust which can reinforce the long-term agreement between schools.

### **12. Can Trust schools work with schools that aren't part of the Trust?**

Trust schools can continue to work with other schools in the same way as they did before acquiring a Trust. But if several local schools were to acquire a shared Trust it could strengthen their existing relationship by making it more sustainable.

## **Money and land issues**

### **13. How will the school be funded?**

Trust schools will be funded on the same basis as other maintained schools, according to the local authority's funding formula. They will be allocated their own capital money on the same basis as other schools.

### **14. How much money is the Trust going to invest?**

Working with a Trust is not about generating income for the school – there is no requirement or expectation that the Trust will contribute financially. The Trust's value is in how it strengthens the school's leadership and governance. The Trust could of course contribute financially to the school if it chose to do so.

### **15. Can a Trust school dispose of surplus non-playing field land?**

Yes – if the Trust wants to dispose of land they should consult the governing body of the school. If the governing body wants to dispose of land it must ask the Trust to agree – in practice as the governing body includes Trust appointed governors this should be a fairly automatic process. The Trust must then inform the local authority of their plans to dispose of non-playing field land. Local authorities can object to proposals if they feel that they are not in the interest of the school in the long term, or would disadvantage the wider community. Local authorities will also be able to object to reinvestment proposals and to claim a share of the proceeds attributable to public investment in the land. Where local agreement cannot be reached, the matter will be referred to the schools adjudicator for resolution. Local authorities will not be able to force a Trust to sell any surplus land to raise money.

Trust schools will be able to benefit directly from the disposal of land but all proceeds must be used for capital investment in educational assets in either the school itself or the maintained sector (according to the Trust's Memorandum and Articles), and the Trust itself will not be able to profit from any such disposals.

There is no change to the rigorous procedure for any disposal of school playing fields, which will continue to require the consent of the Secretary of State.

**16. Will the Trust partners make a profit out of the school?**

No. The school budget will continue to go directly to the governing body, not to the Trust. Trusts must be constituted as not-for-profit charities – any income must be used to support their charitable aims, which must focus on the advancement of education and community cohesion.

Trust-appointed governors would have a conflict of interests if the Trust (or a partner involved in the Trust) were to sell goods or services to the school. There are already rules so that these governors would withdraw from the discussion and not vote on the decision.

**Becoming a Trust school – decisions and process**

**17. Why should our governing body dissolve itself?**

Governors look at what is best for the school: they will only decide to acquire a Trust if it (and the governors it appoints) will help the school. A Trust is a way to develop a long-term and sustainable relationship with partners. The Trust will appoint governors with skills, energy and experience to strengthen the governing body now and for years to come.

But also, acquiring a Trust does not mean a complete change of governors. Trusts will look to appoint good and strong governors – and continuity may be a factor, especially if the Trust is to appoint the majority of governors. The make-up of the governing body will still include elected parent and staff governors, and others appointed by the local authority and co-opted from the community, although there are likely to be fewer of each.

**18. Do parents have a say about Trust schools?**

Parents will be consulted about the proposed Trust and will be able to express their views about who the school is working with and what the school and Trust want to do together.

As with all maintained schools' existing arrangements, one third of the governors will be parents. Depending how many governors are appointed by the Trust, there may be fewer *elected* parent governors. If the Trust appoints a majority of the governors then the school will need to establish a Parent Council with an advisory role, and parents will be consulted about how the Council should be organised.

**19. How do we decide whether the Trust should appoint a minority or majority of the governors?**

Minority (at least 2 Trust-appointed governors): This would bring in external expertise and energy. External partners would be involved in the school's governance but no group would have overall control of the governing body. Schools will be able to change the arrangement (after consulting parents and other stakeholders) if they later wanted the Trust to appoint a majority.

Majority (up to a majority of 2): This would bring in strengthened external expertise and energy and would give the Trust effective control of the governing body. This will not be right for every school, but the experience of voluntary aided schools and Academies show that this can be very effective in developing an ethos and a clear strategic direction for the school. There is a process to change this (or remove the Trust itself) if something goes wrong.

**20. What if something goes wrong?**

Acquiring a Trust is intended to be a permanent relationship. But there will be a process to remove the Trust if the school fails, or if there is real dissatisfaction at the Trust's performance. The school would become a foundation school, and publicly-funded land and assets held by the Trust would automatically transfer to the school's governing body.

The Charity Commission will be able to intervene if there are problems with the conduct or management of a Trust.

## **When a Trust exists**

### **1. What if a school wants to remove its Trust?**

A foundation/voluntary school that had a foundation prior to the commencement of Section 18 of the Education and Inspections Act 2006 cannot remove its foundation. A school that acquired a Trust under the provisions of the Education Act 2006 must follow a statutory process, including the publication of proposals, in order to remove that Trust.

