

A guide to becoming a trust school

Essential information for schools and governing bodies

www.trustandfoundationschools.org.uk

Working in partnership to support Trust & Foundation Schools



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Introduction

The Department for Children, Schools and Families (DCSF) has provided a comprehensive 'Trust Schools Toolkit' which gives a detailed analysis of how to become a trust school. The Toolkit outlines the rationale for becoming a trust school and gives the legislative framework which informs the process. Of necessity this document contains considerable detail and answers many practical and technical questions which schools, governors, parents and potential trust partners have throughout the process of becoming a trust school. The Toolkit also makes reference to where additional information can be found on aspects of the process, such as becoming a foundation school.

This guide is not intended to replace the Toolkit. It is a shorter introductory document which draws together learning gained through the successful process of becoming a trust school. It draws on the experience of schools and gives insights into the learning gained and factors which will assist the process to be worthwhile and successful. Where appropriate, reference will be made to the Toolkit and other appropriate documents to maximise the potential benefits of this guide.

Schools intending to become trust or foundation schools **must** follow the DCSF statutory guidance contained within the following documents **'Changing School Category to Foundation – A Guide for Governing Bodies'** and **'Trust School Proposals – a Guide for Local Authorities and Governing Bodies'**

Both documents are available at:
www.dcsf.gov.uk/schoolorg/guidance.cfm?id=25

The Trust and Foundation Schools Partnership (TFSP) is the full and formal partnership between the:

- Specialist Schools and Academies Trust (SSAT)
- Youth Sport Trust (YST)
- Foundation and Aided Schools National Association (FASNA)

The TFSP is contracted by the Department for Children, Schools and Families (DCSF) to support schools in becoming trust or foundation schools.

The Trust and Foundation Schools website contains other key documents and resources, as well as information about events and conferences, which schools will find useful. A full list of these is produced on the next page. Schools can also access support via the consortium helpline.

Trust and Foundation Schools website
www.trustandfoundationschools.org.uk
Trust and Foundation Schools helpline
Email contact@trustandfoundationschools.org.uk
Tel: 020 7802 0967

Availability of helpful resources

The following resources can be accessed at:

www.trustandfoundationschools.org.uk/schools/resource_and_publications.aspx

Focus area	Document name
How to join the Supported Schools Programme.	Expression of Interest form and guidance notes.
Guidance booklets.	<p>Your guide to trust schools.</p> <p>Governors guide to trust schools.</p> <p>LA guide to trust schools.</p>
How to become a trust school – the stages in the process.	<p>Trust Schools Toolkit.</p> <p>Trust schools -who to work with and how.</p> <p>Project plan for acquiring trust status.</p> <p>Example statutory notice.</p> <p>Example Memorandum and Articles of Association.</p> <p>Guidance notes on how to register the trust.</p> <p>Roles and responsibilities of a trustee.</p>
Securing and working with external partners.	<p>Trust schools and business partners – guidance notes.</p> <p>Making trust schools their business - a guide for schools on engaging companies.</p>
Useful information.	<p>FAQs on land and assets.</p> <p>Voluntary schools working with trust schools.</p>

Becoming a trust school – key actions

Often it is helpful to have a summary of the whole process which can be described on one document. Below is such a summary which can be used during the initial stages.

ACTION	STAGE
<ul style="list-style-type: none"> ➤ Contact the Trust and Foundation Schools Partnership to register an interest and enquire about further support and available resources. ➤ Attend an Introductory Seminar or Primary Briefing. ➤ Submit and Expression of Interest. ➤ The governing body passes a resolution to consider change of category proposals. The resolution is recorded in the governing body minutes. The governing body drives the process and is the decision maker. ➤ Inform the local authority in writing at least seven days in advance of this meeting. The local authority may not dispose of any school property until the governing body's proposals are decided or withdrawn. ➤ Create a working party and brainstorm what needs to be done. ➤ Apportion the workload and decide who will project manage the trust plans. ➤ Draft a timeline for implementation and identify key milestones. ➤ Decide how to use the consultancy entitlement from the Trust and Foundation Schools Partnership. 	Preliminary Stage
<ul style="list-style-type: none"> ➤ Establish a clear vision and focus for the trust. ➤ Discuss and contact potential external partners and arrange meetings. ➤ Draft Memorandum of Understanding with partners. ➤ Decide on strategies for keeping partners involved throughout the process. 	Stage one
<ul style="list-style-type: none"> ➤ Prepare a consultation plan. ➤ Consult widely with stakeholder groups. ➤ Consult the local authority about land transfer. ➤ Review responses to the consultation and 	Stage two

decide whether to proceed.	
<ul style="list-style-type: none"> ➤ Decide on an implementation date. ➤ Decide on the structure and operation of the trust. ➤ Publish statutory proposals. ➤ Publish statutory notice. ➤ Allow 4 weeks for comments. 	Stage three
<ul style="list-style-type: none"> ➤ Review comments received on the statutory proposals. ➤ Accept or reject the proposals. 	Stage four
<ul style="list-style-type: none"> ➤ Engage a solicitor (experienced in education and charity law) to draw up the trust governance documents and deal with land transfer. ➤ Revise the Instrument of Government. ➤ Register with Companies House. ➤ Register with the Charity Commission (optional). ➤ Obtain relevant CRB (Criminal Records Bureau) certificates for trustees before the trust implementation date. ➤ Prepare plans for the Parents Council (only for majority of trust-appointed governors). 	Stage five
<ul style="list-style-type: none"> ➤ Reconstitute the governing body. ➤ Local authority completes formal land transfer. ➤ Consult on proposed admissions arrangements. ➤ Make amendments to staff contracts and school policies. ➤ Induct trust-appointed governors. 	Post implementation

A shared trust

Where more than one school decides to work together in a shared trust then each school must separately go through the statutory process to change category (for community schools) and acquire the trust. However, governing bodies may work together to prepare and publish a joint consultation and joint statutory proposals and notice. Each governing body would need to consider views from the consultation and statutory proposals before making a decision whether to change category and acquire the trust, or in the case of foundation schools, only acquire the trust.

1. The 'big picture'

In many ways, the term 'trust school' is a conundrum. The school itself operates within the same frameworks as other maintained schools; it will teach the National Curriculum, follow the School Admissions Code and be inspected by Ofsted. Teaching staff will be employed under the terms of the School Teachers' Pay and Conditions Document. The local authority will fund the school on the same basis as all other local authority schools and will retain its intervention powers if there are problems at the school.

What is a trust school?

It is defined as a local authority foundation school which is **supported** by a charitable foundation (trust). A foundation school is a school with charitable status, maintained by the local authority, which owns the land and assets, employs the staff and is responsible for pupil admissions. In this degree of self-government, it is like a voluntary aided school.

The charitable trust is made up of the school(s) and partners working together for the benefit of the school. The trust:

- appoints some governors (minority or majority)
- holds the land and assets of the school(s) on trust for the benefit of the school(s)

The Education and Inspections Act 2006 enables any maintained school to become a trust school – primary, secondary and special. The Act also places a new strategic responsibility on local authorities, which includes a duty to promote choice, diversity, high standards and the fulfilment of potential for every child. Trust schools make a contribution to choice and diversity in a local authority. Local authorities are commissioners of school places and therefore make all decisions relating to school organisation – trust and foundation schools are included in all local authority school organisation plans, including Building Schools for the Future (BSF).

Voluntary schools are in a different position as they already have their own foundation or trust. Foundations exist to appoint governors to the school and to hold the land for the school, and for voluntary schools which are faith schools, the foundation is also integral to the school's religious character. For these reasons a school is unable to have more than one foundation appointing governors to it and holding the land and assets, and the school would also be unable to come under a second trust which appointed governors to a number of different foundation schools.

In some cases, voluntary schools are able to become foundation schools and acquire a trust if they have the consent of the trustees and the persons who appoint the foundation governors.

Where voluntary schools do not intend to change their status but want to work collaboratively within a trust, they have the following options:

1. The existing foundation or trustees of the VA / VC school act as the trust for a number of trust schools.
2. The foundation or trustees of the VA / VC school become members or trustees of a shared trust.
3. The foundation or trustees of the VA / VC school become members or trustees of a shared trust (as above) but with reciprocal arrangements for giving the trust some influence over the voluntary school.

Further information is contained in the paper 'How voluntary schools can work with trust schools' at www.trustandfoundationschools.org.uk/schools/resouce_and_publications.asp
[X](#)

Essentially the governing body of a trust school continues to have overall responsibility for the school and chooses to establish a charitable trust either individually as a school or with other schools to establish a long-term relationship with partners. Acquiring a trust will be a way for a school(s) to raise standards through strengthening collaboration and drawing on the skills and expertise of external partners. The trust focuses on aspects of school life where improvements can be achieved which will benefit the learning opportunities of students to enhance their well-being and achievement.

The decision to adopt a charitable trust will provide opportunities for working with new partners, or to build upon existing partnerships with local schools, community groups, business, the voluntary sector and the local authority. The establishment of a trust gives the opportunity to move beyond the ad-hoc and to extend the partnership to put into place long-term sustainable arrangements which meet the particular needs of the school(s), children and young people, parents and the local community involved.

