



Department
for Education

Becoming a 16 to 19 academy: advice for sixth-form colleges

19 February 2016 (updated 08 March 2016)

Contents

Introduction	4
A. Definition and scope	5
Definition of academisation	5
Colleges in scope	5
B. Timing of application and planning implementation	6
C. Preparing your application to become an academy	7
Register your potential interest	7
Consider whether the college would be able to meet the approval criteria	7
Become familiar with the governance, funding and operation of 16 to 19 academies and the implications of academisation	7
Assess the implementation costs of becoming an academy	9
Consider whether to apply for support from the post-16 restructuring facility.	9
Consult stakeholders	10
Get agreement for you proposals	10
Seek legal and financial advice	11
Transfer of staff: discuss the TUPE process with staff	11
Test your application as it develops	11
D. Submitting your application	12
E. What happens next?	13
Further information	14
Annex I: Sixth-form college academisation: Objectives and assessment criteria	15
Objectives of academisation proposals	15
Assessment criteria	15
Partnerships within a multi-academy trust	16
Non-MAT partnerships	16
Financial support for academisation	17
Financial health, value for money and sustainability	17
Annex II: Background information and reference material on the current operational framework for academies	18
16 to 19 academies	18
Academy governance, operation and finance	18

Academy trusts	18
Memorandum and articles of association	19
Academies governance handbook	19
Academies financial handbook	19
Academy funding agreements	19
Business planning	19
Admissions	19
Accountability	20
Proposals for the dissolution of a sixth-form college corporation	21
Annex III: Supplementary information	22
Scope for wave 1 colleges to apply	22
Academisation outside the area review process or after the reviews are complete	22
Quality and performance criteria	22
Timetable for approval and implementation of individual proposals	22
Academy arrangement open to sixth-form colleges	23
Scope for two or more sixth-form colleges combine to form a MAT	23
Joining a geographically distant MAT	23
Maintaining distinct post-16 character in a MAT	23
Adult and SFA-funded provision	24
Higher education	24
Impact of commercial borrowing	25
VAT status	25
Revenue funding	25
Capital funding	26
Access to the academies Risk Protection Arrangement	26
Sponsorship of Tier 4 (non-EEA) students	26
Who colleges should contact to find out more about academisation	26

Introduction

1. Sixth-form colleges have a well-established and distinctive identity and mission within the Further Education (FE) sector. As part of the post-16 restructuring through area reviews, the Government wants to preserve and build on the strengths which the diversity of providers can bring to provision in their area, in particular by enabling all providers to work in partnerships which build on their particular strengths whilst also realising the educational and financial benefits of sharing resources, expertise and administration.
2. For some sixth-form colleges with their particular focus on high quality academic courses, collaboration with schools will be a natural partnership, which can improve value for money through efficiencies and economies of scale, whilst preserving the distinctive character of their offer.
3. Sixth-form colleges themselves have identified both the potential for building more effective relationships with schools, and the organisational and cultural obstacles to such partnerships which can be harder to overcome whilst operating within the FE sector. The Government has responded by offering sixth-form colleges the opportunity to apply to become academies as part of the area review programme.
4. This document sets out the criteria and process for making an application and the practical and operational information and advice which colleges need in order to judge whether becoming a 16 to 19 academy is the right option in their individual circumstances.

A. Definition and scope

Definition of academisation

5. The terms 'academise', 'academisation' and 'becoming an academy' are used throughout this advice to describe the process through which a sixth-form college will become an academy. This 'conversion' will be achieved through provisions of the Further and Higher Education Act 1992 as amended in 2011, which enable a sixth-form college corporation to dissolve and transfer its property, rights and liabilities to a new or existing academy trust.

Colleges in scope

6. All sixth-form colleges in England will be able to apply. Applications will need to show, amongst other things, that the college will meet the statutory definition of a 16 to 19 academy as "principally concerned with providing full-time or part-time education suitable to the requirements of persons over compulsory school age but under 19". As a minimum colleges will need to meet the criteria already in place for General FE colleges to become sixth-form colleges – i.e. that 80% of their students are 16 to 19 year-olds.

