

ORGANISING TO WIN

AUTUMN 2011



Defending State Education

Building on NUT successes in fighting the Government's accelerated academies programme



www.teachers.org.uk/academies

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Appendix – materials for use in schools

(further copies are available to download from the NUT website at www.teachers.org.uk/academies)

- academies pay and conditions fact sheet
- academies funding fact sheet
- what have local authorities done for you? – fact sheet
- flyers for a school meeting (mono and colour)
- sign in sheet for a school meeting (mono and colour)
- NUT model resolutions
- joint unions’ letter to chairs of governors of primary schools
 - school governing body finance questions
 - joint unions’ model resolution for school governing body
- joint unions’ covering letter to governors
- joint unions’ frequently asked questions fact sheet for parents/carers
- joint unions’ parent/carers petition to governors
- flyers for a public meeting (mono and colour)
- sign in sheet for a public meeting (mono and colour)

INTRODUCTION

PRINCIPLES



There has never been a more important time to defend state education and fight for a good local school for every child and for every community.

The Government has made clear it would like all state schools to become independent academies eventually and is aggressively promoting this policy to schools, including to primary and special schools. If it is successful, state education will become fragmented and the role of democratically elected local authorities in planning school places, co-ordinating and distributing resources, maintaining specialist support teams and services to local schools and ensuring fair admissions will disappear.

In the following pages we set out in more detail the Union's reasons for opposing the academies programme and provide guidance on what you and your colleagues can do.

The NUT is campaigning to defend a unified state education system and believes the best way to do this is for schools to remain part of the local authority family of schools.

The Union aims to ensure that its voice and its message is as loud and as clear as the Government's. We aim to create a groundswell of opinion against the Government's academies programme amongst our membership, parents, local communities and all involved in education.

We want as many NUT school groups as possible to express their opposition to the Government's plans and to commit to ensuring their school does not convert to academy status.

However, a key message is that while we are opposed to academy status for schools in principle, we are the union for all qualified teachers, regardless of where they work, including teachers in academies. Maintaining strong union groups in academies is an essential part of our strategy.

This guide is aimed at school reps and others involved in engaging members through this very important campaign for the Union. It is designed to set out clear, practical steps to involve members in campaigning against academy conversion.

The NUT campaign steps are based upon several key principles:

- an NUT rep in every school

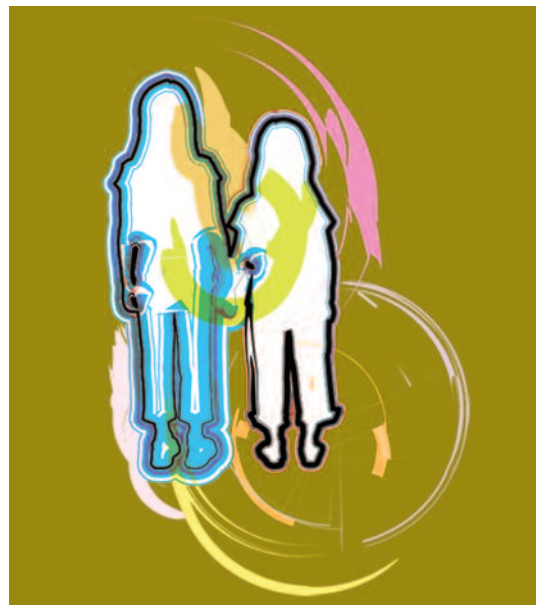
- ensuring that all schools have active NUT groups
- school-based activities that involve all members
- involving parents and the local community
- working with members, and members in sister unions, to keep schools within the local authority family and/or working with members to maintain terms and working conditions in schools that do become academies

Campaign materials referred to in this document are available on the Union's website at www.teachers.org.uk/academies and will be updated as necessary as the campaign develops.

Please contact your association/division and/or regional office for advice or support with the campaign. Where schools do convert to academy status, division secretaries will work with you to ensure that the Union's voice is heard during the conversion process and that members' rights are protected. Please keep them informed of your progress every step of the way in this important campaign for the Union.

The NUT has developed another Toolkit, *Protecting Members in Academies*, for representatives who are organising within an existing academy or a school which is considering conversion and where members cannot, or do not wish to, stop their school converting. This is available to download from the school representatives' section of the NUT website at: www.teachers.org.uk/schoolrepresentatives

THE CASE AGAINST ACADEMY STATUS FOR SCHOOLS



The NUT believes that education is a service for the whole community. As such, it needs to be properly planned, co-ordinated and managed in the interests of all local children and families. Furthermore we believe that a national system of pay and conditions, supplemented by local agreements that build on national arrangements, are in the best interests of the teaching profession.

For these reasons, the NUT supports arrangements in which schools are locally managed by the head teacher with the support of the school's governing body (and foundation for some schools), but work together as part of a local authority family with other local schools. Within this model there are a wide variety of schools: faith and secular schools; community, voluntary aided, voluntary controlled, foundation and trust schools; special schools; single sex and co-educational schools. Whilst meeting the differing needs of parents and students, what these schools have in common is that they serve the interests of the wider community and can work together collaboratively.

Academy status undermines local democracy and accountability, with schools becoming subject to direct control by the Department for Education (and, in some schools, sponsors) instead of being part of the local authority family of schools.

Academies do not raise standards

The Government often talks about academies as if they were a magic solution to raising standards in schools.

The NUT does not believe that changing the status or structure of a school is the key to improving its academic performance. We all know that good teaching, supported by good management in schools that are properly resourced, is what raises standards. Raising the quality of teaching means investing in the profession with good quality initial teacher training, access to high quality CPD throughout a teacher's career and support and respect for teachers as professionals.

The National Audit Office (NAO), the Government's spending watchdog, published a report on academies that noted that the proportion of pupils eligible for free school meals – a key measure of deprivation – fell from 45.3 to 27.8 per cent between 2002-03 and 2009-10 (*The Academies Programme*, NAO, September 2010). It further noted that: "The gap in attainment between more disadvantaged pupils and others has grown wider in academies than in comparable maintained schools."

The most recent annual report by the school inspectorate, Ofsted, found that more than half of academies inspected were rated no better than satisfactory, compared with just 35 per cent of other state schools.

Management consultants PricewaterhouseCoopers were employed by the previous Labour Government to examine the track record of academies. Their final report concluded that: "There is insufficient evidence to make a definitive

judgement about the Academies as a model for school improvement.”
(Academies Evaluation Fifth Annual Report, DCSF/PricewaterhouseCoopers, November 2008).

Academies threaten council funding and support

Local authorities have developed expertise in supporting schools based on detailed local knowledge. They also provide specialist teams such as SEN support, speech and language therapy, behaviour support; and specialist services such as legal, human resources and building maintenance. They ensure that schools are fulfilling their responsibilities to provide the best possible education for children and young people.

To carry out these functions local authorities need a secure and adequate funding stream. Under current arrangements, funding for schools is distributed via the local authority. Local schools agree, through the schools’ forum, on an amount which the local authority should retain in order to provide the ‘central services’ to schools described above. They also consult on specific local formula factors to include in local funding arrangements.

When schools become academies they take with them not only their own funding but a proportion of this central services money as well, reducing the amount available to the local authority and its remaining schools. Each time a local authority loses some of this funding it has less to spend on providing these services to other local schools.

If sufficient numbers of schools become academies, local authorities may no longer be able to fund these services at all. For example, it is not possible to sustain a specialist and high quality team of speech and language advisers if a local authority does not know from one funding period to another how many schools it will be providing the service for and what resources it will have available.

Particularly at a time of cuts to local authority funding, with finances very tight, decisions by even a small number of schools to become academies could put services at risk. Schools that become academies should not assume that they will be able to access

these services in the future as they may have disappeared.

That’s why academies are a threat to all schools and to state education more generally.

Some head teachers and governors may say that academy conversion is inevitable in the long run and that in the short term the school may be better off as an academy because it will control the money that was previously kept back to provide central services. However, the school will still need to buy these services from somewhere. If it’s not from the local authority then it’s likely to be from a private company.

Some companies may be offering attractive deals to schools in the short term but these ‘loss leader’ offers won’t last for ever. In the long term, schools are likely to pay a lot more to the private sector for services that the local authority could previously provide much more cheaply. Local authorities can provide services at a lower cost generally because, unlike private companies, they are not seeking to make a profit and because of the economies of scale available when councils provide resources across many local schools.

Supporters of academy status sometimes claim that schools will be better off as academies without providing any supporting evidence, such as detailed business plans explaining how the needs of the school will be met outside the local authority family of schools. Nor is there any explanation of how individual governing bodies will be able to supply the expertise that local authorities have provided in the past.

Any short term gain for schools converting is likely to involve significant losses in the long term. The Government wishes to ensure that, in the longer term, academies are funded on a comparable basis to other schools and is reviewing funding arrangements to bring this about. It has also said that academies’ funding will be reduced as a result of the Government’s programme of spending cuts.

Academies threaten high quality teaching and learning

There is a very real danger that school leaders may become tied up with negotiating

and managing contracts with service providers rather than focusing on their core responsibilities of leading teaching and learning. This is a particular danger for primary schools which do not have full-time bursars and other non-teaching staff available to deal with these procurement and contractual arrangements.

Schools also need to consider how they would manage if there was an emergency in the school. A fire, flood or other catastrophe would become the responsibility of the head teacher and governors to sort out. The local authority would no longer be responsible for finding new premises and undertaking repairs or rebuilding work if the school was an academy.

It makes more sense to have a locally accountable body – the local authority – to take on this role on behalf of all schools so that schools can concentrate on what they do best – educating children.

Academies threaten pay and working conditions

Moving to academy status can pose a massive threat to teachers' pay and conditions. Even if no changes are planned at the time a school becomes an academy, some academy employers may try to attack existing pay and conditions at a later date.

The system of national pay and conditions protects all teachers and helps to protect teachers from discrimination. Under these arrangements, teachers know what pay or maternity rights they can expect both in their current school and if they move schools. Furthermore schools cannot arbitrarily change pay levels or working hours. Current arrangements have served education and teachers well.

Head teachers and governing bodies considering academy transfer will often seek to reassure staff that they do not intend to change pay or working conditions if the school becomes an academy. Unfortunately, while these statements may sound reassuring, they are often not borne out in practice. The NUT has evidence from its members working in academies that attacks on teachers' pay and working conditions are likely to be made. Some schools regard the ability to set their own pay and working

conditions as one of the key benefits of academy status.

Even if there is a good relationship with the current senior management and governors in the school, this could change due to personnel changes or other unforeseen events (such as budgetary problems). Lord Hill, the government minister responsible for academies, sought to push schools further in this direction when he wrote to head teachers to warn them that the government might not allow a school to become an academy if it gave guarantees not to change pay and conditions.

In our view it would be clearly unlawful for the Secretary of State to penalise a school on an application for academy status where that school wished to exercise its freedom by retaining terms on pay and conditions but the letter shows the Government's intentions towards terms and conditions in academies.