This guide outlines the essential aspects of the process to become a trust school.

Initial questions

At the initial stages there are often many questions which need to be considered and understood before moving onto the process of applying for trust status. Using the experience of schools at this stage in the process, some of the key questions are given to assist schools in the early stages of their discussion.

What is the difference between a foundation school and a trust school?

A trust school is a foundation school with a charitable trust.

A foundation school is a maintained school within the local authority family of schools. The governing body is responsible for the strategic direction of the school and is accountable for standards. The change to foundation status gives the opportunity for a school to be self-governing within the context of a national and local legislative framework. The governing body of a foundation school:

- becomes the employer of school staff
- becomes the Admissions Authority
- takes on ownership of the school's land and assets.

The advantage of acquiring a trust is that it gives a structure which formalises and thus sustains the partnership arrangements for the school. There are always changes of membership for partnership activities, for example, movement of staff due to promotion, retirement and staff taking on new roles. Such changes in personnel apply equally to schools, voluntary organisations and business. The creation of a trust gives a framework where the purpose, role and partners can be agreed and formalised. This enables the trust to have a secure, legal and robust framework which will grow and develop over time, having the capacity to respond to changing circumstances, particularly the inevitable movement of staff within the partnership.

What is the relationship between the governing body and the trust?

The governing body and the trust are separate bodies, with their own specific responsibilities and accountabilities. The governing body's strategic and accountability role remains unchanged; it is accountable for the school's performance whilst the headteacher remains responsible for the day-to-day running of the school.

The trust has specific charitable and educational objects associated with improving educational outcomes for all children and the advancement of community development. The trust's charitable status means that any income generated or received by the trust must be spent in line with its charitable objects, and trustees do not share in the profits. The trust is responsible only for its objects set out in the articles of association, and not for any aspects of the school.

One function of the trust is to appoint some governors (the existing governing body decides on the number of trust-appointed governors; there must be a minimum of two, or the trust may be allowed to appoint the majority of governors) to sit on the school's governing body. The trust does not take on any of the responsibilities or accountabilities of the governing body.

The governing body is not accountable to the trust, and neither is the trust accountable to the governing body. They have their own clear lines of accountability. There is an interface between the two bodies enabling them to work successfully alongside each other.

What are the differences between a single school trust and a shared trust?

A single school trust is where one school forms a trust with partners. A shared trust is where a group of schools all become trust schools and work with the same partners in one trust. Schools in a shared trust can have their own separate governing bodies, but each school will have some governors appointed by the trust. Schools can acquire a shared trust which builds on a hard federation where they will continue to have shared governing body arrangements. Schools not in a hard federation are able to establish one at the same time as a trust, or afterwards.

Single school trusts and schools in a shared trust are not excluded from working in other partnerships.

What are the benefits of a shared trust?

Shared trusts give a unique opportunity for schools to share their visions for the future and come to an agreement about an aspect of school life which all schools and their communities can support collaboratively. The creation of robust structures through the trust enables schools to address the agreed joint agenda for improvement whilst at the same time retaining their own school governance arrangements, individual characteristics and ethos.

What could a trust look like?

The constitution of a trust is determined by the school's governing body which will choose who it wants to work with. The trust can be a pre-existing charitable body or it can be formed by bringing together partners to establish a trust. Schools with a pre-existing charity may choose to retain it in its original form, but set up a separate trust. Alternatively, schools may be able to re-constitute an existing charity in order to fulfil the legal requirements of the trust. Governors will decide the type of trust that is most appropriate for them. The aim is to use the experience, energy and expertise from other schools and organisations to support the school improvement strategy.

The trust:

- Is a company limited by guarantee, with charitable status
- Has to generate its own income – any budget that the trust may have is separate from the budget of the school(s)

Trust partners:

- Can be public, private or voluntary sector organisations
- Act as corporate members of the trust
- Can appoint individuals as members

Trust members:

- Can be individuals or organisations – the local authority is limited to 20% representation
- A trust may have a single member
- Normally include the trust partners, or they can appoint members to join the trust
- Determine the objects of the trust
- Take decisions about the organisation of the trust
- Are able to make changes to the trust's constitution, as set out in the Memorandum and Articles of Association
- Decide how trustees are to be appointed – they can appoint trustees themselves or can provide for organisations and individuals who are not members to appoint trustees
- Hold trustees to account
- Act as guarantors for the trust - the financial liability of members is limited to the sum they guarantee when they join the trust, usually the sum of £10
- Can attend general meetings (this should be set out in the governing documents of the trust)

Trustees:

- Are named individuals – local authority officers are limited to 20% representation
- A minimum of two – recommended by the Charity Commission
- Are responsible for the day-to-day management of the trust – ensuring it is solvent, well-run and delivering the charitable outcomes for which it has been set up
- Appoint foundation governors to the school's governing body can invite non-trustees (including trust members) to attend trust meetings, but only trustees are able to vote

The following examples of trusts can be applied to all phases of school.

Example 1: School A (single school) is acquiring a trust with four partners

Trust members = five (school A, university B, and business C, D and E)

Trustees = six (Chair of governing body and headteacher from school A, one trustee from University B, one trustee each from businesses C,D and E)

Example 2: School A is acquiring a trust with one partner

Trust members = two (school A and business B)

Trustees = six (Headteacher and 4 governors as trustees from school A, one trustee from business B)

Example 3: A Shared trust - school A and school B with five partners

Trust members = seven (school A, school B, university C, local authority D, Primary Care Trust E, non-commercial organisations F and G)

Trustees = seven (headteacher from school A, headteacher from school B, one trustee each from organisation C,D,E,F and G)

Example 4: A Shared Trust – 12 schools, four partners

Trust members = 24 (12 trust schools, three business partners, one FE College , one individual member, and seven church schools as associate members)

Trustees = 24 (one from each member; working on a basis of one member one vote)

How do I find partners and work with them?

Becoming a trust partner offers organisations the opportunity to work with schools through a formal framework that unites the school(s) and partners in a sustainable collaboration. The level of involvement that a partner has with a school depends on the needs of the school(s) and the resources available.

Schools do not need to include all of the partners they work with to be trust partners. Schools should be selective and only invite those partners with the specific skills and expertise which are required by the school(s). Schools are able to continue working with a range of partners outside of the trust relationship.

Successful partnerships must be mutually beneficial to succeed. Schools could consider the following:

- Use existing relationships, for example specialist status sponsors, parents, governors, business which offer work experience placements or involvement in enterprise activities
- Approach partners with similar objectives and core values
- Avoid educational jargon – this will enable the partner to understand how they can support the school(s) and how the school(s) can benefit them
- Define expectations, roles and responsibilities
- Be clear about the level of commitment, such as the number of meetings and possible projects
- Keep the plans moving with pace, avoiding bureaucracy and a lack of tangible outcomes - otherwise the partner may lose interest and pull out
- Identifying a key contact in the school(s) for the partner

The Trust and Foundation Schools Partnership is able to support schools with partner engagement:

- Providing useful documents and resources
- Support with existing partners
- Brokerage support for new partners
- Partner finding
- General support, advice and guidance

Information for partners is available at

www.trustandfoundationschools.org.uk/partners.aspx

What are the benefits of becoming a trust school?

- Working in partnership with local business, charitable organisations, local schools and the wider community will enhance the expertise available to schools and give the school greater capacity to raise standards and improve the well-being of children and young people. For example, using a range of partners to develop a multi-agency approach to support pupils and their families. The trust could be used to develop the Every Child Matters agenda and cross-reference this to The Children's Plan.
- A model of collaboration which offers the most opportunities for sustained partnership working, formalising existing partnerships or developing new ones. For example, formalising partnerships within a family of schools and external partners to increase community involvement, improve social cohesion, ensure continuity and progression and improve opportunities for life-long learning.
- Addressing local and specific needs and thus enabling the school to achieve its vision for children and young people. For example, using a university as a partner to help raise standards and aspirations, and developing strategies for engaging more students in higher education.

- Perpetuating and further improving good practice, and through partnership with other schools extending good practice. For example, a trust where a successful school is working with a weaker school or a group of schools working together to raise standards for pupils.
- Opportunities for greater efficiency and over time the generation of economies of scale. For example, a cluster of schools having shared financial, administration and ICT provision, and also sharing joint training for staff.
- Opportunities to bring more investment into the school. For example, using the incorporated charitable status of the trust to bid for grants and funds (which are not available to schools), and utilising the business acumen of partners for income-generating projects.

What is the downside to becoming a trust school?

There isn't one. Most issues would be resolved within the trust, or by the schools and trust, but there are a number of safeguards to prevent and address problems:

- The Charity Commission has a range of statutory powers and can act on complaints if there is evidence of fraud, maladministration or misconduct by trustees
- An individual trustee or a partner can leave the trust at any time
- There is a statutory process to remove a trust if there is dissatisfaction with the trust's performance. The school would become a foundation school, and all publicly - funded land and buildings held by the trust would transfer to the governing body of the school(s). The school(s) ethos, identity, characteristics, curriculum, staff, pupils and community would not be affected in any way
- In extreme circumstances the Secretary of State has the power to remove a trustee or disband the trust

Trust schools have acknowledged that time and energy must be devoted to the process, and in return, schools are able reap the benefits of strong and sustained partnerships.

