



Proposal to form Ascent Multi Academy Trust



Questions and Answers

This consultation document is jointly published by the Governing Bodies of The Brier School and Woodsetton School as part of the consultation about whether the schools should establish a new multi-academy trust (Ascent Multi Academy Trust, Ascent) and for both schools to become academy schools within Ascent.

1. What is being consulted upon?

The consultation is about whether The Brier School and Woodsetton School should jointly form a new MAT (Ascent Multi Academy Trust, Ascent) and all be academy schools within Ascent.

This is the consultation about that proposal, and is being undertaken in accordance with the requirements of the Academies Act.

To simplify the response processes for stakeholders, and enable them to consider all aspects of the proposal at once, we are undertaking a single joint consultation on behalf of the two Governing Bodies. All responses received through the consultation will be reviewed by both Governing Bodies.

What is an academy school?

2. What is an academy school?

An academy school is an independent state school which has a funding agreement with central government. A charitable company limited by guarantee (the Academy Trust) is responsible for the academy, and the Academy Trust signs the Funding Agreement (the contract) with the Secretary of State as part of the establishment of the academy.

As Brier and Woodsetton are both special schools, they would continue to receive funding from each local authority who places a pupil at either school (this is known as top-up funding, and is in addition to the place funding received from government).

3. How is an academy special school different from being a community special school as Brier and Woodsetton are now?

There are a number of legal and practical differences between academy status and being a community special school. These are outlined in the Annex at the end of this document.

4. Does Ofsted inspect academies?

Yes, Ofsted is responsible for inspecting academies using the same inspection framework as it does for maintained schools.

5. How can the Secretary of State intervene in an academy?

The Secretary of State has the ability to require the transfer of an academy school from one academy trust to another in certain situations, for example if a school is eligible for 'special measures' or 'requires significant improvement' following an Ofsted inspection; if student performance is unacceptably low; if there has been a serious breakdown in the governance or management of the academy; or if the safety of students or staff is threatened.

Governance and leadership

6. How would the academy trust be governed?

Ascent would be established as a charitable company limited by guarantee. The Secretary of State for Education is the regulator of Academy Trusts. The DfE has standard Articles of Association for MATs that become the governing document of the Academy Trust.

To establish an academy school Ascent signs a Funding Agreement (the contract) with the Secretary of State to establish each school as an academy within Ascent.

A MAT has three levels of governance:

- Members – the guarantors of the charitable company – their main role is to appoint (and if necessary remove) Trustees, but they also have to approve changes to the name of the Academy Trust and the Articles of Association and have certain powers under company law;

- Board of Trustees – Trustees’ exercise all of the powers of the MAT, and determine what powers are delegated to other committees and / or office holders. The Board of Trustees is the legal Governing Body for all schools within the Trust, and Trustees are also Directors under company law; and
- Local Advisory Boards (LABs) – Where a multi-academy trust has more than one school, Trustees would establish school-level governance to provide oversight of the educational offer to ensure that it meets the needs of its students, of the performance of the school, and of the views of its community.

If the decision is to form Ascent, it is currently anticipated that:

- The Members would include individuals who have current experience at one of the founding schools while also ensuring that they collectively have appropriate skills to appoint effective Trustees and, if necessary, remove Trustees;
- The Trustees would be appointed to ensure that they collectively bring a range of skills such as educational leadership, finance, legal, HR, community knowledge, etc. This breadth of skills is important to ensure that the Board can set the strategic direction for the Trust and effectively hold the CEO and leadership team to account. The Trustees would include individuals from the founding schools, and may include suitable individuals without a connection to any of the founding schools; and
- A Local Advisory Board would be established for each school, with existing Governors (including parents and staff) ‘rolling forward’ from the current Governing Body to the Local Advisory Board with their current terms of office.

Besides individuals who are elected (i.e. parents and staff on a Local Advisory Board) or who are ex-officio (i.e. Headteacher), all other individuals are appointed based on the skills and experience that they would bring to the role. The emphasis would be upon creating teams who are collectively well qualified to undertake the tasks required of them in helping Ascent and its schools succeed.

7. Who would the members and trustees be?

These would be individuals who collectively have the skills necessary to fulfil their roles within the academy trust. At this stage the individuals have not been confirmed, but we expect both the members and the trustees to include individuals involved in the governance of the founding schools, and where necessary to supplement those with individuals with suitable expertise who are not associated with any of the founding schools currently.