7. Exceptionally, on a case-by-case basis, applications may be considered from other FE colleges which can meet the statutory definition of a 16 to 19 academy and the other criteria for academisation set out in this guidance; and can show why their future and educational provision in the area would be best served by joining the academy sector. Judgements will be made on the basis of the age range of their students and the balance of their existing offer between academic and technical and professional education. As a minimum such colleges would need to meet the same 80% criteria as sixth-form colleges. We would also expect a majority of these students to be following academic study programmes.

B. Timing of application and planning implementation

8. Completed applications will be considered as part of the relevant local area review. The outcome will be decided alongside other recommendations arising from the review to ensure that area review recommendations for each area are considered as a coherent package.

9. The latest information on the [timing of individual area reviews and the colleges included in each review](#)¹ has been published on GOV.uk

10. If the area review covering your college is still some way off, you can still begin developing your proposal. This will provide scope for early discussions and additional time to prepare an application. If you decide to submit a formal application, it will be considered as part of the relevant area review even if it is submitted before the review starts.

11. If the application is approved, you will need to agree a detailed implementation plan and timetable with the department. The process of becoming an academy may have significant lead times, including for managing the dissolution of the existing sixth-form college in parallel with setting up the new academy or multi-academy trust. The timetable for dissolution is set out in regulations and will help inform realistic proposed opening date for the new academy proposed in your application. The time needed will vary according to your individual circumstances but we estimate that you will need a minimum of four to six months from the point at which your application is approved.

12. You will not need to complete all these processes before your application is submitted or considered, but you will need to outline your proposed start date and post-approval implementation steps and timetable in your application.

¹ <https://www.gov.uk/government/collections/post-16-education-and-training-area-reviews>

C. Preparing your application to become an academy

13. In order to apply to become an academy you should complete the application form 'sixth-form colleges – apply to become an academy' providing some of the information needed to assess your proposal. This section sets out the key steps you will need to take to finalise your application.

Register your potential interest

14. If you think you are interested in academisation, you should express your interest by contacting the Education Funding Agency (EFA)/Skills Funding Agency (SFA) Joint Area Review Delivery Unit (JARDU) [area.reviews@education.gsi.gov.uk]. You will then be allocated an EFA lead contact who will discuss your interest with you. Subsequently they will coordinate any support you need from the department, including the relevant Regional School Commissioner's (RSC) office, during the application process and ensure that your application is considered as part of the relevant area review. An expression of interest will not require any commitment from you, but will facilitate the process of applying.

Consider whether the college would be able to meet the approval criteria

15. Annex I sets out the educational and value for money criteria on which any applications will be judged.

16. In particular you should note the need, set out below, to develop partnership arrangements with schools. You should begin exploring potential partnerships as early as possible in developing your application to maximise the time available before your application is submitted. Your EFA contact may be able to advise further on support for brokering potential partnerships via the office of the relevant Regional School Commissioner.

17. As independent statutory corporations, sixth-form colleges will require independent legal advice to complete the process so you may wish to consider this at an early stage to support you through the process.

Become familiar with the governance, funding and operation of 16 to 19 academies and the implications of academisation

18. Annex II sets out the key features of the framework for governance, operation and funding of academies and multi-academy trusts and provides links to more detailed information.

19. Annex III provides further information on the approval criteria and the implications for sixth-form colleges of dissolving and transferring their property, rights and liabilities to an academy trust. Your EFA contact can arrange further support, if appropriate, from across the department if you have questions which are not answered in this annex.

20. Before an academisation proposal can go ahead, both the college and where applicable any existing multi-academy trust which the new academy will join, will need to complete due diligence on the financial and legal aspects of the transfer. This does not have to be completed in full before an application is approved, but applications will need to set out sufficient information to provide assurance that the new academy will be financially solvent and viable and to identify:

- the financial and physical assets which will transfer to the new academy, and any potential obstacles to transfer, such as shared-use agreements, charitable trust or diocesan arrangements, or covenants which might affect how the existing land and buildings can be used. As an indication of the kind of information which you should collect and the issues you should consider in relation to land and buildings, please read the [guidance for maintained schools converting to academy status²](#)
- any assets which the college currently uses, but does not own, and whether and how this use will be maintained after academisation
- any liabilities currently held by the college which would transfer to the academy trust, including commercial borrowing and loans. It is essential that you contact existing contractors and lenders, and your current bankers, to establish the terms, if any, on which they will consent to transfer of obligations to the academy, and any charges or conditions they will impose as a condition for their consent. You should discuss any potentially problematic obligations or requirements with your EFA contact as early as possible in developing your application
- any contracts or agreements between the college and other parties which will need to be transferred, re-negotiated or terminated as part of the process of becoming an academy, and the steps you will need to take in each, including consent to alteration or transfer where required from the other party
- any Local Government Pension Scheme deficit which would transfer to the academy. You should also contact your local scheme to establish the process and requirements for transferring LGPS pensions of your staff to a new

