

A Handbook for those
looking to join
the Boleyn Trust



1. Introduction

The purpose of this document is to describe the process of conversion to academy status for your school within the Boleyn Trust. It sets out the key stages in the process from your initial consideration of academy status through application, consultation, the legal process and conversion. It describes the support that the Trust will provide for you so that conversion doesn't disrupt the day-to-day work of the school, whilst still involving school leaders and governors properly in the process. Our aim is that Headteachers should still be able to concentrate fully on the key priority of improving the quality of teaching and learning in their school.

This handbook is intended as a reference document. Schools should contact Boleyn Trust colleagues as soon as they begin to consider academy status so that we can support you in the process.

All contact details are in Annex 1.

Other information, including an electronic version of this handbook can be found on our website on the Founding Principles page.

Once your school has an Academy Order and the conversion process begins, we will arrange an initial planning meeting with the Headteacher, key staff and the chair of governors, to talk through the process in more detail and to answer questions.

2. Summary of the Conversion Process

The following is a summary of the conversion process. Detailed information on each of the stages is set out in other parts of this Handbook.

Step 1: Expression of interest

Any school that is interested in exploring the possibility of joining the Boleyn Trust should contact the Trust in the first instance at tom.canning@boleyntrust.org.

A member of the team will then be happy to speak to your governing body about what joining the Boleyn Trust would mean for your school and how the Trust operates in more detail.

Following a meeting with Tom Canning and your governing body and confirmation that the governing body would like to proceed to join the Boleyn Trust, your school will need to confirm your decision to us and then complete the online registration of interest form on the DfE website.

Once you have confirmed to the Boleyn Trust that you have submitted an expression of interest to the DfE, the Trust Board of Trustees and other key stakeholders in the process will be informed and you will be sent instructions by email of the next steps.

Six steps to conversion are outlined on the DfE website; the registration of interest is part of step 1. Once you have registered an interest with the DfE they will get in touch with you and give you the name of your DfE project lead. Your DfE project lead will work with you throughout the conversion process and answer any questions you may have.

At this point your governing body may wish to start an informal consultation with members of staff. For further information about the staffing implications of joining the Boleyn Trust, please see page 19.

Parental and wider stakeholder consultation can also commence. Please see page 13 for more information about the parent stakeholder consultation. If your school receives a directive Academy Order from the Secretary of State i.e. it is being forced to convert as a sponsored academy, there is no legal requirement to carry out a consultation.

The governing body review feedback from their consultation and usually pass a resolution in favour of academy conversion (although this is not a given). Minutes of this meeting need to be sent to the Boleyn Trust. A template governing body resolution is set out in Annex 2.

It is possible for the Governing Body to pass a resolution to join the Boleyn Trust "subject to the outcome of the consultation with parents and stakeholders" if the consultation has not been concluded but the Governing Body wish to start moving forward with the process. The Governing Body can subsequently meet to review the results of the consultation and confirm the decision to proceed (or not as the case may be).

Step 2: Application to convert

Schools formally apply to join the Boleyn Trust by using the on-line application form available from the DfE website and name the Boleyn Trust as the MAT that they propose to join. The Boleyn Trust Director of Strategy and Operations will provide you with a part-completed application form containing the relevant information about the Trust. The school will just need to complete the rest of the form and submit it to the DfE. The application to join the Boleyn Trust will then be considered by the Headteacher Board and the Regional Schools Commissioner (RSC). If the Headteacher Board and RSC approve the application an Academy Order will be sent to the school.

Once your application is accepted by the DfE, key dates throughout the process are outlined on the DfE's Academy conversion: important date's page.

A Boleyn Trust officer will liaise with the project manager for your school's conversion (usually the Headteacher but you can appoint someone else to take the lead on the conversion), your school business manager and chair of governors to develop a timeline for conversion, depending on the target conversion date.

For further detail of this process see The Application to Convert Section on page 10.

Step 3: Due Diligence

In order to ensure the Board of Trustees has a clear understanding of the schools wishing to join the Trust, a detailed due diligence process will be undertaken following the school's application to the DfE; this covers the school's academic, organisational, structural and financial situation at the time of conversion.

Information about the school will be collated by Boleyn Trust colleagues in collaboration with the school. A summary is given to the Board of Trustees and a decision made as to whether to continue to the next stage. If there are reasons (e.g. a financial deficit) that may pose a risk

to the school joining the Trust, then further work may need to be undertaken before agreement is given.

Should the school be located outside London a more detailed process will be carried out.

Step 4: Conversion

The school's project manager, Boleyn Trust colleagues and school leaders work through a detailed project management plan to the point of conversion and the school joins the Trust.

