

Responses to Issues from the Governing Body



The responses from the Governing Body to the issues raised in the public consultation exercise need to be read with reference to the documents below which are all to be found on the cluster website at <http://www.aylshamcluster.co.uk/>.

Trust School Proposals – a guide (TSLA), published by DCSF.

Trust Schools FAQs for LAs, published by DCSF

The Trust School Toolkit (TK), published by DCSF

The Expression of Interest application (EOI), published by the school

Consultation Booklet 1 (CB1), published by the school

Consultation Booklet 2 (CB2), published by the school

Formal Consultation Summary (FCS), published by the school

Issue	Key Questions	Draft Responses
The Aylsham Cluster	Will the same level and extent of collaboration be available to cluster schools whether in the trust or not?	.One of the many benefits of the Trust model is that not ALL schools have to become full members at the same time and that some Governors may wish to see how things develop before making that commitment. All of the schools in the cluster have been involved in the exploration. Some were able to commit at an early stage and were included in an initial expression of Interest. One school, which did not feel ready to make the decision to explore at that stage decided to put in an expression of interest at the next opportunity and another is considering consultation during the coming term. There are a large number of Cluster Trusts in existence throughout the country and very few are established with every single school being founder members. It sometimes takes a little while for all schools to be ready to take the step to becoming a Trust school.
Foundation Trust status (FT)	What are the advantages / disadvantages of running a Foundation school?	<p><i>Given that the responsibilities of foundation schools are potentially heavier than those of community schools, why would anyone want to take on those responsibilities? The answer seems to be that the heads and governors in those schools wish to control as much as possible of their own destiny, however limited this control may be, and accept that the price for doing that is the additional responsibility.</i></p> <p><i>On staffing, for instance, the directness of the relationship with staff is valued. The staff know who is responsible for decisions and to whom to make representations. Governors used to running their own businesses feel more at home with that kind of situation. Policies are not simply handed down to the school with the information that an agreement has been reached with unions and should therefore be implemented. The school has the opportunity, if it wishes, to tailor policies to its needs.</i></p> <p><i>The appointment of key staff is even more important to some governing bodies.</i></p>

	<p>How is the trust administration to be paid for and managed?</p> <p>How does a cooperative trust model work?</p> <p>Is this just another layer of bureaucracy?</p>	<p>Foundation schools are obliged to send copies of their long lists to the local authority for comment but, unless they have specifically granted advisory rights to the head of children's services, the local authority's involvement ends there. There is a safety mechanism by which the local authority can ask for the Secretary of State to order the school to grant advisory rights. However, it can only be activated to prevent the school from proceeding without a level of advice that would be of the same quality that the local authority could provide. Most schools do involve their local authority, of course.</p> <p>As far as buildings and other facilities are concerned, heads and governors seem to value the fact that they can integrate the development of the building into their own vision for the school to a greater degree than they perceived they were able to do before. They also control the use of buildings and this allows them both to raise funds directly and, again, to tailor the activities to the ethos of the school.</p> <p>Access to major investment is still in the hands of the local authority and so it is normal to find close cooperation between the school and property services. However, it is the feeling that the school has the initiative that once more seems to be important.</p> <p>A unique feature of Co-operative Trusts is that they have a Forum with elected members from stakeholder groups, including parents, staff, learners and community organisations. This Forum holds the Trust to account, helps shape its policies and also elects some trustees – but always a minority. Members must buy in – they do not become members automatically. The intention is to give the Trust roots, turning the school from 'the' to 'our.' The model is also international, with strong link to global cooperative schools, as well as its strong network of Business and Enterprise Schools in this country, which can readily demonstrate clear improvements in attainment and school culture as a result of the ethos engendered. The Co-operative would also become an institutional partner, via one of its local /regional businesses, so it is much more than another layer of bureaucracy.</p>
Partners	<p>How were they chosen?</p> <p>How much say will they have?</p>	<p>All partners will be chosen by the schools after long and detailed discussions on the extent to which they share our vision for the schools and community in the future. They will be involved at a strategic level in helping us shape the future direction of the cluster. Day to day running of the schools will still be the responsibility of the Governing Body, as it is now.</p>