Even protection provided under the *Transfer of Undertakings (Protection of Employment) Regulations (TUPE)* does not alter the fact that staff in a former maintained school are no longer working for the same employer, which will have certain legal implications. For example, teachers who decide to return to work in a maintained school in the same borough or county as their academy will not have continuity of employment for the purposes of qualifying for statutory rights such as protection from unfair dismissal or maternity rights.

All academies are able to set their own pay, conditions and working time arrangements for newly-appointed teachers joining the academy. This can lead to a two-tier structure so some academy employers may try to 'buy out' existing rights (offer an incentive to sign a new contract) or change job descriptions in order to move staff onto a new contract. In a recent survey of NUT members working in academies 43 per cent of respondents said that they had come under pressure to transfer to new academy contracts which gave them fewer rights.

In some academies teachers are being expected to work an extended day. Almost half of respondents to the NUT survey (49 per cent) said their school day had become longer.

The NUT survey also asked if workload had increased compared to that in the school the academy replaced. Almost two thirds (65 per cent) said that workload had increased and 82 per cent went on to say that this meant that they were working additional hours outside the school day.

Comments from NUT respondents included:

“Saturday insets, twilight sessions, weekly meetings and briefings are now a normal feature of life at the academy!”

“The workload is extremely heavy. I start work at 7am and leave work at 8pm and work most weekends, often in school.”

Heads and governors sometimes tell staff that one of the benefits of academy freedoms is that they have the power to **increase** staff pay. However, all the evidence shows that the flexibility academies have to pay more has only been used to benefit head teachers and a small number of senior staff, not the majority of employees.

A survey of academy head teachers' pay carried out by the Labour Research Department found that pay for senior staff in secondary academies was outpacing that of their local authority counterparts. The survey found that half of the academies surveyed were paying their head teacher more than £110,000 a year in 2008-09. In contrast, the average pay for secondary heads in general was £76,675 throughout most of England and Wales (*Labour Research*, May 2011).

The survey results bear out the findings of a National Audit Office report, which stated that: “There is a significant differential between senior salaries in the maintained sector and those reported in the accounts of academy trusts.” (*The Academies Programme*, NAO, September 2010).

Academies threaten other local schools

Good schools are at the heart of their community. They have an inclusive admissions policy and welcome all pupils including those with special educational needs and those with English as an additional language. Good schools work in partnership with neighbouring schools and can share good practice and support one another as part of a community of schools within the local authority family.

Academy status threatens this approach. By taking schools out of the local authority family of schools, academy schools become autonomous institutions, competing with other state schools for pupils and financial resources.

Academies can create or reinforce local hierarchies of schools. Academy status itself can have a destabilising effect on the capacity of other neighbouring schools to achieve a balance of abilities amongst their pupil intakes. The positive spin put on academy status by the Government may give parents the impression that they are the ‘best’ schools in the area irrespective of the quality of other schools. The Secretary of State for Education prioritised visits to academies over state schools in his first year in office, making it clear that the Government favours academies over other types of schools. This can result in some academies being heavily over-subscribed.

Academies threaten fair admissions procedures

Academies act as their own admission authorities. Although academies must abide by the schools' admission code, as autonomous institutions there is a lack of transparency and democratic oversight of academies' admission policies.

There is a wide diversity of admissions practices in academies including entrance tests, various forms of banding, sibling places, random selection such as lotteries as well as selection by aptitude in some academies. In addition, the criteria used by academies in respect of distance from school also varies. The complexity of these arrangements means that there is a lack of transparency for parents in understanding how academies' admissions systems work.

Many academies use a ‘fair-banding’ admissions criterion to achieve an intake representative of the national ability profile. The NUT is concerned that some academies may use this admissions' device to get a higher proportion of higher ability students than other schools in the local area. Academies in areas with a higher proportion of Band 3 and 4 (lower ability) pupils than the national average would be able to turn some of these pupils away. This will have an impact on the intake of other local schools.

Academies exclude more children than other schools

Official statistics show categorically that academies exclude children at a much higher rate than local authority maintained schools.

DfE figures for the 2009-10 school year reveal that the rate of permanent exclusion from academies was 0.30 per cent compared to a rate of 0.14 per cent in local authority maintained secondary schools. The rate of fixed period exclusion in academies was 14.7 per cent compared to a rate of 8.2 per cent in local authority maintained secondary schools. (*DfE Statistical First Release SFR 17/2011*, 28 July 2011).

Academies undermine governing bodies

The governance arrangements for academies differ substantially from those of local authority schools which have a balance of places for key 'stakeholders', particularly elected parent and staff governors, as well as representatives of the local community and the local authority.

In a maintained school, elected parent governors make up a third of the governing body and places are set aside for teacher and staff governors. Stakeholder governors – particularly those that are directly elected – are accountable and responsive to the school community. However, an academy can have a minimum of just two parent governors and there are no automatic places for staff governors, local authority governors or co-opted governors.

There are also concerns about how staff or parents will be able to raise any concerns they may have about the way the academy is run once it is removed from local authority oversight. At present parents can raise concerns with their local councillor. Once the school is no longer part of the local authority family, parents would have to deal with civil servants rather than their elected councillors.

Schools that voluntarily convert to academy status – i.e. those that the Government deems 'schools that are doing well' – do not need to have an external sponsor. Instead, the existing governing body foundation body or trust establishes an 'academy trust' (a charitable company

limited by guarantee). Although there is no limit, this normally comprises at least three people and usually includes the chair of governors and the head teacher.

This trust has responsibility for the strategic running of the academy, entering into contracts and control of the school's land and other assets. It delegates the management of the academy to the governing body.

The academy trust also appoints the governing body. There is no maximum size for the governing body. However, the Government has made clear its desire to see the size of governing bodies reduced and advises that "when negotiating the size of a governing body we do advise that large numbers can make governing bodies unwieldy and difficult to manage."

For voluntary and foundation schools converting to academy status, the foundation or trust may appoint the majority of governors. The remaining governors would be made up from at least two parents, one LA governor (optional) and co-opted governors (optional).

In sponsored academies (many of which will have been forcibly converted to academy status because of concerns about their performance), the external sponsor appoints the majority of governors. Sponsors have immense power over the governance and running of the school. They are responsible for establishing the academy trust, the governing body and the appointment of the head teacher (principal). Once a principal is appointed the sponsor works with them closely to develop the organisation, staffing management and leadership as well as the academy's ethos, vision and curriculum.

The governance arrangements in academies fall well short of the democratic and balanced stakeholder governing bodies in most maintained schools. There is also a lack of clarity about the powers of the governing body in relation to the academy trust or sponsor.

Academy status transfers state assets to unaccountable bodies

Creating academies involves the transfer of publicly funded assets to unaccountable academy trusts or sponsors. When a school becomes an academy its land, buildings and their contents are removed from the elected local authority (or foundation trust) and handed over to the academy trust or sponsor on a long lease, usually of 125 years. With the value of each secondary school and the land it stands on worth on average £25 million and each primary and its land valued at an average of £10 million this could mean the loss of billions of pounds worth of land and buildings paid for by the public through their taxes.

Once these assets are transferred the public loses control over them. One academy in Cornwall is proposing to sell off part of its school land to a leading supermarket chain just months after it converted to academy status!

The NUT's alternative

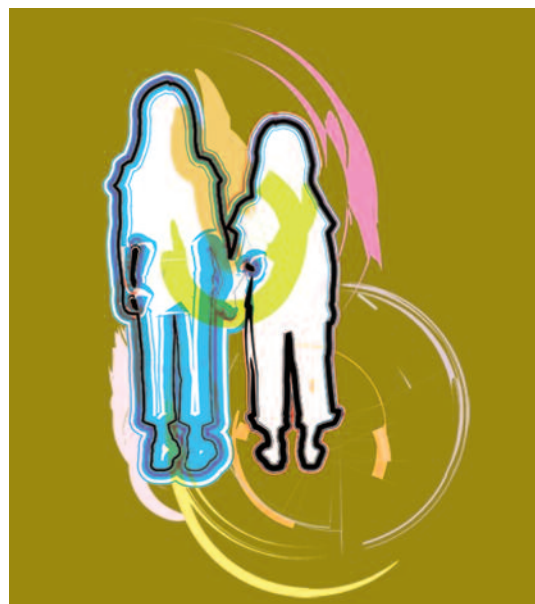
The NUT believes that the Government should:

- Halt the expansion of the academies programme.
- Legislate to return existing academies back to the control of their local authority, foundation or trust.
- Engage in a dialogue with teachers, parents, governors, local authorities, trade unions and other stakeholders on how the principle of locally accountable, comprehensive education provision can be enhanced.
- Establish a forum to encourage businesses or individuals wanting to make a contribution towards the education of young people to do so but in partnership with schools rather than as a take over.
- Legislate for all state-funded schools to employ qualified teachers, to be part of their local authorities' admissions arrangements, to apply national pay and conditions for staff and to recognise all relevant trade unions.

BUT REMEMBER!

Although the NUT opposes academy status for schools for all the reasons outlined above, it remains **the Union for all qualified teachers wherever they teach**. If your school does become an academy, having NUT support will be even more important. Maintaining an active Union group in your school will be key to safeguarding your terms and conditions of employment for the future.

THE PROCESS OF BECOMING AN ACADEMY



What is an academy?

An academy is an independent school. It is state funded but receives its funding from central government, not from the local authority. Whereas local authority maintained schools co-operate and work together as part of a local authority family of schools, academies are stand alone institutions that determine their own curriculum, act as their own admissions authorities, determine the lengths of their terms and school days and operate outside national pay and conditions bargaining for staff.

Which schools can become academies?

All primary, secondary and special schools that are 'performing well' can apply to become academies. These schools will not be required to have an external sponsor. In addition, all schools can apply to convert in formal partnership with a school that is performing well or to join an existing academy trust. The Government says that 'well-performing' schools wishing to convert will be expected to commit to support another school to help raise that school's performance.

If the school has a faith designation then this will be retained on conversion, as will any selective or single-sex status.

Other schools may be closed and forced to re-open as academies if the Government considers them to be an 'underperforming' school.

How does a school become an academy?

There are two ways that a school can be turned into an academy:

- The Secretary of State for Education can decide that the school is 'underperforming' and can issue an order to close the school and re-open it as an academy with an external sponsor; or
- The governors of schools that are 'performing well' can voluntarily apply for academy status. Governors of other schools can apply to convert in formal partnership with a school that is performing well or to join an existing academy trust.

Forced conversion

The Government says that: "Where there has been long-term underperformance, little sign of improvement and serious Ofsted concern, we will convert schools into academies, partnering them with a strong sponsor or outstanding school."

If your school is facing a forced academy conversion you should contact your regional office as a matter of urgency to get advice on how to proceed.

Voluntary conversion

The process of converting a school to academy status in the case of voluntary converters can be surprisingly quick. That's why NUT members need to be aware that academy conversion is an ongoing and very real threat for **all** schools. Please don't wait

until you hear that your governing body is considering academy status before expressing your collective opposition because at that stage it will be far more difficult to build a campaign in the remaining time. Instead you should ensure that all NUT members in your school are aware what academy conversion could mean for them and that they are actively taking steps to resist it.

