



## FREQUENTLY ASKED QUESTIONS re CATHOLIC ACADEMY TRUSTS

### What is an academy?

Academies are publicly-funded schools which operate outside of local authority control. They receive their funding directly from central government, through the ESFA (Education and skills Funding Agency), rather than through a local authority. The government describes them as independent, state-funded schools. In general academies have more freedom than other state schools over their finances, the curriculum, length of terms and school days and teachers' pay and conditions.

Groups of academies that join together with one Board of Directors are known as Multi –academy Trusts or MATs. The trust board ultimately carries all the legal responsibilities and is held to account in much more detail and on a wider basis than schools are to Local Authorities. There is a significant amount of reporting on matters of standards, risks, governance as well as finance to both the DfE and ESFA.

### DfE December 2018: Overall % of state-funded schools:

Type of establishment	Primary	Secondary	Total
Academies	30.6%	67.0%	36.8%
Free Schools (including studio schools and UTCs)	1.0%	8.0%	2.2%
LA Maintained	68.4%	25.1%	61.0%

### What is a CMAT?

Catholic schools under local authority control are known as VA or Voluntary Aided schools. The Governing Body are both the employers of staff and the admissions authority. The majority of governors must be 'foundation governors' appointed by the Bishop.

Any Catholic school becoming an academy must do so according to the legal framework agreed with the Catholic Bishop's Conference. These are different to non-Catholic academies and include legal protection regarding the schools' Catholic status, RE curriculum and their ability to appoint Catholic school leaders. They have Catholic admission policies. Catholic multi academy Trusts are therefore known as CMATs.

### What is proposed in "A Vision for Catholic Schools within the Diocese of Leeds"?

Bishop Marcus outlines the importance of our Diocesan schools and the need to work ever more closely together. In the context of current and foreseeable opportunities for the provision of Catholic schools in England he sees this being most effectively delivered through formal and permanent family groups of schools, the only model offering this is the five CMATs as established.

***"Solidarity and collaboration needs to be strategic, structured and resilient, forged from a common vision; the vision of an effective and robust diocesan family of schools that exist to serve the educational mission of the Church in this Diocese and the country"***

## **What is a family of schools?**

The wider Diocesan family of schools is sub-divided into five family groups, with a CMAT at the heart of each one. These families are listed as an appendix to the vision document and are based on schools that our current and future pupils will attend throughout their school careers and parish communities. They reflect geographic groups of schools that have historically worked together, often in existing close partnerships. The family group structure is based on the principle of including all schools in order to avoid cherry-picking, or any one school being left behind.

## **How big are our CMATs?**

The size of each family group includes a minimum of two high schools and their partner primary schools, ensuring that the Trusts are serving the education of our young people and their families throughout their school lives. This number has been shown nationally to be the most effective size in order to benefit from national funding streams and economies of scale, whilst continuing to engage with the local community and enable the individual identity of each school and Parish to be preserved. Within the wider academy sector, many MATs operate in trusts with greater numbers of schools covering much wider geographic areas than that proposed. There are advantages of being a minimum size, including access to national funding streams, collaborative working and economies of scale.

Bishop Marcus has identified in *“A Vision for Catholic Schools within the Diocese of Leeds”* that our schools (both VA schools and academies);

***“have a clarity of purpose, a clear vision of what they are trying to achieve and of the educational mission which is at the heart of all they do, each and every day”.*** In order for this to continue;

***“This clarity of purpose needs to be owned not just by schools individually but as a Diocesan family of schools”.***

Bishop Marcus explains that within the current and foreseeable educational landscape all our schools need to strengthen their solidarity and collaborate as members of a family. We are constantly challenged to provide an excellent sustainable Catholic education with external threats from an increasingly secular agenda and continued funding restrictions.

Although the Government have stepped back from forcing all schools to become academies, there is a continued growth of multi academy trusts (MATs) and it is through this system that funding and political engagement takes place.