### **2. Can other schools join an existing Trust (making it a shared Trust)?**

Yes, so long as they do not already have a foundation/Trust. The governing body of the school will need to follow the same statutory process and publish proposals to acquire the Trust for that school. Where a school already has a foundation, there are a number of different models of collaboration between that school and schools in a shared Trust.

### **3. Can a school be removed from a shared Trust by the other schools in that Trust?**

No.

### **4. Does the governing body have to be reconfigured if Trust membership changes?**

When a school determines proposals in favour of acquiring a Trust, it will have to draw up a new instrument of government in accordance with the published proposals and send this to the local authority, which will formally 'make' it.

A subsequent change in the trustees should not necessarily mean a change in the number of foundation governors appointed by the Trust and so there needn't necessarily be a reconfiguration of the governing body. Governors are appointed for a term of office and will complete this term of office once appointed, unless either (a) they resign or (b) if the Trust (rather than individual trustees) votes to replace them. Therefore, a change in the trustees may ultimately lead to a change in the identity of the foundation governors, though a reconstitution of the governing body would not be necessary. A change in the membership of the Trust should have no immediate impact on the governing body, but might eventually lead to the appointment of new trustees.

The governing body and local authority can review the instrument of government at any time, and provided they have the agreement of the foundation governors and the Trust itself, they can make changes to the instrument of government. However, if a minority of governors are appointed by the Trust and the governing body wished to acquire an instrument of government that allowed for the Trust to appoint a majority, it would have to follow the statutory process and publish proposals.

### **5. Can the Trust change its objectives without reference to the governing body?**

Possibly – it will depend on the Trust's Memorandum and Articles of Association. However, the objectives must by law always include "the advancement of the education of the pupils at the school or schools for which it acts as a foundation".

### **6. How many people can each Trustee appoint to the governing body, especially when a Trust consists of four or five partners? Can they all appoint a member to the GB?**

Trustees do not each appoint governors – the Trust (as a single entity) will appoint an agreed number of governors depending on the instrument of government of the school. The voting rights of individual trustees on such matters will be determined by the Trust's Memorandum and Articles of Association.

There are restrictions on the number of each category of governor and the maximum size of the governing body.

**7. Can the Trust add new members after the governing body has approved the Trust acquisition? What safeguards are there?**

When a Trust is established the formal proposals to acquire a Trust must give details of who the members will be and how the Trustees will be appointed.

Once a Trust has been established new individuals or organisations may apply to be members. When agreeing the Memorandum and Articles for the Trust the Trust members are advised to take their own legal advice to ensure that the Memorandum and Articles meet their requirements and they should consider the safeguards they would like to keep. However, the model Memorandum and Articles of Association produced by the Department include the following safeguards in relation to the addition of new members and these are recommended as good practice.

Firstly, new members must be approved by either the existing Directors of the Trust (the Trustees) or by the existing members of the Trust as set out in the Memorandum and Articles – in either case it requires a majority to vote in favour. The Directors or Members would have to satisfy themselves that the proposed new Member was interested in promoting the charitable objects of the Trust e.g. to act as a foundation and to advance the education of the pupils at any school in respect of which they act as a foundation. In discharging these objects they have to have regard to the obligation to promote community cohesion.

Secondly, membership of the Trust is not transferable, so any individual or organisation wishing to become a member of the Trust would have to be approved – it is not possible to become a member and then pass that membership to a different organisation or individual.

## Glossary

Charitable objects	Objects describe and identify the purpose for which the charity has been set up. They do not say what the organisation will do on a daily basis.
Director	Charitable companies may refer to directors (instead of trustees). <i>See Trustee.</i>
Due diligence	Schools will want to check that their partners are suitable. Due diligence involves identifying and investigating potential issues so that you can take an informed decision.
Egovernance	Carrying out the work of a Governing Body or Trust through electronic means such as email, videoconferencing, telephone conferencing etc.
Every Child Matters	<p>A new Government approach to the well-being of children and young people from birth to age 19.</p> <p>The aim is for every child, whatever their background or their circumstances, to have the support they need to:</p> <ul style="list-style-type: none"> <li>• Be healthy</li> <li>• Stay safe</li> <li>• Enjoy and achieve</li> <li>• Make a positive contribution</li> <li>• Achieve economic well-being</li> </ul>
FASNA	<p><i>Foundation and Aided Schools National Association</i></p> <p>FASNA has particular expertise on the issues around Foundation status and can advise and support schools.</p> <p><a href="http://www.fasna.org.uk">www.fasna.org.uk</a></p>
Federation	Describes many different types of collaborative groups, partnerships and clusters. At the 'hard' end of this spectrum of collaboration are governance federations which have either a joint governance committee with delegated powers, or a single shared governing body.
Foundation	A charitable organisation that supports one or more schools by holding land on trust and appointing governors. Voluntary controlled and voluntary aided schools already have foundations, as do some foundation schools.
Foundation school	A local authority maintained school where the governing body sets admissions arrangements, employs the staff, and owns the land. Trust schools have the same freedoms, and are defined for the purposes of this document as a foundation school with a foundation acquired under the provisions of the Education and Inspections Act 2006.
Implementation date	The date from which the school will become a Trust school. This will be set out in your statutory proposals.
Local authority maintained school	Schools which are funded by the local authority: community schools, foundation schools, Trust schools, voluntary controlled schools, and voluntary aided schools. All maintained schools teach the National Curriculum, act in accordance with the School Admissions Code and employ teachers in line with the School Teachers' Pay and Conditions Document.