How is the decision taken?

The decision to apply for academy status is taken by the governors. In the case of foundation schools with a foundation, and voluntary schools, the governing body may only apply for academy status with the agreement of any existing trust and those entitled to appoint any foundation governors.

Having registered their interest in academy status with the DfE, the governors simply have to vote in favour of a resolution to convert to academy status. The decision can be made by a simple majority of those present at the meeting. The application goes to the Secretary of State for Education. Once the Secretary of State approves the application, an 'Academy Order' is issued which gives the school the legal right to start the conversion process, apply for the conversion grant, establish new governance arrangements, register the Academy Trust and so on. Once all the legal arrangements are in place, the Academy Trust signs the Funding Agreement with the Secretary of State and the academy conversion process is complete. The whole transfer process can take as little as three to four months from start to finish.

Consultation requirements

There are two consultation stages during the conversion process. One is the consultation on **whether or not the school should become an academy**. The second, TUPE consultation, occurs when a decision to convert has been taken by the governors and information must be given by the employer to union reps.

Detailed information on the legal requirements and teachers' rights under the *Transfer of Undertakings (Protection of Employment) Regulations (TUPE) 2006* consultation are contained in a further Toolkit, *Protecting Members in Academies* which is available on the NUT's website at www.teachers.org.uk/schoolrepresentatives

This Toolkit focuses on the consultation on the **question of conversion**.

Consultation on whether to become an academy

What the law says

Under the *Academies Act 2010*, governors must consult "such persons as they think appropriate" at some stage before the Funding Agreement is signed.

Academies Act 2010

Section 5 Consultation on Conversion

- (1) *Before a maintained school in England is converted into an Academy, the school's governing body must consult such persons as they think appropriate.*
- (2) *The consultation must be on the question of whether the school should be converted into an Academy.*
- (3) *The consultation may take place before or after an Academy order, or an application for an Academy order, has been made in respect of the school."*

What the Government says

The question for the consultation should be: "Should the school become an Academy?"

It is up to the governing body of the school to determine who should be consulted. In its guidance, the Government merely states that: "Schools should consider involving local bodies or groups who have strong links with the school." Schools with a religious designation will also be expected to consult their Diocesan Board or relevant religious authority.

There is no specified length of time for the consultation but the Government states that it is important that interested groups, individuals or organisations have a fair chance to respond and ask questions.

The Government suggests that it would be adequate for schools to consult in some of the following ways: by posting information on the school's website; sending a letter home to parents; holding a parents' meeting; holding a students' assembly; and/or conducting a student questionnaire. Interestingly, none of its suggestions include arrangements to consult with teachers or other school staff.

What the NUT says

Academy conversion is an irreversible process with far reaching consequences for pupils, staff and the wider community. It is not a decision that should be taken lightly by a small group of governors acting without the support of key stakeholders in the school.

The NUT believes that, in addition to the provisions on consultation in the *Academies Act 2010*, governing bodies have a common law duty in respect of consultations. The Union believes it would always be irrational or unreasonable if, in particular, the parents and the staff were not consulted on such an important change. As part of this argument we would argue that parents and staff have a 'legitimate expectation' of being consulted.

The extent of this common law duty of consultation has been set out by a judge, Lord Justice Stephen Sedley QC, in the Court of Appeal, as follows:

- (1) *Consultation should be undertaken when the proposals are still in a formative stage;*
- (2) *Adequate information should be given to enable consultees properly to respond;*
- (3) *Adequate time should be provided in which to respond; and*
- (4) *The decision maker should give conscientious consideration to the response to the consultation.*

There is a further well established principle, that:

- (5) *If the information is incorrect or misleading, or does not give true reasons for putting forward the relevant proposals, then this also may constitute a sufficient flaw in the consultation process to lead to a quashing of the subsequent decision.*

Legal challenge forces Islington primary to abandon academy plans

A legal threat by parents forced an Islington primary school to abandon its plans to become an academy. Governors at William Tyndale School decided to move ahead with conversion plans in July 2011 despite complaints by parents that they had not been given enough time to respond to a consultation. A parents' petition opposing the academy plan had gathered 200 signatures in just three days. So furious were the parents – even some who had originally supported the academy – at the way views were ignored that they consulted lawyers. The lawyers said that the consultation was so flawed it could be challenged in the courts and the parents threatened the primary school with litigation.

Local sources say the school's lawyers agreed that the case could be challenged, forcing governors to abandon their plans. Crucially, the school failed to carry out an assessment of the impact changing its status would have on the wider community, especially in terms of equality.

School reps should argue for the widest and best possible consultation with all those affected by the school's potential transfer to academy status.

- No school governing body should take a vote on academy conversion without **full and meaningful consultation** with the whole school community having already taken place. The feedback from this consultation should inform the decision of the governors.
- At a minimum those consulted should include staff, parents, pupils, neighbouring schools, parents at feeder primary schools (in the case of a secondary school considering conversion) and the local authority.
- The timing of consultation should begin as soon as any discussion about the possibility of academy status arises and **before any vote by the governors occurs.**

- Meaningful consultation means that the school community should hear **both sides of the argument** for and against academy conversion so that all interested groups can genuinely come to an informed view on the pros and cons of academy status. This means that, if the school is sending written materials to parents or posting information on its website, the case against academy status should be given equal prominence and the same weight as any arguments in favour.
- The school should organise stakeholder **consultation meetings** where speakers both for and against conversion can make their case and where parents, staff and other key stakeholders can ask questions and receive answers and full feedback.
- The **timing of consultation meetings** should facilitate attendance by the widest possible numbers of interested parties. This might mean taking into account days of religious worship which might preclude some members of the school community attending.
- Where a significant number of people affected by the proposal may not speak English then it is good practice to provide a version or versions of the consultation document in the **principal language** of those likely to be affected by the proposal.
- Some NUT groups have successfully argued that the school should hold a **ballot** of key stakeholders before taking any decision on conversion (see Brent NUT box). The NUT supports this approach as a means to ensuring that there is the widest possible debate and fullest possible participation in the decision-making process.
- The National Governors' Association has issued guidance to school governing bodies considering academy status on how to conduct stakeholder consultation (see box on pages 15 to 16).

Brent NUT: Using ballots to campaign against academy status

NUT members in Brent, north London, have successfully argued that the views of all school staff either for or against an academy proposal should be ascertained by an independently overseen secret ballot which occurs after there has been sufficient time for both sides to fully put their arguments and provide their literature to all staff.

At Claremont School in Brent, staff threatened to take strike action if no independently overseen ballot was allowed. The NUT negotiated the right to speak to, meet with and distribute literature to all staff and for a meeting of the whole staff to be held where both sides of the academy debate could present their views. A ballot took place, overseen by the independent Electoral Reform Society (ERS), and resulted in just under three quarters of teaching staff and over 70% of support staff voting against academy conversion.

Brent NUT subsequently wrote to all Brent school heads and governors informing them that the Union expects schools exploring academy status to hold secret independently overseen ballots and that a failure to do so would result in members taking strike action.

Seven Brent secondary schools have subsequently declared they do not intend to become academies.

Brent NUT: governing body resolution

NUT groups in Brent schools are asking their governing bodies to agree to the following:

“We believe that Governors should gather the views of all of our staff on the issue of conversion to academy status in a secret, independently overseen, transparent ballot on the question of support or opposition to the proposal to convert to an academy.

“We also agree that we will work closely with the major professional associations/trade unions to ensure full agreement over the form of that process.

“We agree that the ballot will be differentiated between teaching and non-teaching staff and will be held at a reasonable time before any final decision is made.”

National Governors' Association advice on consultation

The National Governors' Association (NGA) has issued advice to schools considering conversion to academy status which includes the following points about consultation:

"The NGA remains of the view that consultation should take place at an early stage of the process before governing bodies have applied for academy status.

The Act requires governing bodies to consult "such persons as they think appropriate" before they sign the Funding Agreement – the NGA believes that this should include the school staff.

In addition, there is a requirement to consult staff about the Transfer of Undertakings (Protection of Employment) Regulations (TUPE).

The NGA's view is that no governing body should submit an application to the DfE unless and until they have consulted their key stakeholders (parents, pupils, staff, local authorities, or other local schools).

Conversion to academy status is a significant step; it means moving accountability away from the local authority to the Secretary of State and potentially fundamentally changing the structure of the governing body. It should not be done without those likely to be affected being consulted.

The NGA would strongly recommend as good practice that the governing body carries out a formal consultation process as it would need to do for any other change in a school's status. This is a fundamental change in the designation of the school and will be difficult (if not impossible) to reverse.

We suggest you consult parents, students, staff and local partners. In order for the consultation to be meaningful, full information on the implications would need to be provided. Information could include:

- *Details of the proposed academy arrangements.*
- *Details of the proposed governance arrangements including details of the directors of the company which will enter into the Academy arrangements and details of the composition of the governing body.*

- *Any proposed changes in the arrangements for the curriculum, for special educational needs, for pupil discipline, exclusion and for complaints, and confirmation that there will be no change in the admissions arrangements.*
- *Details of the additional money which would be available to the school (either as capital or revenue funding) if it became an academy.*
- *Details of any additional obligations which fall on the school if it became an academy.*
- *Details of the support that is proposed to be given to other schools and any other possible effect on other schools.*

It is for the school to decide how to carry out the consultation process, but the following should be considered:

- *Make sure information is readily available – if you have a website post it there, if not make sure information is sent out to parents and available to pick up at the school.*
- *Hold meetings for parents/pupils and staff – to provide information, but also to enable them to give their views and ask questions. Make sure the answers to those questions are published.*
- *You may wish to consider issuing a consultation questionnaire.*
- *You may wish to consider holding a ballot of parents to determine whether to go ahead.*

We also suggest that the governing body should enable supporters and opponents of the proposal to circulate relevant materials to other consultees.

You do not have to consult the local authority (LA). However the NGA believes that the governing body should invite

views from the LA and should in particular seek information about the cost of services currently provided by the authority which the school would have to meet as an academy.

In addition, at a community or voluntary controlled school the LA is the employer of staff at the school and as such will be responsible for conducting TUPE consultations.

In community and voluntary controlled schools the LA will be the owner of the land and in many cases the transfer of the land will be one of the more time-consuming aspects of the conversion process. It is recommended that schools start early discussions with their LA about the land the school uses.

The NGA believes that as a matter of good practice the governing body should discuss its plans with local schools, particularly those it currently works closely with, is a feeder school for, or receives pupils from.

The NGA would recommend that a special single issue meeting of the governing body is held to discuss whether to apply for academy status. This is a significant step for the governing body and the NGA does not think that adding it to the agenda of a scheduled meeting will provide sufficient time for the detailed discussion needed. The discussion should take into account the views of your stakeholders.

No application for academy status can be made unless the governing body has taken a resolution to do so. The minutes of the meeting at which the resolution were taken are required by the DfE as evidence.”