School improvement support was historically provided by local authorities and is now delivered through the ‘school-led system’, where funding streams that are only available to support it. These services are now increasingly provided by independent contractors

The provision of other school support such as HR, finance and legal are being reduced by Local Authorities, the quality and availability of such services are falling and schools are being asked to pay additional costs for them. There is an increasingly complex mixed economy of schools and academies, with the reduction of the role of local authorities within education.

Our schools need to all be able to be protected, where we can retain their Catholic nature and offer the same high quality of Catholic education within all our school and to all our families.

## **What are the particular advantages of the MAT model?**

There are obvious advantages in terms of the ability to employ specialist staff to work across all schools, agreeing common shared ethos, policies and practice, economies of scale in terms of

brokering services. Succession planning for school leadership, mentoring and opportunities for senior staff across the family of schools for professional development.

### What are the benefits of a CMAT system?

Solidarity- Where no one school is left behind

- A joined-up , family focussed and Parish-linked system
- An ethos of 'our schools' not 'my school' and therefore 'our children' not 'my children'
- A wider pool of staff and governors looking for more opportunities and helping each other.

Opportunities to develop future teachers and future school leaders and establish pathways for staff development

Curriculum development, shared working and school improvement

Peer to peer support

Sharing services and developing imaginative ways of supporting our schools

- Business services
- Training
- Value for money

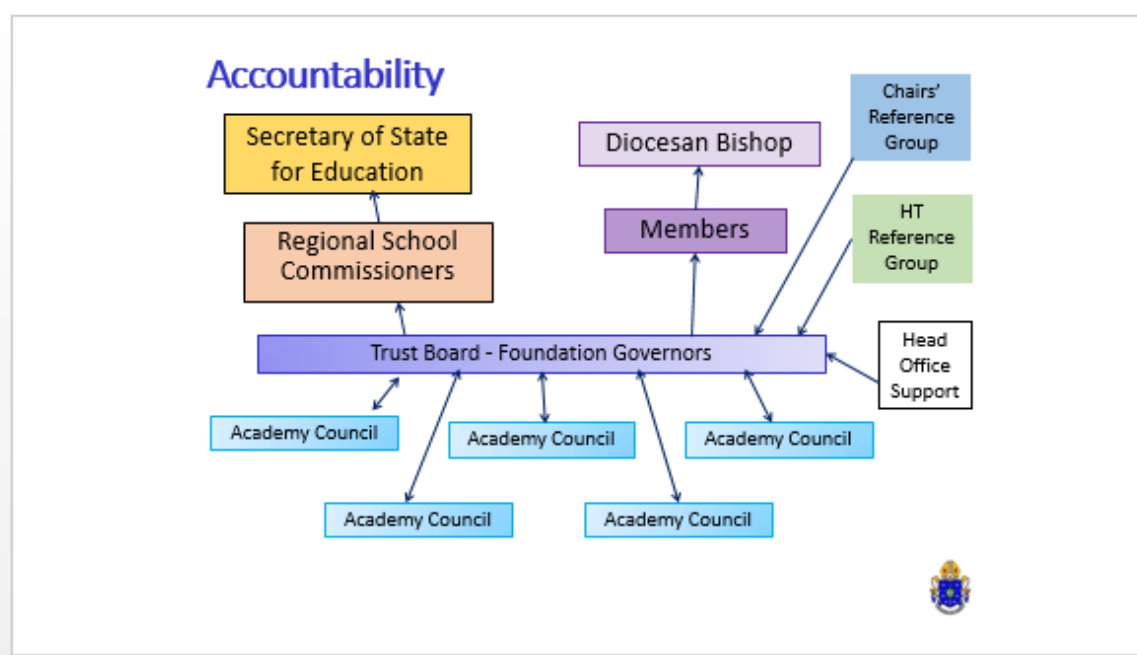
Funding Opportunities- Bid-funding that is only available (capital and revenue) to MAT based academies

Teaching schools, CMAT and research institutions working together to make improvements that are evidence –based.