What is The Expression of Interest?

Schools may wish to submit an Expression of Interest (EOI) to join the Supported Schools Programme. This is a form where the school outlines its proposals to become a trust school. Shared trusts only need to submit one Expression of Interest on behalf of all of the schools. The EOI is often submitted after attending an Introductory Event or a Primary Advocacy Event. All applications are assessed, and schools with sufficiently developed plans are selected to join the programme. If further support is needed prior to re-application, this will be provided through the Trust and Foundation Schools Partnership.

What is the Supported Schools Programme?

All maintained schools are able to become trust schools; joining the Supported Schools Programme means that they can access support and additional resources in taking on foundation status and setting up a trust. Each school on the programme will have a tailor made core entitlement designed to support the school and governors through the trust school process. A single school will have two days of consultancy support; a cluster of schools will have one day of consultancy support for each individual school, plus one additional day for the cluster.

What support is available to schools during the process of becoming a trust school?

A package of support is available to schools as they progress through to trust status, including:

- The school and representatives from the governing body are invited to an Introductory Seminar or Primary Briefing to introduce the programme and explore possible ways forward
- Each school is assigned an approved TFSP consultant following an exploratory discussion with the TFSP Regional Team Leader. The consultant will work with the school through the trust process
- The specific support required is agreed between the school(s) and the consultant and can include:
 - Meeting with school staff, governors and partners and supporting specific events such as a visioning workshop
 - Online support via email and through the dedicated website together with telephone access
 - The provision of resources such as exemplar documents
 - Matching schools with partners
 - Networking opportunities to liaise with open trust schools and other schools on the Supported Programme to learn more about the process and benefits of becoming a trust school

Lessons learnt

Often schools ask about what was learnt at the end of the process, for example, how could progress be made easier? What should you avoid doing? What worked well? The Trust and Foundation Schools Partnership have talked with schools about their experiences and have identified ten top tips.

Ten top tips in becoming a trust school

1. If you are a community school then investigate thoroughly the benefits / responsibilities of foundation status.
2. Provide sufficient time to establish the vision and share it with all stakeholders. Schools in a shared trust will need to ensure that they all play a role and that the message given to stakeholders is a consistent one.
3. Establish a clear vision and understanding of how all partners may benefit – focus on the positives.
4. Start with existing partners, clarify expectations and keep them involved.
5. Decide who will be the ‘project manager’ (internal or external) – ensuring the headteacher(s) and governors remain involved.
6. Begin to address technical issues and potential areas of concern early e.g. land transfer, staff pensions, and responses from unions / professional associations. Schools in a shared trust may choose to go through the different stages of the process at different times and encounter different issues and barriers which could lead to potential problems if it is not co-ordinated and addressed.
7. Ensure consultation is wide and effective, with the intention of bringing key people on board
8. Make sure the paperwork is ‘by the book’. Use exemplar documentation and take legal advice when necessary.
9. Don’t be afraid of working at the ‘leading edge’ – new initiatives can be a source of alarm. Successful schools do not stay still but are creative and innovative.
10. Emphasise what you are doing is in the best interests of the school and the community – trust status is about raising standards and supporting the well-being of children and young people.

The Toolkit gives a range of frequently asked questions which arise during the early stages (pages 22 to 25).

How has the trust process benefited the school (s)?

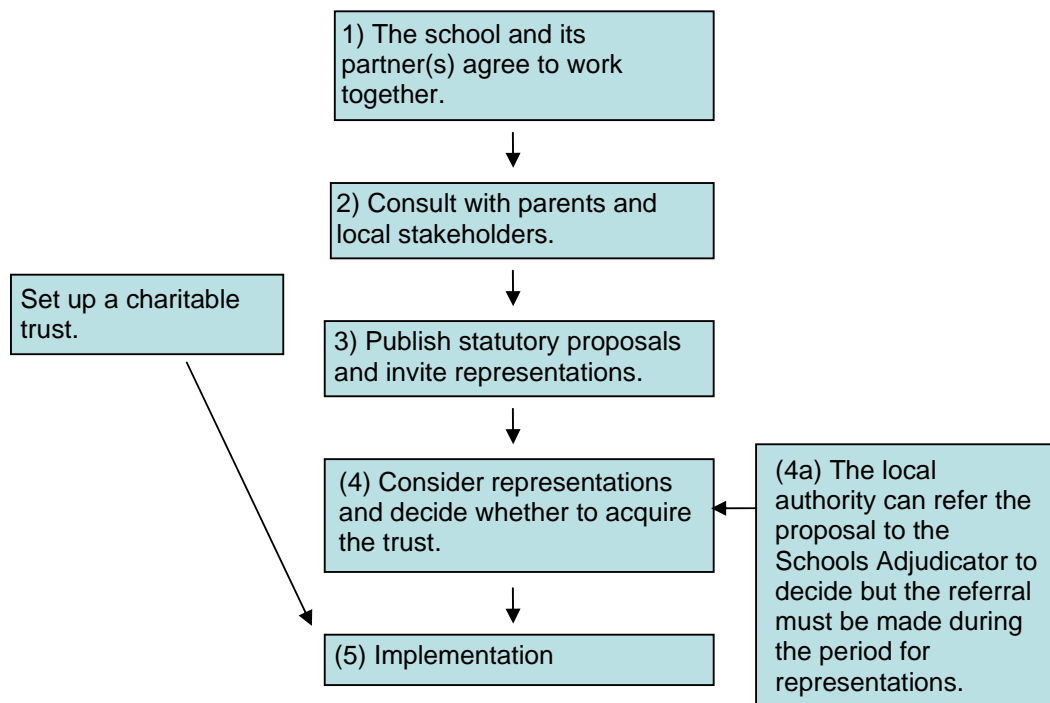
Schools completing the process have found that:

- It has re-energised their children and young people, staff, governors and parents due to the need to reappraise their aims and improvement strategies to identify the particular benefits to be derived from the creation of a strong and local partnership with the community
- The relationship with existing and new partners has been strengthened
- The creation of a trust, through the consultation and statutory process, has provided a clear agenda to move forward which is owned and valued by the school(s), children and young people and their parents

- The governing body or bodies of trust schools have been strengthened by working through the process together
- Newly appointed trust governors have brought additional skills and expertise
- The process has enhanced the capacity of schools individually and collectively to address key improvement agendas which have the collective support of the partnership, in a way that has children and young people at the centre, with structures and processes which can be sustained

The five stage process

The Toolkit outlines the five stages of the process (pages 6/7). The process is reproduced below to give a structure to this guide.



The experience of schools indicates that the process usually takes about 12 months to complete although it is possible to undertake the process in a shorter period of time. Schools which are advanced in their trust plans and have secured partners could 'fast-track' through the process in 12-15 weeks (one school term). Schools need to invest time in stage one of the process. This allows time to think through carefully what the school(s) and the partners want to achieve by becoming a trust school as well the opportunity to link to the routines of the school including existing commitments and periods of time

when there is very little flexibility to undertake new and additional tasks. Giving time to respond to the questions of governors, staff, parents, partners, children and young people is essential. The process gives the opportunity to generate aspirational and innovative ideas and strategies which again need time to germinate and flourish.

A one year implementation plan and a fast-track implementation plan have been produced to guide schools through the process (See appendix one and appendix two).

The statutory processes

The Toolkit outlines the requirements of recent legislation and the statutory guidance on the consultation process. Essentially in order for a community school or a voluntary school to become a trust school, there are two separate and related processes which need to be completed, namely:

1. the statutory process to change category to foundation and
2. the statutory process to acquire a trust.

It is recommended that the two processes run concurrently, although a school is able to undertake the changes in two stages but this will require more time.

Existing foundation schools will have to go through the process to acquire the trust and to allow the trust to appoint governors.

Community and voluntary schools should refer to the statutory guidance 'Changing School Category to Foundation – A Guide for Governing Bodies' which can be accessed at:

www.dcsf.gov.uk/schoolorg/guidance.cfm?id=25

Schools which needed to change status to foundation in order to become trust schools, have confirmed that this change was a significant part of the process which required careful consideration, particularly with governors, school staff and the local authority. However it is important to stress that decisions schools make will be informed by their existing ethos and the published aims of the school.

The governing body of a community or voluntary school will need to notify the local authority about the school's intention to become a foundation school. It is also best practice for all schools to advise their local authority about becoming a trust school.

Guidance about the procedure is given in the 'Toolkit' on page 8 and a model letter for the governing body to notify the local authority of its intention to consult on changing school category is produced on page 25.

