



working in an academy
a guide

department for

education and skills

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working in an academy

a guide

Introduction

This guide seeks to answer the sort of questions which teachers and support staff are asking about contractual, pay and conditions, and other employment issues in Academies. The advice which it contains applies both to employees who are transferring to an Academy, and to those who are being directly recruited to one. The document looks to be honest and detailed in its responses, outlining the rewards and challenges as well as the safeguards that teachers and support staff who work in Academies can expect. It seeks, too, to set out the likely views of heads and senior managers, as well as governors, alongside the expectations that all employees will have.

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The Academy policy and school workforce reform

- 1.1 Academies are publicly funded independent schools with sponsors from the private or voluntary sectors or from churches or other faith groups. They are not governed by much of the education legislation which applies to the maintained sector. However, the Funding Agreement between the Trust of an Academy and the Secretary of State, which provides the funding for an Academy to be established and run, replicates many of the legislative expectations which govern maintained schools.
- 1.2 Academies usually replace one or more existing schools with low levels of performance or where there is a need for a new school as part of Building Schools for the Future or London Challenge. Refurbishment or new build, or a combination of both, give Academies facilities in line with the best in the maintained sector, through which they offer a broad curriculum with a specialism in one or more areas of the curriculum, such as sport, science and technology, modern foreign languages, business and enterprise or the arts.
- 1.3 Academies are all-ability schools, usually for 11 to 16 or 11 to 18 year olds, although some Academies provide education for pupils in both the primary and secondary phases. They form part of the overall strategy for education and are an important resource for the local family of schools. They must wholly or mainly serve the community where they are located and they are required to comply with admissions law and the Admissions Code of Practice, both of which apply to maintained schools. Like maintained schools with a specialism, they may select up to 10 per cent of pupils on the basis of an aptitude for some specialisms. They must also have regard to the SEN Code of Practice and have regard to the Secretary of State's guidance on

exclusions. Each Academy is set up as a company limited by guarantee with charitable status and has a board of governors responsible for the governance and strategic leadership of the school.

1.4 In most circumstances, sponsors provide a contribution of 10%, up to a cap of £2 million towards the costs of the new or refurbished building, and the Department for Education and Skills (DfES) provides the balance. Recurrent costs are funded directly by DfES at a level comparable to the funding of schools with similar characteristics in the local authority area in which the Academy is situated taking account of the hold back by the Local Authority for services for which the Academy is responsible. Each Academy receives the addition of a per pupil grant equivalent to specialist schools in the maintained sector.

1.5 Academies:

- are at the heart of their communities, sharing their facilities with other schools and the wider community;
- have greater freedom to tackle the local problems associated with poor or low pupil performance;
- have a broad, relevant and innovative curriculum, with a special emphasis in one or more areas of the curriculum;
- have curriculum enrichment and study support as an integral part of school life;
- ensure that all pupils make the best possible progress and leave the Academy with skills and recognised qualifications to enable them to make choices about future education, training and work; and

- make the fullest use of ICT both to support teaching and learning and for the management of information and communication
- be innovative across all aspects of their work, not just the curriculum.

1.6 Academies are at the forefront of flexible approaches to staffing arrangements to meet the needs of disadvantaged pupils. In 2003, Ministers signed a National Agreement with the local authority employers and school workforce unions. Academies are encouraged to take account of the National Agreement. The agreement represents consensus on the principles relating to tackling teacher workload whilst raising standards in schools. Key features of the agreement include contractual changes for teachers to bring about a progressive reduction in teachers' overall hours, a concerted attack on unnecessary paperwork and bureaucratic processes, additional resources and a national 'change management' programme, and reform of support staff roles. Further information and guidance can be found at www.teachernet.gov.uk/management/remodelling.

1.7 The main thrust of the National Agreement is to make a reality of the Government's vision of more flexible staffing arrangements, providing different levels of support to free teachers to concentrate on core teaching and learning functions of which they are the key deliverers in school. The national survey of teachers' workload proved that well-supported teachers are often more successful than those that are not given support. Academies offer innovative employment opportunities for teaching assistants and support staff, backed up with training and professional development.