Capital – unlike VA schools academies do not need to find 10% of any capital funding

- There are guaranteed capital grants and opportunities to bid for additional funds that are only available to academies.

### How are CMATs governed within the Diocese of Leeds?



## **Who are the members?**

Members of a company limited by guarantee (like the academy trust) are similar to the shareholders in a company limited by shares. They are the 'guarantors' of the academy trust and promise to pay £10 towards its debts should the academy trust be wound up without enough assets to satisfy its creditors.

The role of a member is a 'hands-off, eyes on' role, similar to the governance role of the local authority in a maintained school. Members will have limited powers which will include the right to wind up the academy trust, amend the articles of association, appoint other members and appoint and remove one or more trustees.

The DfE have clear preferences regarding members which state that:

- governance structures in which members are also employees are not considered by the DfE to be best practice. Members must not be employees of the trust unless permitted by the articles of association;
- members should no longer be trustees to ensure segregation, retaining some distinction between the two layers ensures that members, independent of trustees, provide oversight and challenge. This is especially important in multi academy trusts.

Within our CMATs the members are the Bishop, The Episcopal Vicar for Education and the Vicar General of the Diocese.

## **Who are the directors?**

The individuals appointed to make strategic decisions about the day to day running of the academy trust have three names:

- they are directors because the academy trust is a company;
- they are trustees because the academy trust is a charity (albeit one that is exempt from registering with the Charity Commission);
- they are governors because the academy trust is responsible for running the school(s).

For the purposes of this document, we refer to them as 'directors' so as not to confuse them with the Diocesan Trustee which is the Charitable trust holding the diocesan assets. In a Catholic MAT, the Bishop appoints the foundation trustees.

Each CMAT will be able to outline their existing governance structures and current membership. As other schools within the family group join, the membership and structures will need to develop to reflect this, involving all governors in these strategic decisions.

Directors therefore fulfil their role as part of the Trust Board and not as 'representatives' of any particular school or grouping.

## **What does the Board do?**

The directors come together to form the board of trustees ('board'). The Trust Board is the legal entity responsible for all schools within the CMAT. The CMAT is the employer and admissions authority and has ultimate responsibility for the Catholic nature and ethos, pupil progress and standards and finance. As this role is across a number of schools within the CMAT it is a very strategic role. As well as their responsibility as Catholic governors under Canon Law, there are

additional duties under company and charity law that they will also be responsible for undertaking.

### **What about local school governance?**

Each academy school will normally have its own local governing body (Academy Council). The majority of local governors (usually 6) are foundation governors appointed by the Bishop, there are also 2 parent and 1 staff governors, who are elected in addition to the Headteacher.

These have a similar status to committees of a maintained governing body and the powers they have are those that are delegated to them by the trust board. This is formalised into a scheme of delegation, which is a legal document, based on CES and government guidance. Each CMAT has also developed a roles and responsibilities document. This identifies what level within the structure particular responsibilities have been delegated. This is a dynamic document, which will need to be constantly re-visited due to the individual needs of each CMAT, their constituent schools, staff and pupils.

Individuals serving on an Academy Council are no longer able to be directors of the academy trust. The purpose of this is to retain some distinction between the layers is important to ensure effective oversight and challenge.

### **How are academies funded?**

Funding is calculated per pupil according to the national funding formula, with additional funding such as pupil premium in exactly the same way as VA schools, but paid directly to the CMAT from central government via the Education Funding and Skills Agency (EFSA), rather than via local authorities. Local Authorities decide how much of this funding goes directly to schools and what is held back to pay for services they provide centrally. This is in addition to services that individual schools 'buy in'.

### **How does funding go to individual academies?**

The EFSA identify the funding individually for each academy, but pay it to the CMAT.

### **What are Central and Shared Services?**

One of the benefits of being a CMAT is a much greater freedom to choose providers for all services. Services can also be shared across the Trust and with other schools and MATs. The wider Diocesan family of schools are developing this, supporting each other, sharing expertise and experience.

