



Department  
for Education

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

**October 2022**

# Contents

Introduction	3
Before you apply – develop your proposals	3
Guidance on becoming an academy	4
Dissolving as a sixth-form college	4
Further guidance and advice	5
Application process	6
Develop your vision	6
Get agreement for your proposals	6
Application process	7
Support	7
Financial assessment, financial health and sustainability	8
Financial health and sustainability	8
Colleges with commercial debt	9
VAT status	10
Admissions	11
Other provision	12
Adult and apprenticeship provision	12
Higher education	12
Sponsorship of international students under the immigration rules	13
Funding and miscellaneous issues	14
Revenue funding	14
Access to the risk protection arrangement	14
Local government pension scheme	14

## Introduction

Sixth-form colleges have a well-established and distinctive identity and mission within the further education (FE) sector.

For some sixth-form colleges, with their particular focus on high-quality academic courses, converting to academy status and working more closely with schools within a multi-academy trust will be a natural development, which can improve value for money through efficiencies and economies of scale, whilst preserving the distinctive character of their offer.

Many sixth-form colleges took up the opportunity to convert to academy status as part of the programme of area reviews. The opportunity to apply to convert to academy status has continued to be made available to sixth-form colleges beyond the end of the area review programme in March 2019; and with the vision to drive up educational standards across the system and following the Skills and Post-16 Education Act 2022, provision is being made for sixth-form colleges that are designated as having a religious character to apply to convert to academy status.

A sixth-form college can become a 16 to 19 academy using the provisions of the Further and Higher Education Act 1992, which enable a sixth-form college corporation to dissolve and transfer its property, rights and liabilities to a new or existing multi-academy trust.

## Before you apply – develop your proposals

The department's ambition, published in the 2022 Schools White Paper, [Opportunity for all: strong schools with great teachers for your child](#), is for all schools to be part of, or have plans to join, a strong multi-academy trust by 2030. By working in partnership with each other, academies within a multi-academy trust can share staff, curriculum expertise and effective teaching practices, collaborate to deliver the best outcomes for pupils, and ensure that the education system works for all children.

Multi-academy trusts will need to have the capacity and ability to self-improve and to provide specific support to improve underperforming schools within their trust. Sixth-form colleges wishing to convert to academy status are required either to form a multi-academy trust with other schools, academies, free schools or colleges, or to join an existing multi-academy trust, in order to add capacity to the system.

You should discuss your proposals from an early stage with your Department for Education (DfE) Territorial Team contact, and with your main contact for the application process – a

DfE academy delivery officer from the relevant [Regional Director's region](#) (formerly Regional Schools Commissioner's).

## Guidance on becoming an academy

The process by which sixth-form colleges become 16 to 19 academies is broadly the same as for maintained schools, and you may find the [guide to academy conversion](#) useful as an overall guide.

## Dissolving as a sixth-form college

Sixth-form colleges applying to become 16 to 19 academies must also consider how to manage the dissolution of the existing sixth-form college, in parallel with setting up the new academy (whether this is in a new or existing multi-academy trust).

The process for dissolving a sixth-form college corporation and the associated transfer of assets is set out in sections 33N and 33P of the Further and Higher Education Act 1992, the Sixth Form College Corporations (Publication of Proposals) (England) Regulations 2012, SI 2012/1158, and the Dissolution of Further Education Corporations and Sixth Form College Corporations (Prescribed Bodies) Regulations 2012, SI 2012/1167.<sup>1</sup>

You will need to run the dissolution process concurrently with the process for becoming a new academy, to avoid unnecessary delays in implementation once the application has been 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.

The process and timetable for dissolution of sixth-form colleges is set out in the above regulations. Under these regulations, proposals for dissolution must be published at least 4 months prior to the proposed dissolution date, and consultation on the proposals must also take place in line with the regulations.