ORGANISING TO OPPOSE ACADEMY CONVERSION



The NUT aims to build up a 'bulwark' of schools that have rejected conversion to academy status and that are committed to remaining part of the local authority family of schools.

This means building support for the Union's stance throughout the entire school community of teachers, support staff, parents, students and governors. It also means taking the arguments out into the wider community of neighbouring schools, the local authority and so on.

The NUT is working closely with our sister unions on the academies campaign. This includes the other teaching unions (the ATL and NASUWT) and unions representing school support staff (the GMB, UNISON and UNITE). All these education trade unions share the same view that the Government's academy programme is not in the interests of teachers, support staff, parents, children or education more generally.

The appendix to this Toolkit includes a range of material and resources, some specific to the NUT and others jointly developed with other education unions as part of our commitment to work together to oppose the academy programme. You will find this material useful in organising within your school to oppose the threat of academy conversion. Further copies of all these materials are available on the NUT website at www.teachers.org.uk/academies

Getting the school group active

If there isn't an NUT rep in your school then you should elect one as soon as possible. Whether your school becomes an academy or remains part of the local authority family of schools, members need to be well organised to protect and advance their interests.

School groups function best when there is a team of people doing a number of small jobs. In that way members can share the load and support one another, which in turn builds confidence. It's a particularly good way of involving new members and young teachers in activity.

If there are any qualified teachers who aren't in a union then ask your NUT colleagues to help you to recruit them as soon as possible. The NUT group will be stronger the more members it has and the more representative it is of the teaching staff as a whole.

Encourage support staff to join an appropriate union if they haven't already done so.

Campaigning against academy conversion.

Wherever possible work with other teacher and support staff unions at the school on the actions outlined below.

1. Make sure you are fully informed

Information is power. School reps should make sure they are fully briefed on the arguments for and against academy status

so they can answer members' questions and address any points made by parents, governors and other members of the school community. Use the information in this Toolkit and other information available on the NUT's academies website pages at www.teachers.org.uk/academies

2. Call a union meeting

Winning over the membership to the Union's stance on academies is the first crucial step in winning the campaign in your school. Don't wait until the governors start to discuss academy status, call a union meeting to inform members what academy status would mean for members in your school. If possible organise this with other unions and hold a joint meeting.

It is important to engage as many members as possible. Build attendance at the meeting in advance by talking to members face-to-face, putting information in staff pigeon holes, emailing information and/or putting a notice on the NUT notice board.

A flyer to advertise a meeting on academy status is available in the appendix to this Toolkit and on the NUT website at www.teachers.org.uk/academies

In larger schools, use the sign-in sheet in the appendix to ensure you have a record of everyone who attended.

3. Brief the members

The aim of the meeting is to explain the NUT's principled objections to academy status and the impact on members' terms and conditions. Be prepared to answer members' questions. However no one would expect you to know everything! If you don't have the answers to hand, make a note of any questions you are unsure how to answer and get advice from your association/division or regional office.

Use the resources available in this toolkit to address members' questions. Further resources are available on the NUT website, including a PowerPoint presentation that you can download and use at your meeting or adapt for your own purposes. Go to www.teachers.org.uk/academies

Invite members to contact you after the meeting if they still have questions. This can be particularly important where some members may be concerned about raising

issues at meetings at which senior leadership team members are present.

Don't be afraid to seek support from your association/division or regional office. They are there to support and help you and may be able to provide a speaker to support you at the meeting if you would like one.

4. Pass the NUT model resolution

Once you have started the debate with members in your school decide when the appropriate time would be to introduce the Union's model resolution (see two versions of this in the appendix).

One NUT model resolution expresses the school group's opposition to academy status and calls on the governing body to do the same. The other is to use where members are unsure and calls for the governing body to hold the widest possible consultation at which arguments for and against academy status can be clearly debated before considering any moves to academy transfer.

If you feel neither model resolution is entirely appropriate for your school, then you can adapt one of these and pass a similar resolution that is more suitable. Remember the important thing is not the exact form of words but a commitment from union members to reject the idea of academy status and to call on the governing body to do the same.

Introducing the most appropriate resolution may occur at the initial meeting or at a subsequent one depending on how knowledgeable members are about the process. If staff feel that they need more information don't rush the process, instead arrange a follow-up meeting and ensure members receive as much information as they need to form a considered view.

Once the school group has passed one of the NUT model resolutions (or something similar) send a copy through to your association/division secretary and to the regional office (regional office contact details are on pages 25-26 of this Toolkit).

5. Call on the governors to reject academy status

Once you have won the support of the members in the school, ask them to sign the joint unions' letter which will be sent to the governors along with the governors' model resolution against academy status (see

appendix). Again if you feel these are not entirely suitable then amend them to suit your own school's circumstances.

Send the letter and the model resolution to the chair of governors and send copies to the staff governors. It is crucial to win the support of the staff governors. They will be key to arguing the case against academy status at the governors' meeting.

Ask the chair of governors to schedule a meeting where Union reps can explain to the governors why the staff oppose academy status for the school. The aim is to win over the governing body and convince them to pass the governors' model resolution.

Again you should be prepared to answer questions and deal with arguments in support of academy status. Make sure staff reps attending the governors' meeting are fully briefed.

It would be advisable to send written material to each of the governors before the meeting to ensure they have had the opportunity to consider the Union's views in advance. The appendix to this Toolkit has model letters and other material you could use.

Ideally, try to speak to governors in person in advance of the meeting to find out their views. This will give you time to prepare specific responses to points that governors may raise. Share out this task among Union members in the school. Members may have personal contacts with specific governors.

6. Winning over parents and carers

Parents and carers are an important and influential part of the school community. Winning over the parent/carer community can make the difference between winning the academy argument on the governing body or not.

Remember that parent governors will make up as much as a third of the governing body. Their vote will be key and it is essential that they are won over to the Union's stance on academy status.

An NUT academies leaflet for parents is available to download and print off on the Union's website at www.teachers.org.uk/academies

A joint unions 'frequently asked questions' factsheet for parents is available in the appendix of this Toolkit and further copies can be downloaded from the NUT website at www.teachers.org.uk/academies

Your association/division may be able to help you to print sufficient copies of the above materials.

How you approach and engage with parents/carers will vary from school to school. If you are in a small primary school NUT members may know many of them well. In a larger secondary, forming the same personal relationships may be more difficult. The following are some suggestions for approaching and engaging parents that have worked well in some schools. You will need to adapt the approach for your own school situation:

- Approach the chair of the parent teachers' association (PTA). Ask if a Union representative can speak at their next meeting to explain the Union's concern about academy status.
- Ask the PTA to distribute Union literature about academies to the parent community.
- Make sure you engage with all sections of the parent/carer community. Some schools have organisations for specific groups of parents – such as African/Caribbean, Turkish or Somali parents. Talk to the leading members of these organisations and arrange a speaker for their meetings.
- Ask the parent governors to call a parents' meeting where the academies issue can be discussed.
- Try to accommodate all parents. Some parents prefer meetings straight after school but others may not be available until later in the evening. If possible have more than one meeting at different times. Be sensitive to religious practices, e.g. holding a meeting on a Friday could mean that Muslim and Jewish families may not attend.
- Some teachers and support staff may live locally and have close ties with parents. Some may even be parents of children at the school themselves. They could be influential in winning over other parents.

- Run an NUT stall at school events – such as a summer fayre or a celebration evening to mark Christmas or another community religious festival such as Diwali. Hand out Union literature and try to talk to as many parents as possible.

Engaging parents

At Benthall Primary School in Hackney, NUT members ran a badge-making stall at the Christmas fayre and the hall was soon full of parents and children wearing badges opposing academy status. The campaign was successful and governors dropped the idea of academy conversion. Winning over the parents was key to the success of the campaign.

- Call an NUT-hosted meeting for parents in a venue close to the school such as a community hall. Make sure there is a crèche so parents can fully engage and organise translation if appropriate. Your division/association may be able to help fund these. Explain why the Union is concerned about academy status and ask parents to write to the governors urging them to reject the idea. It might be useful to have a model letter available that parents can adapt for their own use. The joint unions' 'frequently asked questions leaflet' in the appendix of this Toolkit may be useful for parents to draw upon when writing.
- Leafleting outside the school has worked successfully in some schools and helped to identify sympathetic parents who might form the basis of a parents' group to oppose academy status if the issue arises.
- Where there are success stories in neighbouring schools, invite an NUT member and parent along to share their stories with your school community.

7. Getting support from students

Students deserve to have a voice over the future of their school, particularly secondary-age students. School pupils are one of the groups that ought to be consulted if the governors are thinking about academy conversion so ensuring they understand what is at stake is important. In some schools, the student community has been a central strand of opposition to an academy proposal.

Campaigning alongside students

*Hundreds of students at **Kingsbury High School** in Harrow, north west London held a protest in July 2011 against the school's bid for academy status.*

A Year 10 student said: "There were around 200 pupils there protesting and we were handing out leaflets to people about what we were doing. We got the head of the school to come out and talk to us. We arranged for him to meet us in the hall but not many of us were happy with what we heard. We don't think it will benefit us and won't be worth it. It will change teachers' conditions and actually a lot of teachers are on our side against academy status."

The pupils' protest followed a ballot of staff organised by governors that showed around 85 per cent were against the proposals.

*At **Queen Elizabeth Girls School** in the London Borough of Barnet, pupils organised a public meeting in May 2011 to oppose proposals for their school to convert to academy status. They handed governors a petition signed by 250 students.*

8. Engaging with the head teacher

The head teacher will be an influential voice on the governing body and the attitude of the head may well swing other governors either for or against academy status. Engaging with the head teacher will be important but again how you do so will be a matter of judgement and local circumstance.

You may have a head teacher who is supportive of the NUT's view on academy status. You may even have a head who is an NUT member. In this case work closely with the head to determine when and how it would be best to raise the academy issue with other governors and seek their support in passing the joint union (or a similar) resolution to reject academy status for the school.

Alternatively your head teacher may be in two minds on the issue. She/he may feel that academy conversion will be inevitable at some point and that the school may be financially better off as an academy. If this is the case, then you will need to discuss the issue which will mean being fully briefed on all the arguments. Your association/division may be able to put you in touch with colleagues in other schools that have rejected academy status and where the head is known to oppose academy conversion. A friendly head teacher from another school may be a powerful ally in helping you engage with your head teacher and they may even be willing to speak to your head to explain why they believe the school is better off remaining within the local community of schools.

In some schools the head teacher will be actively in favour of academy status and may be encouraging the governors to apply to convert. They may nevertheless accept that the counter arguments should also be heard so it is still worth approaching them and asking for a meeting to be organised where parents and governors can hear both sides of the discussion.

If your head teacher is simply hostile to the Union and its viewpoint on academies then you should be careful how you approach the campaign. Make sure it is clear that you are acting as the official NUT representative at all times. If you have concerns then contact your association/division or regional office for advice.