2. Starting the process – building the foundations

The initial starting point for a school (s):

- usually starts when the headteacher, school staff and the governing body begin to enquire about trust and foundation status and seek information
- The Trust and Foundation Schools Partnership are able to provide appropriate literature and links to local schools which have recently achieved trust status
- often trust status is added to the agenda of the next available meeting of the governing body and a small working party is established to investigate further and bring a report back to the governors. This is a very important starting point as this provides the opportunity to explore the views of the working party, consisting of a cross section of governors including staff governors, in terms of their aspirations, potential opportunities and constraints together with any anxieties
- items for further investigation can be explored which can involve visits to trust schools or meeting with headteachers from local trust schools
- this early work enables the governors to understand the potential of a trust school arrangement and to explore any potential barriers to the concept of trust status
- the working group can move on to consider the potential benefits of becoming a trust school and whether or not it would like to establish a shared trust with other schools

Submitting an Expression of Interest and joining the Supported Schools Programme

When the governing body is ready, it can agree to submit an Expression of Interest (EOI) to join the Supported Schools Programme. This form provides a very helpful framework which can inform the planning process of the working group of the governing body.

The Trust and Foundation Schools Partnership holds Introductory Seminars and Primary Briefings which include workshops which explore the key elements of becoming a trust and foundation school, and also provide some guidance for schools preparing their EOI. Schools also have the opportunity to meet and share practice with other schools considering trust and foundation status, as well as representatives from open trust schools.

Developing the vision for the trust

The starting point for the EOI and your thinking about becoming a trust school is to consider your **school vision and values**, your **aspirations for the future**, and how the trust will contribute to **raising standards**. The trust is acquired to build on and extend more widely, those elements of school improvement that are already working to raise standards in schools and

provide each child with an excellent education. Schools need to consider carefully the experience and track record of potential trust partners, and their contribution to the ethos and culture of the school(s). Trust partners can share their expertise and skills, and work innovatively with governors to support strategic leadership and drive forward school improvement. Trusts involving several schools have other benefits – such as sharing facilities, curriculum, staff and training programmes which can provide more opportunities for pupils and the community.

Some key questions to consider include:

- What are your long-term targets for the achievement and well-being of children and young people in your school?
- What are the key factors which could help your school to improve further?
- What factors are acting as barriers to learning?

Such an analysis would take account of the five outcomes of the Every Child Matters agenda which are aimed at promoting excellence for all.

These questions link directly to your self-evaluation and current strategic planning processes. The answers to these and similar questions will help to inform your thinking about:

- The vision and focus for the trust
- The partners needed to enable the vision to become a reality
- Whether or not a shared trust with other schools would be appropriate

At this stage it would be helpful if the school starts to quantify what will be the **likely outcomes** of the trust in terms of the benefits for children and young people and the provision for the curriculum, leadership and management and so on. The outcomes can be refined and sharpened after the meeting with the potential partners is undertaken.

Who will be the partners?

There is no prescribed model for a trust. Potential partners should be chosen because they have the skills and expertise to support the school(s) in raising standards. Partners need to feel that they can evolve with the school(s) and also add value both to their own organisation and to the community. The most effective partnerships are those with a clear shared vision based on raising standards, a commitment to learn from each other, and long-term mutual benefits. Partners can include, for example:

- Local businesses (large, medium and small)
- Voluntary sector organisations
- Local government including local authorities (maximum 20% representation either as trust members or trustees)

- Local police force
- Local health authorities
- Local Learning and Skills Councils
- FE colleges
- Higher education institutions
- Sure Start and Children's Centres
- Local schools (in some circumstances schools which are part of an existing partnership may wish to formalise this relationship while they are considering becoming a trust school. Schools are therefore able to become a trust partner or a trust member)

The key starting point is to decide the **scope** of the trust linked to the needs of the children and young people. For example, if in a primary school your need is to improve the opportunities for your children on entry to the school in order to improve their initial learning experiences, the school might want to enlist the support of the local parent/community association, the Tenants Association, the Primary Care Trust, Sure Start and the local authority as well as other primary schools, to maximise economies of scale and to seek a common approach to shared needs. In another school, self-evaluation evidence might point to the need to improve achievement so as to become an outstanding school. This is likely to involve the development of innovative approaches to learning and teaching and developing rich learning opportunities for children and young people. This analysis could suggest enlisting the support of Higher Education, the local museum and library service, local businesses which are at the cutting edge of development as partners in the trust.

Trusts can support an individual school or a group of schools. The vision and objectives for the trust will significantly influence whether or not a shared trust is appropriate. For example, if the trust focus is linked to 14-19 curriculum provision it is likely the trust will be shared involving local schools to support the delivery of curriculum programmes such the Diploma and Young Apprenticeship scheme.

The Toolkit gives further information about options for trust schools on pages 10/11 together with many potential models for a trust (pages 12 to 18).

Engaging partners

Having identified the vision and focus for your trust, the next stage is to consider who your partners might be and to start discussion with them about the possibility of becoming a trust partner:

- Often schools can start with existing organisations where the school has a working relationship. However, new organisations may need to be involved if the vision and focus of the trust is to be achieved
- Schools will be talking with potential partners about their skills, expertise and capacity to provide them with either a trustee or a trust-

- appointed governor, or both (trust-appointed governors do not have to be trustees)
- Often members of the governing body have been able to provide introductions as well as the Trust and Foundation Schools Partnership
 - The experience of schools is that they have received a positive response from organisations
 - Usually the headteacher, a senior member of the leadership team and some governors have visited organisations and met with potential partners

Schools have very successfully held breakfast meetings or half day meetings where the focus of the trust has been shared and explored and partners asked to indicate how they would like to contribute. The Toolkit provides a Memorandum of Understanding framework which can be used for such occasions (see page 27). Such meetings have involved a cross section of governors and staff who in turn can report back to the governing body and the whole staff to keep everyone informed of progress. In addition, such meetings have involved the local authority so they are also kept informed of progress.

A Trust school visioning session – an example

9.00am	Arrival, refreshments and networking Opportunity to view exhibition of students' work
9.30am	Welcome and introduction by chair of governors Introduction to the school and the trust vision
9.50am	Headteacher: The scope and impact of becoming a trust school
10.15am	TFSP consultant – The national perspective
10.45am	Headteacher from a trust school – case study 'Why we became a Trust school and what it means for us'
11.20am	Refreshments and networking
11.40am	Small group breakout sessions to deepen the vision, gain feedback from potential partners, raise questions and consider areas of involvement. (Each group to include partners, governors and school staff)
12.30pm	Report back from each group
1.00pm	Closing remarks and next steps

This example could be modified where there is a shared trust so that there is representation from each of the schools, both in terms of presentations and also leading / facilitating discussions in the break-out sessions. The Trust and Foundation Schools Partnership is able to provide support with partner engagement, planning and visioning sessions, and meetings with potential and signed-up trust partners.

Having gained the support, in principle from partner organisations and discussed how the partners could contribute to the vision of the trust, the final step is to refine the proposed outcomes for the trust.

Conversations with staff trade unions / professional associations

Alongside identifying partners, the headteacher and leadership team will be having conversations with staff and trade unions / professional associations about the trust proposals and seeking their views on the potential advantages of changing category to foundation school (where appropriate), establishing a trust, and their perceptions about the proposed vision and priorities. This dialogue with staff and trade unions / professional associations will provide a good starting point for the next stages in the process.

Submitting an Expression of Interest

There are three opportunities in the school year for schools to submit an EOI:

- Autumn Term – end of October/early November
- Spring Term – end of February/early March
- Summer Term – end of June/early July

Schools need to visit the TFSP website for confirmation of the closing dates. The draft EOI will need to be considered and agreed by the governing body before submitting it to the Trust and Foundation Schools Partnership for assessment. The DCSF will decide which schools are able to join the Supported Schools Programme. It is helpful if the draft EOI is also shared with potential trust partners and the local authority to gain their support and commitment to the application process. Where there is a shared trust, the proposals must be agreed by the governing bodies of all participating schools before it is submitted.

3. The consultation process

The consultation process should be four to six weeks during term-time. The consultation should be held when the school or schools are open in order to ensure maximum engagement about the proposals and the involvement of all stakeholders.

Who should be consulted?

Governing bodies must have regard to the statutory guidance, pages 11-15, which can be accessed at:

www.dcsf.gov.uk/schoolorg/guidance.cfm?id=25

There is no statutory requirement for how the consultation should be undertaken, but the consultation must be wide and involve everyone who may be affected by, or interested in the school(s) becoming trust schools. In summary, the following stakeholders need to be consulted:

- Any local authority likely to be affected by the proposals
- Families, teachers, and other staff at the school
- The governing body, teachers and other staff, and families at any other school that may be affected by the proposals
- Trade unions / professional associations if proposals involve, or are likely to affect a school which has a religious character:
 - The Diocesan Board of Education
 - The bishop of a diocese of the Roman Catholic Church
 - The relevant faith group in relation to the school
- If the proposals affect the provision of full-time 14-19 education, the Learning and Skills Council for England
- Members of Parliament whose constituencies include the school(s); the local district or parish council where the school is situated
- Where proposals affect early years provision, the Early Years Development and Child Care Partnership, or those who benefit from a contractual arrangement giving them the use of the premises
- The trustees of any existing foundation (where proposals are for the acquisition of a foundation majority) any other persons whom the governing body thinks appropriate

Where proposals are made in respect of a special school, the governing body must also consult:

- The relevant Primary Care Trust
- Any NHS trust or NHS foundation trust responsible for a hospital or other provision in the area in which the school is situated

In addition, the DCSF confirm that there is a statutory duty to consult with pupils on any proposed changes to local school organisation that may affect them.