- 1.8 Academies are likely to offer new categories of work to reflect new roles that are emerging: for example, some maintained schools have already recruited and specifically trained people to act as cover or study supervisors. ICT support, assistance with ICT-based learning, and exploiting Academies' excellent ICT facilities, are just three areas of likely development as Academies progress.

- 2.1 Academies are set up as charitable companies limited by guarantee. This means that the sponsor has to form a Trust and that governors may also be called trustees. The main responsibilities of the governing body are prescribed in the two governing documents:
- the Memorandum and Articles of Association; and
 - the Funding Agreement between the Trust and DfES.
- 2.2 Each Academy is governed by a governing body, constituted under its Memorandum and Articles and generally chaired by its sponsor. Other governors are appointed or elected. These generally include a representative of the Local Authority, the Principal, staff and parent representation and, usually, community representation.
- 2.3 The governing body, as the Trust, is the employer of staff working in the Academy, and any appointments or changes to terms and conditions should be authorised by the governing body. The governors must appoint the Principal of the Academy and formally delegate the day-to-day management of the Academy and the direction of teaching and curriculum to him/her. The governing body fulfils a largely strategic role in the running of the Academy and considers any advice given by the Principal.
- 2.4 The governing body must ensure that personnel procedures have been identified, formally approved and documented. In some cases the governing body will form a Personnel sub-committee, but in any case it will establish personnel policies to ensure compliance with employment and other relevant legislation. As explained in chapter 3, Local Authorities are fully involved in the

partnerships working to establish Academies. Governing bodies may, therefore, want to work with and seek support from their Local Authority, across a range of Human Resources issues.

- 2.5 In addition to its role as employer the governing body has overall responsibility for the administration of the Academy's finances, approving the annual budget and monitoring expenditure. Whilst the governors are developing a strategic framework for the Academy and setting policies and targets with advice and support from the Principal, it is the Principal who is responsible for the internal organisation, management and control of the Academy.

Chapter 3 ▶ The role of the Local Authority

- 3.1 Local Authorities are fully involved in the partnerships working to establish Academies. Every Academy must also have a nominated local authority representative on its governing body.
- 3.2 Academies – as other schools – have the key responsibility for their own performance, but the Secretary of State expects Academies to make arrangements for the external support and expertise necessary to help them achieve their targets. This may be organised through the Specialist Schools Trust or other providers. It may be that an Academy chooses to secure this support and expertise from the Local Authority. We have made an Order to designate Academies as public bodies for the purposes of the Local Government (Goods and Services) Act 1970. This enables Local Authorities, among other things, to provide professional advice and support to Academies.
- 3.3 The responsibility for challenge in an Academy lies with the Secretary of State; conducted by Departmental advisers through visits and scrutiny of documentation including School Improvement Plans and self evaluations. As part of the New Relationship with Schools and from September 2006, this function will be undertaken by accredited School Improvement Partners in line with maintained schools.

- 4.1 Academies are committed to extending opportunities for participation in high quality education in a high-quality environment to all pupils. High quality teaching helps to promote the learning experiences of all students, irrespective of their needs and aptitudes. Teachers who work in an Academy must, therefore, have Qualified Teacher Status (QTS)¹.
- 4.2 Central to the aspirations of an Academy is the establishment of an ethos of responsible achievement, underpinned by a strong foundation of guidance towards good citizenship. Each Academy is committed to stimulating a passion for learning – in pupils, teachers and support staff alike.
- 4.3 Working in an Academy is challenging *and* rewarding. Academies have been introduced to innovate, and those who work in them are key to the process of change for success. The DfES wants teachers and support staff who work in Academies to feel supported. It also wants them to experience no barriers to a successful career which combines experience in both Academies and the maintained sector.

¹ This includes overseas trained teachers, and people working towards Qualified Teaching Status.

