

Section 1: Educational policy

Why develop Trust schools?

They are part of the Government's agenda to offer diversity and choice to parents in the same way City Academies and specialist schools have been developed.

There is also clear evidence that schools that work in collaboration with other schools and with business or other external partners are improving faster than the other schools.

What are Trust Schools?

Trust schools are schools that agree to work in partnership with others in a committed and structured way for the benefits of their pupils, staff and community.

They are supported by a charitable trust that help shape and develop the educational vision.

They are state schools that choose to become foundation schools and then develop a trust. As with other foundation schools they enjoy the freedom to employ staff, hold their own land and assets, set their own admissions policy (within agreed local codes)

The Local Education Authority still fund them on the same basis as other state schools, they are subject to the same regulations i.e. OFSTED inspections, and intervention by the LEA if they are failing. They must also take their fair share of hard to place children.

Any state funded school, primary, secondary or special can choose to develop a Trust, in partnership with other schools, businesses, other educational institutions or community partners.

What is the timescale for the introduction of Trust Schools?

Trust schools will be given Royal Assent in November 2006, the legislation comes into effect in either April or May 2007.

The first schools therefore who can become Trust schools will be September 2007.

The DFES invited applications for schools to be Pathfinders (pilot)

Schools. They are working through the process of becoming a Trust with many hoping to be ready to acquire the status by September 2007, they are also acting as examples for other schools wishing to know more about the process

What is the difference between Trust schools and Academies?

Academies and Trust schools are two strands in the diverse range of options designed to deliver real improvements in school attainment. Each is designed to work in different circumstances. The academies programme targets those secondary schools with the lowest levels of attainment and in the most deprived communities. As such they represent a radical solution designed to provide a step change in education in failing schools.

Acquiring a Trust is a way for a range of schools in different circumstances to raise standards, from those that are currently under-performing to those that are leading the way in the education sector as a whole. They are a way for schools to strengthen collaboration putting it on a more sustainable footing and spreading best practice amongst other schools and to draw on the expertise and energy of their partners to support their strategic leadership. There are no specific criteria for which schools can become Trust schools: the decision is one for the governing body to make.

The level of involvement from business partners differs in Academies and Trust schools:

- Academy sponsors appoint the majority of governors to the governing bodies of their schools. In Trust schools, the Trust can appoint either the minority or majority of governors: the decision is made by the predecessor governing body.
- Academies are linked directly to a capital building programme to which the sponsor contributes up to £2million towards the cost of each Academy. In the case of Trust schools, the Trust is not expected to make any financial contribution.

Section 2: Benefits of Trust status

What does Trust status add to a business which already has a close relationship with a school and / or encourages school governors.

Many businesses already do a great deal of valuable work in schools. This policy is about offering more schools greater opportunity to secure the support of external partners to raise standards, strengthen their leadership and develop their own ethos. Trust schools will be backed by an organisation which shares their aspirations for their pupils, understands their community, can support their continuing improvement and provides them with governors.

A business could funnel its existing activity with a school or group of schools through a Trust. It will enable schools to put such collaborations on a more stable and sustainable footing, ensuring a longer-term, more formal commitment with clear aims and outcomes.

A number of businesses already provide governors to schools. Schools value the specific management and professional expertise which these governors can bring. Working through a Trust offers the opportunity for businesses to put in place a coordinated and common approach to school governance.

Trusts may appoint the majority of governors to the governing body and thus have a greater influence in any decisions taken. It will be for the predecessor governing body, in consultation with potential Trust members to agree whether that should be the case. In all cases, the Trust must appoint at least two governors.

There is nothing preventing a business from developing a commercial partnership with schools either outside of the Trust partnership or within the Trust partnership (provided in this case it supports the vision and aims of the Trust, and is not undertaken for profit making purposes)

What are the benefits for business?

Many businesses welcome the opportunity to engage with and raise aspirations in their local community or where appropriate across the nation, sharing expertise and skills with local schools and contributing to policy development. They also welcome engagement with young people who are going to be the employees of the future. A Trust may help to build capacity in a specific subject or skills area through, for example, supporting particular specialisms like sport, technology or Modern Foreign Languages. Becoming part of a Trust makes it easier to work with a group of schools through a shared and formal framework and governance structure. It provides the opportunity to help build a culture of creativity, innovation and expertise in schools as well as helping to create a distinctive ethos for the school.

Businesses also see advantages for the development of their own staff. Involvement in such programmes as Academies and Specialist schools has proved popular with many employees and businesses are seeing improvements in staff morale and retention as a result.

Section 2: What the policy means in practice

As a business involved in a Trust, would this mean that we would effectively take on the day to day running of a school?

This isn't about running schools. Business foundations and other partners can support the school through a Trust and take a role on the governing body, but not take the school over. A school's governing body remains the strategic leader, accountable for the operation of all aspects of Trust schools and the headteacher remains in charge of the day-to-day running of the school.