The overall time needed to complete the academy conversion process will vary according to your circumstances, but we estimate that you will need a minimum of 4 to 6 months from

---

<sup>1</sup> As stated in section 33Q of the Further and Higher Education Act 1992, there are restrictions on dissolution in insolvency situations. For example, a sixth-form college has no power to resolve that the corporation should be dissolved whilst in education administration (section 33O).

the point at which your application is approved. Where sixth-form colleges have multiple funding streams such as adult education budget and/or apprenticeship funding, we recommend that the planned opening date of the academy should be at the start of the academic year on 1 September, to ensure that funding streams can remain aligned.

## Further guidance and advice

There are key differences in the process for maintained schools and sixth-form colleges in these areas:

- dissolving as independent institutions
- admissions and admitting post-19 students
- commercial borrowing and loans
- VAT status
- zero-rated buildings

Please refer to the relevant sections of this document for more information about these specific areas, and any required action you need to take.

You may also find it helpful to:

- consult the 2022 Schools White Paper, [Opportunity for all: strong schools with great teachers for your child](#)
- review the advice that the department has published on developing and growing multi-academy trusts:
  - [Multi-academy trusts: establishing and developing your trust](#)
  - [Implementing school system reform in 2022 to 2023](#)
- discuss your proposals with the Sixth Form Colleges Association (SFCA), which can offer advice and support

Once you have submitted your application you will be allocated a named delivery officer, who can provide further advice as required.

## Application process

### Develop your vision

We know that there is no ‘one size fits all’ approach to forming or strengthening multi-academy trusts: for example, some sixth-form colleges, once they have converted to academy status, have formed trusts ‘vertically’ – with local schools, while others have formed trusts ‘horizontally’ – that is, with other sixth-form colleges; equally, some have preferred to join and strengthen existing multi-academy trusts.

If you decide to apply to form a new multi-academy trust, the relevant Regional Director will expect to receive your application together with the applications from other colleges or schools in the proposed multi-academy trust.

Regional Directors will consider each application on its merits. Your application should set out your multi-academy trust’s vision and aspirations, its plans for growth over the next 5 years, and its plans to drive and sustain school improvements. Your application should also say what your contribution as a former sixth-form college will be to improving standards and broadening provision within the multi-academy trust. For those colleges designated with a religious character, the conversion process will be carried out in line with the arrangements for schools with a religious character set out in the [relevant Memorandum of Understanding \(MoU\)](#). The MoU makes clear the consents which institutions with a religious designation need to seek before converting to become academies.

It is possible to apply to become an academy sponsor at the same time you apply to form or join a multi-academy trust. You must fill in a [separate application form](#) to become an academy sponsor, because this is a separate process.

### Get agreement for your proposals

For your application to be considered, you will need to provide evidence that you have secured the full range of consents for becoming an academy. 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 directors of any 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 religious authority and/or trustees of any trust(s) underpinning the sixth-form college, where applicable
- banks and other commercial lenders<sup>2</sup>
- 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

## Application process

You will need to complete an [application to convert](#) to begin the process to become an academy.

Once you submit your form, the relevant Regional Director (as advised by their Advisory Board (HAB)) will make an initial assessment of the viability of your proposed model. They will consider both the educational benefit of your proposal, and the likely financial viability of the model proposed. This will cover both the sixth-form college alongside the proposed partners (schools, colleges and academy trusts etc), and is based on information in the application form, the initial budget, and information already held by DfE/the Education and Skills Funding Agency (ESFA). If successful, the proposal can proceed to the next stages of delivery.

## Support

Once the relevant Regional Director has given your application approval in principle to proceed, you will receive a conversion support grant of £25,000 towards the cost of legal fees and other costs associated with becoming an academy.

---

<sup>2</sup> 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.

## Financial assessment, financial health and sustainability

As conversion to academy status means a move into the public sector, all sixth-form colleges that wish to convert will be subject to a viability and sustainability assessment.

This assessment will be carried out by ESFA's Provider Market Oversight (PMO) team and will be proportionate to your financial position and the financial position of the academy trust that you are joining.

The assessment will use data already held by ESFA, information in the application, and any other relevant information, to ensure that the proposal is viable and sustainable. You may be required to submit additional information.