5.1 Working in Academies typically involves:

- **use of personalised learning approaches** and a mix of modular learning paths, offering opportunities for early entry to accreditation, as well as the chance to develop depth of knowledge in an area of specialism;
- **a fully accessible school** operating beyond the length of a traditional school day and with home-based ICT access points, as well as outreach centres in other schools, Higher Education institutions, commercial, library and community settings;
- **assessment for learning** where teachers share targets with students who know and recognise the standards for which they should aim. Target setting involving students reflecting on their progress with their teachers or peers and setting new targets to raise levels of performance further.
- **personal tutor/mentoring** and peer mentoring systems which offer individual educational planning for all, and personal advisers linked into Connexions and other inter-agency frameworks to support the wider development of students;
- **a framework of professional development** and remuneration to attract, retain and continuously reskill the best teachers and support staff, to deliver a dynamic personalised curriculum through planned learning paths;
- **extension programmes and accelerated learning opportunities**, to be delivered using ICT and distance learning materials over an extended school year, with community learning programmes running across a 50-week year. There may be an opportunity to match this approach by using a continuous, extended day and a format of

school terms different from the accepted three-term pattern;

- **new approaches to the teaching and learning process**, based on a framework of study skills and approaches to monitoring, assessment, reporting and planning that encourage more ICT-based learning;
- **the use of community champions**, commercial and workplace placements, specialist resource assistants, coaches and masterclasses, drawing on both local community and national expertise; and
- **genuine curriculum continuity** partnerships with feeder schools and the use of specialist resource centres.
- **outreach and collaboration** with neighbouring schools and other learning environments.
- **the freedom and flexibility** to do things differently from maintained schools. Academies are at the leading edge of innovation.

Transferring from a school which is closing in order to establish an Academy

- 6.1 Where Academies replace existing schools there will in many cases be a transfer of an undertaking under the Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE). In such cases, staff of the closing school who have a substantive contract at the point of closure will have the right to transfer to the Academy on their existing terms and conditions, as set out in the Teachers' Pay and Conditions Document for teachers or contracts of employment for support staff.
- 6.2 **The rest of the guidance in this chapter is only relevant to those who are subject to a TUPE transfer. For all other staff, the Academy can negotiate openly regarding their Pay and Conditions of Service.**
- 6.3 TUPE is a complex area of law and it is only possible to describe here some of the general principles and issues that will be of interest to staff who are likely to transfer to an Academy rather than being directly recruited. TUPE involves statutory consultation with staff and their representatives and this, in addition to informal discussions, will offer opportunities for individuals to ask questions about their own position. It is important that all employees involve themselves actively in such consultation processes.
- 6.4 Where an existing school is closed and replaced by an Academy, TUPE will generally apply. This is the case even if the Academy is at a different site, or if the Academy places an emphasis on a particular subject area that the previous school did not.

- 6.5 The Academy will be unable to vary the terms and conditions of employment where the reason for the change is the transfer. Variations that are beneficial to the employee are permitted but this is considered on a term-by-term basis through the contract and must be by mutual agreement.
- 6.6 In the case of ancillary services such as catering, where the Academy contracts from the outset for a particular function to be provided by a third party service provider, if TUPE applies then staff will transfer to the third party provider rather than to the Academy.
- 6.7 Where there is a reorganisation of existing schools that results in two or more of those schools closing and being replaced by a single Academy, the application of TUPE will depend on whether there has been a fundamental change in the identity of the undertakings previously operating in each of the existing schools. This will depend upon the facts of the case, including factors such as whether pupils will transfer, whether assets transfer and the degree of similarity between the activities carried out before and after the transfer.
- 6.8 **References are made in the following chapters to the School Teachers' Pay and Conditions Document and National Joint Council for Local Government Services guidance. However, teachers may wish to consider their own individual contracts and the Burgundy Book, and should also seek independent legal advice if there is a dispute.**

Terminating employment rather than transferring to an Academy

- 7.1 You may decide not to transfer to an Academy. However, if you do so, your employment with your existing employer will come to an end as if you had resigned. Local Authorities do not have a duty to find you a post at another school in the area. You may, however, claim to have been dismissed if the transfer would have resulted in a substantial change in your working conditions to your detriment and this is your reason for not wishing to transfer.
- 7.2 The dismissal of any employee, before or after the transfer, by reason of the transfer will be automatically unfair **unless** the dismissal is for ‘an economic, technical or organisational reason entailing changes in the workforce’. The dismissal must be due to changes in the number of people employed or a change in their particular functions. Compulsory redundancies will normally only be appropriate where, following the transfer, an Academy does not require anyone to carry out work of the kind previously undertaken. For example, if an existing school employs a teacher purely to teach Russian, and who is qualified only to teach Russian, and the Academy will not be offering Russian as part of the curriculum, then that employee will be redundant.
- 7.3 If it is necessary to terminate the employment of a member of staff as a result of the transfer of responsibilities to an Academy, then there is a range of discretionary payments which can be made in addition to statutory redundancy payments.