9. Building political allies

Within the local community there will be councillors and possibly MPs of all political parties who oppose academy status for local schools. As the Islington example highlighted in the box opposite, demonstrates, they could be crucial allies if your school is at threat of academy conversion. Don't assume that Liberal Democrat or Conservative councillors/MPs will be hostile to the Union's stance. In many parts of the country they are actively engaging in campaigns to oppose academy conversion of local schools.

Ask members to contact local politicians to find out their views. Some NUT groups have arranged to speak at local meetings of the various political parties.

Involving the local council

In Islington, north London, NUT members invited the Labour Leader of the Council to address a meeting of parents at a primary school considering academy conversion. She pointed out that, if the school became an academy, the children would no longer be entitled to the free school meals which the Borough provided for all primary age children. Parents overwhelmingly rejected the idea of academy status for their school.

10. Using the media

The media can be a powerful tool to spread the Union's message and win over local opinion. If your school is under threat of academy conversion, it will be very important to use the media to publicise the Union's campaign.

The local media – press and radio – are always on the lookout for good local stories. If it's not appropriate for someone in the school to act as a media spokesperson, ask the association/division secretary to do so on behalf of the school group. Alternatively a supportive parent could put the case on behalf of concerned parents.

The media love eye-catching events and stunts so think of an activity that can be organised for after school or at the weekend that will publicise the Union's campaign message.

11. Holding a public meeting

Some NUT groups have found it useful to organise a larger public meeting in the community and invite well-known speakers. This may be a useful approach but it should be seen as a culmination of some of the activity described above, not as a first step. The key to defending your school against academy conversion will be winning over the key elements of the school community – members, staff, parents, governors and the head teacher. A public meeting will only be successful if it has broad support from among these groups.

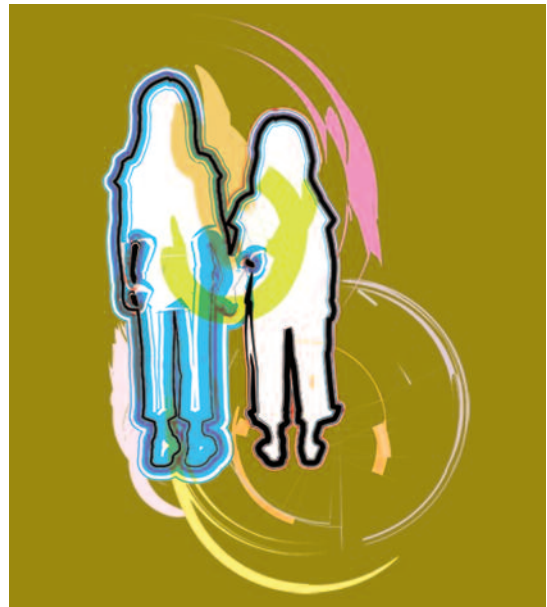
If you do decide to hold a public meeting, a key aim should be recruiting new activists for

the campaign to keep your school part of the local community of schools. Make sure you have a sign-in sheet so you can contact those who attend at a later date (a copy is available in the appendix of this Toolkit). Ensure there is a follow-up activity planned for shortly after the meeting so the enthusiasm built up by the meeting can be capitalised upon.

Make sure that the panel of speakers is broadly representative and that plenty of time is set aside for questions and contributions from the audience. The venue and timing of the meeting will need to be accessible.

Let your association/division and regional office know what you have planned. They may be able to help with speakers, contacting the media and distributing publicity material.

PROTECTING MEMBERS



Industrial Action

If, despite all of your campaigning in school and the wider community, the governors decide to press ahead and apply for academy status, then you may need to consider industrial action if members in the school are still determined to actively campaign against academy conversion.

Ballot for industrial action

A ballot for industrial action may be appropriate where members express a wish to continue the campaign against academy status and are prepared to consider taking industrial action to remain with their current employer. Alternatively, the action may be to protest about the failure of the governors to consult appropriately with staff over the conversion issue.

There are very significant legal complexities relating to industrial action ballots. If members are keen to ballot for action, you should seek advice from your regional office at an early stage, before any decision can be reached. You will need to inform your regional office of the number of members present at the meeting where the possibility of action was suggested, and, if known, what stage the school is at in the academy conversion process.

You will also need to inform the members that:

- The Union will first consider holding an **indicative ballot** (to test the views of the members) to see if they wish to take

industrial action. If time is short, this can be as informal as a show of hands in the presence of a regional officer.

- The ballot would ask members if they were willing to take discontinuous sustained strike action. This means that it would be for one or more short (often one-day) strikes as thought appropriate by the members rather than for an all-out continuous indefinite strike.
- If an indicative ballot is successful a request for a formal ballot would be considered by the Union.
- If a formal ballot is successful, the Union would then decide, in consultation with members, days when they could be called upon to take strike action.
- While the Union group would continue to campaign against the school becoming an academy, it would also need to engage in negotiations to secure assurances on pay and conditions and proper consultation and negotiation arrangements should the school become an academy.

TUPE Consultation

In addition to the consultation under the *Academies Act 2010* on the question of whether or not the school should become an academy (see pages 12-14), all employers have duties to provide the Union with information and to consult about changes in the workplace as part of regular collective bargaining arrangements.

Consultation under the *Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)* is required regarding any changes the academy governing body may make. The law requires your employer to consult with union reps where they are considering making changes to working conditions such as the length of the school day. The consultation itself will usually take place with your division secretary, whose aim will be to protect the position of members at the school and, so far as is possible, teachers who may join the school. She/he will want to seek confirmation that no unwelcome changes to the school working environment are being proposed and that new staff will be employed on the same terms and conditions as are currently offered.

The local authority or governing body (as appropriate, depending on which is the employer of teachers in your school) should offer consultation, and many will do so. If you do receive information relating to TUPE consultation, contact your association/division or regional office straight away.

The NUT toolkit *Protecting Members in Academies* deals with the TUPE consultation requirements in more detail. This is available to download from the school representatives section of the NUT website at:
www.teachers.org.uk/schoolrepresentatives

NUT REGIONAL OFFICES AND CONTACT DETAILS



The NUT has eight regional offices in England. Their contact details are given below. If you are not sure which NUT region your school is in, click on the interactive map on the homepage of the NUT website – www.teachers.org.uk – it looks like this:



Once you find the page for your regional office you will also be able to access contact details for your local association/division (your regional office can also give you these).

Eastern Region

NUT Regional Office

Elm House
Kennett Park,
Moulton Road,
Kentford,
Near Newmarket,
Suffolk,
CB8 8GF
Tel: 01638 555300
Fax: 01638 555330
Email: eastern@nut.org.uk

London Region

Ilford Office

103 Cranbrook Road
Ilford
IG1 4PU
Tel: 020 8477 1234
Fax: 020 8477 1230
Email: london@nut.org.uk

Hammersmith Office

Ravenscourt House
322A King Street
London
W6 ORR
Tel: 020 8477 1234
Fax: 020 8563 8877
Email: london@nut.org.uk

Midlands Region

NUT Regional Office

Jarvis House,
96 Stone Road,
Stafford,
ST16 2RS
Tel: 01785 244129
Fax: 01785 251856
Email: midlands@nut.org.uk

South West Region

NUT Regional Office

1 Lower Avenue,
Heavitree,
Exeter,
EX1 2PR
Tel: 01392 258028
Fax: 01392 286818
Email: south.west@nut.org.uk

Northern Region

NUT Regional Office

Auckland House,
High Chare,
Chester Le Street,
Co Durham,
DH3 3PX
Tel: 01913890999
Fax: 01913892074
Email: northern@nut.org.uk

Yorkshire/Midland Region

NUT Regional Office

7 Chequer Road,
Doncaster,
DN1 2AA
Tel: 01302342448
Fax: 01302341021
Email: yorkshire.midland@nut.org.uk

North West Region

NUT Regional Office

25 Chorley New Road,
Bolton,
Lancashire,
BL1 4QR
Tel: 01204521434
Fax: 01204362650
Email: north.west@nut.org.uk

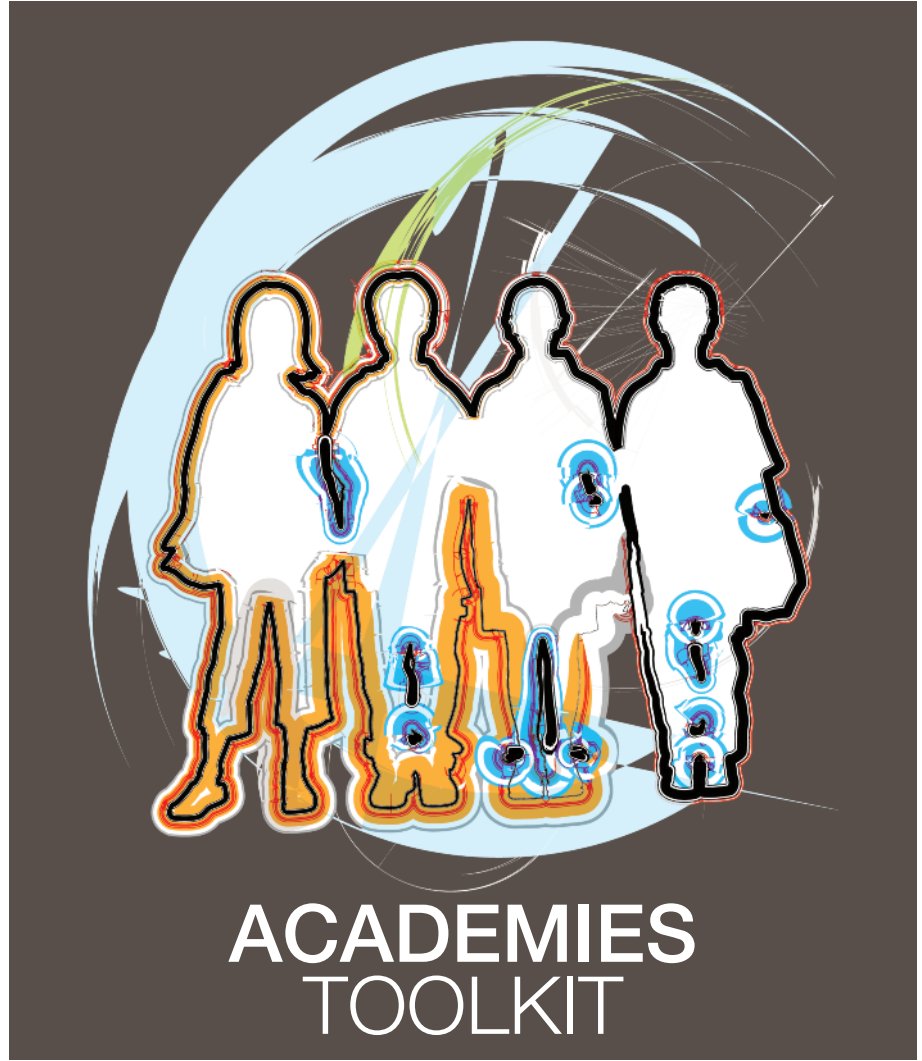
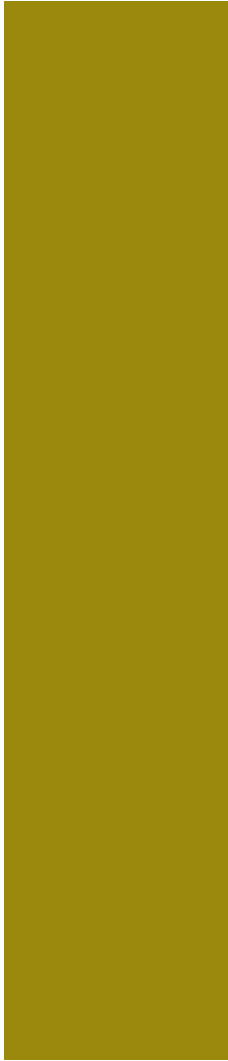
South East Region