8. How would parents and staff become part of their respective Local Advisory Board?

This would be through the same process as currently operates. When there is a vacancy, applications are sought from the relevant group (parents or staff), which may outline skill sets that would be particularly useful to the Local Advisory Board for parent vacancies. If there are the same number or fewer applications than vacancies then those individuals who applied are appointed. If there are more applications than vacancies, the relevant group vote to decide who joins the Local Advisory Board.

9. Who would be the Headteacher of each school? Would there be a Chief Executive of Ascent? If so, who would that be?

Mr Stanton, as the current Executive Headteacher of both schools, would continue to be the Executive Headteacher within Ascent. He would also fulfil the role of Chief Executive (as defined by the Articles of Association) and be the Accounting Officer (as the role is defined by the Department for Education).

Academy funding

10. Do academies receive extra funding compared to community special schools?

Academy special schools receive the same level of place funding as a community special school. The top-up funding can vary depending upon the arrangements with each local authority who places pupils. There are some minor technical differences about aspects of funding, but these are unlikely to be material to the decision of either Governing Body.

One point of difference is that an academy financial year runs from September to August and so matches the academic year.

SEND designations and admissions arrangements

11. Would there be changes to the SEND designations of either school?

No, the SEND designations (as set out by the DfE categories) would remain the same as an academy:

- The Brier School: Autistic Spectrum Disorder (ASD), Moderate Learning Difficulties (MLD), Other (OTH), Physical Disability (PD), Speech, Language and Communication Needs (SLCN), Severe Learning Difficulties (SLD), and Visual Impairment (VI).
- Woodsetton School: Autistic Spectrum Disorder (ASD), Moderate Learning Difficulties (MLD), Other (OTH), Physical Disability (PD), Speech, Language and Communication Needs (SLCN), and Severe Learning Difficulties (SLD).

12. Would there be changes to the number of pupils at either school?

Converting to academy status does not change the number of places available at either school. In common with many areas of the country, Dudley is experiencing increased demand for special school places. If the Council wished to propose an increase to the size of either school of more than 20 places, this would require consultation and then approval (by the local

authority while the schools are community schools, or by the Department for Education for academies).

13. Would the admissions process change?

The process from a parents perspective would not change. Following engagement with parents, there would be consultation with the schools about pupils where the Council and / or parents wish to name the school and the school would respond to that consultation stating whether it has a place available and whether it can meet the needs of the child. If the school is named on a EHCP the school must admit the pupil.

If the school considers that the Council should not have named the school, it may ask the Secretary of State to determine whether the Council has acted unreasonably, and their determination is final, subject to any right of appeal by a parent to the SEND First Tier Tribunal.

Educational implications

14. What are the safeguards for vulnerable students?

Under the terms of the Funding Agreement (which is the contract between the Academy Trust and the Secretary of State), an academy has to act in exactly the same way as a maintained school in relation to Special Education Needs, behaviour, and exclusions.

15. Who is responsible for deciding if a student needs an Education, Health and Care (EHC) Plan?

The local authority would retain the legal responsibility for leading this process (which they have now), and for determining whether any of the schools is named on the EHCP.

Land and buildings

16. What happens to the land occupied by the schools?

The land occupied by both schools is owned by Dudley Council. They would grant a 125 year lease (at peppercorn rent) to Ascent on the date that each school joined Ascent. Under the terms of the lease, the Academy Trust becomes responsible for the site and buildings.

17. How does an academy access capital funding?

Academies receive some capital funding, called Devolved Formula Capital, according to the same methodology as maintained schools – so this does not change.

To access additional capital funding for specific projects (most typically those related to condition needs of the building, such as heating systems or roof works) academies in single academy trusts or small multi-academy trusts have to bid to the Education and Skills Funding Agency (ESFA), which acts on behalf of the DfE. This would be a change as currently the schools are reliant upon Dudley Council for funding as they are the responsible body for the buildings.

If Ascent grows, once it reaches a certain size (currently 667 students and 5 schools for a trust consisting only of special schools) it becomes eligible for direct School Condition Allocation funding. This is calculated according to a national formula and the Ascent Trustees would then determine how it should be spent based upon the needs of the estate and their vision and priorities.

If the Council wishes either school to be able to admit more pupils (i.e. to expand) then the Council is now and would continue to be responsible for meeting the costs of the capital works required to provide the additional accommodation / adapt existing accommodation. This would also be the case if the Council wished either school to expand onto a second site where the Council would be responsible for providing that site and the appropriate accommodation.