3. Context: 'Converter Academies and 'Sponsored' Academies

A school's current Ofsted judgement and the outcome of the Trust's due diligence exercise will determine the route it follows to academy status within the Boleyn Trust.

Schools "performing well" judged by Ofsted to be 'Outstanding' or 'Good' (Ofsted grades 1 or 2) and with strong outcomes may apply to the DfE to convert to an academy.

Schools judged good but with less strong outcomes or as 'Requiring Improvement' with reasonable outcomes can convert but specific areas of support will need to be discussed with the Boleyn Trust.

Schools judged by Ofsted to 'Require Improvement' and with less strong outcomes or to be 'Inadequate' can be ordered to become a sponsored academy within the Boleyn Trust.

4. The Decision to Convert

Considerations for the governing body before applying to convert

Whatever the route to conversion the governing body of the school will need to consider carefully what becoming an academy within the Boleyn Trust means within their own individual context. The Boleyn Trust will embrace the distinctiveness of all its schools. Schools joining the Boleyn Trust as sponsored academies will want to explore the support the Boleyn Trust can offer to help them become good or outstanding. Schools choosing to convert will want to explore how they retain some autonomy but can secure support when they need it; and how they can contribute to the development of the Boleyn Trust and its other schools within it.

The Boleyn Trust central team are available to support schools in exploring the wide range of issues associated with conversion and moving forward as an academy. Officers from the Boleyn Trust are happy to meet with the governing body or committees to explore the detail of what we offer and how we work with our schools.

Benefits of joining The Boleyn Trust

We are an inclusive and collaborative Trust bringing like-minded people together to work together, learn together and succeed together.

We will bring the benefits of a larger MAT with a local feel and structure; as the MAT grows, we will develop cluster arrangements, so schools are grouped together in smaller groups geographically, encouraging local collaboration.

The Boleyn Trust will encourage its schools to retain their ethos and unique qualities, offering Headteachers a high degree of autonomy (where appropriate) in leading their schools, whilst giving them the freedom to focus on teaching and learning. Where schools need support and intervention to improve it will be proportionate to need.

Wider benefits of joining The Boleyn Trust

The following more generic benefits also apply to most schools joining together in a MAT arrangement:

Collaboration

Strong collaboration, with shared accountability, leading to better progress and attainment for pupils, and help schools meet rising expectations.

- School leaders and teachers networking to share thinking and planning, sharing best practice, learning from each other and tackling challenges together. Pilots and trials can be planned across the Trust or cluster
- Governors coming together to share strategic thinking, to combine skills and to support each other during challenging times.
- Support staff coming together to share expertise and challenges

Recruitment and retention

Sharing the costs and approaches to recruitment and retention across more than one school, enables schools to find different and flexible solutions to recruitment challenges, and where appropriate opportunities to share leaders, teachers and other staff is likely to increase flexibility and to retain specialisms which could be deployed more widely.

We know that retention rates for high quality staff is often dependent upon career development opportunities and access to continuous professional development. The Boleyn Trust will invest in a programme that supports all staff. School leaders will also have career progression opportunities within the Trust and the Trust will be able to 'grow its own' future leaders through talent management programmes. Staff will be given the opportunity to undertake secondments and experience new roles and responsibilities across the Trust.

Specialist expertise

The Boleyn Trust and individual clusters of schools will be able to source and fund specialist expertise to provide richer curricular and extra-curricular activities and enrichment opportunities.

Professional development

Shared professional development at all levels, including leadership development programmes, can more easily be arranged, whether led by staff from one of the Trust's schools or an external organisation.

Economies of scale and financial efficiencies

With financial weight comes better purchasing power. The economies of scale and collective purchasing made possible within a Trust (at either Trust or cluster level) can help schools cope better with shrinking budgets. Financial efficiencies may include:

- HR provision
- energy supply
- catering services
- premises/estate management
- data management systems
- IT services and support
- stationary and photocopying
- accountancy services
- legal services
- payroll
- event management

Targeting of funds

Funds can be directed where they are most needed either Trust wide or cluster wide, depending on local need. The Trust is legally responsible for the collective budgets; this offers greater flexibility to move central contribution resources across the schools and different subject areas to where it is most needed for the benefit of all the pupils learning within the Trust. Individual school budgets will not be redirected.

Centralised support structure

The Trust's support structure, time and expertise allows Headteachers and Chairs of each Local Governing Board to maintain a strong focus on teaching and learning and improving outcomes for every pupil.

Consultation

Some governing bodies decide that they wish to consult parents, staff and other stakeholders at an early stage. The Boleyn Trust recommends this as good practice, although the law requires only that there is consultation before the Funding Agreement is signed.

