



DIOCESE OF NORTHAMPTON
NORES - OFFICE FOR RELIGIOUS EDUCATION,
EVANGELISATION, CATECHESIS AND SCHOOLS

NORES GUIDANCE TO THE CATHOLIC SCHOOLS IN THE DIOCESE OF NORTHAMPTON

ACADEMY STATUS: INITIAL CONSIDERATIONS FOR SCHOOLS

1. Introduction

This brief document is intended to assist the thinking of schools in the Northampton Diocese who may be considering Academy Status.

The Academies Act requires Catholic schools to have the permission of their Diocesan Bishop and Diocesan Trustees (in the form of a “conditional consent” letter) at the start of the process and the Diocesan Bishop’s and Trustees’ “final consent” upon conversion. A number of schools in the Diocese are now academies.

The model adopted by the Diocese is for a number of clustered academies working under a “multi academy company (or trust)” (“MAC”) which means that all the schools in that cluster will be run by one company, under the guidance of the Diocese. This guidance is set out in a Memorandum of Understanding (“MOU”) (see **Appendix 1** for the full list of documents required for Catholic schools and a guide as to why each is needed and see **Appendix 2** for the full text of the Northampton Diocesan MOU).

Schools will be expected to establish or join (if already established) the MAC already identified for the cluster of local schools. Schools are expected to work together and a joint application is recommended.

All this means that the Diocese (Bishop, Trustees and the Episcopal Vicar for Education and Formation) has accepted the assurances of the DfE and the Catholic Education Service that all the initial problems and concerns regarding the protection of the Catholic/Diocesan interests have been satisfactorily overcome. Providing schools meet the requirements of the DfE and the Diocese, conditional consent will normally continue to be given to schools who are intending to convert.

2. If you're considering conversion;

- Read the material on the DfE, CES, and Diocesan websites, including the various documents for Church schools, and the Northampton Diocesan MOU. The Northampton Diocesan model documents (together with models used by other Dioceses) will be available on the Diocesan Solicitor's website <http://extranet.wslaw.co.uk/wsacademies/>.
- Study the list of steps and issues at section 7 of this document.
- Have informal conversations with: Mgr Kevin McGinnell; Frances Image; the Head of a school in the Diocese that is already an academy; Andrea Squires of Winckworth Sherwood ("WS"), the Diocesan solicitor.
- Have informal discussions in school with: the GB; SLT; Bursar (see 7.3 below for guidance on points that need to be discussed).
- Have informal discussions with the LA (especially their legal and finance people); local schools (including academies), feeder schools (if applicable); Parents' Association, local Union representatives etc.
- Collaborate with the other schools in the cluster, look to share resources and workload.

3. Arguments for converting:

- Government policy is for all schools to become academies. Schools that are failing may be forced to become academies under less advantageous circumstances if they do not take the initiative to convert themselves.
- Independence from Local Authority (LA) decisions, funding, services and control.
- Greater school control over finance, services and decision making.
- Greater school control over curriculum, personnel etc
- Independence from LA control.
- Concern over future of LAs, and their ability to provide services free or cheaply.
- Increase in funding (not a sufficient reason in itself!)
- Recovery of VAT on capital projects.
- No 10% capital contribution for the time being.
- Converting as a cluster of academies within one MAC will provide a framework of support and greater opportunity for collaboration, reinforcing the family of Catholic schools.
- The preservation of the Catholic identity within the MAC will strengthen the voice of the Church and the right to a Catholic education.

4. Arguments against converting:

- Uncertainty over future Government policy. Concerns over protecting the contribution of the school to local networks.
- Desire to preserve good working relations with the LA.
- Concerns over the capacity of the school to take over all the functions/services provided by the LA (whether free or charged, overt or hidden).
- Concerns relating to the outcome of the Government's review of school funding.
- Concerns that the extra funding for academies will not be enough to buy in all the services required.
- These are all legitimate concerns, but see Section 1 above. A great deal of work has been done by the CES, Ministers, DfE, the Diocese and the Diocesan solicitors, Winckworth Sherwood, to put into place adequate protections for Catholic schools and Dioceses.
- The Diocese will not assume financial responsibility for academy schools any more than it does for VA schools.

5. Philosophical and political considerations that have informed the debate about Catholic schools becoming Academies:

- The Catholicity of the school: how best to preserve and develop it (see the MOU, the Articles of Association and the Church Supplemental Agreement).
- How to protect and develop the Catholic "family of schools", at Deanery, Diocesan and national levels.
- How to preserve good working relationships with the LA and other local schools.
- How best to maximise outcomes for pupils and families.
- The future of LAs, the Government, VA schools.
- The views of staff, parents etc.

6. Practical considerations:

- Funding: uncertainty over the Government review of school funding; no big "bonus" any more for Academies; the LA top-slice will certainly diminish.
- Services: you'll have to buy them all, including those the LA has provided free (see Section 7.3). You might not even be aware of all of these.