NUT Regional Office

Britton House,
College Road,
Ardingly,
Haywards Heath,
West Sussex
RH17 6TT
Tel: 01444 894500
Fax: 01444 894516
Email: south.east@nut.org.uk

APPENDIX

AUTUMN 2011

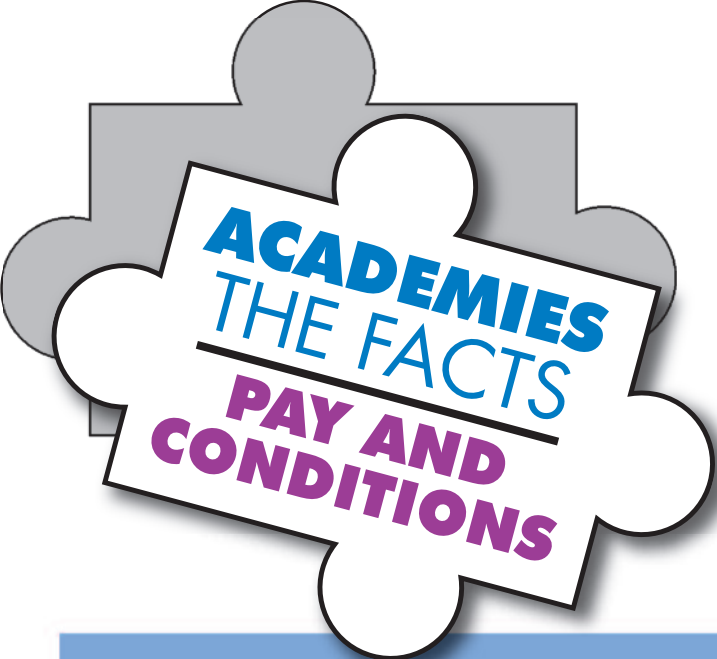


Materials for use in schools

The following pages can be photocopied as required. These have been designed to be copied in either colour or black and white.



www.teachers.org.uk/academies



**ACADEMIES
THE FACTS**
**PAY AND
CONDITIONS**

Moving to academy status can pose a massive threat to pay and conditions. Even if no changes are imposed at the time a school becomes an academy, existing pay and conditions may come under attack later.

ACADEMIES ARE A THREAT TO OUR PAY AND CONDITIONS

The system of national pay and conditions for school teachers protects all of us. You know what pay or maternity rights you can expect if you move schools; schools cannot arbitrarily make changes to pay levels or working hours. It has served education and teachers well.

This system is now under enormous attack. Academies and free schools are, by legislation, outside national pay and conditions.

Some head teachers tell staff they are proposing no changes to pay and conditions as part of a switch to academy status.

But, crucially, there is no legal guarantee for this. Existing teachers will only have the protections they bring from employment in the predecessor school and the academy can do what it wishes with new teachers. Even the right to keep pace with national provisions may have to be fought for. As more and more new teachers join the school, the pressure to agree to leave the national framework can be enormous. Some academy employers will try to buy out existing rights or change job descriptions in order to move staff onto a new contract.

IS THE THREAT EXAGGERATED? THE LESSON FROM FE COLLEGES

Over fifteen years ago FE colleges went through a process called "incorporation" – where they were removed from local authorities and became independent. This is very similar to the process outstanding schools go through if they convert to academy status. At the time Principals told their teachers, "we will be freed from the shackles of the local authority".

But what's the reality? Many FE colleges now ignore the national pay and conditions for FE lecturers and support staff. FE lecturers are now one of the most casualised of all professions and many of our FE colleagues cannot get permanent contracts at all. All lecturers have seen their pay levels fall further and further behind school teachers.

AND IT'S ALREADY HAPPENING IN ACADEMIES

In many academies a significant worsening of conditions has already been imposed on new staff. For example:

- **Longer contractual working hours** – Some academies, such as those operated by the Thomas Telford group, require 1500 hours or more of directed working time.
- **Absence of any limits on working time** – The ARK academies chain currently has no contractual limit of any kind on working time in its academies.
- **Changes to sickness and maternity arrangements** – The Bexley Business Academy's maximum sickness and

maternity benefits are well below the Burgundy Book arrangements.

- **Pay** – The National Audit Office report in September 2010 showed that, on average, the number of senior staff per academy earning £80,000+ was 50 per cent higher than in secondary schools generally. The flexibility academies have on pay has been used to benefit a small number of senior staff instead of benefiting all employees.

WHAT CAN WE DO?

The best route to defend our pay and conditions is for schools not to become academies. So we recommend you act with your colleagues to:

- Discuss and pass the NUT model resolution; inform your head and governing body of members' position regarding academies; inform your division/association secretary when you have passed the resolution.
- If your governors do propose a consultation on academy status, get in touch with your NUT division urgently to discuss how to try to influence the governors.
- If your school does become an academy, seek NUT support and advice on how best to try to protect your pay and conditions.

There is a huge risk that the additional funding academies receive will not cover the extra costs of obtaining services currently provided by LAs. The current funding system for academies is also under review. Proposals to convert to academy status may be even more of a risk than their supporters understand.

ACADEMIES THE FACTS FUNDING

IS IT TRUE THAT ACADEMIES GET MORE MONEY THAN OTHER SCHOOLS?

The Government says that *“becoming an academy should not bring about a financial advantage or disadvantage to a school”*. The Government has said that the changes planned to academy funding will seek to ensure this.

Academies receive annual funding for their running costs based on the local authority funding formula for schools. They also receive an additional grant in respect of the LA’s spending on services to schools.

Academies still need these services. They will not necessarily be better off, because these services may cost them as much or more, whether they buy them from LAs or elsewhere.

Academies may not benefit from the economies of scale that the LA can offer.

Academies are at the mercy of private companies currently offering loss-leader prices which could rise significantly in the future.

HOW MUCH DO ACADEMIES GET?

The DfE has published estimates that academies might get as much as 10 per cent extra funding per pupil. However, it has since admitted that those estimates included LAs’ spending on functions which they must continue to undertake for academies and schools alike.

The DfE has also acknowledged that academy funding will be reduced as a result of the Government’s cuts which are

leading LAs to cut spending on services to schools. The Government’s number one policy is cutting public spending – and it has been made clear that academies will not be exempt from this.

The DfE’s review of the funding system is likely to lead to cuts in additional funding for academies in future years. The DfE’s proposed move to a single funding formula for schools would probably mean in future that academies and LA schools are funded in exactly the same way.

WHAT'S THE EFFECT ON OTHER SCHOOLS?

Local authorities provide a wide range of services to schools. Every LA's funding is reduced to reflect the additional funding given to academies. This loss of funding may mean that LAs are no longer able to continue to provide the same level of service to other schools.

HOW MUCH WILL IT COST OUR SCHOOL TO BECOME AN ACADEMY?

The Government admits that its £25,000 grant to schools will not cover all the start-up costs - project management, consultancy, transitional staffing costs – and that schools will have to “devote some of their own resources” to becoming an academy. Some estimates show schools having to pay out up to £100,000 for these costs.

WHAT ABOUT SURPLUSES AND DEFICITS?

The DfE has refused some schools with large operating deficits permission to become academies. Deficits are in any case reimbursed to the LA by the DfE which then recoups the deficit from the academy. The YPLA, which monitors academy spending, will intervene and impose financial restructuring if any academy appears likely to run into deficit.

HOW DO ACADEMIES USE THEIR FUNDING?

“Not always wisely” appears to be the answer. The recent National Audit Office report on academies included a number of alarming findings about academies and funding:

- staff restructuring in academies has often involved complex legal work and has resulted in a negative impact on teaching and learning;
- pay flexibility has usually been exercised to the benefit of senior leaders - 50% more employees earn over £80,000 in academies than in schools;
- over a quarter of academies may require additional financial or managerial support to secure their longer-term financial health;
- many academies have been set up with underlying structural deficits which have had to be addressed;
- conflicts of interest have arisen where academy sponsors provide paid services to the academy; and
- academies have commonly over-estimated future pupil numbers, so that the DfE has clawed back over £4 million from 34 academies in 2009-10 alone.

WHAT CAN WE DO?


The best route to avoid these financial risks is for schools not to become academies. So we recommend the following:

- Pass the NUT model resolution in your school group and send a copy to your NUT division and your governing body. It is much better to get in early and not wait for someone on your governing body to propose academy status.
- If your governors do propose a consultation on academy status, get in touch with your NUT division urgently to discuss how to try to influence the governors.
- Use the list of questions available on the NUT website to challenge claims made about the future funding of the school as an academy.
- If your school does become an academy, the NUT can give you support and advice on how to protect your pay and conditions and the services that an academy uses.



For more information on academies, go to www.teachers.org.uk/academies.

You can find the NUT model resolution at www.teachers.org.uk/files/NUT-Model-Resolution.pdf



**WHAT HAVE
LOCAL
AUTHORITIES
DONE FOR YOU?**

For the last 100 years education in England and Wales has been a national service administered through democratically accountable local authorities. This system has worked well but is now under attack.

Academies will undermine the key strategic role of the local authority. The advent of so called “free” schools will mean that local authorities even lose control of the planning of pupil places.

A HEAD TEACHER WRITES:

“I was a head teacher for 21 years of a large school in Staffordshire which had and continues to have very high Ofsted ratings. I know the value of a local authority. When I wanted advice on occupational health matters, where did I turn? To my local authority. When I had a fire and I needed instant support, where did I go? To my local authority. When I needed guidance on autism, when I wanted my accounts VAT-secure,

help with the latest education regulations, legal assistance or help with IT advice, where did I go? To my local authority.

The idea that I, and every other head in the country, could get that support from the Young Peoples’ Learning Agency (YPLA) in Westminster is laughable”.

A DISTRACTION FOR HEAD TEACHERS?

Making sure that an academy school’s needs are met in these respects is a whole different approach to school management, and risks elevating the running of the school as a business above its purpose of delivering education.

NO SCHOOL IS AN ISLAND

Collaborative working between schools supported by a central body remains essential to ensure that the needs of all children are identified and understood and that appropriate support services can be delivered. Education is not just about whether individual institutions succeed or fail, or benefit from some particular initiative, but whether there is a system as a whole in place that best meets the needs of all children.

