

Information And Guidance From  
The National Union Of Teachers

# Campaigning Against Trust Schools

## How to Join

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## Introduction

This revised guidance is divided in to following chapter headings:

- What Is A Trust School?
- How Are Community Schools And Trust Schools Different?
- What Requirements Are Placed On Trust Schools?
- What Is The Nut's View On Trust Schools?
- Acting To Prevent Trust Schools
- Further Information On Trust Schools

It is intended that the chapters can be used individually or as a single document, as appropriate, within divisions and associations. It may be adapted as necessary for local use.

The information contained in the guidance document is summarised in the leaflet Trust Schools: Information for Members of the National Union of Teachers, which is available on Hearth and the Union's website for circulation as necessary among NUT members.



## WHAT IS A TRUST SCHOOL?

### A Trust school is:

- a foundation school with a charitable foundation. Trust schools are maintained schools with foundations consisting of businesses, charitable organisations or other organisations;
  - funded by the local authority. Trust schools are funded in the same way as other local authority funded schools and do not receive a preferential level of funding;
  - the direct employer of its teachers and other staff through its governing body;
  - responsible for its own admissions policy while being required to have regard to the national Code of Practice for admissions.
1. Secondary, primary or middle schools can all become Trust schools, or a Trust may be formed which includes several schools within a federation.
  2. Consultation must take place before a school becomes a Trust school. Six weeks is the minimum consultation period.
  3. A Trust school can be a voluntary-aided or Foundation school with a charitable foundation. As the foundation is set up as a charity, members of the foundation are Trustees. The charitable foundation can nominate a minority or a majority of governors for the school's governing body. The charitable foundation is made up of external sponsors.
  4. Where a Trust nominates the majority of the Trust school's governing body, the school is required to establish and service a Parents' Council.
  5. Charitable foundations or 'Trusts' can be formed by one organisation or a group of organisations and can work with one school or with a number of schools locally or nationally. Foundations can act as promoters in order to enter any competitions for new schools, either on their own account or in collaboration with local parents.
  6. The DCSF has produced information on Trust schools, including a 'Trust Schools Toolkit' which can be accessed on [http://www.trustandfoundationschools.org.uk/governors/resources\\_and\\_publications.aspx](http://www.trustandfoundationschools.org.uk/governors/resources_and_publications.aspx). Additionally, information about Trust schools is summarised in the NUT's leaflet Trust Schools – Information for members of the National Union of Teachers, which can be downloaded from the NUT website [www.teachers.org.uk](http://www.teachers.org.uk).

## HOW ARE COMMUNITY SCHOOLS AND TRUST SCHOOLS DIFFERENT?

### Community Schools are:

- schools with delegated budgets and the local authority is the employer of their staff;
- schools with governing bodies made up of a majority of independently elected and co-opted governors and a minority of local authority nominees.

### Trust schools:

- become the owners of the school buildings, land and facilities;
- may have the majority membership of their governing bodies appointed by the Trust, including parent governors. There will be no guarantee that local parents will be properly democratically represented;
- can vary conditions of service arrangements for teachers and introduce their own. Trust schools are not required to implement any favourable arrangements negotiated between teacher associations and local authorities;
- can change pay, pension and conditions of service arrangements for support staff;
- can set their own holiday dates independent of agreed local authority arrangements;
- act as their own admissions authorities in the context of having regard to the national Code of Practice for admissions.

## WHAT REQUIREMENTS ARE PLACED ON TRUST SCHOOLS?

### Trust schools must:

- teach the National Curriculum;
- set teachers' pay and conditions of service in accordance with the national School Teachers' Pay and Conditions Document (STPCD) but they can vary local conditions of service set by the local authority for the teachers they employ;
- be inspected by OFSTED.

### Consultation

1. Consultation with the local community must have been carried out before a Trust school is established. All unions representing staff in the schools concerned must be consulted.
2. The governing body has to have regard to any responses to the consultation. Objections to the proposals can be lodged with the Schools Adjudicator by a parent or parents; a governor or governors; or by the local authority. The local authority can refer proposals if it believes the

governing body has not had sufficient regard to the views expressed in consultation.