Different structures of trust-wide staff and responsibilities have developed within each CMAT. These will change according to the size and local need of each CMAT.

Any central and shared services are funded proportionately from all of the member schools. This funding is often referred to as a 'top-slice'. The extent, level and way in which these shared services are funded is agreed by each CMAT locally. This amount will obviously vary according to the size, stage of development and local needs of each CMAT. What is included and the method of calculation is an integral part of the Trust's planning and will involve Directors, Head Teachers and the central team.

The purpose of any shared services and staff are to support the delivery of sustainable excellent Catholic education to all our pupils, in the most flexible, locally focussed and cost-effective way.

## **Can we still use our local authority services after our conversion?**

As a recipient of public monies, the academy trust must ensure that it can demonstrate 'value for money' in the use of its funds, which the Academies Financial Handbook defines as *"achieving the best possible educational and wider societal outcomes through the economic, efficient and effective use of all the resources in the trust's charge, the avoidance of waste and extravagance, and prudent and economical administration"*. Academies must also comply with procurement law.

Therefore, whilst it is possible for academy trusts to buy back services from their local authority, it is important to be able to demonstrate that these services represent value for money. In many cases the group of academies will be able to save money by buying back a single service across the trust, thereby allowing more funds to be used on their pupils. Such strategies usually form the shared services charge that may be on a per pupil basis or on square metres say for grounds maintenance. Audit, accountancy, payroll, HR and health and safety support are often provided in these ways and the CMAT may have existing contracts to that affect.

## **How are SEND pupils funded?**

All the arrangements for SEND pupils' support and funding continue to be managed and supported by the Local Authority, whether the school is VA or an academy.

## **Will admissions policies change?**

The trust board are the legal admissions authority, and are bound by exactly the same law, government guidance and diocesan protocols as all our Diocesan schools. There will be no changes to admissions policies as part of this process. If any school within a CMAT wished to change its admission policy it would have to follow exactly the same process of consultation and Diocesan approval as at present.

## **How will we ensure Safeguarding and child protection?**

The Local Authority have legal responsibility for children's social services and this applies to all children within that geographic area, irrespective of what type of school they attend. The legal requirements for anyone working with children, apply to school staff in exactly the same way as they do at present. The responsibilities of governors are ultimately those of the Trust Directors.

## **What will happen to staff pay and conditions?**

In VA schools, the Governing Body is the employer of all staff and they have nationally and locally agreed pay and conditions. In a CMAT the Trust Board is the employer in exactly the same way. All our CMATs have pay policies which reflect national pay and conditions. All our CMATs must adopt CES employment policies and procedures (eg sickness/absence, grievance, disciplinary), as our VA schools do at present. These are agreed nationally including consultation with Trade Unions.

Pensions for both teaching and support staff remain unchanged. Staff continue to be members of their existing pension schemes. How length of service is calculated remains unchanged and is not effected by joining the CMAT. All our CMATs continue to have portability with Las as at present.

## **What are the legal documents?**

The process of a school becoming an academy is outlined below. The actual legal process involves some key documents:

- **Articles of Association**- These have been drawn up in agreement with government and the Bishops' Conference via the CES. They outline the legal make-up of the CMAT and how it is established.
- **Scheme of delegation**- This is another standard legal document from the CES, which clarifies what legal powers and responsibilities there are within each level of the CMAT ( as described above)
- **Funding agreement**- The process by which the Government makes funding available to schools within the CMAT.
- **Commercial transfer agreement**- The legal process by which any existing legal contracts and Local Authority land are passed to the CMAT and school on becoming an academy.

All CMATs will have these documents, but the way in which each works will differ, as they develop to serve the local needs. There will be policies, procedures and differing roles and responsibilities within each CMAT and effecting each different school.

### **Which groups of schools go when?**

Governing Bodies will need to work with the other schools within their family, the Trust Board and the Vicariate for Education, so that groups of schools can be identified to convert together. The actual timing and order of this will depend on a number of local issues including appropriate support for the conversion process, the capacity within the Trust so that each CMAT can grow within each family within a sustainable way. At all times the needs of all our pupils will be paramount.