The extent of influence which an individual business involved in a Trust would have over a school will depend on how many (if any) other members of the Trust there are and how many governors the Trust appoints to the governing body:

- Trusts may be formed by one organisation or by a group of organisations. For example, a range of partners (such as a business, a higher education institution and the LA) could come together to form a Trust for the benefit of the schools involved. It is not envisaged that a business would be the sole member of a Trust, though this is certainly possible;
- In deciding to acquire a Trust, the school's existing governing body will

decide whether the Trust should appoint the majority or minority of governors. Clearly this decision must be taken in consultation with the proposed Trust partners.

At one extreme, if a business was the sole member of a Trust and that Trust appointed the majority of governors to the school's governing body, the business would effectively have control of all major strategic decisions taken by the governing body about the school. At the other extreme, where a business had a minority stake in a Trust which in turn appointed a minority of the governing body, the extent of control would be substantially less. What matters is to find a model which is right both for the school and for the partners involved in the Trust.

Will businesses be responsible for pay negotiations with teachers / Unions?

Staff in a Trust School will be employed by the governing body and not by the Trust. There is no question of Trust partners getting involved in negotiations with the Unions regarding pay for teaching staff. Like all other maintained schools, Trust schools will have to employ teachers under the terms of the School Teachers' Pay and Conditions Document.

The school's governing body will set terms and conditions locally for non-teaching staff although employment terms for support staff already in the school will be protected through TUPE regulations.

Is this a back door way to get business to increase financial support for schools?

Ministers have been very clear that there is no requirement or expectation that Trusts will contribute financially to the schools that they support. Trusts are not about generating income for schools. They want a range of organisations to be able to form Trusts and contribute their skills and expertise to the running of schools. Of course, Trust partners may contribute financially if they want to.

Isn't there an opportunity cost for business, even though there is no direct financial requirement?

At its most basic level, the role of the Trust and its trustees is to hold the assets of the school on trust and to appoint governors. Responsibility for the day-to-day management of the school's land and assets remains with the governing body.

Governors appointed by the Trust would not necessarily have to be employees of the business but should be committed individuals who the trustees believe will be able to bring a range of skills and experience in order make a difference to the school.

There is significant scope, however, for businesses involved in Trusts to take on a fuller role in supporting the school and helping to create a culture of innovation and enterprise. The extent of the role which a particular business is willing to play should form part of the initial discussions with the school, although clearly relationships will also develop and evolve over time.

Section 3: Liability and risk

Who would be responsible if there were financial / legal improprieties and issues in the school?

All maintained schools, including Trust Schools, have a governing body which is responsible for all major decisions and accountable for all aspects of the conduct of the school. Governing bodies as a whole and not the Trust will be accountable for the school's performance whilst the headteacher remains responsible for the day to day running of the school. Governors have a legal responsibility to conduct the school with a view to promoting high standards of educational achievement.

As well as Trust appointed governors, the governing body of a Trust school will continue to include elected parents and staff governors as well as local authority and community governors. Governing bodies are corporate bodies. As such, a governing body acts as a single legal person with an identity separate from its members. Responsibility for the actions and decisions of a governing body rests with the whole body rather than with individuals.

There is no distinction between Trust appointed governors and other governors on a Trust school governing body with respect to financial or any other kind of liability. The governing body of every maintained school has a duty to ensure that the school has adequate levels of insurance cover to cover, for example, property, employers' liability and public liability. Governors do not incur any personal liability in respect of anything undertaken in good faith in exercising their power to spend the school's budget share, or delegating power to the head teacher. An example of an act not undertaken in good faith is fraud.

Who picks up any debts /overspends incurred by the Trust?

Trust schools are funded like all other local authority maintained schools – funding goes directly to the governing body (not the Trust). Trusts are not required or expected to make any financial contribution to the schools that they support. Any liabilities (such as debt) incurred by the Trust will not transfer to the school.

As an incorporated body, the financial liability of members of the Trust is limited to the sum they guarantee when they join the company. Members of a charitable company guarantee to pay a nominal sum (for example £10) which is the amount which members undertake to contribute to the assets of the company in the event of it being wound up.

Would the business (or the Trust) be liable for any debts incurred by the school?

No. Any deficit occurring in the delegated budget of a Trust school is the responsibility of the local authority. The Trust would not be liable.

What are the risks of trustee personal liability?

Very few trustees who have acted honestly suffer financial loss as a result of their trusteeship. There are risks, but they should be kept in proportion.

The Charity Commission says: 'If trustees act prudently, lawfully and in accordance with their governing document then any liabilities they incur as trustees can be met out of the charity's resources.' (from Responsibilities of Charity Trustees, The Charity Commission). The courts also have the power to relieve trustees from liability where they have acted honestly and reasonably.

It is unlikely that trustees will be held personally liable, if they always:

- Act reasonably
- Comply with their governing document
- Take appropriate professional advice where they don't know enough to make a decision
- Take appropriate professional advice where they are required to by law.