3. If a majority of parents have concerns about acquiring Trust school status, the governing body is expected to review its plan and consult again. Where the governing body ignores the concerns of parents, parents can appeal to the Schools' Adjudicator.
4. The actions and consultative steps to be followed by the governing body if they are seeking Trust status are summarised below.
  - The governing body agrees, in principle, the proposals before approaching other partners.
  - When the governing body has finalised its proposals, it agrees its consultation arrangements.
  - The governing body publishes statutory proposals and invites representations and views on the proposals.
  - A minimum of six weeks (not including school holidays) is allowed for representations.
  - A charitable trust is set up by the governing body.
5. The NUT believes that at least eight weeks should be provided for consultation by governing bodies. It is during this process that schools and their representatives can express their views. The governing body will need to compile information about the proposed changes.
6. The publication of formal proposals is a legal requirement. A notice must be published in at least one local community newspaper and must also be posted at the main entrance to the school and at another conspicuous place in the area, such as a post office or community centre. Copies of the notice must be sent to the local authority and the DCSF. During this process, schools and their communities should make their views known and sufficient information be provided so that people can form a considered view.
7. Governing bodies' consultations should be made accessible to hard to reach parents such as those who speak English as an additional language.

## WHAT IS THE NUT'S VIEW ON TRUST SCHOOLS?

- Once a school becomes a Trust school it can never become a community school again.
- A Trust schools will have extra administrative burdens to focus on instead of focusing on teaching and learning. This will include the servicing of as Parents' Council if the Trust nominates the majority of the governing body.
- Schools serve their local community best when they are run by the community through its democratically elected local authority.

- There is no evidence that Trust school status of itself improves standards.
- Trust schools are less democratic than community schools.
- Trust schools are a way of giving control of the governance of schools to private companies and other organisations.
- Trust schools place the ownership of public buildings and land into the hands of the Trust, including private companies.
- Trust schools will lead to a further fragmentation of the education service.
- Each Trust has its own admissions policy; a situation which could lead to an increase in covert selection.
- The conditions of service of teachers and the pay and conditions of support staff can be changed for the worse in Trust schools.

## DOES THAT MEAN THE NUT IS OPPOSED TO COMPANIES HAVING A RELATIONSHIP WITH SCHOOLS?

- Companies and organisations that want to work with and help schools can do so without a Trust being formed. The NUT supports the idea of companies working to support schools within an area rather than forming exclusive arrangements as part of a Trust which are likely only to benefit the school or group of schools which are part of that Trust. The relationship with business and industry should be one of partnership, not one where specific companies or private interests control the governance of schools.
- Organisations such as the Co-op may have principles very similar to those of the NUT. However, there is no need for the Co-op, or its nominees, to control the governance of schools. Partnership is a far more productive, inclusive and democratic way of establishing productive relationships.

## ACTING TO PREVENT TRUST SCHOOLS

1. It is a legal requirement to run a proper consultation before forming a Trust school. NUT members should be encouraged to make their views known as part of the consultation.
2. The following bullet points outline recommended action against Trust schools. The list is not exhaustive and there may be specific opportunities for action in individual local circumstances which are not included below.
  - School representatives should be encouraged to notify their NUT regional office and division secretary of Trust proposals make sure they are aware of the proposal.