² <https://www.gov.uk/government/publications/academy-land-questionnaires>

employer or scheme. Colleges will need to make contact with their LGPS scheme early in the application process.

Assess the implementation costs of becoming an academy

21. In addition to establishing the position in respect of assets and liabilities, you will need to establish the full costs associated with implementing your application. Relevant costs might include:

- project management
- consultancy, legal advice and legal/financial due diligence
- alignment of IT systems with proposed partners
- branding and communications
- early repayment charges, break fees and/or other costs associated with termination or renegotiation of the colleges' existing loans and contracts.

Consider whether to apply for support from the post-16 restructuring facility.

22. Sixth-form colleges which are applying to become academies as part of the area review can apply for support from the restructuring facility to cover some or all the costs on the same basis as other FE providers which are implementing restructuring options recommended by the relevant area review steering group.

23. Application for support from the facility should be made in parallel with development and submission of your application to become an academy. Guidance and criteria for applying for support from the restructuring facility are available as part of [revised area review guidance](#)³.

24. Provision of funding for these costs from the restructuring facility will only occur where all criteria are met, including strong evidence that the costs are required and the SFC is unable to fund the change through its own resources, including through asset sales. Because support for implementation of the recommendations of area reviews is available through the restructuring facility, sixth form colleges will not also have access to the DfE grants which are provided to support the establishment of new free schools and the conversion of local authority-maintained schools to academy status.

³ <https://www.gov.uk/government/publications/post-16-education-and-training-institutions-area-based-reviews>

Consult stakeholders

25. In implementing your proposals, you will need to comply with consultation requirements for dissolution of a sixth-form college as set out in the relevant regulations.

26. In addition, you should consider providing a range of consultation and discussion opportunities for your stakeholders. Staff members, parents and students and other key local stakeholders will want to know that your governing body is considering applying for your college to become an academy; and is providing opportunities for discussion and feedback. This will not replace any other requirements to consult, but will help to inform your decisions and plans.

27. You should also discuss with your proposed partner schools and/or multi-academy trusts how they are also consulting on the proposed arrangements.

28. Any commercial lenders, other creditors and some contractors will need to agree the changes before any liabilities, contracts or other obligations can be transferred from the college to an academy trust. We recommend that you engage early with them to establish their potential requirements and conditions.

Get agreement for you proposals

29. For your application to be approved, you will need evidence that you have secured the full range of consents for academisation to take place. Depending on the circumstances of the college and the substance of your application, these will include consent from:

- your existing sixth-form college corporation, which must agree to any proposal to dissolve the corporation
- the trustees of any multi-academy trust which you will be joining and/or the governing bodies of any school or other provider with which you propose to develop a partnership or collaboration
- the relevant diocese in the case of catholic sixth-form colleges
- the underpinning trust, where relevant
- banks and other commercial lenders
- contractors and service providers

- any Higher Education (HE) providers on whose behalf you provide franchised HE courses to your students; or who validate HE courses you offer in your own right.

Seek legal and financial advice

30. Whilst the department can provide support on the academisation process, sixth-form colleges are responsible for securing the professional advice they will need and rely upon during the process. You will need access to a range of legal and financial expertise during the application and implementation process. We advise you to consider early in developing your application how and when you will engage the advice you will need.

Transfer of staff: discuss the TUPE process with staff

31. Staff transferring from the sixth-form college to the new academy will generally be protected under the Transfer of Undertakings (Protection of Employment) regulations (TUPE). [Guidance on the TUPE process⁴](#) is available on Gov.UK.

32. You should ensure that you are familiar with the TUPE process and legal obligations and have discussed them with your staff.