Memorandum and Articles of Association.	The 'governing document' for a Trust, which sets out its purposes and how it will be run.
Parent Council	A forum for parents to put forward their views to the school's governing body. Trust schools must establish a Parent Council if the Trust appoints the majority of the governing body. All schools have a duty to have regard to parents' views, and a parent council or forum could be a good way to do so.
Personalisation	Matching learning to the needs of the individual child, rather than a 'one size fits all' approach. A personalised approach to supporting children means: <ul style="list-style-type: none"> <li>• Tailoring learning to the needs, interests and aspirations of each individual</li> <li>• Tackling barriers to learning and allowing each child to achieve their potential</li> </ul>
Prescribed alteration	Changes to schools which require a statutory process (consultation, statutory proposals, a period for representations and then a decision). Changing category or acquiring a Trust is a prescribed alteration.
Representations	Comments or objections on the statutory proposals to become a Trust school.
Schools Adjudicator	Schools Adjudicators were appointed under Section 25 of the School Standards and Framework Act 1998. They are independent of the DfES. Adjudicators look afresh at all cases referred to them, considering each case on its merits and taking account of the reasons for disagreement at local level in the light of the legislation and the relevant guidance. Adjudicators' decisions are binding on all parties involved. They can only be challenged through judicial review.
School Admissions Code	Local authorities, admissions forums, governing bodies, appeal panels and adjudicators will be required to act 'in accordance' with the Schools Admissions Code – to comply with the mandatory provisions and follow the guidance. This is stronger than the existing duty to 'have regard' to the Code of Practice.
Schools Commissioner	A senior official in the DfES, whose role is to promote high standards, choice, fair access and diversity in the provision of school places. As part of this, the Commissioner will champion Trust schools, identify potential partners and help to match schools and partners. He or she will have a particular focus on schools in deprived areas and will also collect and share emerging good practice.
SEF	<i>Self Evaluation Framework</i> Schools' self-assessment of their performance. Trust schools will include comments about the impact of their Trust. The SEF forms the basis of Ofsted inspections.
SME	<i>Small and medium sized enterprise</i>
SSAT	<i>Specialist Schools and Academies Trust</i>
Statutory guidance	Statutory guidance is referred to expressly in statute (primary legislation or regulations), often in terms that 'X shall have regard to guidance issued by the Secretary of State' in performing a given function. There is an obligation to have regard to this guidance, as if challenged, the relevant body would be required to demonstrate in court or tribunal why it had not been followed or taken into account.

Statutory proposals	Formal proposals to become a Trust school (or carry out any other prescribed alteration). The information that must be included is set out in regulations.
STPCD	<i>School Teachers' Pay and Conditions Document</i> Sets out the terms and conditions of employment for all teachers in maintained schools. The document is regularly updated – see <a href="http://www.teachernet.org.uk">www.teachernet.org.uk</a>
Trust	A charitable organisation that supports one or more schools by holding land on trust and appointing governors. They must be incorporated organisations – either a charitable company or (once the relevant provisions of the Charities Act 2006 come into force) a charitable incorporated organisation.
Trustee	A named individual responsible for the day-to-day management of the Trust, which is likely to include identifying and appointing governors for the school(s) the Trust supports.
Trust members	Can be individuals or organisations. They take decisions about the organisation of the Trust, including how trustees are elected or appointed. They also hold the trustees to account, for example at an AGM.
TUPE	<i>Transfer of Undertakings (Protection of Employment) Regulations</i> Regulations which protect the terms and conditions of existing staff whose employer changes (eg if a community or voluntary controlled school becomes a Trust school).
YST	<i>Youth Sport Trust</i>