Advice on consultation is on page 13 of this handbook.

Considerations for the Boleyn Trust before supporting a school's application to convert

A key consideration for Boleyn Trust Trustees is to weigh up the long-term needs and viability of the school and whether it will be best served by becoming an academy. They will also need to consider whether the Trust has the resources and capacity to support the school effectively at that time. We will therefore carry out due diligence on the current performance of the school, whichever route they may be taking.

The due diligence is intended to be a fully collaborative process and not an inspection. A Boleyn Trust staff member will be allocated to work with members of the school's leadership team to review key areas of the school's work and to come to an agreed set of evaluations.

The process will vary according to circumstances and school location but could include a visit to the school of up to two days, working with the Headteacher, finance officer and governor representatives to establish levels of achievement quality of provision and staffing, financial overview and the capacity of the leadership team to secure improvement. In advance of the school visit, the Trust representative(s) will review any relevant evidence available. This may include the school's website, school's self-evaluation, improvement plan, and performance data.

During the visit the Trust representative(s) will work with school leaders to gather evidence at first hand and may therefore engage in any of a range of agreed activities such as lesson visits, walk of the site, discussion with pupils, scrutiny of work, and review of financial statements. They will reflect with key personnel, on the observations made and arrive at an agreed evaluation in each of the key areas identified on the summary form.

The outcomes of the audit will be put together in a summary overview to be presented to Trustees and the governing body for consideration before approval to proceed with the application for conversion. This information is therefore intended to provide information to all parties to inform decision-making and ongoing improvement planning. It is the intention of the Trust that all schools will be able to join the MAT but, in some circumstances, plans and agreements will need to be put in place before formally joining the Trust.

The Boleyn Trust will also carry out detailed financial due diligence.

5. The Application to Convert

The route into academy status will determine how schools are involved in applying to become an academy. That process results in an Academy Order, which is in effect a permission from the Secretary of State to convert.

Governor resolution - If a school is choosing to convert to academy status the governors will need to formally resolve to seek conversion to academy status within the Boleyn Trust. Some governing bodies choose to consult stakeholders at this stage so that their resolution is informed by wider views. Most decide that having properly considered the issues it is perfectly appropriate for the governors to decide that this is the right direction for the school.

If later consultation identifies wider concerns, it is possible to deal with them before conversion. In this instance, the governing body can pass a resolution to convert 'subject to satisfactory consultation'. Some schools e.g. foundation schools will need the consent of a separate body of trustees before they can convert in which case any governing body resolution should be subject to that consent being received.

Schools choosing to join the Boleyn Trust – whether as a converter or sponsored academy (see the Decision to convert section above) – Schools should discuss their interest in academy status with the Boleyn Trust in the first instance. We will be happy to talk to staff and governors and to describe what academy status within the Boleyn Trust will mean for the school and for staff, parents, pupils and the wider community. Following these discussions, and a governing body resolution, the Boleyn Trust team will support the school in completing

an application form to the DfE and we can provide a part completed application form for the school to use which will set out the relevant information about the Trust.

Following application, the DfE will assign their own project lead who is likely to have additional questions before putting the application forward to the Headteacher Board for approval. The school should feel free to consult the Trust on those questions.

Schools identified by the DfE to become a sponsored academy will be notified by the Trust and the local authority (LA). In these cases, the Trust will work closely with the school, the DfE and the LA on a slightly different process which results in an Academy Order. That will include presenting a clear evaluation of the school's current position and the areas needing improvement. The Boleyn Trust also must identify how the Trust will support the school to bring about rapid improvement. This plan will be based on the evidence gathered during the Audit of Effectiveness and Capacity for Improvement, the most recent Ofsted and other inspection reports, information from the LA and any published performance data.

Consents

Some schools have other Trustees whose consent is required - as a rule of thumb if anyone other than the governing body itself has the right to appoint members of the current governing body their consent will be required. Boleyn Trust colleagues will support you in securing that consent.

There may also be site Trustees who provide the buildings for the school's use although they may not have appointment rights on the governing body. Their agreement to provide the land for the academy will be required before conversion and you should therefore involve them in the process and it would be helpful to seek their consent at an early stage.

The Boleyn Trust can provide draft letters for you to send to Trustees and - if necessary - templates for their consent letter. We will also support you in meetings with the Trustees, so that we can explain to them what becoming an academy within the Boleyn Trust will mean for the school.