Test your application as it develops

33. You should feel free to discuss your application with your lead EFA contact as it develops. We encourage you to raise any issues as soon as they arise so that the department can provide timely advice or support where appropriate.

⁴ <https://www.gov.uk/transfers-takeovers/overview>

D. Submitting your application

34. Your EFA contact will advise on the timetable for submitting your application and interaction with the relevant area review, including arrangements for sixth-form colleges in wave 1 reviews.

35. Wherever possible, any application for support from the restructuring facility should be submitted at the same time so that both proposals may be considered together.

E. What happens next?

36. Once your area review has reached the appropriate point, your EFA lead will liaise with the area review team to ensure that your application is sufficiently developed for you to present it to the steering group as an option to be considered alongside other recommendations from your area review.

37. The approval process will generally comprise:

- successfully passing an educational, governance, financial health, sustainability and value for money assessment as part of the relevant area review, using the criteria set out in Annex I, and including financial assessment on the same basis as other recommendations from individual area reviews
- endorsement of the proposal by the relevant area review steering group in the context of the wider recommendations from the area review

final decisions will generally be made jointly by the Sixth-Form College Commissioner (SFCC) and the relevant RSC on behalf of the Secretary of State.

- in some cases, there may be a further approval stage before a final decision is taken, and further information from the college and the views, or specific endorsement, of other stakeholders may be sought before the decision is referred by the SFCC and RSC to Ministers.

38. Your EFA contact will keep you in touch with progress throughout the approval process.

39. If the proposal is endorsed by the area review steering group and approved by the relevant commissioners, you will be supported through the implementation stage by EFA and academies case workers. They will coordinate and engage any support and advice you need from the department in implementing the proposal. In summary, this phase will involve:

- establishing the new academy – including establishing a new trust or joining an existing one; agreeing on the academy articles of association and, funding agreement
- dissolving the existing sixth-form college by following the statutory process set out in the relevant regulations and transferring its property, liabilities and rights to the receiving trust
- preparing to start operating as a 16 to 19 academy from the agreed start date.

Further information

40. In the first instance, colleges should contact JARDU if they have any questions about this guidance: area.reviews@education.gsi.gov.uk

Annex I: Sixth-form college academisation: Objectives and assessment criteria

Objectives of academisation proposals

1. All applications will need to meet the overall objectives of the post-16 area review programme by:
 - contributing to higher standards in the area through more effective partnerships and sharing of good practice and high quality teaching expertise and resources; and
 - securing the financial health and stability of the provision – especially those sixth-form colleges which are currently at financial risk - and improving the efficiency and value for money of the provision it offers for young people in the area.

Assessment criteria

2. In order to justify the additional costs that would need to be borne by the department when a college becomes an academy, applications should demonstrate the added value of becoming an academy, beyond that which can be achieved by sixth-form colleges which remain in the FE sector. In particular, proposals should include clear evidence that if approved the application will lead to stronger partnership and collaboration between the college and schools with which they will work.
3. We therefore advise colleges to begin exploring potential partnerships with schools early in the process of developing their applications.
4. Collaboration could include, but would not be limited to:
 - sharing of specialist and other excellent teaching expertise, resources and practice between the college and partner schools to improve standards and educational outcomes across the partnership as a whole
 - better financial resilience, lower costs and better value for money within the partnership, for instance through economies of scale, sharing or pooling of administrative services and other costs and facilities, and more efficient deployment of teaching staff
 - improved management and leadership across the partnership, for instance by drawing on the particular strengths in management and leadership of one of the partners to benefit other partners

- clearer progression pathways and routes for students from key stage 4 to post-16 education.

Partnerships within a multi-academy trust

5. Sixth-form colleges which are proposing to establish or join a multi-academy trust (MAT) should be well-placed to meet the partnership criteria above. The role of and contribution of the sixth-form college within a MAT will need to be considered in relation to the existing strengths of both the college and the trust.