### Financial health and sustainability

We will review the financial health of any sixth-form colleges wishing to convert to academy status, using the latest set of college audited financial statements, auditors' management letter, and the Annual Report of the Audit Committee. Where auditors have raised concerns or issues, your application should set out what actions have been taken to address these. Where there are financial health concerns, we will want to know what actions have been (or are being) taken to address the issues.

We will also review the latest submitted College Financial Forecasting Return (CFFR), to better understand the underlying financial position of the college, and to evaluate whether any existing issues are being dealt with or if there are any new emerging risks.

This assessment has neither a set format nor set expectations for financial projections, and it may be easiest to prepare a budget template based on your model of becoming an academy.

Alternatively, the [academy budget forecast](#) template contains the information that will help with our assessment, or the CFFR template could be used as long as there is clear narrative/commentary. The way you present your budget may vary depending on the anticipated conversion date. In summary, we will need:

- the outturn for the prior financial year (where possible we will use financial statements, otherwise the submitted CFFR/budget forecast will suffice – whatever format is used, it must include a monthly cashflow forecast)



- a budget for the current financial year, split between pre and post conversion (assuming the planned conversion date is during the year)
- a consolidated budget for the following two years, including a split of fund year-end balances per academy (for a multi-academy trust)

The application will need to include evidence of any financial benefits identified in the proposal for the college and/or its proposed partners. It will help our assessment if applications include the anticipated value and timescale of financial benefits that are assumed within the future year's budgets.

## Colleges with commercial debt

Sixth-form colleges should provide full details of their existing arrangements as part of the application process and speak to their bank about their proposal to convert to academy status. Sixth-form colleges will be required to utilise their excess cash reserves to pay down their commercial debt and other non-pension liabilities. Where this is your intention, you should confirm this in writing in a letter with your application.

Current [legislation](#) allows a sixth-form college corporation to transfer its existing debts and liabilities to the new academy trust or existing academy trust when the college is dissolved. 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 multi-academy trust, the existing trust will need to agree to take on the debts. However, no new commercial borrowing or extension or changes to existing borrowing is likely to be permitted.

Colleges are advised to engage with their banks at an early stage to ensure that all potential changes to terms and conditions of banking arrangements are explored and agreed during development of the proposal to become an academy.

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 trust will be considered in deciding whether the application to become an academy will be approved.

Any questions or concerns about the academy conversion process should be discussed with your DfE Territorial Team contact in the first instance.

## VAT status

Disclaimer: The Department for Education cannot give VAT advice, but the lines below have been agreed with Her Majesty's Revenue and Customs (HMRC). It is important that you contact HMRC, follow the relevant guidance, and take any necessary actions as outlined below. HMRC teams are fully aware of this process.

Like other academies, 16 to 19 academies can reclaim their non-business VAT on the goods and services they buy.

### Registration for VAT

You should follow the guidance regarding registration:

- [Register for VAT: When to register for VAT](#) and VAT notice 700/1

### Land and property

This can be a complex area of VAT and should be looked at on a case-by-case basis. However, the following guidance provides assistance:

- [Land and property \(VAT Notice 742\)](#)
- [Opting to tax land and buildings \(VAT Notice 742A\)](#)
- [HMRC Guidance VAT Land and Property – HMRC internal manual](#)

### Other guidance

- [VATEDU70000 - Academies – HMRC internal manual](#)
- VAT Notice 701/30 – [Education and Vocational Training](#)
- [VAT guide \(VAT Notice 700\)](#)
- [Partial exemption \(VAT Notice 706\)](#)

If you have any specific queries, you can contact the VAT helpline:

- [VAT: general enquiries](#)

If the query is more complex, then you can ask for advice by completing a technical template and emailing it to [lasector.mailbox@hmrc.gov.uk](mailto:lasector.mailbox@hmrc.gov.uk). Please note that HMRC will not be able to answer your query without completion of the template.

## Admissions

16 to 19 academies and free schools are educational institutions rather than schools. Because of this they are not required to comply with the [School Admissions Code](#), but their admission arrangements do need to be fair, objective and transparent. 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. In general, sixth-form colleges' existing admissions arrangements will already meet the requirements which apply to 16 to 19 academies.