Proposed Conversion Date

The Boleyn Trust and its advisers, in partnership with the school and the local authority, will seek to determine a realistic and achievable proposed conversion date, which will need to be specified on the application form. The proposed conversion date will allow for all conversion tasks to be completed comfortably with contingency time, but without prolonging the process unnecessarily and extending the transition period for staff in school. It typically takes five months for a school to convert but it can sometimes take longer so it's best to start the process as soon as possible if you have a target conversion date in mind so that it's not too much of a rush. The decision to convert is not final until about three weeks before the conversion date, when key legal documents must be signed.

Academy order

The DfE consider applications for conversion very carefully and often seek further information and clarification before reaching a decision. It is quite normal to receive requests from the DfE project lead for further information. Once all information has been collected by project leads,

the Regional Schools Commissioner, advised by the Headteacher Board, considers the application.

Once the application is approved - regardless of the route to this stage (i.e. converter or sponsored academy) - the Secretary of State will issue an Academy Order. The DfE project lead will then be in touch again with details about the process. At the time of writing it is not DfE practice always to copy the Academy Order to the Boleyn Trust, although it will send it to the local authority. So please do alert the Boleyn Trust when the order arrives and feel free to refer the project lead to the Boleyn Trust contact.

Alongside issuing the Academy Order, the DfE will release the conversion grant (currently £25,000) to the school, which enables the conversion process to begin.

6. Conversion Support

The process of academy conversion has several technical elements which can be time consuming and distract school leaders from their otherwise full-time responsibilities. The Boleyn Trust team will include team members who know you and your school. Once the school has received an Academy Order the Trust team will work closely with the school and provide support where needed, interpreting the requirements in terms with which schools are familiar. Our aim is to reduce the burden on the school, without governors and leaders feeling that they have lost any control of or direction over the process.

Reporting requirements will be agreed with the school, the Trust and the DfE from the outset of the project. Normally a fortnightly email status update is issued but the frequency and content of updates can be amended to suit all parties.

The Boleyn Trust team will oversee tasks in several areas including school improvement, finance, human resources, governance, consultation and legal aspects of the conversion. The following pages provide a short introduction to each area and highlight key tasks that need to be completed prior to your conversion. Each member of the team will be in touch with you throughout the project, however should you have any queries or wish to discuss any aspects of your academy conversion, please don't hesitate to contact the team directly.

7. Consultation and Public Relations

There are two different consultations: the TUPE consultation (mentioned in the staff transfer section) and the stakeholder consultation.

The stakeholder consultation is a legal requirement when converting from a school to an academy and will ensure that key stakeholders have a chance to comment on the question of whether the school should become an academy.

The focus of the consultation is to describe what academy conversion within the Boleyn Trust will mean for the pupils, parents, staff, governors and local community and to ask whether the proposed academy conversion should take place. The consultation is conducted by the governing body with support from the Trust's official partners. This is a consultation, not a referendum. The Governors consider and take into account comments made. Clearly if there is a large expression of concern Governors would wish to consider whether further consultation or information sharing is required. The ultimate objective is to identify whether there is 'significant objection' to the academy conversion.

A school which is becoming a sponsored academy i.e. it has received a directive academy order from the Secretary of State, does not have to carry out a consultation with stakeholders but it will be helpful to ensure that stakeholders receive information, so they understand what is happening and what it will mean to be part of the Boleyn Trust.

Consultation Documents

The Boleyn Trust team will provide you with template materials to send out to parents, staff, pupils and other stakeholders informing them of the proposal and seeking their views and comments via an attached questionnaire. An online survey could also be set up which would allow anonymous responses to be submitted by stakeholders. Letters will need to be sent out from the school on letter headed paper and comments should be sent back to the school.

Our HR lead will provide additional information for staff setting out the impact of conversion on their terms and conditions. This is intended to reassure them and enable them to engage in the wider discussion of principle. Terms and conditions will be considered in more detail as part of the TUPE consultation.

It is recommended that the consultation is held over a six-week period.

Consultation Meeting

As part of the consultation, the Boleyn Trust strongly recommends that a consultation meeting for parents and the wider community be held, although it is not a requirement. The meeting should be kept informal with plenty of opportunity for stakeholders to ask questions and express views on the proposal. The Headteacher and representatives of the governing body should attend the event. Boleyn Trust representatives may also attend. At least two weeks' notice should be given for the meeting; details are usually included in the information documents sent by the school at the beginning of the consultation period.

Prior to the meeting, the Trust team will provide guidance based on experience of similar meetings and any feedback already received from consultation forms.

A separate consultation meeting for staff and Trade Union representatives will be arranged. This meeting should be attended by the Headteacher and the Staff Governor. Representatives from the Boleyn Trust may attend.