SUPPORT FOR SCHOOLS

Local authorities are not and never will be perfect. However, they are a safety net when there are problems with budgets, potential redundancies and deficit situations, problems with financial management, complex situations around staff health, induction, training needs, disability provision, challenging parents and pupils, as well as emergency situations such as fires, floods, pupil accidents, major crimes and so on.

They are a source of advice and guidance on a wide range of everyday issues that schools have to deal with, developed locally, and based on people's practical experience. Economies of scale prevent individual schools from replicating the expertise and funds available through local authorities to deal with these things.

These are only some of the services provided by the local authority that an academy school would have to fund and organise for itself:

- buildings support
- health and safety
- occupational health
- payroll and pensions
- meeting maternity leave and some other staffing costs
- library, music, interfaith and outdoor education services
- curriculum support
- legal services
- governor support
- risk and insurance management
- financial and budgeting arrangements
- EMA and SEN support
- education welfare

WHAT CAN WE DO?

The best way to maintain local authority support is for schools not to become academies. So we recommend you act with your colleagues to:

- Discuss and pass the NUT model resolution; inform your head and governing body of members' position regarding academies; inform your division/association secretary when you have passed the resolution.

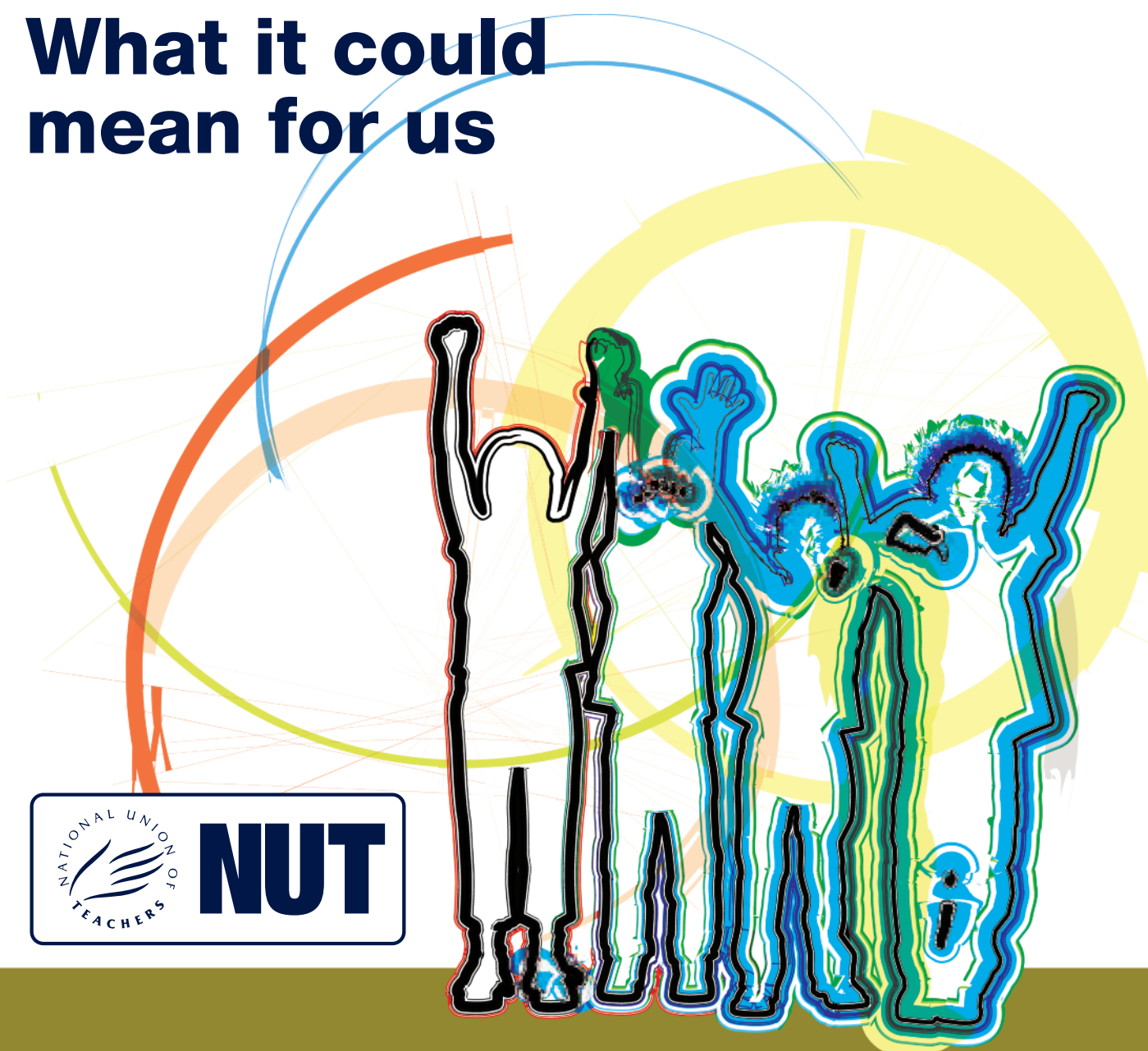
- If your governors do propose a consultation on academy status, get in touch with your NUT division urgently to discuss how to try to influence the governors.
- If your school does become an academy, seek NUT support and advice on how best to try to protect your pay and conditions.



For more information on academies and the model resolution, go to www.teachers.org.uk/academies

Academy Status:

What it could mean for us



Venue:

Date:

Time:



NUT MODEL RESOLUTIONS

1. Where the NUT group is strongly opposed to academy status

We, as an NUT school group, are opposed to any move towards academy status. We believe that, not only has the case for the educational benefits of academies not been proven, but that academies represent a threat to teachers' pay and conditions. We request that the governing body provides a firm commitment they will not seek to become an academy.

2. Where members are undecided

We, as an NUT school group, are undecided about the potential advantages and/or disadvantages of a transfer to academy status. We request that the governing body undertakes to hold a wide-ranging, full and meaningful consultation with all sections of the school community, including staff and parents, in which the arguments for and against academy status are given equal weight before considering any move to academy status for the school.



To Chairs of Governors of Primary Schools in England

[Date]

Dear Colleague

Should Your School Become An Academy?

We are writing to you as a Chair of Governors in an English primary school because we know that there is a lot of discussion at the moment about the possibility of schools applying for academy status.

All the major unions representing classroom teachers and school support staff believe academy schools are detrimental to education and are extremely concerned that the spread of academy status to the point where local authorities are undermined will be problematic, not only for staff, but also for governors, parents and communities. This letter details some of the reasons why we think your school should not pursue academy status.

The Government has characterised the adoption of academy status as escaping from the control of a local authority. In truth, the local authority has very little control over what schools do, but its primary purpose is to act as a safety net when there are problems and to be a provider of services that are not easy to obtain anywhere else.

Listed below are only some of the services currently provided by local authorities that any school becoming an academy would have to fund and organise for itself, with all of the added work, difficulties and risks involved:

- buildings support
- health and safety
- occupational health
- payroll and pensions
- meeting maternity or paternity leave and other staffing costs
- library, music, interfaith and outdoor education services
- curriculum support
- legal services
- governor support
- risk and insurance management
- financial and budgeting
- EMA and SEN support education welfare

Academies are funded on a similar basis to local authority maintained schools, with the exception that they receive an amount of money in return for no longer automatically receiving

various services from the local authority. The Government has stated that “becoming an academy should not bring about a financial advantage”. Many of the services that schools receive from the local authority are either difficult to obtain elsewhere, are more expensive, or are provided by smaller organisations and are accordingly of uncertain quality. It is clear that schools cannot expect to organise all of these things independently. As a result of their smaller size, primary schools will have to pay proportionately more for any service that they have to buy than secondary schools. Furthermore, academy schools will not benefit from various financial levers that local authorities have, including economies of scale, long-established relations with suppliers or the expertise that the local authority currently uses in order to reduce costs.

There are reports that some headteachers have more money as a result of becoming an academy, due to receiving an amount in respect of local authority central services. These claims must be treated with a large degree of scepticism. Academies still need to pay for those services. There may have been anomalies with the funding of some of the early academies, but it is clear that, like schools, academies will be hit by the Government’s cuts. Academy funding is based on the funding levels of maintained schools in the area, plus an element to reflect local authority central spending. Real-terms cuts to school and local authority budgets therefore affect academy budgets. Also, the Government is changing the funding system next year – which will remove any anomalies and lead to many academies having cuts in their funding.

Making sure that the school’s needs in these respects are covered would become a whole new aspect of management for the headteacher and governors, magnifying the risk that running the school as a deliverer of education is overshadowed by running the school as a business.

In the appendix we raise some concerns about funding that we believe should make any governing body think again before deciding to pursue academy status.

In particular, we are very concerned about how schools would cope in an emergency or unforeseen situation. This could include events such as a fire, a flood, a problem with asbestos, a difficult or complex legal case arising from an accident to a pupil, an allegation against a member of staff or a budget crisis for the school.

The National Governors’ Association has stated that “governors expect to be able to turn to local authorities for training and advice, and value the support provided by them.” We are concerned that the Young People’s Learning Agency will not be able to provide such support.

As the union representatives of your staff, we are also concerned about the security of their employment and their terms and conditions in the future.

As a local authority maintained, voluntary aided, voluntary controlled or foundation school, your staff know their rates of pay and how they are decided; they know their terms of employment such as days and hours of work; and they know about other important conditions of employment such as sick leave and sick pay, maternity leave and maternity pay. Many of these conditions of services are the result of discussions between organisations representing staff and the local authority. Others come developed from national consultations. It is clear that your staff would not want to lose the certainty that they currently have about these matters. Evidence has shown that academies can struggle to recruit and retain staff who prefer this certainty – you would not wish to see an exodus of experienced staff from your school following conversion.

In local authority maintained schools the local authority has a legal duty to seek to redeploy staff if the school can no longer afford them because of falling rolls, budget crisis, reorganisation, curriculum changes etc. The local authority would have to meet the cost of retraining and of redundancy payments if redundancies were necessary. As an academy, your school would have

to meet its own redundancy costs and would not have access to a redeployment scheme. With spending cuts coming up, this is a very real risk. As a single employer, there is a real risk that financial constraints would cause your school to worsen redundancy terms and still be in continuing difficulties because of issues related to meeting these costs.

We are conscious that your present governors may not want to change things to the detriment of staff, but we are also conscious that promises cannot be made that are binding on a future governing body, and guarantees cannot be given that future governors will have the skills to take on the greater responsibilities of running the school as an academy.

It is not possible to 'try out' being an academy. The school has no option to change its status back again.

For all of these reasons, we do not believe that it would be good for your school to become an academy.

We would urge you to consider the motion overleaf at a governing body meeting this term.