- The LA “safety-net” would disappear. (But it might anyway as LAs become less involved in the provision of education). How will the school’s “robustness” in standards, outcomes, financial health etc be monitored in future? This is expected to be addressed within the cluster.
- Capacity: of support staff, the GB, the SLT (work-life balance) to deal with the changes. The feedback from some schools that have already converted is that the major impact is on the finance staff.
- Meeting all the requirements of the Diocese and DfE for conversion.
- Collaboration: what does this look like and how can it be developed within the cluster, there will need to be assimilation of some policies and procedures.
- Timescale, process and the extra work involved in conversion. Early feedback is that it’s a lot of work for a few people in a short timescale, but that it is “do-able” even for small Primary schools.
- Arranging a presentation to interested parties (e.g. GB, staff, parents) before any decision is made. Taking the troops with you!

7. **Next Steps (as far as the Diocesan element of the process is concerned):**

This section takes into account the experience and advice from schools who have already converted. The precise order in which schools undertake these steps will vary from school to school:

1. Once the decision is taken in principle to explore academy conversion, set up a small working group to oversee the process. Do the research on the relevant websites (see **Appendix 3**), go to relevant conferences etc.
2. Register your interest with the DfE by using their online Registration of Interest page.
3. Do the initial analysis on benefits/costs etc including an outline “business plan”. This analysis should include consideration of the following:
 - a. The increase in funding (use the DfE LACSEG calculator to work out the additional funding that the school will receive as an academy).
 - b. The increase in costs.
 - c. List all the LA services, including the “hidden” free ones (e.g. maternity leave cover).
 - d. List and cost what you can provide in-house and what you’d have to buy in (e.g. Section 48 inspections?)

- e. Consider and cost all the buildings, costs, maintenance, refurbishments, new build etc, which you will no longer be funded for. Research the changes in the capital funding system for Academies.
 - f. Consider the land transfer issues. Anticipate any potential problems (e.g land not currently owned by the Diocese or Governing Body; shared use land; unresolved title issues; transfer of GB land; transfer of LA land). Ensure that you communicate all information to your solicitors when you appoint them and they will deal with the issues.
 - g. If you have other income sources totalling £50,000 or more from “trading”, the DFE may require you to set up a separate traded services company. You will need to draw the sources of any considerable income to the attention of your solicitors when you appoint them.
 - h. If your budget is in deficit, talk to the DFE and Diocese early in the process.
4. Consult widely and properly on the question of becoming an academy with other schools, the LA, parents, pupils and anyone else who will be affected by conversion. Please note this is a consultation only on the question of becoming an academy and that the TUPE consultation (with employees and unions) will happen later on in the process. If staff become apprehensive as a result of this consultation tell them that their pensions will be OK and that you do not intend leaving the national TP&C system on conversion. Tell staff that, if at any point in the future the GB were to consider varying the TP&C, this could only be done after full consultation with staff and unions, Experience from other schools and ex GM schools say that many potential problems can be resolved at an early stage by listening and talking.
 5. Pass the first GB resolution in favour of academy conversion. Delegate authority to a small working group to make day to day decisions to achieve academy conversion.
 6. Apply for the Bishop/Trustees’ Conditional Consent (contact Frances Image). Mention any loan from the Diocese (which would transfer to the new Academy GB, but could be dealt with by a CTA (Commercial Transfer Agreement)). As it states in Section 7.3.h above, if your budget is in deficit, talk to the DFE and Diocese early in the process.

7. You may be asked to describe the rationale for converting, including:

- The impact of academy conversion on teaching and learning
- A record of your due diligence analysis
- Evidence of your consultation process and outcomes
- Any issues specific to your school
- A brief summary of your business plan/school development plan
- Details of any support provided or received from others.

A statement that the school will abide by the conditions required by the Diocese including the Diocesan MoU (which is legally binding on upon the Governors on conversion) is also part of the form.

8. Contact the Diocesan solicitor if you didn't do so earlier. A fixed fee has been agreed with the Diocesan solicitor, Winckworth Sherwood, to act for and support schools through conversion, conferring various economy of scale benefits. The solicitors will guide you through the legal requirements, provide advice and draft the documentation relating to conversion. This will include an element of project management, but it does not restrict you from employing additional resource to help you through the process. Talk to other Heads for further information. The solicitors will ask for information from you including information relating to land ownership, land agreements, school contracts and your Instrument of Government. You will need to be ready to provide this information to the solicitors.
9. Get a comprehensive process checklist (WS will send the School a checklist once appointed). There are other checklists available from the Gov.uk website. This will help guide you through the process.
10. Apply to the DfE using their online DfE Application Form as soon as possible. Include a Catholic school as the "supported school" if possible. This may not be required for an application to convert as a multi academy trust with other local schools. Get the application form from the DfE website. It is quick and easy to complete and NORES can provide support on how to fill it in. We advise against using too much detail. The DfE will require sight of Diocesan consent letter so you will either need to attach the Diocese's conditional consent letter to the DfE Application Form or, send the form in and send the conditional consent letter in later.

