

## FORMAL LETTER TO SCHOOLS CONVERTING TO ACADEMY STATUS

Dear [insert name]

**Re: [insert name of School] Conversion to Academy**

The Council has received an Academy Order in relation to [insert name of School] dated (insert date). This letter is to acknowledge receipt of that Academy Order by the Council and provide you with further information about what happens next.

In some instances the conversion to Academy is intended to take place over a very short period of time and it is important therefore that the School, Council and proposed Academy Trust work together, and that the School understands and completes its obligations in time for the transfer. Documentation to support the conversion process can be found on Bradford Schools Online under Leadership & Management/Changes to Governance. There is a lot of detailed work to complete before the transfer date which requires co-operation and advance notice of intention. Below are some of the main areas for consideration

**(a) Academy Transfer Charging Policy**

Following a decision by the Council's Executive Committee on the 11th October 2016 the Council has now introduced a charging policy for schools that convert to academy status. Whilst this is not a decision the Council has taken lightly it is the case that the current academy conversion process puts significant costs on the Council at a time when the Council is having to implement cuts across many services.

The charging policy has been implemented from the 1st January 2017 for all new academy conversions. Please note that the timescales for transfer are indicative as each transfer is unique and often there are a number of factors which can complicate the conversion process. An invoice will be raised to the school or Academy sponsor and payment will be required prior to the legal documentation, such as the 125 year lease or Commercial Transfer Agreement (CTA) being sealed/signed by the Council.

**(b) Implications for Employees**

The change from [insert current status of School] to Academy is a transfer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014. This means that in the case of community and voluntary controlled schools the Council will cease to be the employer of the staff at the School and the staff will transfer to the employment of the Academy on the conversion date. You will need to write to all employees at your School (and any other staff affected by the conversion) to tell them about the proposed date for the academy conversion and that their employment will transfer to a new employer and who that new employer will be.

The method of change is strictly regulated by TUPE which provides that a process of providing information and consulting representatives of affected employees must take place. I would ask that the School liaise with the relevant Trade Unions as soon as possible, to ensure that information is shared and consultation takes place.

As part of the TUPE information and consultation process, the Academy must inform the Council/School of any measures (changes) that it envisages it may take in relation to the staff after the transfer has taken place. A measure is any proposed step or change that may be taken.

The Academy should ensure that it notifies the Council/School of any measures, or if there are none, if that is the case, as soon as possible to allow the process of information sharing and consultation to take place in good time before the conversion date. Please consider school holidays when setting your consultation timetable.

A guidance note can also be found on the BSO page which provides further details about TUPE and in particular the responsibilities of the School and academy. It is extremely important that you read this and that you ensure the process is followed correctly.

HR will also provide guidance concerning Employee Liability Information which is detailed personnel information about each of the transferring employees which must be passed to the Academy from the current employer before the transfer takes place. There are timescales for the provision of this information, as well as financial penalties if the timescale is not met or the information is inadequate. The Council and the School must work together with the corporate HR representative to collate this information and share it with the Academy's advisors. You will need to ensure that your personnel files are up to date and accurate and you will need to liaise with staff, your payroll and possibly pension funds to provide all the necessary information.

**(c) Pensions**

Academies are deemed to be "scheme employers" for the purposes of the Local Government Pension Scheme LGPS. Conversion to Academy status may have an impact on pensions, particularly the LGPS and an actuary should be instructed by the WYPF to assess the position and the future of any contribution rate (at a cost to the School). The Academy may also wish to carry out an assessment and the outcome of this actuarial assessment may be a measure for the purposes of the Academy.

**(d) Implications for Land and Assets**

Upon conversion to an Academy, the Secretary of State expects that land and assets required for the operation of the school to be transferred from the Council to the Academy in a lease for 125 years.

The legal advisers to the Council and the Academy will deal with these matters but to assist with the land transfer process at the outset please can you provide copies of any leases, licences or share-usage agreements the School has agreed together with any details of grants received either direct or via the Council by the School to develop or change the use of any part of the school site eg BLF or Sports England grants. Officers from the Council's Asset Management department will contact the School and make an arrangement to come out and inspect the school site in order to advise on the lease arrangements.

The School will also be required to provide a list of School assets which it is intended will be transferred to the Academy. **Please note the attached template must be used.**

You will also need to compile a full schedule of all current contracts and service level agreements entered into by the School (Governors or Head teacher) and provide that to the Council. This schedule should confirm which contracts/SLA will transfer to the Academy and continue post conversion and those which will terminate on conversion. Schools are advised to contact **all** their contract and service providers direct prior to the conversion to confirm this information and make the necessary arrangements for the change to the academy. **Please note the attached template must be used.**

The assets and contracts information once collated should be sent direct to the Council's contact: Sharon Brear, Administration Officer, Education Client Services (01274 439348) [sharon.brear@bradford.gov.uk](mailto:sharon.brear@bradford.gov.uk)

**(e) Commercial Transfer Agreement (CTA)**

The Council has a standard (CTA) which is used in all academy transfers for community and voluntary controlled schools which deals with the transfer of staff, assets and contracts to the academy. The CTA will include the list of transferring staff, assets and contracts provided by the School and will be sent to the Academy's solicitors for approval.

**(f) Employee Records and Documents**

The records relating to all current pupils and current staff at the School who intend to transfer to the Academy will transfer and become the responsibility of the Academy on the transfer date.

The records of those employees who do not transfer to the Academy and the school records of former pupils, which prior to the transfer were stored and maintained by the School, will not transfer ownership to the Academy but will remain for safe keeping with the Academy in accordance with guidelines issued by the Council for the supplying, retrieving and storing and destroying of such information.

**(g) Other Matters**

The conversion to Academy may entail other changes not referred to in this letter. It is for the school and Multi Academy Trust to consider these, be pro-active about them, and declare them as measures if necessary. For example, the Academy should inform the Council as soon as possible whether it will be changing its payroll provider and, if possible to whom and when.

There may for example also be other Council services or schools co- located on your site. The Academy needs to inform the Council how the academy conversion is intended to affect these other services so that the Council can take the appropriate action necessary in the circumstances.

**General Contact Details**

You may find the following Council contact details useful:

Sandra Williams - HR Business Partners, Corporate HR (07582 109158)

Ian Smart – Head of Client Services (07582 101508)

Please can you forward as soon as possible the name and contact details of the School's HR or TUPE advisor and the Academy's legal representative's. Please also inform us if the School has its own separate legal advisors.

I hope the above information is helpful and I look forward to receiving a copy of all the information from you as soon as possible

Yours sincerely



Ian Smart  
Head of Client Services