Possible Stakeholder Reaction

Levels of interest in consultation can vary - and members of the Boleyn Trust team have experience of meetings where no external stakeholders attended. It is also common for there to be limited written response. Of course, every school is different, but since the day-to-day impact on parents and children is limited it is not unreasonable for them to conclude that governors and senior leaders can be trusted to make the right decision for the school based on a detailed consideration of the issues. An indication of attendance at the meeting can be gained through the online and written responses to the questionnaire submitted.

Consultation Report

Following the conclusion of the consultation period, the project manager will provide a report that will be shared with the Boleyn Trust, governors and the DfE to inform them of the

outcome of the consultation. The report should cover the scope of the consultation including who was consulted and how (including through an on-line survey and any consultation meetings held), information about responses to the questionnaire, main issues raised through consultation and how the school responded.

8. Education and School Improvement

School Improvement Plan

As soon as possible after conversion the Boleyn Trust School Improvement Lead will ensure that a school improvement plan is drafted which will identify the key issues and the ways in which the Boleyn Trust will support the school. In many cases this will be a revision of the existing School Improvement/Development Plan.

For 'good' and 'outstanding' schools this plan will address any areas raised in the due diligence or which have arisen during the application and conversion process.

For 'requires improvement' or 'inadequate' schools the improvement plan will identify how the Boleyn Trust will prioritise the use of any Academy Improvement Grant to bring about rapid improvement. This will include the support of the Boleyn Trust Improvement Lead and the links with good and outstanding schools within the Trust.

9. Governance

The Boleyn Trust is responsible for a number of schools. It is a charitable company limited by guarantee and is registered at Companies House under company number 10488603. The company has a Board of Trustees (also known as directors under company law) who has strategic oversight over the Trust and is accountable for the running of the Trust Board. The Trustees are registered at Companies House. The company's Articles of Association determine the membership of the company, its charitable objects and how trustees/directors are appointed to the Trust board. A copy of the Articles can be viewed on the Trust's website. The Boleyn Trust is therefore the legal entity for each of the schools within the Trust. It is the Boleyn Trust which employs staff, enters into land arrangements and in whose name, contracts are entered into. Further information on the governance of the Trust can be found on the Governance page of the website.

The key contract which the Boleyn Trust enters into is a Master Funding Agreement with the Secretary of State. In simple terms this document is an agreement to run a number of schools in return for public funding to do so; but within the agreement are a number of conditions which the Secretary of State requires to be in place - so all schools must comply with the law on admissions, looked after children, SEN and so on. They are not bound by the national curriculum but must offer a broad and balanced curriculum and promote British values.

As each school converts to academy status within the Boleyn Trust, a Supplemental Funding Agreement is put in place between the Secretary of State and the Boleyn Trust which recognises that the school is now covered by the Master Funding Agreement. It also sets out the circumstances in which the school's membership of the Boleyn Trust might be terminated - not because anyone expects that to occur, but because that is the requirement that DfE makes in this document. The Articles and both Funding Agreements are based on the DfE's model documents.

Solicitors appointed by The Boleyn Trust will draft and agree the Supplemental Funding Agreement with the DfE.

The effect of the Master Funding Agreement is to make the Boleyn Trust accountable to the Secretary of State for performance - in all its aspects - of each of its schools. The Boleyn Trust secures delivery of that accountability in its relationship with schools and by creating Local Governing Boards (LGB) for each School, which are effectively committees of the Boleyn Trust Board. Responsibility for continuing to run the school day to day alongside the senior leaders is delegated to each LGB.

A scheme of delegation setting out the basis of that delegation is available on the Trust's website and will be provided to governors at an early stage in the conversion process; it will set out how individuals are appointed to the LGB. Local Governors are not trustees or directors of the Boleyn Trust and are not registered at Companies House (unless they are specifically appointed as Trustees to the Boleyn Trust Board). The Boleyn Trust and the legal team are happy to discuss the terms of that scheme with governors.

10. Land and Buildings

When schools convert to academy status, the Secretary of State requires some certainty about the way in which the academy will occupy the school site. S/he will not enter into a Funding Agreement with the new academy trust without that certainty being in place.

Building and mechanical surveys will be performed as part of the due diligence process.

Typically, a community school's land will be owned by the local authority and, as part of the conversion process, the Boleyn Trust will enter a 125-year lease with the local authority for the school site. If the school is a foundation school, the governing body will sometimes own the land in which case the freehold for the site will be transferred to the Boleyn Trust on conversion. However, sometimes a foundation school's site will be owned by a separate foundation or body of trustees who will need to consent to the conversion. The land for VA schools is usually owned by a diocese who will need to consent to the conversion and will usually enter into a Church Supplemental Agreement on conversion.

