

Forming or Joining a MAT The HR Implications

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Introduction

When schools convert to either form or join a multi-academy trust (MAT) there are a number of HR implications that have to be considered both pre and post transfer.

Converting to an academy / MAT will involve **setting up a trust or joining a trust that will then be the employer of staff** who work in that trust.

It's an opportunity to win hearts and minds of staff and other stakeholders, through meaningful engagement and communication from the outset.

Putting the Transfer in Context



Once an academy order has been granted, the current employer of the staff within the school (usually the local authority or governing body) must begin the TUPE process which will allow the transfer of school staff to the Academy Trust.

Other legal HR requirements must also be considered.

The 'TUPE' Process

TUPE Regulations cannot commence until the Governing Body has approved the request to move to an Academy or a Directed Academy Order has been issued, it is highly recommended that informal consultation with the staff and recognised Trades Unions commences immediately before the concept becomes a reality.

The 'TUPE' Process - cont'd

Setting up the consultation mechanisms to do this early will ensure engagement and lead naturally into the formal consultation arrangements required at a later stage.

The 'TUPE' Process - cont'd

It is recommended that the TUPE process is closely aligned and integrated into the overall project plan that covers all the activities/tasks that need to be completed to successfully complete the conversion to Academy status.

The 'TUPE' Process - cont'd

This will enable staff to put the transfer of the employment into the context of forming or joining a MAT.

What is 'TUPE' and what does it do?

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (commonly known as 'TUPE') protects employees' terms and conditions of employment when their employment is transferred from one employer to another.

**Local authority, foundation or governing body
(as applicable)**



to



Academy Trust

Transfer: Terms and Conditions

All staff will transfer to the Academy Trust on their existing terms and conditions of employment.

ETO

Any changes to terms and conditions will be void if the main reason is because of the transfer or a reason connected with it, unless:

- Economic
- Technical
- Organisational

‘ETO reason’ can be justified.

Advice?

Should be sought if it is anticipated that changes to the terms and conditions of staff during or after the conversion process are necessary/justified.

Do you need to consult with staff and/or trade unions?

Under TUPE, the current employer **must inform any recognised trade unions or elected employee representatives of the fact that the transfer is to take place**, when it is to take place and the reasons for it.

Do you need to consult with staff and/or trade unions – cont'd?

- No obligation to consult unless it is intended that 'measures' will be taken.
- Measures include plans or proposals that are anticipated, including any material change in;
 - existing work practice
 - working conditions

Potential Measures

These can include redundancies (whether voluntary or compulsory), a change to pay dates or the school day.

Further guidance should be sought in this situation.

What is due diligence?


There will be a legal transfer of staff from the school to the Academy Trust.

A good opportunity for audit of all records to ensure that all staffing information is accurate and up to date.

What happens to Pensions?

The Academy Trust will be responsible for the pension arrangements of the staff within the Academy, even if the local authority is acting as payroll provider for the Academy.

An Academy Trust must allow teachers to be in the Teachers' Pension Scheme (TPS) and support staff to be in the Local Government Pension Scheme (LGPS).



What are the other big HR
challenges and opportunities?

New starter terms and conditions

An Academy/MAT can employ new staff on any terms and conditions they wish as they are not bound by STPCD, as there are no statutory requirements that place limitations on Academies and MAT's.

Scheme of Delegation

There will be a need to review HR policies, such as discipline and grievance, for operational purposes, in order to determine who will investigate, dismiss or hear appeals in a Trust model.

Policies and Procedures

- Staff will transfer with a pre-existing contractual policies and procedures that need to be maintained under the TUPE provisions.
- Moving forward new policies can be consulted upon.
- Need to determine whether there will be a suite of Trust wide HR policies that will need to be adopted (if part of a MAT), or whether each Academy will continue to use existing policies in the future.
- Who will agree new or amended policies in the Trust?

Managing Performance and Progression

The Trust will need to consider whether there will be one Pay Policy across a group of schools, locally implemented or whether individual practices continue.

- How will performance be reviewed and rewarded?
- How will this be linked to pay progression?

Recruitment and Retention

A Trust will need to consider how they will recruit and retain high quality people to meet current and future needs and **what will be the employment offer to new staff.**

Engaging with Trade Unions

- It is recommended the Trust establish a trade union recognition agreement with all trade unions.
- The Trust will need to engage during the TUPE process with representatives.
- Initially, representatives will also need to be consulted upon when developing new HR policies and procedures and proposing changes to terms and conditions.

Moving Forward with Trade Unions

- Consideration needs to be given as to how a trust wishes to engage;
 - At a local Academy level (academy representatives)
 - At Trust level (joint consultative, local and regional)

Addressing Academy wide HR issues

- MAT-wide leadership
- Infrastructure for support functions, such as HR, Finance and ICT
- Are there skills and expertise within an Academy or MAT to provide the level of support for these functions?
- Will support be localised or centralised?

NEED MORE INFORMATION

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Implications' fact sheet

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