Transfer of teachers from an Academy to a maintained school: aggregation of employment

- 8.1 A teacher is already able to move between different schools within the maintained sector and, provided there is no break in employment, the teacher is able to aggregate any period of service in the original post for the purpose of claiming any redundancy payment in the subsequent post.

- 8.2 The DfES wants service in an Academy to count in the same way as qualifying service should a member of staff who has worked in an Academy be made redundant by the Academy or in any subsequent post in a maintained school or with a Local Authority. Accordingly, Academies have been added to the Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999. This means that service in an Academy counts as qualifying service in the same way, and subject only to the same restrictions, as service in a maintained school. This should give important reassurances to staff who are thinking about working in Academies.

- 9.1 An important starting point in establishing Academies and their structure will be local discussions with recognised trades unions. The early involvement of unions in these discussions will ensure that their views are taken into account.
- 9.2 Where there is an existing school and TUPE applies, the Academy will be deemed to recognise any trade union to the extent that the previous employer (i.e. the Local Authority or governing body) recognised it in respect of any transferring employees. However, if two or more schools are merging into one Academy, then this protection may not apply as the staff covered by the recognition agreement may be subsumed within a larger group of employees to whom different arrangements apply.
- 9.3 If a new Academy did not voluntarily recognise trade unions, or if an Academy chose to rescind the recognition agreement(s) following the transfer of staff from an existing school, then the new statutory recognition regime, through which employers can be compelled to recognise trade unions in respect of their employees, would be taken into account. The statutory recognition procedure is complicated, but the main point is that the Central Arbitration Committee has the power to declare that a trade union is recognised by an employer in respect of a certain group of workers where a majority of the workers in that group are members of the union or where recognition is supported by a ballot. For the latter to happen, a secret ballot would have to be held, with support shown for the union by both the majority of the workers voting and at least 40 per cent of the workers in the group. A union's request for recognition would be rejected if another union is already recognised in respect of any of the workers in the group.

- 10.1 Academies will be effective only if they are well managed, and successful in recruiting sufficiently qualified and experienced teachers and support staff across the full range of experience.
- 10.2 Academies – as independent schools – are not bound by the School Teachers’ Pay and Conditions Document (STPCD) or by guidance on support staff pay and conditions issued by the National Joint Council for Local Government Services (NJC). Rather, Academies and their staff are able to negotiate pay and conditions arrangements to meet the particular needs of the Academy and its pupils. This is important in terms of the DfES’s wish to allow Academies the greatest possible freedom to innovate and to devise arrangements to attract and retain teachers and support staff.
- 10.3 The STPCD and NJC guidance provide important starting points for Academies in determining their own arrangements. Academies may find it helpful to take account of local discussions and agreements on support staff pay in considering their own arrangements. Details of the NJC guidance can be found at:
www.lg-employers.gov.uk/publications/fullpublications/support.html

It may also be helpful to make contact with local union representatives.
- 10.4 Individual teachers who have transferred to an Academy under the TUPE regulations on the closure of a predecessor school, as distinct from those who have chosen to apply to work in an Academy, will retain their rights to their existing terms and conditions where they retain the same post. Indeed, these teachers will retain

any experience points or permanent allowances that they held when their former school closed. Differing management structures for the innovatory curriculum organisation of Academies may mean that posts for which such allowances were paid change or disappear. Allowances may be protected for a limited period in these circumstances.