### **What is the process for converting to academy status?**

There are several steps to conversion. In the current circumstances it is simplified as the 5 families are already established so it is a simpler task of each school simply converting.

- putting in place a funding agreement between the academy trust and the Secretary of State for the running and funding of the academy school(s)
- transferring the employment of the staff of the school(s) from the governing body in accordance with TUPE
- negotiating a commercial transfer agreement for the transfer of assets and contracts of the school(s) from the local authority and/or governing body to the academy trust (usually assets worth >£5,000)
- arranging for the academy trust to have use of the land and buildings of the school(s), usually either by way of a 125 year lease with the local authority or the transfer of the freehold of the land, on licence from the diocese. Voluntary aided and voluntary controlled schools will need to enter into a church supplemental agreement with the Secretary of State and their diocese, which sets out the use of any church lands by the academy trust and protection of the religious designation of the school.

Finally, for PFI schools, converting to academy status raises particular issues and additional documentation will need to be drafted and negotiated between the governing body, academy trust, local authority, diocese and the contractor.

All these legal processes are carried out by lawyers with experience in these areas. A grant from the DfE covers the costs.

### **How many governing body meetings should be held during the process?**

We usually recommend that a school holds at least two full governing body meetings during the process. The first meeting is held to note the actions required to achieve the conversion and agree on the establishment of a working group who will usually take a lead in approving the draft conversion documentation which will be sent for approval. This will normally be held once the

academy order has been received.

The second meeting will be held approximately a month before the proposed conversion date. At this meeting, the governors will make the final decision as to whether it is in the interests of the school to convert to academy status. In practice, you will be given notice of the most suitable date for these meetings to be held. Where more than one school is converting into a trust a meeting has been held in a school with each school in a different classroom where the governing body make final checks and determine to go ahead with conversion. Then the groups can come together with the Trust Board directors and all the relevant documents are signed at the same time and in the same place

### **When will we find out how much funding we will receive from the DfE?**

The funding agreement itself does not include details of the amount of grant that the academy trust will receive for the running of the academy. This information is provided in the annual letter of funding. Before the academy trust's first payment, the DfE will send the academy trust an 'indicative letter of funding' detailing the amount of grant that the academy trust will receive to cover the period from the conversion date to the end of August. This letter is normally received four to six weeks before conversion. This should enable the governing body of the school(s) to review the figures within the letter at its final meeting before conversion.

### **When can we open the bank account?**

Each trust already has bank accounts established along with systems such as parent pay. Facilities will be extended to cover new sub accounts for each academy.

### **Commercial Transfer Agreement**

#### **What if the terms of the Commercial Transfer Agreement cannot be agreed with the local authority?**

The local authority may be the current owner of some assets and a party to the contracts the governing body of the school has entered into. In relation to foundation or voluntary aided schools, it is possible to convert to academy status without having the local authority as a party to the Commercial Transfer Agreement. However, where possible, we recommend that the school includes the local authority as a party so that it can obtain contractual comfort in connection with any period which the local authority was the employer of the school's staff.

#### **What if we have had had construction works at the school?**

Generally, building contracts for substantial building works will last for a period of 12 years. In the event there is a latent defect in the building which results from either poor design or poor workmanship, then the academy trust will want to hold the contractor or designer to account. Therefore, the benefit of the contract or professional appointment will need to be assigned (transferred) to the academy trust or diocese. If less substantial building work has recently been completed and the works are still within the rectification period and/or retention is being held, then these contracts will also need to be novated. Additional clauses may also need to be added into the Commercial Transfer Agreement. The diocesan property team will advise on much of this process.

### **Transfer of staff**

#### **What is 'TUPE' and what does it do?**

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (commonly known as



'TUPE') protects employees' terms and conditions of employment when their employment is transferred from one employer to another. In the case of an academy conversion, the employment of staff will transfer from the governing body of the school (as applicable) to the academy trust.

