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## Convert to an academy: guide for schools

From: **Department for Education**  
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### 4. Transfer responsibilities to the academy trust

What responsibilities you should transfer to your academy trust as part of your school's conversion to academy status.

#### Land arrangements

Your solicitor or legal adviser must make arrangements for the school's land to be transferred to the academy trust. They must already have completed the land questionnaire and conducted the land and title searches (<https://www.gov.uk/guidance/convert-to-an-academy-information-for-schools/3-prepare-for-conversion#land-questionnaire>).

The land transfer advice document (<https://www.gov.uk/government/publications/academy-land-transfer-advice>) will help your solicitor understand when and how to complete the model documents that you will use to transfer your school's land to the academy trust.

Get in touch with your project lead if you are not sure of which model documents you need to use.

The deadline by which you need to confirm to your project lead that all land arrangements have been finalised is in the 'Academy conversion: important dates' (<https://www.gov.uk/government/publications/academy-conversion-important-dates>) document.

#### Model Lease (for community schools)

If you are a community school, you will enter into a long-term lease with your local authority to transfer your school site the academy trust.

Ask your solicitor or legal adviser to liaise with your local authority using the long-term model lease (<https://www.gov.uk/government/publications/academy-long-term-lease-model>).

#### Model directions

If you need to transfer the freehold of your school site to the academy trust, ask your solicitor or legal adviser to complete the model directions (<https://www.gov.uk/government/publications/academy-land-transfers-model-directions>).

If a foundation or trust owns your school's land, your solicitor should use one of the model directions to a foundation or trust. Use the model that relates to the type of academy you are opening.

If your school's governing body owns your school's land, your solicitor should use one of the model directions to a governing body. Use the model that relates to the type of academy you are opening.

#### Model trust modification orders (for voluntary and foundation schools)

You may need to ask your solicitor to issue a trust modification

(<https://www.gov.uk/government/publications/academy-trust-modification-orders>) order if your school's land is held by a trust or foundation that is not a diocese. This is likely to be the case if you are any of the following:

- a voluntary-controlled school
- a voluntary-aided school
- a foundation school

Use the model trust modification order that relates to the type of academy you are opening.

### Model supplemental land agreement (for church schools)

Church schools usually use land that is a mix of privately and publicly owned land. Most often, the local authority owns the playing fields and the diocese owns the school buildings.

If you are a church school you will need to ask your solicitor or legal adviser to:

- negotiate the long-term model lease (<https://www.gov.uk/government/publications/academy-long-term-lease-model>) to transfer the land from the local authority to the academy trust
- complete the model land supplemental agreement (<https://www.gov.uk/government/publications/church-academies-model-documents>) to transfer the use of school buildings from your school to your academy trust

### Tenancy at will

We strongly discourage this option, so get in touch with your project lead as soon as possible if you think a tenancy at will may be necessary.

A tenancy at will allows for land to be temporarily leased to an academy trust in the instance where there isn't enough time to complete negotiations on the lease before the proposed opening date of the academy.

If you can see that you won't be able to complete lease negotiations in time, let your project lead know. They might suggest that you to ask your solicitor or legal adviser to complete a tenancy at will (<https://www.gov.uk/government/publications/academy-tenancy-at-will-model>).

### Commercial transfer agreement (CTA)

The commercial transfer agreement (CTA) records the contracts and staff transferring from a local-authority maintained school to an academy. Before you can convert, your local authority and the academy trust must sign the final CTA.

Instruct your solicitor or legal adviser to use the model CTA

(<https://www.gov.uk/government/publications/academy-commercial-transfer-agreement>). We do not expect you to make any changes to the model CTA except in exceptional circumstances. Please discuss any changes you're considering with your project lead.

Let your project lead know once your local authority and the academy trust have signed the final version of the CTA. You should also confirm to your project lead that the final agreement does not transfer any additional liabilities to the academy trust.

You should also confirm to your project lead that the final agreement does not transfer any additional liabilities to the academy trust. The deadline by which you need to confirm this to your project lead is in the 'Academy conversion: important dates' (<https://www.gov.uk/government/publications/academy-conversion-important-dates>) document.

## Staff

### TUPE process

Once we have granted the academy order, the employer of your school's staff (usually the local authority or governing body) must begin the TUPE process (<https://www.gov.uk/guidance/convert-to-an-academy-information-for-schools/1-before-you-apply#discuss-tupe>). This process will allow you to transfer your school staff to the academy trust.

We strongly recommend that the employer of the school's staff seeks legal advice when they start the TUPE process, if it has not already done so.

If we approve your application to convert, your school's employer will have to provide:

- written information to your school's employee representatives about the transfer of staff
- employee liability information to the academy trust

Your legal adviser will be able to give you guidance on how to comply with TUPE.

A guide about the TUPE process (<https://www.gov.uk/transfers-takeovers/overview>) is available.

### Pension registrations

Your academy trust will be responsible for the pension arrangements of your school's staff, even if your local authority is acting as payroll provider for your academy.

You should establish arrangements for your staff's pension registrations at this point:

- email Teacher's Pensions (TP) to register with them and transfer the administration of the Teachers' Pensions Scheme (TPS) for your teaching staff
- get in touch with your local authority so they can transfer all your non-teaching staff's pensions from the Local Government Pensions Scheme (LGPS) to your academy trust

### Overseas teachers

If your school employs teachers who need a visa to work in the UK, your school should have the certificates of sponsorship (<https://www.gov.uk/tier-2-general/eligibility>) associated to their visas.

You must transfer your overseas teachers' certificates of sponsorship to the academy at this point.

Get in touch with your project lead if you need any advice.

## Shared facilities and building works

### Shared facilities

If your school shares facilities, such as sport centres, with other organisations, you must ask your solicitor or legal adviser to draw up an agreement between your academy trust and these external organisations. The agreement must include details of hire charges for the facilities, as well as terms of use.

Get in touch with your project lead if you need any advice.

### **Building works**

If there are ongoing building works in your school, and you expect them to be finished after your conversion to academy status, you must instruct your solicitor or legal adviser to draw up an agreement between the academy trust and the organisations involved in the building works (eg your local authority).

The agreement must clarify who will pay for completing works and make sure that unfunded liabilities don't pass to your academy trust after you convert.

Get in touch with your project lead if you need any advice.

### **Loans**

Let your project lead know if your school has any loans. DfE will have to approve the transfer of responsibility for the loan from your school's governing body to your new academy trust.

Depending on the size of the loan, your project lead may ask for budget predictions that show how the academy will finance the loan.

### **Contracts with external providers**

You should review any contract the school has with external providers, for example:

- catering
- cleaning
- security
- ICT products and services
- software licences

If you consider that these contracts are good value for money, you and the supplier should discuss transferring the contracts to your academy trust via the CTA.