- 10.5 Academies will structure their own salary arrangements for members of their Leadership Teams. Teachers who are paid on the existing Leadership pay spine, and who retain their post, will have their salaries protected. Advanced Skills Teachers (ASTs) who are appointed to Academies will negotiate salary arrangements in line with those currently in place for ASTs. Current ASTs who transfer to a non-AST post at an Academy will also have their salary arrangements protected for a period of time. Teachers who work in an Academy can access the national AST assessment process at no cost to the Academy.
- 10.6 Academies will make their own arrangements for rewarding excellent performance by teachers or support staff; for contribution to teaching in the Academy's specialism or in other specialist areas of the curriculum; and for recruiting staff in shortage areas.
- 10.7 Academies have access to funding from the DfES, to enable them to mirror pay enhancement opportunities which are made available to maintained schools.

- 11.1 Teachers working in an Academy are not subject to Performance Management regulations, although Academies are encouraged to develop performance management arrangements for all staff – both teachers and support staff. This is because Performance Management for teachers supports the raising of education standards, by allowing them to receive reward for excellent teaching. It also offers better professional development opportunities and support to help teachers carry out their work successfully.
- 11.2 Performance Management is not, however, unique to the teaching profession. Many industries have appraisal systems in order to monitor and reward staff performance. Although the Performance Management regulations in maintained schools only apply to teachers, many schools – particularly those who are also Investors in People – operate Performance Management systems for both teachers and support staff.
- 11.3 The model Performance Management policy document has been adapted for Academies, and provides for equal opportunities with teachers in the maintained sector who may wish to transfer to Academies, or vice versa. Performance Management objectives can allow teachers in Academies to link their individual performance to the delivery of the Academy's targets, and be recognised and rewarded accordingly. Teachers in Academies are eligible for performance threshold assessment, and the DfES encourages Academies to award pay rises to teachers who meet the standards that are at least equivalent to what they would receive in a maintained school.

- 12.1 In Academies, as in all schools, Continuing Professional Development (CPD) is central to the transformation agenda and has a key role to play in raising standards by improving the teaching and learning that takes place. The current CPD strategy aims to promote the benefits of CPD and help teachers to navigate the opportunities and choices available to them, encouraging them to pursue developmental activities that are considered most effective. The strategy also aims to build schools' capacity for effective professional development so that they can make informed use of their delegated funding – for further details see www.teachernet.gov.uk/professionaldevelopment
- 12.2 Good professional development reflects the principles of learning and teaching in that it:
- sets high expectations and gives every learner confidence that they can succeed
 - establishes what learners already know and builds on it
 - is likely to have a direct relationship with what teachers are doing in their schools and classrooms
 - provides structure and pace to the learning experience to make it challenging and enjoyable
 - inspires learning through passion for the subject
 - makes individuals active partners in their learning
 - develops learning skills and personal qualities
 - enables staff to share effective practice, be more reflective and focus on pupils' learning
 - provides opportunities to work with other colleagues, e.g. planning and teaching lessons, collaborating on projects.

12.3 Effective performance management is a way to recognise and promote excellence and professionalism. It can raise teachers' sense of satisfaction and commitment when done well. Importantly, when followed up with effective and tailored professional development opportunities it can enable teachers to learn from other teachers and have their professional needs met. Every teacher in England now has the opportunity, under performance management arrangements, to discuss their learning and development needs annually with their line manager and to decide together on development priorities. It is important that teachers in Academies use the performance management process to assess their learning needs and look for different ways to meet those needs.

- 13.1 All staff employed by Academies automatically fall within the Teachers' Pension Scheme or the Local Government Pension Scheme on the same basis as teaching and support (i.e. non-teaching) staff in maintained schools. The appropriate scheme depends on whether the post is teaching or non-teaching (it is not open to individual employees to choose between schemes). So, taking up a post in an Academy will be the same as changing jobs between maintained schools as far as pension arrangements are concerned. Employees will, of course, retain the right to opt out of either scheme and make their own pension arrangements should they choose to do so.
- 13.2 Part-time employment as a teacher is pensionable on election but, once made, a part-time election automatically covers all subsequent part-time employment as a teacher until retirement. Full-time and part-time employment following retirement is not pensionable unless the teacher elects for it to be so treated.
- 13.3 On appointment as a teacher to an Academy, your employer should give you a copy of "Your Pension". This guide has been produced by Capita Teachers' Pensions, who administer the Teachers' Pension Scheme and describes the full range of benefits available, including how you can increase your pension by payment of additional contributions. If you wish to make a part-time election, or you have previously opted out and now wish to opt back into the Teachers' Pension Scheme, you should make an election on Form 261. You can ask the Academy to provide you with a copy of this form or you can download a copy from Teachers' Pensions' website www.teacherspensions.co.uk Your employer should