## Other provision

### Adult and apprenticeship provision

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. Sixth-form college corporations are defined by law as having at least 80% of their total student enrolment above compulsory school age but under 19, and by virtue of this already meet the above legal requirement for 16 to 19 academies. Existing sixth-form colleges with more than 20% (full-time equivalent) provision for students outside this age range, over a sustained period, should have an exploratory conversation with their DfE Territorial Team contact, and/or DfE academy delivery officer before developing more detailed plans.

It will be possible on a case-by-case basis to enable sixth-form colleges to continue to contract with ESFA to provide apprenticeships and post-19 training after becoming a 16 to 19 academy. Sixth-form colleges who wish to retain this provision will need to set this out as part of their application. Dependent on individual college arrangements, DfE will confirm the implications on a provider's status on the Register of Apprenticeship Training Providers (RoATP) on a case-by-case basis.

### Higher education

Sixth-form colleges which offer courses on behalf of a HE provider under a sub-contractual arrangement (sometimes described as a franchise arrangement) will continue to be able to do so. Students enrolling on qualifying courses after the college becomes an academy would be eligible for student support via the HE provider with which they are registered. However, the contractual relationship between the college and the HE provider will be affected by the dissolution of the college and establishment of the 16 to 19 academy in its place:

- sixth-form colleges will need agreement from the HE provider to put in place new contractual arrangements to maintain the arrangements between the HE provider and the academy trust, after becoming an academy
- in developing proposals to become an academy, sixth-form colleges providing sub-contractual HE courses should therefore consult the relevant HE provider to confirm whether or not they are prepared to maintain these arrangements and under what conditions

Sixth-form colleges which offer HE courses and are currently registered with the Office for Students (OfS) will be in a different position:

- a sixth-form college registered with OfS, which is considering becoming a 16 to 19 academy, should notify OfS of its plans by submitting a reportable event
- OfS will engage with the college to discuss the impact of the proposed changes on its registration status and confirm the steps the college would need to take in order to retain the benefits of registration when it becomes an academy, including access to student loan support for its students
- depending on the circumstances, a full application for registration may be required for the new academy. Colleges considering this route should therefore engage early with OfS to ensure there is sufficient time to retain access to the benefits of OfS registration

## **Sponsorship of international students under the immigration rules**

State-funded schools, including 16 to 19 academies, are not permitted to hold a student sponsor licence. Only [registered Student or Child Student sponsors](#) can sponsor new international students. If a sixth-form college which is a registered sponsor dissolves, the subsequent 16 to 19 academy will not be able to enrol any new international students. Any sponsored international 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 sixth-form college dissolves and becomes 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.

For the avoidance of doubt, foreign nationals who are lawfully resident within the UK on routes other than the Student and Child Student routes are not classed as international students. The same provisions within the immigration rules which apply to state-funded schools also apply to 16 to 19 academies, as set out in the [School applications for foreign national children and children resident outside England](#).

## Funding and miscellaneous issues

### Revenue funding

Sixth-form 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. This includes access to free meals funding.

### Access to the risk protection arrangement

Sixth-form colleges which become academies will be able to opt in to the [risk protection arrangement](#), an alternative to commercial insurance for schools.

### Local government pension scheme

DfE Local Government Pension Scheme (LGPS) Guarantee for Academy Trusts applies to all academies, including those which were previously sixth-form colleges.

Sixth-form colleges should engage with their LGPS administering authority early and seek confirmation that DfE LGPS Guarantee will be recognised by the administering authority in their funding strategy, and in the setting of employer contribution rates for the college from the date of conversion.

Colleges can request that their LGPS administering authority undertakes a review of their employer contribution rates. DfE LGPS Guarantee enables the administering authorities to apply a lower risk approach to academies than it does for most colleges. The administering authority will confirm the review process, timescales, and the costs.



Department  
for Education

© Crown copyright 2022

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](http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3)

email [psi@nationalarchives.gsi.gov.uk](mailto: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](http://www.education.gov.uk/contactus)

download [www.gov.uk/government/publications](http://www.gov.uk/government/publications)



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



Like us on Facebook:  
[facebook.com/educationgovuk](https://facebook.com/educationgovuk)