## List of consultees

We have provided copies of our consultation documents to the following people and would be very interested in their responses:

- All staff at Monkseaton Community High School
- All parents, guardians and other carers of students of Monkseaton Community High School
- All students of Monkseaton Community High School
- All governors of Monkseaton Community High School
- All schools in North Tyneside Local Authority
- Astley Community High School, Elsdon Avenue, Seaton Delaval, Northumberland, NE25 0BP
- North Tyneside, Northumberland, South Tyneside and Newcastle Upon Tyne Local Authorities
- All elected council members
- All local Members of Parliament
- National Governors Council (NGC), Lonsdale House, 52 Blucher Street, Birmingham, B1 1QU
- National Association of School Governors (NASG), 2<sup>nd</sup> Floor SBQ1, Smallbrook Queensway, Birmingham, B5 4HG
- National Confederation of Parent Teacher Associations (NCPTA), 39 Shipbourne Road, Tonbridge, Kent, TN10 3DS
- ASCL, 130 Regent Road, Leicester, LE1 7PG
- Alison Shaw, ASCL representative, Seaton Burn Community College, Dudley Lane, Seaton Burn, Newcastle Upon Tyne, NE13 6EJ
- ASPECT, Woolley Hall, Woolley, Wakefield, West Yorkshire, WF4 2JR
- Alan Heinzman, ASPECT representative, Standards and Effectiveness Service, The Langdale Centre, Langdale Gardens, Wallsend, NE28 0HG
- ATL, 7 Northumberland Street, London, WC2N 5DA
- Ray Butler, ATL Association Secretary, private address
- GMB, 22/24 Worples Road, London, SW19 4DD
- Fred Ashburner, GMB Branch Secretary, 147 Laurel Street, Wallsend, Tyne & Wear, NE28 6PG
- NAHT, 1 Heath Square, Boltro Road, Haywards Heath, West Sussex, RH16 1BL
- Pete Murray, NAHT representative, St Mary's RC Primary School, Farringdon Road, Cullercoats, Tyne & Wear, NE30 3EY
- NASUWT, 5 King Street, Covent Garden, London, WC2E 8HN
- Phil Kemp, NASUWT representative, Churchill Community College, Churchill Street, Wallsend, Tyne & Wear, NE28 7TN
- NUT, Hamilton House, Mabledon Place, London, WC1H 9BD
- Sheila Best, NUT Association Secretary, private address
- PAT Head Office, 2 St James' Court, Friar Gate, Derby, DE1 1BT
- TGWU, Transport House, 128 Theobalds Road, Holborn, London WC1X 8TN
- UNISON, 1 Mabledon Place, London, WC1H 9AJ

- Keith Allen, UNISON representative, Strategic Finance, Marine House, Willington Quay, Wallsend, Tyne & Wear, NE28 6SU
- The Journal
- Evening Chronicle
- Northern Echo
- Sunderland Echo
- Shields Gazette
- Herald & Post
- News Guardian
- Sunday Sun
- Local Government Chronicle
- Local Government Executive
- Local Government First
- Local Government News
- Municipal Journal
- New Start Mag
- The Learning and Skills Council
- Open University
- Proposed Trust members and others involved in discussion with the Trust
- Whitley Bay Boys' Club
- Tynemouth Philatelic Society
- Thursday Badminton Club
- Red Lion Football Club
- Whitley Bay Churches Football Club
- Northumberland Wildlife Trust
- Tae Kwon Do Club
- Whitley Bay Under 15s

We welcome suggestions of any other interested parties who you feel we should consult. If you have any suggestions to make, please contact Soraya Kazi. Contact details are shown on the next page.

## **Tell us what you think about our consultation process**

*The Cabinet Office Code of Practice on Consultation* requires us to abide by specific guidance when carrying out our consultation. We have striven to meet the criteria below and we invite you to comment on the extent to which you feel we have achieved this. Please also take this opportunity to suggest any further ways you feel the consultation process could be improved. Please contact Soraya Kazi if you have any comments, complaints or feedback for us, using the contact details shown here. Thank you.

Soraya Kazi  
Project Officer for the DfES Trust Pathfinder  
Monkseaton Community High School  
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Email: [96kazis@monkseaton.org.uk](mailto:96kazis@monkseaton.org.uk)

### **Cabinet Office Guidance**

- a) Consult widely throughout the process
- b) Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses
- c) Ensure that your consultation is clear, concise and widely accessible
- d) Give feedback regarding the responses received and how the consultation process influenced the outcome (N.B We will give feedback on [www.monkseaton.org.uk](http://www.monkseaton.org.uk) before any further consultation)