- NUT meetings should be held at school level to make sure everyone is aware of the proposal, preferably attended by an officer from the local NUT division.
  - All NUT members should be invited to the meeting. School representatives are advised to check whether new members of staff such as NQTs are in membership of NUT and, if not, invite them to join.
  - Members of the NUT should be encouraged to take part in the consultation and make their views known. The timetable for consultation may be as little as 6 weeks.
  - Where consultation is conducted by letters to parents, school representatives should press for the inclusion of material from opponents of the Trust school, as well as material from the governing body proposals.
  - As much information as possible should be sought from the school governors and the proposed Trust partners about the arrangements under a Trust. Questions should ask whether:
    - local conditions of service will be honoured;
    - the school would be part of local authority wide redeployment schemes in the event of redundancies;
    - Trust school staff will be as well protected as local authority employed staff.
  - Joint work should be carried out with other teacher associations and staff unions within the school on opposing Trust school status.
  - Where possible, school representatives and their NUT groups should be advised to press governing bodies to convene open meetings of all parents to consider the governing body proposals.
  - Where possible, school representatives and their NUT groups should be advised to press governing bodies to conduct a formal ballot on their proposals in addition to the statutory consultation arrangements.
  - Where parental ballots are agreed, the governing body should be pressed to include with ballot papers material containing arguments against Trust proposals as well as material containing the governing body's case.
  - Where parents' meetings only are convened by governing bodies, the facility should be available to both proponents and opponents of the proposals to give their views to the meeting.
  - Members should seek representation at any meetings which are held for parents or the community about the Trust, and seek support from those with a stake in the school and its governance.
- Members and school representatives should be encouraged to organise meetings at school level or attend local meetings to discuss the issue, whether or not there is currently a proposal for their own school to acquire a Trust. One or more Trust schools in an area could have an impact on the 'local family' of schools, for example by having an impact on admissions arrangements across the whole authority.
  - The support of parents, members of the community or the local media should be sought wherever possible.
  - An informal ballot at school level where Trusts are proposed should be considered. This may be helpful in indicating the opposition of staff, especially where it is possible to conduct such a ballot in liaison with other teacher associations and staff unions represented in the school.
3. No school is required to become a Trust school and establish a foundation. The decision to acquire Trust status is solely that of school governing bodies. Governing bodies are required to consult on their proposals with parents and other local stakeholders, such as staff and their representatives, any local authority and other schools in the area which are likely to be affected by the proposals, as well as partnerships such as the Early Years Development and Childcare Partnerships. Division secretaries will need to emphasise this in any guidance they give to school representatives and other members.
  4. If the governing body wishes to join or establish a Trust which appoints the majority of governors, the school must have a Parents' Council. Division secretaries will need to emphasise to school representatives that the school will have to service, in effect, two bodies; the governing body, and the Parents' Council. This may double the workload involved in servicing the schools' lay bodies; workload which will be expected of all relevant staff.

## **INFORMATION ON TRUST SCHOOL STATUS**

1. As Foundation schools with Trusts transfer from community to Foundation status, this will mean that their governing bodies, not their local authorities, will be the employer. Teachers' current terms and conditions are safeguarded. Trade unions will continue to be recognised.
2. It is the Schools' Adjudicator who determines new proposals on Trust schools, changes in designation and appeals against proposals.
3. The local authority must be consulted on the partner organisations proposed by the governing body(ies) for the charitable foundation (Trust) and

on whether the governing body proposes to transfer school land to the Trust.

### **Governing Bodies**

4. If a school became a Trust school, the existing governing body would be disbanded. The Trust, as a charitable foundation, would be able to appoint the majority of the governors for the new governing body.
5. The governing body would continue to run the school, be responsible for its budget and be responsible for and accountable for the school's performance. As employers, school governors would still be bound by the School Teachers' Pay and Conditions Document.
6. There are five compulsory stakeholder groups for Trust school governing bodies. They are: parents, school staff, the local authority, the community, and Trust appointed governors. Governing bodies can also decide to appoint associate members who can contribute particular expertise but do not have voting rights. Where Trusts appoint the minority of governors:
  - Trust appointed governors can take up between two and 45 per cent of the governing body representation;
  - parent governors take up at least a third of the governing body;
  - at least two places, but no more than a third of the governing body, will consist of elected staff governors with one place reserved for the head teacher, unless he or she chooses not to be a governor;
  - there is to be at least one local authority appointed governor; and
  - at least one tenth of the governing body consists of co-opted governors from the community.
7. Where the Trust appoints the majority of the governors, the arrangements set out below apply.
  - Trust appointed governors may have up to a majority of two of the governing body. A third of the governing body must be parents. The majority of the parent governors may be appointed by the Trust.
  - There must be at least one elected parent governor. In total, a third of the governing body must be parents.
  - At least two places, but no more than a third of the governing body, must consist of elected staff governors. One place is reserved for the head teacher, unless he or she chooses not to be a governor.
  - There should be at least one local authority appointed governor on the governing body.

- At least one tenth of the governing body should consist of co-opted governors from the community.

### **Powers to Facilitate Innovation**

8. As with other types of school, where a school acquires a Trust, a school governing body and its charitable Trust, have the option to apply to use statutory powers to innovate. The Government has encouraged Trust schools to use these powers. The power to innovate can cover every aspect of education legislation as it affects schools. Applications for innovation can cover the curriculum, the organisation of the school day and teachers' pay and conditions of service. Before making an application to innovate, the governing body or Trust is required to consult "such persons as it considers appropriate" (2002 Education Act).

