

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 on **(date)** in relation to **[insert name of School]**. The Order was dated **(insert date)**. This letter is to acknowledge receipt of that Academy Order by the Council and provide you some information about what happens next and the Council's involvement in your conversion.

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. Information about the conversion process can be found on Bradford Schools Online under Leadership & Management/Changes to Governance. Your or your sponsors' legal representatives will provide advice and guidance to the School.

As you are a voluntary aided school you will be aware that the Council has different responsibilities towards your school than other types of maintained schools not least that the staff who work at your School are employed by the Governing Body not the Council. Also your Governing Body or Trust not the Council will own the freehold of the school building and site. As a voluntary aided school the Diocese or trustees may own your site but the Council will own the playing field. This means that the main area for consideration by the Council will be the transfer of the land owned by the Council to the academy trust.

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.

Implications for Council 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 relating to the land owned by the Council or with the Council.

Such as any Council run facilities on the site eg sport/leisure facilities, library, children centres or early years /nursery facilities. Please also identify any SEN facilities within your School such as DSP's or ARC's.

The School should provide details of any Council bought assets at the School as this property will be retained by the Council and not transferred to the Academy.

We will also need 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. These agreements may have claw back provisions and the Council needs to ensure that the arrangements continue post conversion as agreed under the terms of the grant with the Academy.

The School is advised to contact **all** Council service providers direct prior to the conversion to make the necessary arrangements for the change to the academy. In most cases services, licenses and contracts can continue and transfer to the Academy however there are some exceptions e.g. insurance arrangements. Please contact the Councils service providers in good time before the conversion to ensure that service provision continues or that appropriate notice conditions are met should the Academy wish to terminate any contracts.

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 with the Council.

Implications for Employees

The change from voluntary aided 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 the Governing Body 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. The School should also 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 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 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. Individuals who work at your school site but are not employed by the Governing Body eg Council staff must also be consulted as part of the TUPE process as they are recognised by the legislation as affected by the conversion.

Your legal advisor or HR provider will provide guidance concerning the TUPE process. 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. 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.

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 carry out an assessment and the outcome of this actuarial assessment may be a measure for the purposes of the Academy.

Transfer Agreement (CTA)

Transfer Agreements deal with the transfer of staff, assets, contracts, rights and liabilities from the Governing Body of the school to the Academy. The Council does not enter into transfer agreements with foundation, trust or voluntary aided schools which convert to academy status

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 former employee's pupil and school records do not revert to the Council and should remain for safe keeping with the Academy in accordance with data protection retention guidelines.

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 and the Academy's legal representative's.

I hope the above information is helpful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'I. A. Smart', with a stylized flourish at the end.

Ian Smart
Head of Client Services