6. We envisage four main scenarios in which a sixth-form college could become part of a MAT:

- an educationally strong sixth-form college with strong finances [i.e. “good” or “outstanding” both from Ofsted and for financial health] becoming a sponsor and establishing a new MAT
- an educationally strong college with sound finances [satisfactory or better] joining an existing MAT as a partner.
- an educationally weak [i.e. “requires improvement” or “inadequate”] sixth-form college joining a strong MAT which has the capacity to drive improvement in the 16 to 19 education offer
- a financially vulnerable [i.e. inadequate, borderline satisfactory or at significant risk] sixth-form college joining a financially strong MAT. This might include colleges under a Financial Notice to Improve/Notice of Concern, where such a proposal would help ensure that the matters identified in the notice would be rectified under the leadership of the MAT.

7. In judging whether a proposed MAT arrangement is appropriate to the circumstances of the various partners involved, the department will use existing sources of financial and educational performance data, information provided in the application and other relevant information gathered from other sources, such as through the area review process.

8. In all cases the application will need to include clear evidence that the proposals submitted for consideration have been agreed with the relevant MAT and/or the schools involved in the proposed partnership.

Non-MAT partnerships

9. Where a college’s proposal does not involve joining or establishing a MAT, the sixth-form college will need to be financially and educationally strong [assessed by the

department and Ofsted as good or outstanding for both] and will need to set out in detail the range and scale of partnership arrangements between the new 16 to 19 academy, partner schools and other education providers in the area which will be developed if the proposal were to be approved.

10. It will be particularly important to provide evidence that those schools and other education providers included in the proposed partnership have been engaged with and agreed to the arrangements set out in the application.

Financial support for academisation

11. Sixth-form colleges which apply to become an academy can apply for funding from the post-16 restructuring facility to support implementation of the recommendations of area reviews on the same basis as other colleges.

Financial health, value for money and sustainability

12. All proposals will be subject to scrutiny, using data held by the EFA, and where applicable SFA, information in the application and any other relevant information, to ensure that the proposals meet the criteria set out in paragraph 1.

13. The application will also need to include evidence of the financial benefits of the proposal for the college and/or its proposed partners.

Annex II: Background information and reference material on the current operational framework for academies

16 to 19 academies

1. Under the Education Act 2011 a 16 to 19 academy is an academy “principally concerned with providing full-time or part-time education suitable to the requirements of persons over compulsory school age but under 19”.
2. 16 to 19 academies are not schools. They are a legally distinct category of institution within the academies sector.
3. The Further and Higher Education Act 1992 enables a sixth-form college corporation which is dissolving to transfer its property, rights and liabilities to a new or existing academy trust. This legislation provides the statutory basis for a sixth-form college to become an academy.
4. Establishment of a new academy is subject to the approval by the Secretary of State.

Academy governance, operation and finance

5. Sixth-form colleges which dissolve and transfer their property, rights and liabilities to a 16 to 19 academy will operate within the established policy, financial and operational framework for academy trusts and the academies sector as a whole.

Academy trusts

6. Like all academies, 16 to 19 academies are run by an academy trust. There are two main types of academy trust:
 - multi-academy trusts, which run more than one academy. Multi-academy trusts may delegate some of their functions to “local governing bodies” for individual academies or for groups of academies within the trust
 - single academy trusts, which oversee one academy.
7. Further guidance on the role, composition and accountability of [multi-academy trusts](#)⁵ and [single academy trusts](#)⁶ is published on GOV.UK.

⁵ <https://www.gov.uk/government/publications/academy-and-free-school-funding-agreements-multi-academy-trust>

⁶ <https://www.gov.uk/government/publications/academy-and-free-school-funding-agreements-single-academy-trust>

Memorandum and articles of association

8. All academy trusts must adopt a memorandum and articles of association.
9. The memorandum of association sets out the name of the academy trust. It provides for details of 3 the subscribers who wish to form the academy trust and become its members under the Companies Act 2006.
10. The articles of association set out the internal management, decision-making and running of the academy trust and its liability. We have published [model articles of association](#)⁷ for different types of academy.

Academies governance handbook

11. DfE advice on the governance of academies is set out in the department's [Governance Handbook](#)⁸.

Academies financial handbook

12. EFA publishes the [academies financial handbook](#)⁹ which sets out the responsibilities and requirements relating to academy trusts' financial governance and management.

Academy funding agreements

13. The funding agreement between the Secretary of State and the relevant academy trust provides the framework within which an academy or free school will operate. You may wish to read present versions of the model funding agreements for [multi-academy trusts](#)¹⁰ and [single academy trusts](#)¹¹.