	<p>How will trust appointed governors be selected?</p> <p>Will FT status increase governor workloads?</p> <p>What are the new liabilities the GB will take on?</p>	<p><i>of the governing body will still include elected parent and staff governors and others appointed by the local authority and co-opted from the community.</i></p> <p><i>It is the GB of each school that decides the person specification and how many trust appointed governors are to join each GB. Already many GBs have governors from a corporate background. Anyone who joins a GB from such a background does not sit on the GB to ‘represent’ their company, but to bring their experience, expertise and knowledge voluntarily to the table to further the education of the students at that school</i></p> <p><i>Workloads should not be increased for the majority of governors. Two will represent the Governors at the three Trust Board meetings per year. Also an Admissions sub-committee will need to be set up to coordinate admissions and appeals.</i></p> <p><i>All maintained schools, including Trust Schools, have a governing body which is responsible for all major decisions and accountable for all aspects of the conduct of the school. Governing bodies as a whole, and not the Trust, will be accountable for the school’s performance whilst the headteacher remains responsible for the day to day running of the school. Governors have a legal responsibility to conduct the school with a view to promoting high standards of educational achievement. Governing bodies are corporate bodies. As such, a governing body acts as a single legal person with an identity separate from its members. Responsibility for the actions and decisions of a governing body rests with the whole body rather than with individuals.</i></p> <p><i>There is no distinction between Trust appointed governors and other governors on a Trust school governing body with respect to financial or any other kind of liability. The governing body of every maintained school has a duty to ensure that the school has adequate levels of insurance cover to cover, for example, property, employers’ liability and public liability. By virtue of Section 50(7) of the Standards and Framework Act 1998, governors do not incur any personal liability in respect of anything undertaken in good faith in exercising their power to spend the school’s budget share, or delegating power to the head teacher. An example of an act not undertaken in good faith is fraud.</i></p>
<p>Relationship with LA</p>	<p>Does this sever links with the LA?</p> <p>Will LA support still be available if we were in difficulties?</p>	<p><i>It’s true that foundation trust schools have more freedom than community schools in that they manage their own assets, employ their own staff and set their own admissions arrangements. However, a Trust school remains an integral part of the family of local authority maintained schools:</i></p>

- *it will still be funded by the local authority on the same basis as other schools;*
- *it will have to act in accordance with the Admissions Code; will be entitled to be represented on the local admissions forum and will take part in co-ordinated admissions arrangements;*
- *the local authority will be able to intervene in a Trust school as in any other school if it is failing or underperforming; and*
- *the local authority will be able to publish proposals to close the school and to make certain changes to the school, as it can with any maintained school*

Trust schools remain LA maintained schools with the LA having the same powers of intervention as in any other type of maintained school. GBs have the same democratically elected constituencies thus: -

- *Parent governors: at least one-third;*
- *Staff governors: at least two places but no more than one-third, including the headteacher;*
- *Local authority appointed governors: at least one but no more than one-fifth;*
- *Community governors: at least one-tenth; PLUS*
- *Foundation governors; at least two but no more than one quarter.*

Although the GB becomes the employer of staff, the school still has to work closely with the LA in ensuring that all employment rights are met such as continuity of service, maternity, redundancy and retirement matters, exactly as it does with all VA schools currently. Teaching staff would stay in the Teachers' Pension Scheme and would not be subject to any change. The LA would continue to be responsible for completing and signing off all the relevant documentation in relation to individual staff's pensions. Non-teaching staff are allowed to continue to be in the Local Government Pension Scheme (LGPS) if the LA, with the consent of the school governing body, has, by a statutory resolution, specified them to be eligible to belong to the scheme

How is access and cost of LA services affected?

Can our LA funding be reduced if trust has funds from private sources?