Yours truly

Mary Bousted
ATL General Secretary

Paul Kenny
GMB General Secretary

Chris Keates
NASUWT General Secretary

Christine Blower
NUT General Secretary

Dave Prentis
UNISON General Secretary

Len McCluskey
Unite General Secretary

SCHOOL GOVERNING BODY MODEL RESOLUTION

[Date]

The governing body has responsibility for the education and wellbeing of pupils at this school. As there are high risks and uncertainties in pursuing academy status at this time, the governing body has determined not to seek academy conversion.

SCHOOL GOVERNING BODY FINANCE QUESTIONS

Below are some of the questions that a governing body should be able to answer prior to any consideration of moving to academy status:

1. Do you feel the governing body has the technical expertise and the time it will need to take on its new responsibilities to protect the school in areas such as finance, the law, personnel and other technical areas?
2. Do you have a business plan to show how your finances would be affected in the short, medium and long term?
3. Have you made any assumptions about future funding as an academy that may be invalidated by changes to the LACSEG mechanism, which are imminent but unspecified?
4. Will any money the school gets in return for no longer automatically receiving services from the local authority be enough to purchase replacement services, particularly considering the economies of scale the local authority has?
5. How can you ensure that the school is able to access support services of a similar quality to those provided by the local authority, given that the private market for such services is undeveloped?
6. Have you made a needs assessment of services that you will require in the future, including details of how the school can access such services outside the local authority family of schools?
7. How can you ensure that, in an undeveloped market with few providers locally, you will not be tied in to a poor deal with one provider?
8. How long will any fixed-price contracts with a service supplier last and what guarantee will there be against future price rises after any loss-leading period is over?
9. Will your insurance costs be higher, either in the short or longer term, once you move out of the collective insurance arrangements for the local authority family of schools?
10. Do you have sufficient information about the insurance costs you could face as an academy to cover the significant risks posed by potential emergencies such as fire, flood, pupil accidents, major crimes etc?
11. What contingency plans will need to be put in place to deal with such emergencies?
12. What start-up costs will the school face on transfer to academy status?
13. How will the DfE or YPLA be able to give you the expert advice previously provided by the local authority, given that such advice should be based on local knowledge which those organisations do not have?
14. With the DfE administrative budget being cut by a third, how can you be sure of the level of support you may need when that support would be provided centrally instead of through the local authority?



**COVERING LETTER TO BE SIGNED BY REPRESENTATIVES
AND SENT TO GOVERNORS**

[Date]

Dear Chair of Governors

Please find attached a resolution which is for the governing board to discuss with a view to adoption. A number of governing bodies have already adopted this resolution.

As hardworking and committed staff at this school, we are very concerned about what becoming an academy would mean for the children, parents, local community, standards of education and the long term financial viability of the school. Because of that concern, we would like our governors to have the opportunity to discuss this resolution at the next available meeting. We can also provide you with information to inform your discussion and are happy to meet with the governing body.

We look forward to hearing from you.

Yours sincerely

[Names of reps and unions]

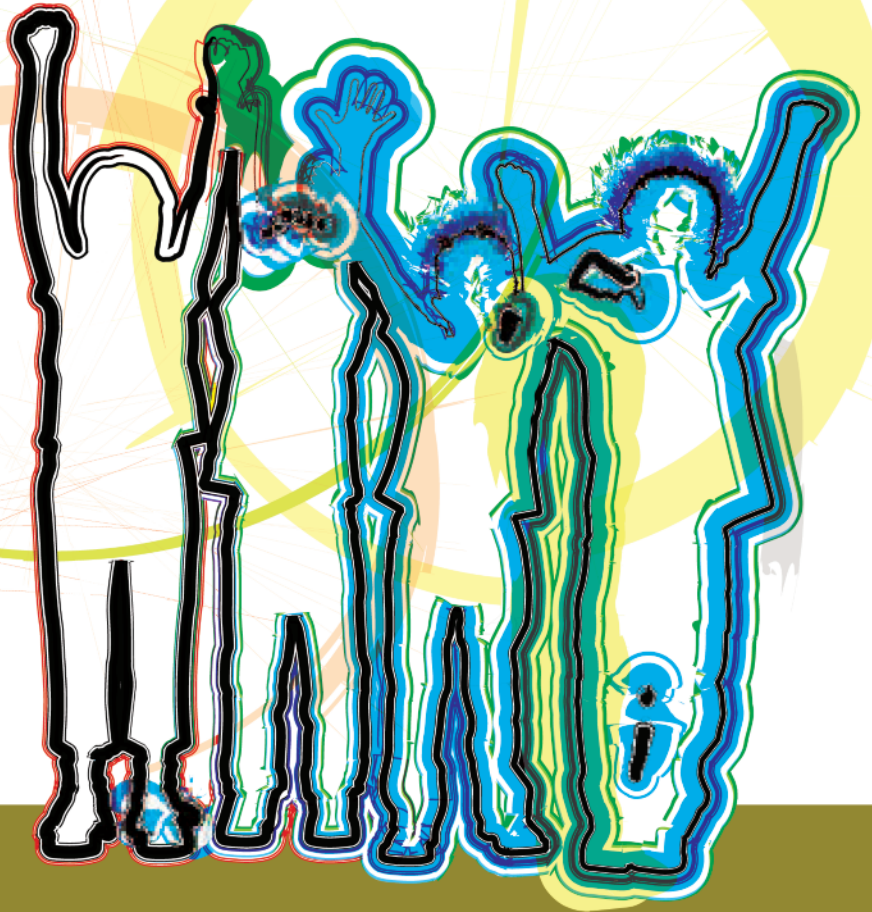
Where appropriate, please add the following at the beginning of the letter:

[Following a meeting with our members] please find attached.....

Public meeting

Defending state education –

**why academies
are a bad idea
and what
can be
done to
stop them.**



Venue:

Date:

Time:



Public meeting

Name

Parent/teacher

Mobile

Email

Union member

Willing to help
campaign?

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ACADEMY SCHOOLS

Questions parents frequently ask

Q. What is an academy?

A. An academy is a school with no local links to the community or the council, but funded by the taxpayer.

Q. If a school becomes an academy and wants to change back, is that possible?

A. No. A decision to become an academy is irreversible.

Q. Will there be any changes to the catchment areas or admissions?

A. Academies are their own admissions authority and, therefore, set their own admissions policies. They are at present required to abide by the admissions code. The government intends to remove the arrangements for monitoring admissions and there is already evidence that academies' intakes are not representative of their local community.

Q. What impact does academy status have on special educational needs (SEN) provision?

A. All academy funding agreements should include details of their obligations regarding children with SEN. An academy is expected to behave as if they were a maintained school in meeting the needs of children with SEN. However, the record shows that academies have a higher exclusion rate than other types of school. In addition, further expansion of academies will undoubtedly reduce the coverage and effectiveness of local authority support for SEN provision as funding is reduced in order to divert funding for centralised services to the budgets of academies. The government is currently consulting on major changes to SEN provision which will further weaken the role of local government support services in this area.

Q. Once a school becomes an academy, what can parents do if they are not happy with any decisions made?

A. In the first instance, as now, parents can complain to the school. However, there are often fewer parent governors to complain to. Academies are not part of the local authority and, therefore, if parents are not satisfied or are unhappy with the outcome, they cannot complain, as they can now, to the local council to ask them to intervene on their behalf. Effectively, when a school becomes an academy there are no local avenues of complaint.

Q. Does becoming an academy mean that the school will get new buildings and facilities?

A. The government is making no provision for academies to have new buildings or new facilities.

Q. Will the Academy have the same school term/school holiday dates and school day timings as all other local schools that continue to have links with the council?

A. Academies can set their own term dates and school day timings without consultation with parents or the local council.

Q. Will there be additional costs for parents?

A. Academies are not allowed to charge fees for pupils to attend the school. However, there may be hidden costs by academies introducing, for example, new school uniforms or charging for certain activities and use of resources. Also, unlike maintained schools, academies are able to charge whatever they like for school meals and refreshments.

Q. The headteacher at my child's school has said s/he wants the school to become an academy. Can the headteacher make that decision?

A. No. A headteacher has no power to determine alone whether a school becomes an academy. The decision rests with the governing body and if the school is a voluntary aided or controlled school, with the relevant additional voluntary authorities.

Q. Is the school required to consult parents about becoming an academy?

A. The governing body of the school makes the decision about the school applying to become an academy. Schools are legally required to consult before becoming an academy. It is important that the voices of parents and the local community are heard on such a crucial and irreversible decision, and we would encourage parents to do everything they can to influence the governing body's decision.

Q. How can parents make their views known about the school becoming an academy?

A. Parents who wish to make their views known should contact the parent governors and the Chair of governors requesting that a full consultation with all parents takes place. The governing body should be asked to give details of the pros and cons of converting the school to academy status. A public meeting should be sought to provide everyone with an interest in the future of the school the opportunity to discuss the proposals. The local community may wish to call for a ballot on whether the school should apply for academy status. If the governors fail to engage in meaningful consultation with parents or the local community, then you should protest to your local council, your local councillor and your local MP.

Q. Will becoming an academy mean that educational standards will be raised?

A. There is no evidence that being an academy school raises standards. Academy schools have no better record of educational achievement than any other type of school. Some have a far worse record.

Q. Will there be more money for my child's education if the school becomes an academy?

A. The government has confirmed that academy status should not give schools a financial advantage. The school will be allocated its share of the money that is currently held by the local authority to make provision across all schools for pupils with a whole range of special needs, pupil support, education welfare and school transport.

Once the money is allocated to the school, it will have to make provision to replicate those important services previously provided by the local authority. It may find, if, for example, it has a significant number of pupils with special needs, that it has insufficient funds to match the provision previously provided by the local authority.

It is likely that your head teacher will say that the school will get extra funding by becoming an academy. You should treat statements like this with great caution. In the first case any apparent financial advantage will be for one year only as the government will be introducing a completely new funding formula for schools in 2012. Also, you should check the sums – what about the costs of all these support services that were previously provided by the local authority and for which the academy will now be liable?

And what about the safety net provided by the local authority, for example, in the event of a fire or a flood (as happens to too many schools each year). As things are, your local authority would find you new accommodation and sort things out – if your school is an academy you would be on your own in these circumstances.

Q. Will parents have more influence with academy schools?

A. All available evidence shows that in existing academies the governing body becomes smaller as a result of reducing parent governors and staff representatives. Academies must have at least two parent governors, but this usually will be many less than currently. In many existing academies, governors have not been elected but were appointed by the sponsor. Elsewhere, the governing body no longer has any power: all decisions are made by the trust board.

PARENT/CARER PETITION TO CHAIR OF GOVERNING BODY

[Date]

We, the undersigned parents and carers of children at _____ school, want assurances from the Chair of the Governing Body that any move to consider academy status will be subject to the broadest possible consultation with parents and carers before any decision is made.

We seek confirmation that the governing body does not intend to convert the school to academy status without first consulting fully with all parents, pupils, school staff and the local community. The school has a public duty to provide information about the pros and cons of converting to academy status.

We believe that the best method of consultation should include an open meeting where all views on academy status can be heard and full information is provided on the implications of the change, followed by a ballot of parents and carers.



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