Business planning

14. The [annual business cycle](#)¹² for academies is set out in a wall planner.

Admissions

15. 16 to 19 academies and free schools are educational institutions rather than

⁷ <https://www.gov.uk/government/publications/academy-model-memorandum-and-articles-of-association>

⁸ <https://www.gov.uk/government/publications/governance-handbook>

⁹ <https://www.gov.uk/government/publications/academies-financial-handbook-2015>

¹⁰ <https://www.gov.uk/government/publications/academy-and-free-school-funding-agreements-multi-academy-trust>

¹¹ <https://www.gov.uk/government/publications/academy-and-free-school-funding-agreements-single-academy-trust>

¹² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/397408/master_wall_planner_academies_january.pdf

schools. Because of this they are not required to comply with the School Admissions Code but their admission arrangements do need to be fair, clear and objective. Parents/prospective students still need a clear understanding of how and when places are offered, whether there are minimum entry requirements, whether there will be a test or an interview as part of the application process and what criteria will be used to decide how applications will be prioritised. Arrangements should therefore be as straightforward as possible and be clear how they are to be applied. The School Admissions Code can help you with this. In addition we would advise all 16 to 19 academies to use the 16 to 19 admissions template on the [free school admissions website](#)¹³ to ensure their policies are clear.

Accountability

16. **Inspection arrangements.** 16 to 19 Academies are inspected under the [Common Inspection Framework and the FE & Skills Handbook](#)¹⁴. These are the same inspection arrangements as for sixth-form colleges and therefore colleges will be familiar with the requirements. However, if they join a multi-academy trust that has within it academies with sixth-forms they should be aware that there is a different handbook for school inspections, although the sixth-form is inspected against exactly the same 16 to 19 study programme requirements as colleges.

17. **Performance measures.** 16 to 19 Academy performance is reported in the [16 to 18 performance tables](#)¹⁵ in the same way that sixth-form college performance is reported. 16 to 19 Academies established from sixth-form colleges as part of the area review process complete the ILR so there is no change in data collection processes. However, any 11 to 16 or 11 to 18 schools within a multi-academy trust will complete the school census. Qualification Achievement Rates (formerly success rates) will no longer be calculated by the Skills Funding Agency. A retention rate is calculated for 16 to 19 academies and school sixth-forms by DfE but this will cease after the 2014/15 data is circulated. This is because it will be replaced by the new retention measure, one of the five headline performance measures to be reported in 2016 performance tables.

18. Details of the [five headline measures](#)¹⁶ to be included in 2016 performance tables are published on GOV.UK

19. **Intervention.** The same triggers are applied to determine if a 16 to 19 academy is underperforming as those applied to sixth-form colleges. These triggers are:

- an overall Ofsted judgement of inadequate (or, in the case of a maintained school sixth-form or an academy sixth-form if the separate sixth-form grade states the sixth-form is inadequate); or

¹³ <https://www.gov.uk/government/publications/free-schools-admissions>

¹⁴ [Common inspection framework: education, skills and early years from September 2015 - Publications - GOV.UK](#)

¹⁵ [Performance Tables - The Department for Education - School and College](#)

¹⁶ <https://www.gov.uk/government/publications/16-to-19-accountability-headline-measures-technical-guide>

- performance below the National Minimum Standard set each year.
- Regional Schools Commissioners are responsible for monitoring educational standards in academies in their area. If a school sixth-form, including academy sixth-forms and 16 to 19 academies, is judged inadequate by Ofsted, Regional School Commissioners will consider appropriate improvement action in the first instance.
- EFA monitors and intervenes on financial performance in academies.

20. Further guidance on [16 to 19 accountability](#)¹⁷ is published on GOV.UK

Proposals for the dissolution of a sixth-form college corporation

21. The [process for proposals to dissolve a sixth-form college corporation](#)¹⁸ are set out in section 33N Further and Higher Education Act 1992 and in the Sixth- Form College Corporations (Publication of Proposals) (England) Regulations 2012, SI 2012/1158.

¹⁷ [16 to 19 education: accountability - Detailed guidance - GOV.UK](#)

¹⁸ http://www.legislation.gov.uk/uksi/2012/1158/pdfs/uksi_20121158_en.pdf

Annex III: Supplementary information

Scope for wave 1 colleges to apply

1. The Joint Area Reviews Delivery Unit will be working with sixth-form colleges in the first wave of reviews to ensure that they have the opportunity to apply as part of the review in their area.