		<p>priorities. There is no funding reserved centrally for Trust schools. With the agreement of its schools, a Trust could use the pooled devolved formula capital of all its schools for investment where there is greatest need. Over the longer period, it is expected that all schools to be treated fairly.</p> <p>Similarly, LAs will continue to receive formulaic funding based on the needs of all their schools, including foundation, voluntary controlled and Trust schools. LAs will also be expected to continue to prioritise their capital funding fairly through rigorous, transparent and consultative asset management planning, based on a survey of the needs of all their schools. Trusts should be able to discuss the needs of their schools with their LA. Currently about a third of schools are not directly owned by local authorities. Trust schools will have the same flexibility as foundation schools. Currently about a third of schools are not directly owned by LAs. Trust schools will have the same flexibility as foundation schools (VA &VC) to manage their own assets, while remaining part of the LA planning process for capital spending. This has already worked successfully with foundation schools.</p>
<p>Staff Employment</p>	<p>Will teachers' conditions of service change?</p> <p>Can support staff pay and conditions be changed?</p> <p>Will conditions be at least as good if not bettered by the change?</p> <p>What about pensions, redundancy, maternity, continuity of service etc?</p>	<p>The statutory provisions set out in the School Teachers Pay and Conditions Document will continue to apply to teaching staff, this includes existing pay scales for teachers. The provisions of the Conditions of Service for School Teachers in England and Wales (The Burgundy Book), the NJC National Agreement on Pay and Conditions of Service (The Green Book which applies to support staff) and any existing local agreements will also continue to apply unless the Governing Body chooses to seek to vary them. If this is the case it will represent a variation to employees' contracts of employment and will require the Governing Body as the employer to enter in to formal consultation and negotiation with staff and recognised professional associations and unions before implementing any change. The Governing Body will be responsible for determining the pay and grading of support staff and will not be bound to use the Local Authority's grading structures or have regard to the Local Authority's Job Evaluation Scheme. However, Governing Bodies will need to consider their obligations under equal pay legislation. Equity of pay across similar positions should be ensured, as it is currently, by way of Job Descriptions and adherence to the Pay and Grading document for support staff and the application of the School Teachers Pay.</p> <p>Maternity rights will be protected. Eligibility is determined by "continuous service" and service within a Foundation School counts as continuous service within an LA. The cost for schools does not increase as a result of a move to Foundation status, the cost of maternity leave being met centrally, and the school being responsible for the replacement.</p>

	<p>Will FT status increase workloads?</p>	<p><i>The Governing Body, as the employer, can grant premature retirement to a member of staff either for reasons of redundancy or in the interests of the efficient discharge of their employer function. The Governing Body also decides on the level of compensation to grant to any member of staff they may make redundant subject to the statutory rules for the calculation of a redundancy payment. All pension costs associated with granting premature retirement must be met by the school's delegated budget unless the LA agrees with the Governing Body, in writing, to meet them centrally. Costs of redundancy/severance payments will be met by the LA unless it considers there to be a good reason to deduct them from the School's budget. In the case of early retirement on ill health grounds, the Teachers Pension Scheme or the Local Government Pension Scheme as appropriate will pick up the costs.</i></p> <p><i>Teaching staff are unaffected. The Teachers Pensions Scheme regulations provide that, for the purpose of the Scheme, the LA will be the employer of teachers employed in schools which it maintains. Consequently the change to Foundation status makes no difference to a teacher's eligibility to belong to the Teachers Pension Scheme.</i></p> <p><i>For support staff, the Local Government Pension Scheme regulations allow such staff to be eligible for membership of the Scheme provided that the LA has made a statutory resolution to this effect and the Governing Body of a Foundation or Voluntary Aided School has given its consent for its support staff to be eligible for membership.</i></p>
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9. Conclusions and Recommendations

Having reviewed, discussed and responded to the responses in the public consultation, and, because of the positive responses to the proposals, the Governors have decided to proceed to the next stage of Aylsham Cluster Trust Exploration.