Guidance on this duty is available on the Teachernet website:

www.publications.teachernet.gov.uk

(Pupil Participation Guidance: Working Together – giving Children and Young People a Say)

Conversations with the local authority

The governing body will need to have conversations with the local authority regarding land transfer (for community schools). It is advisable to raise this early in the process, as the transfer process could take several months. (If the trust and local authority have not finalised a transfer agreement within 6 months of the implementation date then either party may apply to the Schools Adjudicator to determine any dispute).

Framework for the consultation

It will be important to determine **what** will be communicated. Schools should consult on trust proposals once they have a clear vision which has been agreed and shared with partners, and partners have agreed to be part of the trust. Ideally, partners should have already signed a Memorandum of Understanding at this stage. The following information needs to be included within the proposals to become a trust school or a shared trust:

- What is a trust school or a shared trust and the need to become a foundation school as part of the process (if appropriate)
- The vision for the trust and how it will be achieved
- How will the trust work including how the trust will be established
- What are the reasons for acquiring a trust ie the advantages for children and young people and the school(s) and why make the change at this time?
- Who are the partners and what can they bring to the trust
- How stakeholders can respond ie the details of the consultation process

Method of consultation

The following methods could, for example, be used to engage the stakeholders in the consultation process:

- Letters to each group outlining the proposals and seeking feedback
- Assemblies involving staff, children and young people
- Surgeries for each group to answer individual questions and general

- enquiries and to gain a response to the proposals
- Notice boards around the school for information and questions, plus website page on the school website
- E-conversations with the chair of governors and headteacher on particular days during the consultation period
- Questionnaire to staff, parents and students
- Separate meetings for each group to consider the proposals, to answer questions and to gain a response to the proposals
- Some schools have published their proposals as a prospectus which is used as the main source of information throughout the consultation process. The Trust and Foundation Schools Partnership are able to provide examples of prospectuses and letters to parents, to illustrate how the consultation process can be undertaken

The Toolkit on page 40 provides a checklist for consultation with parents and local stakeholders.

Although this is a helpful framework, schools have identified through experience **additional steps** which can be used to ensure that the process is successful and worthwhile.

Some of these key additional steps can include:

- Finalising the proposals in preparation for the consultation process. The continuing involvement of the working party gives the governing body the capacity to support and shape the process of becoming a trust school. At the point when the proposals are becoming clear, schools have found it very useful to have a series of special meetings for:
 - Trust partners
 - All staff
 - The governing body

These meetings should outline:

- The proposals, using draft documentation including a draft prospectus, if prepared
- The nature of the consultation process

The meetings for trust partners and staff give a final opportunity to outline the proposals, to gain feedback about the proposals and alert everyone to the consultation process. The meeting of the governing body ensures all are contributing to the proposal as well as giving feedback about the best ways to undertake the consultation, for example, to consider the need for information to be available in another version such as large print or an alternative language.

Full meeting of the governing body to agree trust school proposals, documentation to be used and consultation timetable

- There is a need for a full meeting of the governing body where the proposals, documentation including the prospectus (if prepared) and the consultation process are agreed
- At the same time a date for the next meeting will need to be agreed following the end of the consultation period where the findings of the consultation will be presented and a decision made as to whether or not to amend the proposals and proceed with publishing the proposals
- The preparation of the report about the outcomes of the consultation process will most likely be prepared by the governor working party

The preparation of a programme for the consultation process enables the governing body and the school to ensure all stakeholders are involved. Given the importance of the proposals many governing bodies have organised publicity events involving local media to alert stakeholders to the consultation and to encourage everyone to respond. Where public meetings are held schools have involved partners so they are able to contribute to the process and indicate how they will be able to support children and young people and the school(s) as the trust develops.

Consultation with children and young people

The consultation with children and young people can be planned through the Pupil or Student Council. Planning can start before the formal consultation period begins and in some cases students are present at meetings of the governing body and thus are involved in the process from the outset. Pupil or Student Councils often work with school staff, governors and partners to prepare additional resources which can be launched at assemblies and subsequently considered in lessons or tutor groups before being considered by the Pupil or Student Council. Schools have found that this gives children and young people the opportunity to respond to the proposals and at the same time gives helpful guidance as the trust begins to move forwards.

Ensuring all staff are involved

Given the wide range of staff employed within schools, it is important to ensure that any meetings are held at times which enable staff to attend. This is particularly important for part-time staff. Schools have held meetings with particular groups of staff at convenient times to address their concerns and to explore the potential benefits of becoming a trust school. The availability of information on the school website also enables staff to keep up-to-date and to access information if they are unable to attend meetings.

Where schools have needed to change school category from community or voluntary to foundation, this has resulted in a change of employer. In these circumstances, schools have often sent an individual letter to employees

outlining how the change will impact on them, together with advice provided by the local authority, for example, about the continuation of pension rights for support staff and the continuation of the provision of redundancy payments where this is local authority practice.

The statutory safeguards outlined in the publication 'Changing School Category to Foundation' (pages 22 and 23) can be accessed at: www.dcsf.gov.uk/schoolorg

Drawing the conclusions of the consultation process together

The final stage of the consultation is to analyse the responses and to prepare a report for the full meeting of the governing body. This report will follow the guidance given on pages 14-15 in

'Trust School Proposals - a Guide for Local Authorities and Governing Bodies' at www.dcsf.gov.uk/schoolorg

4. Publishing statutory proposals and notices

Following the consultation and analysis of the responses from stakeholders, the governing body must decide whether to move to the next stage of the process. This involves publishing formal proposals and posting notices in a number of places so that stakeholders can express their views. In a shared trust, the information in the proposals and notices can be the same, but each school must publish their own documents.

- The representation period for statutory proposals must be **exactly four weeks** from the date of publication (this can include school holidays and bank-holidays). Schools should be aware that the proposals could be challenged if some stakeholder groups are unable to express their views because the representation period included a significant period of school holidays. It is therefore considered to be good practice to schedule the representation period over four continuous weeks in school term-time.
- The governing body can withdraw published proposals at any point before they are approved. If this is the case, then the governing body must:
 - a) Inform the local authority (in writing)
 - b) Place written notices at the entrance to the school
 - c) Inform the Schools Adjudicator and Secretary of State (**only** if the proposals have been referred to the Schools Adjudicator)
- The governing body must demonstrate that it has considered all responses. It is considered to be good practice for the full governing body to meet and vote on publishing proposals.
- The governing body should make public the formal feedback from the consultation, together with a statement outlining how the consultation process influenced their decision.

Publishing proposals and notices

- Before publishing proposals the governing body should ensure that it has the consent of the following parties:
 - All partners named in the proposals (including all members of the trust and other schools) have agreed for the proposals to be published
 - The governing body of a voluntary school, or of a foundation school with a foundation, must obtain the consent of the trustees or anyone entitled to appoint foundation governors.
- The proposals should not be substantially different from the consultation document, for example, the proposals cannot include a partner(s) which have not been included in the consultation.
- The proposals should be published shortly after the consultation, and although there is no specified period of time between the end of the consultation and the publication of proposals, it is usual for proposals to be published within three to six months. This is to ensure that the proposals are informed by up-to-date feedback.
- The proposals should be made available to the same stakeholder groups identified previously for consultation.

Statutory proposals – these are a legal requirement, and contain information regarding the proposed changes and the consultation so far.

Full details of the statutory proposals and notice can be found on pages 16 – 22 in: ‘Trust School Proposals – a Guide for Local Authorities and Governing Bodies’, which can be accessed at:

www.dcsf.gov.uk/schoolorg/guidance.cfm?id=25

The Toolkit also contains a useful checklist (P43).

In summary, the proposals must contain information on changing school category to foundation (for community and voluntary schools) and acquiring a trust. Existing foundation schools must publish proposals to acquire the trust.

The proposals may be presented as one overarching rationale for change containing the following information:

- Proposed implementation date
- Start and end date of the representation period
- The procedure for making representations
- Details of the consultation
- The name of the proposed trust
- The rationale for the trust
- Membership of the trust, including the names of members
- Number of trustees (it is not necessary to provide the names of trustees, but these could be included where they are known)
- The constitution of the governing body
- The trust’s charitable objects, which must include the advancement of education
- How the trust will help to raise standards
- It is strongly recommended that the proposals include the school’s performance data, a summary of the latest Ofsted Report, and a statement identifying how the trust would have an impact on standards. Schools could consider making this information available on the website rather than issuing it to all stakeholder groups as a paper document. However, schools will need to make this information available as a paper copy if an individual or group makes such a request
- How the trust will contribute to the promotion of community cohesion
- The impact of the trust on diversity of school provision
- Details of the Parent Council (only applicable where there is to be a majority of trust-appointed governors)

Statutory notice – this is a short summary of the proposals and does not need to include information about the consultation. The DCSF School Organisation website contains a ‘notice builder’ facility.

