



# Setting up an Academy Trust

**Private & Confidential**

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## 1. Setting up an academy trust

The following resource is a guide to setting up an academy trust by establishing a Company Limited by Guarantee. It is intended to help free school applicants to prepare to open their new school. This document should not be used as a substitute for legal advice in the event of any issues.

Create: Schools highly recommends that applicants read this document in conjunction with our guidance on academy trust governance, for a full overview of the roles and responsibilities of members and directors, as well as the operational functions of academy trusts.

## 2. What is an academy trust?

An academy trust is a charitable company that is responsible for running either a singular academy or a group of academies. These are known as single-academy trusts (or “SATs”) and multi-academy trusts (or “MATs”). The academy trust is the legal entity that enters into a funding agreement with the Secretary of State. Academy trusts cannot be run for profit and any surplus must be reinvested into the trust to support the education of its pupils.

Academy trusts are exempt charities, which means they are regulated by the Secretary of State for Education, rather than by the Charity Commission. As a result of their charitable status, academy trusts must adopt a set of charitable objects, as set out in their Articles of Association. All academy trusts are required to “advance, for the public benefit, education in the United Kingdom”, as part of their charitable objects.

Academy trusts are responsible for employing staff and are governed by a board of trustees. Because academy trusts are governed by both company and charity law, their trustees are both charitable trustees and company directors. More information on academy trust governance can be found in our resources section.

### 3. How are academy trusts regulated?

All academy trusts are overseen by a Regional Schools Commissioner that has a responsibility to intervene when academies in a trust are underperforming, or where an academy trust has breached its funding agreement. Academy trusts are also held financially accountable by the Education Skills and Funding Agency (ESFA) which is responsible for ensuring that public money is being properly spent. Although academy trusts themselves are not inspected by Ofsted, academies within trusts are individually inspected.

## 4. Do I need to establish an academy trust before I apply to open a free school?

Yes. New proposers are required to establish an academy trust before they apply.

Applicants that run one or more existing local authority-maintained schools are expected to convert their school(s) to an academy and form a MAT with the new free school. Although the DfE does not expect local authority-maintained schools to have converted prior to submitting a free school application, applicants will need to outline plans for conversion in their free school proposal.

## 5. How do I set up an academy trust?

### 5.1 Company limited by guarantee

To establish an academy trust, you must first establish a Company Limited by Guarantee (CLG). The CLG is the legal entity that will enter into a funding agreement with the Secretary of State on approval of your proposal.

CLGs are an alternative type of corporation, primarily used for not-for-profit organisations. In a CLG, any profit or surplus is distributed back into the company, not to its members.

A CLG does not have share capital or shareholders. Instead, a CLG (in this case the academy trust) has members who act as guarantors, who agree to pay a set amount of money towards company debts (usually £10). All academy trusts are founded by members, whose role it is to safeguard the academy trust's governance and to appoint an academy trust board that is the trust's strategic decision-making body. Members are not involved in the day-to-day business of the academy trust and will not assume the powers of the academy trust board.

### 5.2 Setting up a company limited by guarantee

Applicants looking to set up a CLG must first register with Companies House. At its inception, an academy trust CLG must have at least three members, although it is the DfE's preference for academy trusts to have at least five members, so it is a good idea to identify these individuals at an early stage.

On approval of your free school application, the academy trust will begin to appoint a full board of directors, known as trustees or governors. Further guidance on the roles of members and directors, can be found [here](#).

At its formation, an academy trust should appoint a clerk, or governance professional, to undertake the tasks such as filing the annual return, annual accounts, resolutions and forms and updating the company books. More advice on appointing a clerk can be found in the DfE's [Academy Trust Handbook](#).

To register your CLG, go to the [Companies House website](#) and follow the steps provided to set up a private limited company. These include, choosing a name, choosing your directors and electing your guarantors (members). You will also need to complete your Articles of Association, a framework for

trusts to ensure they act within company and charity law. You can download the DfE's model Articles of Association for academy trusts [here](#).

The relevant documents, once completed, will need to be sent to Companies House with the applicable fee.

## 6. Further reading

### Further reading

We highly recommend reading our Create: Schools resource on academy trust governance for a full overview of the roles and responsibilities of members and directors, as well as the operational functions of academy trusts. In addition, applicants are advised to familiarise themselves and ensure compliance with these key documents:

- [Model Articles of Association](#)
- [Governance Handbook](#)
- [Academy Trust Handbook](#)
- [Competency Framework for Governance](#)
- [Academy Trust Governance – Structures and role descriptors](#)