Consultation process

18. Who is being consulted?

The consultation document has been issued to staff and parents at each of the schools. It has also been issued to Dudley Council (including local ward councillors where the schools are based), each Council who has placed a pupil at either school, and local schools.

19. Will the Governors listen to the views from the consultation?

Yes, every response will be considered by each Governing Body. The responses will help each governing body consider the relevant issues before each makes their own independent decision about whether to proceed.

Annex: Differences / implications of academy status

Area	Community Special School	Academy Special School	Changes if become an academy
Legal structure / governance / DfE intervention			
Legal structure	Local authority maintained school under SSFA 1998.	A Multi Academy Trust is a charitable company limited by guarantee. It is an exempt charity, with Secretary of State as the regulator.	Different governance structure (Members, Trustees, School Boards). Accountable to Secretary of State (regulator, Funding Agreement) rather than local authority.
Accountable Body	Governing Body	Board of Trustees	
Changes to constitution	Instrument of Government must comply with School Governance (Constitution) Regulations 2012 but within that can be amended by the Governing Body and confirmed by the Council.	Articles of Association – Members approve changes, except for governance clauses (which also require DfE approval) or Objects of charity (where also require Charity Commission approval)	DfE rather than local authority approval required for future changes to governance structure.
Governance info to DfE	Have to provide details of Governors to DfE via GIAS website within 14 days of changes	Have to provide details re Members / Trustees / Governors to DfE via GIAS website within 14 days of changes.	
Intervention powers / Funding Agreement termination	Intervention arrangements set out in part 4 of Education and Inspections Act 2006 – performance / standards, safety, adverse Ofsted inspection outcome. Intervention may be via LA or DfE. DfE can require academy conversion if school is eligible for intervention (as defined in EIA 2006)	<ul style="list-style-type: none"> • 7 years’ notice by either side • Secretary of State can seek to terminate if breach of Funding Agreement, standards are “unacceptably low”, serious breakdown in management / governance, safety of students or staff is threatened or after adverse Ofsted • MAT can seek to terminate if no longer a going concern • In practice Secretary of State ‘rebrokers’ (i.e. transfers) the academy to another trust 	<p>Grounds for intervention are very similar for community schools and academies.</p> <p>Mechanism for intervention is via contract management with transfer to another academy trust for an academy, compared to potential intervention by LA or DfE as a community school.</p>

Curriculum and student support			
Safeguarding	Subject to legislation and DfE statutory guidance re safeguarding. Staff, Governors require DBS.	Subject to legislation and DfE statutory guidance re safeguarding. Staff, trustees, Local Board members require DBS.	
Single Central Record	Required.	Required.	
Prevent	Statutory guidance for schools.	Statutory guidance for schools.	
Curriculum	Must follow the national curriculum but can adapt / deviate from / disapply age-related expectations where appropriate for pupils.	Must be “balanced and broadly based” to Year 11, including English, Maths, Science and RE	No change in practice.
RE / Worship	In accordance with SEN Regulations 2001	In accordance with SEN Regulations 2001.	No change in practice.
Relationships and Sex Education and Health Education	Required to provide; opt-outs available.	Required to provide; opt-outs available.	No change in practice.
Admissions	Council determines whether to name the school on the EHCP; if named, the pupil must be admitted.	Council determines whether to name the school on the EHCP; if named, the pupil must be admitted. The school can appeal to Secretary of State if they consider that they should not have been named.	Right of appeal to Secretary of State.
Meals	Must comply with guidance in relation to free school meals and to school food standards legislation.	Must comply with guidance in relation to free school meals and to school food standards legislation.	
Careers guidance	As required by legislation / statutory guidance.	In accordance with requirements for maintained schools from Education Act 1997 (2.27 of MFA).	No change in practice.
HR and staffing			
Employer	Local authority is the employer and sets Terms and Conditions. Most employment decisions are delegated to the Governing Body.	Academy Trust	Staff transfer via TUPE.