You will need to register your details in order to access the notice builder at: www.dcsf.gov.uk/schoolorg

The School Organisation Unit will also check the details of your notice at www.dcsf.gov.uk/schoolorg/members-login.cfm.

The notice has to be posted in the following places:

- In a conspicuous area served by the school (such as a library, Post Office or community centre)
- In at least one newspaper serving the school community (the day on which the notice is published in the newspaper is taken as the first day of the four week representation period)
- At, or near the main entrance to the school (or all of them)

- The governing body must send the notice to
- The local authority or authorities – within one week of publication
- The School Organisation Unit email to: schools.organisation-unit@dcsf.gsi.gov.uk

Special schools

Where the foundation proposals are being proposed by the governing body of a special school, then a complete copy of the proposals must also be sent to the following:

- The relevant Primary Care Trust
- Any NHS trust responsible for a hospital or other provision in the area in which the school is located
- Any local authority which maintains a statement of special needs for a registered pupil at the school
- Any local authority which may be affected by the proposals
- Parents of children who attend the special school

Drawing the conclusions of the statutory proposals process together

Once the four week representation period has ended, the governing body must make a decision whether or not to accept the proposals. This must take place **within six months** of the date of publication of the proposals.

Referral of statutory proposals to the Schools Adjudicator

Local authorities, in their role as champions of parents and pupils, are able to refer a school's proposals to the Schools Adjudicator in certain circumstances. The local authority may act in response to representations from parents and other stakeholders. The Schools Adjudicators are independent of the DCSF. They consider each case on its merits and take into consideration the reasons for disagreement at local level in the light of legislation and guidance.

The grounds for referral are set out in the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 (SI2007/1289):

- Inadequate consultation – the governing body has failed to fulfil the requirements set out in the Education and Inspections Act 2006 and regulations, or as failed to have regard to the statutory guidance given by the Secretary of State
- The governing body has failed to have regard to the responses to the consultation
- The local authority considers that the trust will have a negative impact on standards at the school

The local authority must make the referral in writing during the representation period to:

The Secretary
Office of the Schools Adjudicator
Mowden Hall
Staindrop Road
Darlington
DL3 9BG

The referral letter should be copied to the chair of governors at the school(s) for which proposals have been published, explaining the grounds for referral, and signed by a local authority representative. The referral decision is usually made within six weeks, it is final and must be implemented immediately – it can only be challenged by application to the high court for judicial review.

Further information on the adjudication process can be found at the Office of the Schools Adjudicator website: www.schoolsadjudicator.gov.uk

5. Decision whether to acquire the trust

The governing body, as decision maker, will need to:

- Review representations from the proposals
- Decide whether to acquire the trust

The governing body must have regard to the statutory guidance to decision maker's within the two publications:

'Changing School Category to Foundation', and 'Trust School Proposals – a Guide for Local Authorities and Governing Bodies' (P 30 - 37). Both can be accessed at:

www.dcsf.gov.uk/schoolorg/guidance.cfm?id=25

The governing body must make a decision, and has the following options:

- Change school category to foundation and acquire the trust, or
- Only change school category to foundation, or
- Reject the proposals (remain a community school, or in the case of a foundation school, not acquire the trust)

As soon as a decision has been reached, the governing body must notify in writing the reasons for the decision, irrespective of whether the proposals were approved or rejected.

Notification must go to:

- a) The local authority
- b) The Learning and Skills Council for England where the trust proposals relate to a school providing education for pupils aged 14 or over
- c) The DCSF School Organisation Unit at

Email – schools.organisation-unit@dcsf.gov.uk

Or
DCSF
School Organisation Unit
Mowden Hall
Staindrop Road
Darlington
DL3 9BG

The governing body of a voluntary school changing to foundation must also notify:

- a) The Diocesan Board of Education for any diocese of the Church of England any part of which is comprised in the area of the authority
- b) The bishop of the diocese of the Roman Catholic Church

In summary, the criteria for approval will include:

- The trust meets legal requirements
- Consultation was adequate
- The trust will contribute to raising standards and promoting community cohesion

- Trust members are not involved in activities which are illegal or considered to be inappropriate for children and young people
- The reputation of trust members and trustees is in keeping with the charitable objects of the trust

The Toolkit also contains a useful checklist (P46).

6. Implementation – the school becomes a trust school

- The implementation period begins as soon the governing body has made a decision to acquire the trust
- The statutory proposals will already have identified an intended implementation date. It may be possible to delay the implementation date, either at the time of approval, and/or after the approval date. If it is post-approval, it **must be before** the originally approved implementation date has passed, otherwise the governing body are in breach of their statutory duty to implement and it could be challenged and deemed invalid
- The governing body must implement the proposals in the form in which they were approved. It may be possible to include some **small** modifications to the proposals but the modifications **should not be significant** as these could be subject to legal challenge. For example, the governing body would not be able to include an additional partner or partners in the trust if they had not been included in the statutory proposals
- If the governing body wishes to modify proposals to a significant extent after a decision has been made, then new proposals must be published
- The governing body would have to publish revocation proposals which relieve them of the duty to implement (full details on pages 39-40) in 'Trust School Proposals – a Guide for Local Authorities and Governing Bodies', and can be accessed at:
www.dcsf.gov.uk/schoolorg.guidance.cfm?id=25
- Some aspects of the implementation process will take place almost immediately (such as the trust holding the legal title to the land), while the full implementation process may take up to one year (for example admission arrangements and transfer of personnel files from the local authority)

The implementation process will include the following:

Setting up the trust

The school and partners must have established the trust as a charitable company by the implementation date. As soon as the trust is established (registered with Companies House), then the school becomes a trust school.

A solicitor must be engaged to draw up the governance documents (the Memorandum and Articles of Association) for the trust. As soon as these documents have been agreed and signed by the all of the trust members, they are forwarded to the local authority for approval. Once the local authority has approved the documents then they can be sent to Companies House for registration.

The Trust and Foundation Schools Partnership is able to provide support and advice with engaging solicitors.

A model Memorandum and Articles of Association, with guidance notes, is available at www.trustandfoundationschools.org.uk/schools/reource_and_publications.aspx

All trusts must be charitable and incorporated, which means:

- The trust is a non-profit distribution organisation, and must use its resources to support and promote the charitable aims. In the future it will be possible to register the trust as a Charitable Incorporated Organisation (CIO), so that it can benefit from limited liability status without the requirement of a dual registration with the Charity Commission and Companies House
- The trust is able to generate income as long as the proceeds are re-distributed into capital projects or other educational provision for the benefit for the school
- The trust must be registered with Companies House, which is the agency which incorporates and dissolves limited companies
- The Companies House website contains detailed information about registering the trust, available at: www.companieshouse.gov.uk/infoAndGuide/companyRegistration.shtml
- You will need to send to Companies House:
 - The Memorandum of Association
 - The Articles of Association
 - Information about the trustees, trust secretary and the registered office
 - a declaration stating that the company complies with the Companies Act
 - A standard incorporation fee of £20 (The company will be incorporated within ten working days, but there is a Same Day Incorporation Service which costs £50)
- The trust will only be able to register with the Charity Commission if it has an **income above £5,000** per annum. If the trust has no income (such as donations, investments or sale of goods and services) then it will not be required to register. If the trust has no property other than the premises of the school, then registration will not be required
- The trust will be subject to regulation by the Charity Commission; it will investigate any complaints about the way the trust operates and it has powers of intervention. This will apply even if the trust is not registered with the Charity Commission
- To register a trust you will need to send:
 - A completed registration form
 - A declaration by trustees that they are willing to act as trustees and are not disqualified from this role
 - Two copies of the Memorandum and Articles of Association
 - A copy of the certificate of incorporation (from Companies House)
 - Copies of financial accounts for the last three years (if available)
- It is likely to take approximately four months to become a registered charity

Full details are available at: www.charity-commission.gov.uk

The trust is an incorporated organisation, which means that it is a legal entity in its own right. Agreements and contracts can be taken out in the name of the trust rather than the name of individual trustees. The trustees of a charitable company do not normally have personal financial responsibility for any debts or other liabilities.

If the trust is a company limited by guarantee, the financial liability of the members of the trust is limited to the sum they guarantee when they join the trust. Trust members normally agree to pay a nominal sum of approximately £10 if the trust becomes insolvent or is dissolved.

Trustees will not be held personally liable if they always:

- Act reasonably
- Comply with the governing documents
- Take appropriate professional advice

Any debt incurred by the trust **will not** transfer to the school, and the trust cannot use the school's land or budget as security for any loan. Any deficit occurring in the delegated budget of the school will result in the negotiation of a recovery plan with the local authority (as currently is the practice for all maintained schools).

Trusts also have duties under the Race Relations Act, the Disability Discrimination Act and the Equality Act.

Full details are outlined in The Toolkit, P 84 – 86.