11. Once the Academy Order is issued by the DFE (and you/your solicitors may have to chase it), submit the application for the £25K Academy Conversion grant, given to pay the costs of the conversion process. You will have to pay the Diocese's costs as well (included in the fee if you use Winckworth Sherwood).
12. Talk to your DFE Lead. Get all parties communicating with each other, particularly the DFE lead and your solicitor.
13. Do your TUPE consultation under the guidance of your Solicitors. It will be very important that this is done properly as the penalties for incorrect process are severe.
14. Keep a record of the steps of the process (especially of your communication with the Diocese) using the checklist that you are adopting, and your consultation processes and outcomes.
15. Remember that help and advice are available throughout from: Monsignor Kevin McGinnell and Frances Image, NORES (01582 723312); Andrea Squires (020 7593 5039 or email: asquires@wslaw.co.uk) or Emily Towner of Winckworth Sherwood (tel: 020 7593 5177 or email: etowner@wslaw.co.uk), the Diocesan solicitors.

8. List of Appendices

Appendix 1: List of the documents required by Northampton Diocese schools and a guide as to why each is needed.

Appendix 2: MOU

Appendix 3 List of useful websites and links.

APPENDIX 1

LIST OF KEY DOCUMENTS AND GUIDE AS TO CONTENT

1. MAC Articles of Association

The Academies in the cluster will be operated by the multi academy trust company ("MAC"). The MAC will be established when the Articles of Association (the company's constitution) are registered with Company's House. At that point the MAC will have a registered number which will never change (unlike the name which might change from time to time).

The Articles are adopted by the "Members", which for all Diocesan MACs are the Bishop, Duns Scotus Trust and St Bonaventure Trust. The Bishop will appoint the Directors of the MAC, who in turn will establish "Academy Committees" to provide governance within the school itself. Management responsibility will continue to be vested in the Academy's Principal/Headteacher and senior leadership team.

In line with any trust established by the Bishop, the MAC's charitable object is to advance the Catholic religion, in this case by operating Catholic schools and with the approval of the Bishop other schools. The Articles set out the powers of the Directors and the regulations which govern their activities.

The MAC is an exempt charity, regulated by the Secretary of State for Education.

2. Master Funding Agreement

The MAC receives funding for each Academy pursuant to a Master and Supplemental Funding Agreements. The Master Funding Agreement sets out the conditions that the MAC and the Academies must observe if funding is to be paid, one of which is compliance with the Academies Financial Handbook and any other guidance issued by the Secretary of State from time to time. The Master Funding Agreement provides for intervention in the event of failings.

3. Supplemental Funding Agreement

Each Academy will have its own Supplemental Funding Agreement and it is this document which will set out the Academy specific arrangements, e.g. designation as a Catholic school, whether secondary or primary etc. and what the land arrangements are.

4. Commercial Transfer Agreement

The business and assets of the school on conversion will transfer to the MAC under the Commercial Transfer Agreement, to which the Local Authority is also a party in light of their responsibility for any historic revenue liabilities. It also sets out the information to be disclosed in respect of the staff who will transfer from the Governing Body's employment to that of the MAC. It may also list all contracts which will transfer to the MAC.

5. Church Supplemental Agreement

The Church Supplemental Agreement is the only document to which the Bishop and the Diocesan Trustees will be a party and as well as recognising that all Diocesan land will continue to be held by the Trustees on behalf of the Academy, it also reflects the commitments being made by the Secretary of State and the Diocese to each other in relation to the provision of a Catholic education. For example, it makes clear that no intervention must be exercised by the SoS without first discussing the circumstances with the Diocese.

6. Memorandum of Understanding

The requirements of the Bishop of those responsible for providing a Catholic education are set out in the Memorandum of Understanding, which the MAC must comply with. It sets out current guidance as well as make reference to any future guidance and requirements. The MOU deals with a range of matters, including preserving a Catholic character, the teaching of RE, the use of land, the oversight by the Diocese of standards and finances and the appointment of Foundation Directors and Foundation Governors.

7. Scheme of Delegation

The responsibilities of those providing governance at the Academy level is set out in the Scheme of Delegation which will be adopted by the Directors on the advice of the Members. The Scheme is the document which creates the Academy Committees and regulates their activities. The Scheme will provide clarity as to the roles and responsibilities of all those working within the MAC and Academies (ignoring any employment obligations). A responsibility matrix will sit alongside the Scheme to aid decision making.

APPENDIX 2

DIOCESE OF NORTHAMPTON MEMORANDUM OF UNDERSTANDING

APPENDIX 3

USEFUL WEBSITES AND LINKS

1. DfE Website via Gov.UK:

www.gov.uk

2. Winckworth Sherwood Education Website:

<http://www.wslaw.co.uk/core-areas/education>

3. NORES website

<http://www.nores.org.uk>

4. Catholic Education Service Academies Website:

<http://www.catholicacademies.org.uk/>