### **Criteria for Approval to Acquire Trust School Status**

9. The 'decision maker' on acquiring Trust status will normally be the governing body, but could be the Schools' Adjudicator if the local authority has serious concerns about the proposal and refers the decision.
10. If the proposals that a governing body makes are for new secondary schools, including replacement schools, mergers and amalgamations, the local Church of England and Roman Catholic dioceses and all others who have previously expressed an interest in setting up secondary schools must be consulted.
11. The appropriate diocesan authorities, who have responsibility for schools with religious foundations, should be consulted also, as well as national faith groups which provide for religious schools.
12. The decision maker, either the governing body or the Schools' Adjudicator, must satisfy themselves that the following legal criteria are met for the proposal to be approved.
  - The proposal should not seek to alter the religious character of a school or seek to acquire or remove from a school its religious character. These alterations cannot be made simply by acquiring a Trust.
  - Work has to be underway to establish the Trust as a charity and as a body corporate – either as a company limited by guarantee or as a charitable incorporated organisation.
  - The objects or purposes of the Trust must be exclusively charitable. The Trust's charitable objects must include the advancement of education of the pupils at the school and meet the legal requirement to promote community cohesion in furthering the advancement of such education.

- Where local authorities are proposed as members of a Trust, they can exercise no more than 20 per cent of the total voting rights on the charitable foundation Trust.
- Where local authorities are entitled to appoint charity Trustees, the number of such Trustees and the voting rights exercisable by them must not exceed 20 per cent of the total voting rights.
- Proposed Trustees are disqualified if they are:
  - under company or charity law; or
  - disqualified from working with children or young people.
- If the Trust proposes to appoint a majority of the governing body of the school, then it must receive a statement from the governing body saying that it will set up a Parents' Council accompanied by the proposed constitution for the Parents' Council.

### Representations Received on the Proposals

13. The decision maker must consider the views of all those affected by the proposals or who have an interest in them. This includes all objections to and comments on the proposals submitted during the representation period. The decision maker should have particular regard to any representations from parents of pupils at the school concerned.

Evidence that the Trust will Contribute to Raising Standards at the School

14. Decision makers must consider the following facts:
- the impact of the proposals on the quality, range and/or diversity of educational provision in the school;
  - the impact of the proposal on the curriculum offered by the school, including, if appropriate, the development of the school's specialism;
  - the experience and track record of the Trust members, including any educational experience and expertise of the proposed Trustees;
  - how the Trust would raise pupils' aspirations and contribute to the ethos and culture of the school;
  - whether and how the proposals advance any local transformation strategies; and
  - the particular expertise and background of Trust members as against the needs of the school.

Evidence that the Trust will Promote Community Cohesion

15. The decision maker will need to consider the impact of the Trust on community cohesion on a case-by-case basis, taking account of the community that the school serves and the views of different sections within the community. Examples of matters which the decision maker may consider are:
- how the proposal demonstrates that the Trust would promote civic responsibility and good citizenship;
  - plans for partnership working with other schools, agencies or voluntary bodies;
  - Trust partners should not be involved in activities that may be considered inappropriate for children and young people.
16. The Government has advised that providers of tobacco, gambling, adult entertainment and alcohol should not be considered as members of Trusts. The Government says that this list is not exhaustive and that decision makers will wish to have particular regard to the strength of parental and other local opinion about the appropriateness of Trust partners' activities.

The reputation of Trust partners should be in keeping with the charitable objects of a Trust

17. The Government advises that decision makers should use their own discretion and judgement in determining on a case-by-case basis what circumstances might prevent the reputation of a Trust partner being in keeping with the charitable objects of a Trust. Examples might include persistent and serious health and safety breaches or serious or ongoing employment disputes. The Government advises also that the decision maker should seek to come to a balanced judgement, considering the suitability and reputation of the potential Trust partner in the round.

### The Decision

18. The governing body or Schools' Adjudicator may decide to:
- a). reject the proposals;
  - b). approve the proposals without modification;
  - c). approve the proposals with modifications; or
  - d). give a conditional approval.

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