The trust may be exempt from paying VAT, but schools will need to check the requirements regarding charitable status and VAT registration. Further information is available at: www.hmrc.gov.uk/charities/vat/intro/htm

Land transfer

The trust will hold the legal title to the school's land and buildings from the implementation date. The school's solicitor will also oversee the formal transfer of land and buildings from the local authority for community and voluntary schools, and from the governing body for foundation schools. In the period between a school's proposals to change category being approved and being implemented there is an opportunity to agree at a local level that some of the school's land will not transfer to the trust. This situation could arise where a school shares its site with, for example, an Early Years Centre, Health Centre or sports facilities that are intended for broader use than the school's pupils. In such cases, the school and the local authority may agree that the local authority should retain the freehold of the facility, provided the school's user rights to the facility are fully protected. They would therefore agree to exclude this land from transfer but it may be necessary to guarantee rights of access over one or both parts of the land. Where it is not possible to

reach agreement to a partial transfer of land locally, the Schools Adjudicator will resolve the matter.

Where land is held by the local authority partly for the purposes of the school and partly for other purposes (for example a playing field shared with another school), ownership should be determined by reference to specific statutory tests. Briefly, the first statutory test is to see if it is possible to divide the land to provide two viable units. If not, the second test is to try and determine which of the parties is in the greatest need of the security afforded by ownership and if neither, the third test is to establish which of the parties is likely to make greater use of the land. The rights of the party not granted ownership to use these facilities over time would be protected, with any disputes being resolved by the Schools Adjudicator.

Where there is no reason for excluding any particular property from a transfer (for example, because it is an integral part of the school), the transfer agreement must take into account any existing user rights. In other words, the rights of any group or organisation using property that is to be transferred from the authority to the governing body or trust must be protected and included in the formal transfer agreement. The school could only change the arrangement by agreement with the user. Where such agreement cannot be reached then the Schools Adjudicator will determine the issue.

Further information is available in the FAQs on Land and Assets, P2-6 at: www.trustandfoundationschools.org.uk/schools/resource_and_publications.aspx

A revised instrument of government

The trust proposals will have identified whether the trust will appoint a minority or majority of governors. Once the governing body has made a decision to implement, then a revised instrument of government must be sent to the local authority.

The Toolkit contains a model instrument of government on P63.

The governing body will have five stakeholder groups:

- Parents
- Staff
- Community
- Local authority
- Trust-appointed (legally known as foundation governors)

Sponsor governors can form an optional group, who can contribute expertise but are not members of the governing body and do not have voting rights.

The governing body must have between nine and 20 members and the number of seats must comply with specific principles.

For a minority of trust-appointed governors the governing body must be made up of:

- Trust –appointed governors – at least two
- Parents – at least one third
- Staff – at least two, but no more than one third (one place is reserved for the headteacher even if s/he chooses not to be a governor)
- Local authority – at least one, but no more than one fifth
- Community - at least one tenth (appointed by the rest of the governing body)

For a majority of trust-appointed governors the governing body must be made up of:

- Trust-appointed governors – up to a majority of two, but must include a number of parents of registered pupils, which together with parent governors will make up one third of the governing body
- Parents – at least one (elected by parents)
- Staff – at least two, but no more than one third (one place is reserved for the headteacher even if s/he chooses not to be a governor)
- Local authority – at least one, but no more than one fifth
- Community –at least one tenth (appointed by the rest of the governing body)

Examples of possible options for governing bodies are shown on P53- 54 of The Toolkit.

Appointment of governors

The trust is able to appoint governors from the implementation date, and the complete reconstitution of the governing body should be completed within three months.

Current governors will continue to hold office for the period for which they were originally appointed or elected, unless they are 'surplus' (if there are more governors than required in each category). Surplus governors can:

- Agree to terminate their term of office
- Be removed within three months of the implementation date in the following order:
 - a) Seniority – the governor with the shortest period of service being the first to leave
 - b) Where there is equal seniority – drawing lots

The governing body's proceedings remain valid during this period of time even if there are more governors in a particular category than in the revised Instrument of Government.

The governing bodies of trust schools are covered by the same rules as all other governing bodies. This includes the 'conflict of interest' rule where trust-

appointed governors cannot be involved in decisions relating to the services that the trust might provide for the school. Where there is a conflict of interest then that governor should withdraw from the meeting and should not vote.

Further information regarding procedures and protocols for governing bodies can be found at: www.governor.net.co.uk

Establishing a parent council

If the trust appoints the majority of trust-appointed governors then the school **must** have a parent council.

- A Parent Council is a group run by parents for parents, which reports to the governing body
- The council is an advisory and consultative body through which the school can consult parents
- The group does not have decision-making powers
- The group is not a replacement for the governing body
- Schools are encouraged to have a Parent Council or similar body to ensure parental involvement and voice

Statutory guidance on setting up a Parent Council, as well as other resources is available at: www.governor.net.co.uk/parentcouncils

Admissions

The governing bodies of foundation and voluntary aided schools are already the admissions authority and have their own admissions arrangements.

The governing body of a trust school will also set its own admissions arrangements in accordance with the Schools Admissions Code.

- The governing body can either administer their own admissions and appeals arrangements or ask the local authority to administer admissions and appeals on their behalf.
- Governing bodies will need to comply with local arrangements and with the statutory timetable for admissions, which means that the governing body must have consulted on the proposed arrangements by 1 March for them to come into force the following September.
- All maintained schools currently have representation on the local Admission Forum.

The DCSF has recently launched a consultation which outlines proposed changes to school admissions. The consultation is from 12 June 2008 – 2 October 2008. Any new changes to admissions, including changes to the Admission Forum, will be introduced through The School Admissions (Co-ordination of Admission Arrangements) (England) Regulations 2009.

Further details and information on admissions can be accessed at www.dcsf.gov.uk/sacode

Employment of staff

The governing body of a foundation or voluntary aided school already is the employer of staff, but this will be a new responsibility for the governing body of a community or voluntary controlled school.

- The employer changes automatically from the implementation date.
- The School Organisation (Prescribed Alterations to Maintained School) (England) Regulations 2007, which came into force on 25 May 2007 provide for all rights, powers, duties and responsibilities in relation to the employment of staff to transfer from the local authority to the governing body (paragraphs 29 -32 of Schedule 1).
- The transfer of staff takes place under Education Legislation, which is to protect an individual's employment right on transfer. Any agreements entered into by the local authority or governing body before this date, in respect of an individual's terms and contract of employment must therefore be honoured by the new employer.
- New and existing teachers will continue to be covered by the School Teachers' Pay and Conditions Document, and therefore would be able to keep the same pensions arrangements.

Support staff in trust schools are able to remain in the Local Government Pension Scheme (LGPS). The governing body asks the local authority to pass a statutory resolution enabling support staff to belong to the scheme. The governing body is able to set pay and conditions for new support staff.

The governing body will make relevant changes to:

- Staff contracts
- School policies

to reflect the change of employer. These changes are likely to take up to 12 months to complete.

7. Running the trust

The trust has to fulfil certain responsibilities:

Records

- The trust must maintain a record of trustees and members, and ensure all new trustees are eligible
- The trust secretary must up-date Companies House and the Charity Commission of all changes to trustees, trust secretary and registered office, and to the Memorandum and Articles of Association
- It is considered to be good practice to hold an Annual General Meeting (AGM)

Accounts

- The trust must send **annual returns** to Companies House and the Charity Commission (if registered with it and the income exceeds £10,000)
- A trust with a very high income will need to provide a more detailed **annual report**, but for a trust with an income below £500,000, the papers and minutes of the AGM would probably be sufficient (information about the trust's objectives and activities during the year, and plans for the next one to two years)
- Trusts which qualify as small or medium sized companies will be able to submit abbreviated accounts
- Trusts qualifying as a small company with a gross income of £500,000 and a balance sheet of £2.8 million, will be exempt from audit requirements

The trust must check the detail of audit requirements with an accountant.

Detailed information about submitting accounts can be found at www.companieshouse.gov.uk, following the link for 'information and guidance on filing your accounts'.

Further details are also available on P78 -79 of The Toolkit.

Trust membership

Other schools and partners are able to join an existing trust. Schools will have to follow the same statutory process and publish proposals to change category to foundation school (if required) and acquire the trust. New members must be approved by the trustees as set out in the Memorandum and Articles of Association – requiring a majority vote in favour. Membership of the trust is not transferable, therefore any individual or organisation wishing to become a member would have to have approval from the trustees.

P 91 – 99 of The Toolkit contains a range of further information questions which may arise about trusts.

8. Further information

This guide has been designed to provide essential information to support schools becoming trust schools. However, schools will also want some insight into how trusts are operating, the difference they are making to the school and its community, and its impact on raising standards.