All staff will transfer to the academy trust on their existing terms and conditions of employment which should be CES contracts. Any changes to their terms and conditions of employment will be void if the main reason for the change is because of the transfer or a reason connected with the transfer which is not an economic, technical or organisational reason entailing changes in the workforce ('ETO reason').

### **Do we need to consult with parents/staff and/or trade unions?**

We always consult on conversions. Often an evening has been held across a group of schools to explain to parents about academy status followed by an actual consultation event. These meetings are open to staff as well as parents.

Under TUPE, the current employer (and the academy trust where it is already incorporated and employs staff) must inform any recognised trade unions or elected employee representatives of the fact that the transfer is to take place, when it is to take place and the reasons for it. There is no obligation to consult unless it is intended that 'measures' will be taken. Measures include plans or proposals that may be implemented including any material change in existing work practice or working conditions. Examples include redundancies (whether voluntary or compulsory), a change to pay dates or loss of staff benefits. Even when consultation is required, there is no obligation to inform or consult with employees directly. We have always offered staff a meeting out of courtesy though it is unusual that measures have been required

### **School land**

#### **Who owns the school's land and buildings?**

This will depend on the current ownership of the land:

- **Local Authority land** – generally the land, often playing fields is owned by the local authority. The academy trust will occupy the school site by way of a 125 year lease and the local authority will become the landlord of the academy trust.
- **Diocesan land** – where the diocese owns the land, it is usual for the diocese to grant the academy trust a licence to use the land under the church supplemental agreement. Academy trust must continue to seek permission from the diocesan Trustee for any building work before it is carried out

The property may be used for the provision of educational services and - provided your lease permits - for community, fund raising and recreational purposes which are ancillary to the provision of educational services.

#### **Repairs**

You must keep the property clean and tidy and make good any damage caused to it. You must also make good any deterioration in the condition of the property - but not so as to put the property in any better state of condition than it was in at the date of the lease.

You must also permit access to the landlord at reasonable times, on reasonable notice, to view the state and condition of the property. Finally, you must comply with any repairs notice served by the landlord. The Trust Board remain responsible for all the usual requirements of ensuring a safe working environment such as legionella testing, gas and electric testing etc.

### **Post-conversion**

#### **Are all staff required to have new DBS checks on conversion?**

Where a maintained school is converting to become an academy, new DBS checks are not required

for existing staff unless there is a concern about a particular member of staff. For new staff, as with VA schools, the requirements set out in the Keeping Children Safe in Education guidance should be complied with.

### **Insurance**

The trust board is responsible for insuring the property and providing public liability insurance and directors' indemnity cover.

### **Teaching Schools**

All the Teaching schools within the Diocese work together to help develop future teachers and school leaders, provide training and provide and broker school improvement services. There hopefully will be at least one teaching school within each of our CMAT families so that we are able to offer these services to all our Diocesan family.

### **My school currently works with local partnerships of schools- will this change?**

Each school will continue to be a part of their unique locality and community and it is important that they work with other schools in a collaborative and supportive way. Many of these local partnerships are invaluable and as an academy and part of a CMAT these relationships will be able to continue and flourish for the good of all the young people.

### **Will school hours, holidays or uniforms change?**

These will remain exactly the same as at present. Any proposed changes would have to follow the same process as for the existing Governing Body.

### **Will parents of children at primary schools still have a choice of which secondary school to send their children?**

Yes. There will be no change to admissions policies or impact on parental choice.

### **What about exclusions?**

Academies have to follow the law and government guidance on excluding pupils. This includes reporting exclusions to the local authority. However, academies do not have to consult the local authority before deciding to exclude a pupil and they can arrange their own independent appeals panels which would be supported by the Diocesan Education Service.

### **Further Information**

As explained above, each CMAT within the Diocese has its own local feel and structures and they will be able to provide more details. The way in which each grows and develops as other schools join will involve all of the schools working and planning together in the best interests of all our young people and staff.

Update May 2019