Teachers	Must employ qualified teachers unless a statutory exemption applies	Must employ qualified teachers unless a statutory exemption applies	No change.
Teachers T&C / payscales	Must employ teachers in accordance with School Teachers Pay and Conditions Document (STPCD) / Burgundy Book. Payscales set by GB but must be within STPCD provisions.	Able to set own T&C for future new staff.	Greater legal freedom (Note, intend to continue to use STPCD / Burgundy Book and union recommended pay scales)
Support staff T&C / payscales	Must employ teachers in accordance with Local Authority Terms and Conditions (which include Green Book). Payscales set by Local Authority.	Able to set own T&C for future new staff.	Greater legal freedom. (Note, intend to continue to use Green Book provisions)
Specific staffing requirements	Must have: <ul style="list-style-type: none"> • Designated safeguarding lead • Designated teacher for looked after / previously looked after children 	Must have: <ul style="list-style-type: none"> • Designated safeguarding lead • Designated teacher for looked after / previously looked after children 	
Pensions	Must offer Teacher and Local Government pension schemes – automatic entry to both	Must offer Teacher and Local Government pension schemes – automatic entry to both	
Local Government Pension Scheme	School is within the Council fund and pays that employer rate.	MAT is own employer with own fund. Employer rate may vary to that of the Council.	Potential change in employer contribution rate.
Finance			
Financial year	April to March	September to August	Change in financial year so that it aligns with academic years
Revenue funding	Per place funding for agreed number of places, plus top-up funding for each pupil agreed with the commissioning LA. School eligible for variety of other education grants (ie PE / Sports, teacher pay, universal infant free school meals).	Per place funding for agreed number of places, plus top-up funding for each pupil agreed with the commissioning LA. School eligible for variety of other education grants (ie PE / Sports, teacher pay, universal infant free school meals).	Per place funding received from ESFA rather than LA.

Government capital funding for condition / suitability	Receive Devolved Formula Capital. LA is responsible body for condition / suitability works. (Note, the school has funded most of the recent capital works, and is funding the proposed redevelopment of the gyms)	Receive Devolved Formula Capital. Can apply to Secretary of State (ie Condition Improvement Fund) for larger projects, subject to application criteria. [Note, larger MATs get a formulaic allocation]	MAT becomes responsible for land and buildings, seeks funds from DfE rather than local authority.
Capital funding for expansion	LA has 'basic need' capital funding from DfE for demographic changes	LA can use 'basic need' funding on academies; academies can seek funds via Condition Improvement Fund.	Little change in practice
Ability to generate income	Schools can raise income (such as lettings) within government / LA guidance.	Charitable company – can raise income (subject to it being within the Object of the company which is broadly education and ancillary services) and accept donations. Can establish trading subsidiary.	No change in practice.
Borrowing permissions	Can not borrow (except from LA if a deficit is approved).	Only with Secretary of State consent. May be eligible for cash advance of General Annual Grant from ESFA if required (repayment without interest).	No change in practice.
Carry forward permissions	Can carry forward surplus. LA able to propose claw-back if considered excessive but provision rarely used.	ESFA GAG funding: subject to any limit in Academy Trust Handbook Other funds: No limit.	No change in practice.
Student charging	Only in accordance with provisions of 449 – 462 of Education Act 1996.	Funding Agreement required to act as if a maintained school (MFA clause 2.15 an 2.16)	
Non Domestic Rates	Not paid by special schools	Not paid by special schools	No impact.
Insurance	Can insure via LA, via DfE's Risk Protection Arrangement (RPA) or commercially	Default opt-in to DfE's Risk Protection Arrangement (RPA) (with additional specialist insurance if required) or can commercially procure if better value.	No change or better off.
VAT	Reclaim in arrears.	Reclaim in arrears.	

Financial accounts	Form part of the overall LA accounts. Management Accounts at school level.	In accordance with Charity SORP and ESFA Academy Accounts Direction. Management accounts at school level.	Company / charity accounting requirements.
Audit requirements	LA sets programme for internal audit reviews across all maintained schools. No external audit.	External audit of accounts. Internal Audit function required (options on how to discharge). Audit function must be clearly identified within governance structure (Audit Committee preferred but only required above a size threshold)	Additional audit requirements.
Land and buildings			
Ownership	Freehold owned by local authority	Freehold retained by local authority. Land leased to academy trust for 125 years at peppercorn rent.	
Permissions required for changes / disposals	Subject to legislation about disposal / certain transactions. Local authority would be the body seeking DfE approval (where that is required)	ESFA permission required for certain transactions (i.e. disposal, granting a lease / license), which the academy trust would apply for. May require local authority permission as freeholder and / or through the lease.	Some greater operational control, but still subject to local authority and DfE approvals for major change.
Charging / mortgaging	Not allowed.	Not allowed.	
Other			
Provision of information	Various requires to publish via legislation about governance, curriculum, outcomes, Ofsted report etc.	Various requirements to publish information (via legislation and / or Funding Agreement) about governance, curriculum, outcomes, Ofsted report etc.	
Complaints	Policy / process must comply with section 29 of Education Act 2002	Policy / process must comply with Independent School regulations.	Little if any impact in practice.