As part of the conversion process for all schools the Boleyn Trust's solicitors will carry out due diligence on the land to find out if there are any other issues which need to be addressed before conversion takes place, for example, if there are any unregistered land, caretaker's houses, nurseries, children's centres or community use agreements (e.g. for sports facilities).

The Trust's legal team is required to submit a Land Questionnaire to the DfE which sets out all current arrangements on site.

A copy of this document can be seen here:

<https://www.gov.uk/government/publications/academy-land-questionnaires>

Boleyn Trust representatives will try to make an accurate assessment at the beginning of the conversion process as to whether the land circumstances at individual schools are more complicated than usual and therefore whether the process may need to be extended. Any information you can provide about the site, including deeds or plans, information about any

other users and about recent or planned building work will help us to make progress. We will also seek your support in discussing the conversion with local site Trustees. The Boleyn Trust and the legal team will be happy to answer any questions they may have about the process or about the new documents they will need to sign.

11. Capital Issues

The local authority will transfer its site and buildings 'as is'. It will not rectify any deficiencies in the fabric unless the building or site is evidently not 'safe', warm and dry. Any claim must be made early in the process and raised immediately with the local authority.

Academies are eligible for Basic Need capital funding from local authorities in areas of growth and projects are prioritised by the local authority as part of their annual capital programme.

Once a school begins the process of conversion the local authority will review whether to continue with any LA funded non-basic need projects that are being prepared. If the local authority has confirmed that they have already allocated capital funding to your school before conversion, please let the Boleyn Trust team know as this funding should be protected even if the school subsequently converts.

Academies access capital funding for future condition improvements through the Education and Skills Funding Agency (ESFA). There is a bidding process and the Boleyn Trust is required to coordinate bids so that it can demonstrate effective value for money. Boleyn Trust colleagues will be able to advise on how this will work.

12. Staffing Implications of Conversion

At the point of conversion when the school joins the Boleyn Trust, there is a legal process, known as 'TUPE' which means that staff will transfer from their current employer (the local authority or governing body as the case may be) to being employed by the Boleyn Trust.

All staff employed at the school at the time of conversion have a right to transfer to the academy and to have their terms and conditions protected. There are also arrangements in place to ensure that all staff continue in their current pension scheme – the Teachers' Pension Scheme for teaching staff and the Local Government Pension Scheme for support staff. Provided that staff continue to make their contributions the purpose of this process is to ensure that their benefits are unaffected by the conversion.

What is TUPE Transfer?

TUPE (which is an abbreviation for the Transfer of Undertakings (Protection of Employment) Regulations 2006) preserves employees' terms and conditions when transferred to the Boleyn Trust.

TUPE Consultation

As part of the TUPE process, the current employer of staff (the local authority for community VC schools and the governing body for foundation and VA schools) is required to carry out a consultation with staff and the unions. In addition, the Boleyn Trust as the new employer is required to notify staff about any changes which it intends to make to staff terms and

conditions as a result of the transfer (also known as 'measures'). To address these legal requirements, the Boleyn Trust will issue a TUPE measures letter to the current employer of staff which will set out any measures it intends to make and which the employer can then forward on to the unions which will start the formal TUPE consultation.

A TUPE consultation meeting will also be arranged where staff and union reps will be invited to attend and ask questions.

If the local authority is the employer, it will set the date for the meeting and lead the consultation, with input from the school and support from the Boleyn Trust.

In foundation and VA schools, the governing body is the employer of staff. In these circumstances, the governing body will take the lead for the consultation, so it will send out the TUPE measures letter to the unions, but a Boleyn Trust HR team member will assist in the management of the TUPE process, providing documentation and attending consultation meetings with staff.

How long will the TUPE consultation last?

There is no set time for how long a TUPE consultation should last but we typically recommend that it be between 3-6 weeks and that you do not include the school holidays when calculating the length of the consultation.

Informal consultations with staff

Before the formal TUPE consultation is started by the employer sending the TUPE measures letter to the unions, it is advisable for all schools to carry out informal consultations with staff so that they are kept informed about the school's intention to become an academy and join the Boleyn Trust. This can be in the form of briefings at staff meetings, for example. The HR team member can support the school with its informal communications with staff about conversion if required.

The way in which the process will be undertaken will be agreed at an initial planning meeting with the school and/or local authority.

Staff should be allowed access to their union representatives if they request that during the TUPE period.

TUPE Due Diligence

It is very important both for the Boleyn Trust and the individual members of staff that the information provided on individual members of staff as they transfer is accurate and up to date. The school will be asked to facilitate this process. Where there is known casework involving staff that may, post transfer, lead to litigation being taken against the employer, this should be discussed and where appropriate, the local authority may indemnify the academy against some of the associated future costs.