Academisation outside the area review process or after the reviews are complete

2. The option to become an academy is currently linked to the area review process. We intend that all sixth-form colleges in England will have the opportunity to apply as part of the relevant area review, and their applications will be considered alongside other recommendations from the review in their area. All proposals will be considered in the context of the relevant area review and the post-16 educational needs of the area. It is therefore essential that academy proposals link effectively to other aspects of the review in the area.

3. We will consider in the light of experience from the area reviews whether further opportunities to apply should be available once the reviews are complete. But this opportunity does not exist at the moment, and colleges which wish to submit an application will need to do so as part of the relevant area review.

Quality and performance criteria

4. Whatever the college's starting point, proposals should demonstrate that after becoming an academy it will be financially stable and contribute to higher educational standards for itself, its partner schools and the local area.

Timetable for approval and implementation of individual proposals

5. Proposals will usually be considered and agreed at the same time as other options and recommendations from the relevant area review. Any statutory or administrative processes arising from academisation and other post-16 restructuring proposals (e.g. to dissolve the sixth-form college corporation and to set up the new 16 to 19 academy in its place) will follow agreement arising from the area review.

6. Proposals for dissolving the existing college will need to be developed and run concurrently with those for establishment of the new 16 to 19 academy to avoid any unnecessary delays in implementation once the application is approved. Proposed

opening dates for the new academy will need to reflect a realistic assessment of the time it will take to complete both elements of the process.

Academy arrangement open to sixth-form colleges

7. There are three broad routes for sixth-form colleges to become academies:

- establish and lead a multi-academy trust.
- join an existing multi-academy trust
- establish a single [standalone] academy trust

8. In legal terms, under each of these models the sixth-form college corporation would be dissolved and transfer its property, rights and liabilities to the relevant academy trust.

Scope for two or more sixth-form colleges combine to form a MAT

9. Sixth-form colleges may apply in combination to form a MAT as long as the proposals satisfy the criteria which will apply to other academisation proposals, including for collaboration with schools as well as between the colleges involved.

Joining a geographically distant MAT

10. Colleges are not limited to joining a MAT close to them. All proposals must show how the college would establish better partnership and collaboration with schools by becoming an academy and we would expect the college to be able to demonstrate how it will work closely with its partners to raise standards in the MAT irrespective of the geography.

Maintaining distinct post-16 character in a MAT

11. We expect the colleges to retain their distinct 16 to 19 role in providing high quality progression options from key stage 4 into 16 to 19 education. As 16 to 19 academies within a multi-academy trust they will be well placed to strengthen progression routes for pupils of other academies in the trust and collaborate to raise standards across the trust as a whole.

Adult and SFA-funded provision

12. 16 to 19 academies are defined by law as institutions principally concerned with the education of young people above compulsory school age and below 19. As a minimum, the department will expect at least 80% of the students to be aged 16-19. Sixth-form colleges with a higher proportion of provision for people outside this age range would not be able to convert in their present form.

13. For colleges with a relatively low proportion of adult and SFA-funded provision, it will be possible on a case-by-case basis to enable sixth-form colleges to continue to contract with the SFA to provide apprenticeships and other 19+ training after academisation. Colleges which wish to retain SFA funding will need to set this out as part of their application.

Higher education

14. Under existing regulations, colleges which offer franchised courses on behalf of a designated HE provider will continue to be able to do, and students enrolling on these courses after academisation will be eligible for student support. However, franchising is a contractual relationship between the college and the HE provider, which will be affected by the dissolution of the college and establishment of the 16-19 academy in its place. Colleges will need agreement from the HE institution to put in place new contractual arrangements to maintain the franchise arrangement after academisation. In developing proposals for academisation, SFCs providing franchised HE courses should therefore consult the relevant HE institution to confirm whether or not they are prepared to maintain the franchise arrangements and under what conditions.