Schools can access information from:

1. The Trust and Foundation Schools Partnership website, which includes:
 - School case studies –covering all phases of school. These can be accessed at:
www.trustandfoundationschools.org/schools/case_studies.aspx
 - Partner case studies – these can be accessed at:
www.trustandfoundationschools.org/partners/case_studies.aspx
 - Video library, with contributions from:
 - Partners – explaining why they were keen to become part of a trust and how they are benefiting from the relationship
 - Headteachers – providing an overview of their trust, and what trust and foundation status can offer
 - Schools – describing who they have partnered with and why. These can be accessed at:
www.trustandfoundationschools.org/partners/resources_and_publications/video_library.aspx
2. The Trust and Foundation Schools Partnership annual newsletter
3. The Trust and Foundation Schools Partnership regular e-alerts
4. Visits to open trust schools
5. School networking events – only available for open trust schools and schools on the Supported Schools Programme
6. Partner networking events – available to partners involved in trusts
7. National conferences – to learn from others and share practice

Information is up-dated regularly on the Trust and Foundation Schools website; schools are therefore encouraged to use it as a key resource.
www.trustandfoundationschools.org.uk

Trust school implementation plan – one school year

Schools may begin the trust school process at any time in the school year; therefore this plan has assumed that each term is of equal in length.

Term / week	Actions - school	Actions – partners / members	Actions - others	Toolkit stage
Term one Weeks one -13	<ul style="list-style-type: none"> • Contact the Trust and Foundation Schools Partnership to register an interest and enquire about further support and available resources • Attend an Introductory Seminar or Primary Briefing • Submit and Expression of Interest • Decide at governors meeting to explore trust status • Discuss and contact potential partners • Draft Memorandum of Understanding • Notify LA that considering change of school category (<i>if community or voluntary controlled school you must give seven days written notice to LA</i>) • Initial meeting with partners to discuss proposals • Draft implementation plan with milestone dates 	<ul style="list-style-type: none"> • Consider proposals • Discuss roles and responsibilities • Jointly draft Memorandum of Understanding • Initial meeting with school to discuss plans 		Stage one : School and partners decide to work together

Term two Weeks 14 -18	<ul style="list-style-type: none"> • Decide on consultation period - minimum of four weeks in term time • Prepare:- <ul style="list-style-type: none"> ○ consultation plan ○ letter to parents ○ letter to staff ○ letter to trade unions ○ open meetings for questions with governors, headteacher and representatives from partners (an option) ○ letter to other interested parties 	<ul style="list-style-type: none"> • Trust partners / members are involved 		Stage two : Consult with parents and local stakeholders
Weeks 19 - 22	<ul style="list-style-type: none"> • Consult with stakeholders • Consult with LA about land transfer 	<ul style="list-style-type: none"> • Attend open meetings with interested parties 	<ul style="list-style-type: none"> • LA consults with school about proposed land transfer 	
Weeks 23 - 26	<ul style="list-style-type: none"> • Review responses and decide whether to proceed and/or amend proposals 	<ul style="list-style-type: none"> • Review consultation documents 		
Term three Weeks 27 - 30	<ul style="list-style-type: none"> • Prepare formal proposal • Prepare formal notice • Register with the DCSF School Organisation Unit • Use the DCSF statutory notice builder • Request DCSF to check the statutory notice to be published 	<ul style="list-style-type: none"> • Trust partners / members are involved 		Stage three : Publish statutory proposals and invite representations
Weeks 31– 34	<ul style="list-style-type: none"> • Publish the statutory notice and proposals 			

<p>Weeks 35 – 36</p>	<ul style="list-style-type: none"> • Send a copy of the full statutory proposal and notice to the LA and DCSF School Organisation Unit • Allow 4 weeks exactly for comments, objections and representations before making a decision • Make a decision on proposals taking into account comments, objections and representations • Work through the statutory guidance for decision makers on the acquisition of a trust before making a decision • Decide whether to acquire the trust 			<p>Stage four : Consider representations and decide whether to acquire the trust</p>
<p>Weeks 37 – 39</p>	<ul style="list-style-type: none"> • Review draft Instrument of Government and forward copy to LA • Make decisions about a Parent Council (if applicable) • Finalise the Memorandum and Articles of Association (MAA) • Once approved by LA, sign the MAA • Register the trust with Companies House • Register the trust with the Charity Commission (if applicable) • Obtain relevant Criminal Records Bureau (CRB) certificates for trustees and new 	<ul style="list-style-type: none"> • Trust partners / members sign the MAA • Trust members appoint trustees 	<ul style="list-style-type: none"> • Solicitors draw up the MAA • LA reviews MAA • LA completes formal transfer of 	<p>Stage five: Implementation</p>

	<p>governors</p> <ul style="list-style-type: none"> • Complete formal transfer of land and buildings • Ensure all arrangements are in place to reflect change of employment status for staff (e.g. contracts) • Decide on admission arrangements • Decide on trust-appointed governors • Create Parent Council (if trust appoints majority of governors) 	<ul style="list-style-type: none"> • Trustees appoint governors 	<p>land and buildings</p> <ul style="list-style-type: none"> • LA passes resolution that support staff remain part of the local government pension scheme 	
After Implementation	<ul style="list-style-type: none"> • Complete the reconstitution of the governing body (within three months of implementation) • Induct trust-appointed governors • Admissions policy consultation must be complete by 1 March to come into force the following September • Update employment contracts over following year • Ensure formal land transfer within six months of implementation date 			

Trust school implementation plan – fast track

A school is able to become a trust school in approximately 12 - 15 weeks – once the school begins stage two of the formal process (the consultation stage)

Week	Actions - school	Actions – partners / members	others	Toolkit stage
Pre-consultation	<ul style="list-style-type: none"> • Contact the Trust and Foundation Schools Partnership to register an interest and enquire about further support and available resources • Attend an Introductory Seminar or Primary Briefing • Submit and Expression of Interest • Decide at governors meeting to explore trust status • Notify LA that considering change of school category (<i>if community or voluntary controlled school you must give seven days written notice to the LA</i>) • Discuss and contact potential partners • Draft Memorandum of Understanding • Initial meeting with partners to discuss proposals • Draft implementation plan with milestone dates • Decide on consultation period - minimum of fourweeks in term time • Prepare:- <ul style="list-style-type: none"> ○ consultation plan 	<ul style="list-style-type: none"> • Consider proposals • Discuss roles and responsibilities • Jointly draft Memorandum of Understanding • Initial meeting with school to discuss plans 		Stage one : School and partners decide to work together

	<ul style="list-style-type: none"> ○ letter to parents ○ letter to staff ○ letter to trade unions ○ open meetings for questions with governors, headteacher and representatives from partners (an option) ○ letter to other interested parties 			
Weeks one – four	<ul style="list-style-type: none"> ● Consult with stakeholders ● Consult with LA about land transfer 	<ul style="list-style-type: none"> ● trust members / partners are involved ● Attend open meetings with interested parties ● Review consultation documents 		Stage two : Consult with parents and local stakeholders
Week five	<ul style="list-style-type: none"> ● Review responses and decide whether to proceed and/or amend proposals 			
Week six	<ul style="list-style-type: none"> ● Prepare formal proposal ● Prepare formal notice ● Register with the DCSF School Organisation Unit ● Use the DCSF statutory notice builder ● Request DCSF to check the statutory notice to be published 	<ul style="list-style-type: none"> ● Trust partners / members are involved 		Stage three : Publish statutory proposals and invite representations
Weeks seven – 10	<ul style="list-style-type: none"> ● Publish the statutory notice and proposals ● Send a copy of the full statutory proposal and notice to the LA and DCSF School Organisation Unit 			

<p>Week 11</p>	<ul style="list-style-type: none"> • Allow four weeks exactly for comments, objections and representations before making a decision • Make a decision on proposals taking into account comments, objections and representations • Work through the statutory guidance for decision makers on the acquisition of a trust before making a decision • Decide whether to acquire the trust 			<p>Stage four: Consider representations and decide whether to acquire the trust.</p>
<p>Weeks 12-15</p>	<ul style="list-style-type: none"> • Review draft Instrument of Government and forward copy to LA • Make decisions about a Parent Council (if applicable) • Finalise the Memorandum and Articles of Association (MAA) • Once approved by LA, sign the MAA • Register the trust with Companies House • Register the trust with the Charity Commission (if applicable) • Obtain relevant Criminal Records Bureau (CRB) certificates for trustees and new governors • Complete formal transfer of land and buildings 	<ul style="list-style-type: none"> • Trust partners / members sign the MAA • Trust members appoint trustees 	<ul style="list-style-type: none"> • Solicitors draw up the MAA • LA reviews MAA • LA completes formal transfer of land and buildings • LA passes resolution that support staff 	<p>Stage five: Implementation</p>

	<ul style="list-style-type: none"> • Ensure all arrangements are in place to reflect change of employment status for staff (e.g. contracts) • Decide on admission arrangements • Decide on trust-appointed governors • Create Parent Council (if trust appoints majority of governors) 	<ul style="list-style-type: none"> • Trustees appoint governors 	<p>remain part of the local government pension scheme</p>	
After Implementation	<ul style="list-style-type: none"> • Complete the reconstitution of the governing body (within three months of implementation) • Induct trust-appointed governors • Admissions policy consultation must be complete by 1 March to come into force the following September • Update employment contracts over following year • Ensure formal land transfer within six months of implementation date 			