keep you up to date with developments but the website is kept up to date with information about the Scheme and has an email facility if you wish to make any enquiries about the Scheme's provisions or your own pension position.

- 13.4 For support (i.e. non-teaching) staff, Local Government Pension Scheme arrangements depend on how the Scheme is administered by the local authority pension fund to which the Academy belongs. On appointment, the Academy should provide you with literature about the Scheme and keep you up to date with developments. The Academy will be able to give you a contact point at the local authority if you need to contact them about your pension.

- 14.1 Fast Track aims to attract more high-calibre graduates into teaching. The programme also identifies the most talented existing teachers and gives them the intensive professional development, challenge and support they need to fulfil their potential quickly. We expect Fast Track teachers to make rapid career progression to become part of the next generation of expert teachers and successful leaders.
- 14.2 Academies can appoint Fast Track teachers in the same way as other schools. They are also able to convert posts into Fast Track posts for existing teachers who have successfully applied to join Fast Track.
- 14.3 Each school will need to identify an in-school mentor for their Fast Track teachers. This mentor will be responsible for facilitating development opportunities within the school and ensuring that they support and enhance the opportunities Fast Track teachers receive while they are on the programme. Fast Track teachers are also expected to be given a professional development objective which has a 'wider school focus'. This will contribute to the development of the school as well as enhancing the management and leadership skills of the teacher.
- 14.3 The careers of Academy teachers on the Fast Track Programme are supported centrally for up to five years. Teachers benefit from additional development opportunities, mentoring and coaching and are rewarded with an enhanced salary. The DfES funds these opportunities as well as the additional costs of the enhanced salary, which means that there are no extra costs for schools.

- 14.4 The central aim of Fast Track is to support teachers on the programme as they develop the necessary skills and experience to secure rapid progression to leadership. This may be a senior management role as a headteacher, deputy head, or assistant head, or from within the classroom as an Advanced Skills Teacher. To help them do this, we want Fast Track teachers to gain as much breadth of experience as possible. Therefore, they should have worked in at least two contrasting schools before they leave the programme to take up a leadership role. It is not necessary for them to move schools every two years.
- 14.5 There is no difference between the arrangements for Fast Track teachers in Academies and those in any other school. Further information on the programme can be found on the Fast Track website at www.fasttrackteaching.gov.uk.

- 15.1 Academies are required through their Funding Agreements with the Secretary of State to set targets in the same areas as maintained schools. They are required to consult the Local Authority as well as the Secretary of State before setting their targets, and to take account of any comments they receive.
- 15.2 Academies are required to produce School Development Plans. These need to set out not only the Academy's targets, but also the action it intends to take to reach those targets.

- 16.1 The performance and progress of open Academies are monitored by DfES. As part of the monitoring arrangements an annual School Development Plan is drawn up by each Academy, approved by the Governing Body, and submitted to DfES by the end of July each year.
- 16.2 The content and format of the School Development Plan is determined by each Academy. As a minimum it will include plans relating to:
- Raising achievement (**including teaching and learning, attendance and behaviour**)
 - ICT
 - The specialism
 - Community and collaborative activity.
- 16.3 The SDP will also include summary statistical data which will incorporate the statutory and other targets.

- 18.1 All Academies will receive a monitoring visit from HMI within two years of opening. HMI will seek to give the academy a clear indication of its strengths and areas for improvement. The visit will be normally undertaken by one or two HMI over two days. Findings will be reported orally and in writing in a letter to the Principal, Chair of Governors and Secretary of State.
- 18.2 All Academies will be inspected by HMI, normally within three years of opening. From September 2005, inspections of Academies will be arranged in the same way as inspections of all other schools.

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