

LEADERSHIP

Three ways sixth-forms can prepare for academisation

A conversion might be an attractive prospect for cash reasons, but colleges need to do their homework

HELEN HIRST

IN NOVEMBER'S autumn statement, it was announced by chancellor George Osborne that it would finally be possible for sixth-form colleges to convert to academy status.

Top among the list of potential benefits is the fact that academies can claim back their VAT costs, which would save an average college £317,000 per year. While the financial savings are, of course, welcome, there has been little information about the conversion process.

Formal guidance for colleges is expected from the Department for Education (DfE) by February, but here are some practical steps that can be taken in preparation.

1 Decide on the structure

What are the options for sixth-form colleges in applying for academy status? Potentially, sixth-form colleges could apply to become standalone 16-19 academies. However, it is likely that such an application would be under closer scrutiny than an application to join or establish a multi-academy trust (MAT). Such trusts are the current preferred structure of the DfE. But this type of structure does present some interesting questions for sixth-form colleges, which have been used to autonomy and independence since incorporation in the 1990s.

An MAT can provide autonomy for those academies within it by utilising local governing bodies. The academy trust board effectively delegates certain decisions to the local governing bodies and potentially also committees.

The devil, as ever, is in the detail. It is only by examining the scheme of delegation for each local governing body that it is possible to

ensure that each academy has appropriate decision-making powers, including control of the budget and appointment of principals.

However, the current model DfE articles of association refer to the scheme of delegation being reviewed on an annual basis by the directors or trustees of the academy trust. This means there is a danger that the powers granted to the local governing body could be changed as much as every 12 months. As with entering into any "partnership" arrangement, it would be wise to consider the longevity of the partnership and an exit strategy, if it is at all possible.

2 Get your house in order

As part of the conversion process, there will need to be a transfer of land, assets, contracts and staff. This is dealt with by land transfer documentation and a commercial or assets transfer agreement.

The transfer of land can be complex and will depend entirely on what current arrangements are in place. The land may be owned by the college, in which case it may transfer across to the academy trust. It is important to note that if the college is joining an MAT, then the land will be owned by the MAT and not the individual academy trust, as there will be only one legal entity.

The extent to which individual colleges would remain in control of the land would be determined through the conversion process.

If a separate trust (or other third party) owns the land, there is likely to be a lease granted to the academy trust. As with all academy conversions, land issues can cause delays, so



ensuring that any current outstanding land issues are resolved is really important; for example, queries about boundaries.

In order to prepare for the commercial or assets transfer agreement, it would be a useful exercise to start assembling some of the practical information that will be required.

This includes the Transfer of Undertakings (Protection of Employment) (TUPE) regulations details for the transferring of staff and a list of current contracts.

It could be an opportunity to try to terminate some of the existing contracts as part of the process, or to transfer across all existing suppliers that are willing to do this.

It may also be worthwhile considering any issues around software licences when joining or forming an MAT.

It is unlikely that a list of all the assets will

be required, but it is worth considering if there are assets which shouldn't be transferred, for example, equipment owned by a third party.

3 Consider the winding-up process

As sixth-form colleges are incorporated, there is a specific process to wind up an incorporated body. This includes advertising the proposal in local and national newspapers. It is important to allow time for consultation as part of the process. In reality, this process is likely to run alongside the academy conversion but, of course, it is vitally important to get all stakeholders on board with the application. ●



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Key points to consider

- Decide on the structure of the academy trust – establish a standalone 16-19 academy, create a multi-academy trust involving other academies, or join an established multi-academy trust.
- Check the current land ownership arrangements and investigate any current land ownership queries to get documentation in order.
- Start preparing information for the commercial transfer agreement, including Transfer of Undertakings (Protection of Employment) information and a list of current contracts.
- Consider the steps around the dissolution of the current corporation, as this can be a lengthy process and will need to be coordinated appropriately.

FE bulletin

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Monday 21 January
Meeting of local steering group for Thames Valley area review

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