Welcome Notice for Staff

Once the Supplemental Funding Agreement for your new academy has been signed, a welcome letter will be produced by the Boleyn Trust and sent to the Headteacher for

distribution to staff, informing them that the transfer has been successful and welcoming them to the Trust

13. Transfer of Contracts and Assets

As noted above, arrangements are put in place to ensure that staff and land /buildings are transferred over to the Boleyn Trust on conversion. In addition, school's other assets and contracts will need to transfer to the Boleyn Trust on conversion. As far as possible the Trust is supportive of novation of existing contracts that the school has in place to continue after conversion instead of having to acquire new providers whilst also dealing with the conversion process (except for financial management software - please see below for further details).

A legal document - The Commercial Transfer Agreement ('CTA') - provides for this to happen. It will be drafted by and agreed between solicitors for the Boleyn Trust and solicitors for the local authority. The agreement is between the current governing body and the Boleyn Trust. About one month before conversion the legal lead for the Boleyn Trust team will ask governors to agree and sign the Commercial Transfer Agreement.

The CTA can often be the most contentious conversion document, so early due diligence on the implications of the transfer on conversion is essential. By way of example, it will be important that the Boleyn Trust carries out due diligence to obtain full details of:

- all contracts and service level agreements;
- historic, ongoing or planned building works;
- any building contracts or contracts for works and services;
- any commitments between the parties regarding funding;
- any outstanding loans or grants or funding;
- any ongoing employment disputes or proposed settlements

The earlier the Boleyn Trust knows about these issues, the earlier we can address any issues with third parties (e.g. the local authority) in terms of liability and costs and negotiate drafting accordingly to best protect the academy and the Boleyn Trust.

Any SEND specialist equipment loaned to the school by the local authority is an excluded asset in the conversion - so it remains on loan from the LA and must be returned when it is no longer needed. Equipment can continue to be borrowed as this is funded from the LA High Needs block.

The local authority includes funding in school accounts as an "imprest" so that schools have sufficient funds available to spend. Any "imprest" funding in excess of the school's budget at the point of conversion is treated as an excluded asset and will be recouped from the school as part of the close-down process. Notional nursery place funding will be treated in the same way. This does not affect the actual balance in the school's budget.

The Boleyn Trust team will contact you early in the conversion process and ask you to provide them with your current list of contracts and service level agreements in place with the local authority and other private suppliers so it's helpful for the school to start collating this information, even if it has to be updated subsequently. The documentation is required for two purposes:

1. It is needed to form Schedule 2 of the Commercial Transfer Agreement for services that will transfer to the academy;

and

2. A review of services will be undertaken, and assessment made of those that need to be retained by the academy or, services that will be provided by the Boleyn Trust post conversion in an attempt to provide a consistent approach to service provision whilst achieving value for money and cost savings for each school.

You will need to inform the local authority prior to your conversion of any services that you wish to retain and repurchase when your academy opens as some contracts will terminate when the school ceases to be under local authority control. Since future agreements will in law be with the Boleyn Trust, the Trust team will support you in this process so that you can be reassured that there is no break in service. You will need to speak to the relevant LA representative about what you need to do and when to ensure service provision continues post conversion.

14. Finance and Academy Budget

On conversion, your academy will be funded by the Education and Skills Funding Agency (ESFA) - a division of the Department for Education (DfE). The funding comes in a form called the General Annual Grant (GAG). The largest element of the GAG is the School Budget share which is calculated on a comparable basis to other schools in the local authority. Academy funding is calculated and allocated for the school year September to August. Please note, the GAG is exclusive of: Pupil Premium funding, early years funding, PE and Sport Premium for Primary Schools, Universal Infant Free School Meals, and high needs top-up funding.

A draft funding letter will be issued to you prior to opening setting out your indicative budget for the remainder of the school year.

The Boleyn Trust will also arrange for someone to come and set up the budget on the Trust specific finance system. The DfE require a budget to be submitted within 6 weeks of receipt of the final funding letter. However, the Central team would have worked with you prior to this to understand the likely financial outcome for the year in question.

On conversion, your local authority spending power will in effect be frozen. The LA has up to four months to reconcile the budget and then to hand over any surplus balance. The local authority will advise on any actions required by the school to close-down accounts.

Points to note:

- All direct debits need to be stopped or transferred to the new bank account (see below);
- Purchasing cards must be cancelled - but a new one will be provided;
- Outstanding capital loans must be paid in full before closure or otherwise dealt with on conversion (these sums are included in final accounts);

- Schools may make purchases on behalf of the academy prior to conversion but must account for these separately (using a departmental code) and must not reclaim VAT via the local authority;
- Schools must ensure that accounts are as up to date as possible i.e. invoices paid, income received, suppliers asked to bank cheques promptly);
- Reconcile school fund ready for consolidation into academy accounts. The local authority will provide accruals spreadsheet and discuss what needs to be included and agree balances. Balances are then transferred to the academy bank account.