15. Sixth form colleges which currently offer validated HE courses in their own right will be in a different position in relation to HEFCE funding and student support for HE courses:

- The new academy would no longer have access to any direct funding which the SFC currently receives from HEFCE
- The automatic designation for student support which currently applies to HE courses provided by FE sector institutions will cease once the college dissolves and is replaced by a 16-19 academy. Students enrolled on a validated course provided by the college would continue to be eligible for the student loan until they have completed the course even if the college becomes an academy part way through the course. But students enrolled after academisation will no longer have automatic eligibility student loans

- In place of automatic designation, a 16-19 academy is able to apply to the Secretary of State for “[specific course designation](#)”¹⁹ for its validated HE courses, which if granted would enable students on these courses to receive student support. Any application will be considered on its merits in the light of wider policy in relation to specific course designation.

16. Those SFCs who choose to apply for specific course designation should review the Guidance and note, in particular, that students on designated courses will only be able to draw a maximum of £6000 per year in tuition loan fee support from the Student Loans Company.

Impact of commercial borrowing

17. The academies legislation allows a sixth-form college to transfer its existing debts and liabilities to the new academy, and any applications involving transfer of existing liabilities will be considered on their individual merits. In most cases this will be subject to approval of the transfers from existing lenders such as banks; and in the case of colleges joining a MAT, the existing trust will need to agree to take on the debts.

18. In all cases, applications will need to show that the academy will be financially healthy and viable. The impact of any transferred debt on the financial health of the academy and any host multi-academy trust will be considered in deciding whether the application will be approved.

19. Colleges which wish to become an academy will be able to apply for funding from the post-16 restructuring facility to support implementation of the recommendations of area reviews on the same basis as other Post-16 providers. In some cases this may enable a college to reduce its liabilities before it becomes an academy.

VAT status

20. Like other academies, 16 to 19 academies are able to reclaim VAT on the goods and services they buy.

Revenue funding

21. Colleges which become academies will continue to be funded through the national funding formula for 16 to 19 year-olds, which applies to colleges, school sixth-forms and other 16 to 19 providers.

¹⁹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/450090/BIS-15-440-guidance-for-alternative-higher-education-providers.pdf

Capital funding

22. Capital grants will not generally be available to fund implementation of new academisation proposals. But once the new academy is operating, it will have access to the same sources of DfE funding as other academies on ongoing basis. Any proposal for new capital spending from a 16 to 19 academy would be judged on their individual merits and in line with the department's current priorities and guidelines for capital investment.

Access to the academies Risk Protection Arrangement

23. Colleges which become academies will be able to opt-in to the [Risk Protection Arrangement](#)²⁰ on the same basis as other academies.

Sponsorship of Tier 4 (non-EEA) students

24. Under current immigration rules, 16 to 19 academies, unlike sixth-form colleges, are not permitted to hold a Tier 4 licence to enable them to sponsor Tier 4 students. If a college already holding a Tier 4 licence dissolves, the subsequent 16 to 19 academy will not be able to enrol any new non-EEA students requiring Tier 4 sponsorship. Any Tier 4 students who are already studying with the college at the time it becomes an academy are permitted to continue studying until their existing leave expires. They will therefore be able to complete any course on which they are enrolled when the college dissolves and transfers its provision to a 16 to 19 academy, but they will not be able to embark on a new course at the college. This is equivalent to the transitional arrangement which currently applies to independent schools which become free schools.

Who colleges should contact to find out more about academisation

25. The department's initial point of contact for queries from colleges on becoming an academy is the Joint Area Review Delivery Unit (JARDU): area.reviews@education.gsi.gov.uk.

26. Colleges which express an interest will be allocated a lead (EFA) adviser who will work with JARDU, colleges and DfE to support the college where appropriate on the applications criteria and process, and to facilitate the progress of the application and any subsequent transition to academy status.

²⁰ <https://www.gov.uk/guidance/academies-risk-protection-arrangement-rpa>



Department
for Education

© Crown copyright 2016

This publication (not including logos) is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/version/3

email psi@nationalarchives.gsi.gov.uk

write to Information Policy Team, The National Archives, Kew, London, TW9 4DU

About this publication:

enquiries www.education.gov.uk/contactus

download www.gov.uk/government/publications

Reference: DFE-00052-2016



Follow us on Twitter:
[@educationgovuk](https://twitter.com/educationgovuk)



Like us on Facebook:
facebook.com/educationgovuk