Bank Account

All Boleyn Trust schools have their main bank account with the same provider as the Trust. Lloyds Bank.

The Boleyn Trust team will provide you with all the paperwork necessary to open your school bank account. This will need to be completed and returned to the bank for processing. The bank will help you directly in completing the paperwork and will also issue cheque books and set up online banking after your account has been opened. The Boleyn Trust will ensure that the bank forms include an application for a SUN number (service user number), which will be required for payroll.

Payroll

On conversion, the school's payroll will transfer to the Boleyn Trust's payroll provider, currently NPW. If your school currently uses NPW, the conversion process will be relatively straightforward. If you do not use NPW, work will begin early in the conversion process to ensure that all actions required to transfer payroll, and make sure no interruption for staff on conversion, are completed. The payroll team and the Boleyn Trust team will provide a list of information required and will work with the school to complete all actions.

HMRC Registration

The school will be required to register for a PAYE reference number which in turn will be issued to the payroll provider. The registration is done via HMRC and a process is in place which will be supported by the Trust. At this time, the school will also apply for 'Government Gateway access - this ensures that the national insurance and employment tax obligations are met by the Trust. The payroll provider will supply reports to each school confirming the levels of payments to be made relating to the staff.

Pensions

Teacher's pensions are not affected by the conversion to academy status. As the new employer of staff, the Boleyn Trust will pick up all employer responsibilities previously held by the local authority or governing body as employer. The Boleyn Trust team will complete forms on behalf of the school for submission to TPS, however the school will have an on-going responsibility to submit monthly returns online. The Boleyn Trust payroll team will provide the information required for the school to do this and will help with the first submissions.

On conversion, support staff are still able to contribute to the Local Government Pension Scheme (LGPS) as the Boleyn Trust has 'admitted body status'. Prior to conversion, the Boleyn Trust will request an actuarial valuation of the pension liabilities for your school so that the

Trust are aware of any deficit liabilities that are associated with the scheme. The actuarial report will also provide a revised (or similar) contribution rate which will need to be applied to employee salary costs when establishing the school budget. The Boleyn Trust teams will assist in notifications to the LGPS and will lead on discussions regarding contributions and arrangements post conversion.

Financial Management Software

As academy reporting requirements are distinctly different to those as a maintained school, a financial management system, which can facilitate these requirements, will need to be purchased, installed and ready for operation on conversion. Details on support for schools to install the system and train staff in its use will be given when the system is procured.

Annex 1: Conversion Team Contact Details

Responsibility: Chief Executive Officer and Principal Executive Headteacher
Name: Tom Canning OBE
Email address: tom.canning@boleytrust.org

Responsibility: Deputy Chief Executive Officer
Name: Ms Sarah Lack
Email address: sarah.lack@cleves.boleyntrust.org

Responsibility: Chief Finance and Operating Officer
Name: Steven Lock
Email address: steven.lock@boleytrust.org

Responsibility: Director of Learning
Name: Craig Lilleyman
Email address: craig.lilleyman@boleytrust.org

Responsibility: Human Resources Manager
Name: Margaret Patient
Email address: margaret.patient@boleytrust.org

Responsibility: Estate Manager
Name: Alex Saracino
Email address: alex.saracino@boleytrust.org

Annex 2: Template Governing Body Resolution for Conversion

We set out below a template government body resolution for a school to convert to academy status by joining the Boleyn Trust. Please amend as appropriate for your school and delete any text in square brackets which is not relevant.

Template Resolution:

[Having taken into account the results of the consultation] OR [subject to the result of the stakeholder consultation] the Governing body of [INSERT NAME OF THE SCHOOL] resolves:

- a) To apply to the secretary of state to convert to academy status by joining The Boleyn Trust; and
- b) To delegate to the [head/a committee of the following named governors] the authority to undertake conversion, comply with any requirement of the department for education and [subject to the final approval the governing body] to enter into any agreements necessary to achieve conversion.

The [Head/Academy Sub-committee] will report back to the governing body as appropriate

[The Governing Body acknowledges that a number of issues will be clarified as more details of the DfE process become available. The issues include:

- a) [continuation of the name of the school];
- b) Details regarding the supplemental funding agreement and any conditions set out therein, including final agreement of the funding letter to be issued by the EFA;
- c) Any further directives coming from the DfE which might impact on the governing body's decision to convert; and
- d) [any other specific concerns of the Governing Body].