



## **Kent SEN Trust**

**(A mutual special schools co-operative membership trust)**

### Initial Consultation: Booklet One

**Changing from Community School to Foundation School Category  
and Acquiring a Charitable Trust**

## **The reason for the consultation**

The Governing Bodies of the following special schools, namely Bower Grove School, Foxwood School, Grange Park School, Highview School (which is federated with Foxwood School), Meadowfield School, Ridge View School and Rowhill Special School, are jointly proposing to change their legal school category from community to foundation and, at the same time, to acquire a charitable trust.

In addition, Valence School, Goldwyn School and Ifield school which are already foundation schools are proposing to acquire the same charitable trust.

This trust, which will be a co-operative membership trust, will hold each consulting school's land and assets in trust, in this case with a strong mutual element. The Trust will be known as Kent SEN Trust

Broomhill Bank School, which are already a foundation school intending to join the trust as a partner school but not to adopt the new trust as their legal foundation.

## **What we would like you to do**

We would like to know what you think of our proposals, so we invite you to take part in our public consultation.

You can do this by:

- a) Reading the Kent SEN Trust information leaflet and this Booklet (you may also wish to read Booklet Two, which provides answers to a number of commonly asked questions). Copies of both this Booklet and Booklet Two can be obtained from each school, as well as electronically through our websites.
- b) Completing the Questionnaire Response Form you have been sent and returning this to your school.
- c) Attending one of the consultation meetings being held over the consultation period – see section 7.3 for details, times and venues of the various meetings.

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## 1. Executive Summary

### 1.1 Our Proposal

The Governing Bodies of the consulting schools named below are jointly proposing a change of school category - from community to foundation - and, at the same time, to acquire (establish) a charitable trust to be called Kent SEN Trust. The proposed date of implementation is 1st January 2015. The Trust will be a mutual Co-operative Membership Trust.

Bower Grove School  
 Foxwood School  
 Grange Park School  
 Highview School  
 Meadowfield School  
 Ridge View School  
 Rowhill Special School

In addition, the following foundation school is also proposing to acquire to acquire the same trust, without requiring a change of school category:  
 Valence School, Goldwyn School and Ifield School.

Broomhill Bank School which are already a foundation school, are intending to join the trust as a founding partner school but not to adopt the new trust as their legal foundation.

### 1.2 What is a Trust School?

This is a type of school that, while still being part of the local authority, has the opportunity to be supported by a charitable trust set up to help the drive for improved standards, in particular through engaging with the wider community. The Trust will act as the legal foundation for the consulting schools if all or some decide to become foundation schools. The Trust will not act as the legal foundation for any of its partner learning providers.

### 1.3 What is a Co-operative Trust School?

The Co-operative School Trust model enables schools to set themselves up as co-operatives, following cooperative values and principles. This model enables those who are directly involved in a school - parents/carers, staff and learners - to become engaged in its long-term strategic direction through membership of the Trust.

### 1.4 Why are we considering it?

The partnership of schools supported by the Trust would work together to further improve standards, outcomes and services for children, young people and their families within our local school communities. Our Headteachers believe strongly that by working together they can achieve significantly more for their schools than they can by working alone. They would therefore like to build on the work already being undertaken by these schools by forming a strongly mutual co-operative Trust to support and secure their work.

### 1.5 Trust Partnerships

The Governing Bodies of the consulting schools are jointly proposing to build on, through a Trust, our existing and strong partnership links. We also aim to bring the Co-operative Movement, and other organisations into this partnership. In the early stages, in addition to the Co-operative

Movement, we are currently in discussion with Kent Local Authority and a number of universities, as well as other potential future partners. We expect to include further partners as the Trust develops and we believe that collaborating more closely with mainstream schools and Colleges will help to build on the good relationships which already exist and bring a variety of support to our work.

### **1.6 New Powers and Responsibilities**

As a result of the change, the Governing Body of each consulting school (except Valence School, which is already a foundation school) will gain new powers and responsibilities. It will become the employer of all staff, although existing pay and condition arrangements will be unchanged as the schools will remain in the maintained sector and still be subject to national and local pay and condition agreements.

Each Governing Body will also become responsible for student admissions but will work jointly with the Local Authority's Special Education Team to continue to administer the provision of student places within the requirements of the National Schools Admissions Code and other relevant SEN guidance and policy. All schools within the trust will continue to work closely and collaboratively with the Local Authority.

The Trust will hold the land and capital assets in trust for each consulting school although each Governing Body will retain day-to-day responsibility for managing these assets in the same way as it does now.

Since it is already a foundation school, the governing body of Valence School already has these powers and responsibilities.

### **1.7 Consultation Process**

You will have the opportunity to comment on these proposals through our consultation process that runs from noon on Monday 29th September to noon on Monday 20th October 2014. We would emphasise that no decision has been made yet and we would welcome suggestions that might improve our proposals, as well as challenge them.

In parallel with this consultation, each consulting Governing Body will publish Statutory Proposals on changing category and acquiring a charitable trust and when both this Statutory Notice and the consultation period is over, each Governing Body will consider the outcome of consultation independently and decide on whether it wishes to proceed to implementation of the Trust.

Any school may decide not to proceed to implementation. However this does not prevent any of the other schools from continuing to change category and establish the Trust if their Governing Bodies wish to proceed.

### **1.8 Change of category**

In order to make these changes, the Governing Bodies of those schools currently classified as Community Special Schools are legally proposing to change category to become Foundation Schools and, at the same time, all the consulting schools are proposing to formally acquire a Trust – Kent SEN Trust.

## 2. Vision and Values of Kent SEN Trust

**2.1** Our vision is to use the strength of the Trust to build on and strengthen what our schools have already achieved, and to create a learning community which seeks to further improve teaching and learning; to raise levels of enjoyment, achievement and aspiration for all; and to ensure children and their families are supported. The values of the Trust are underpinned by the principles of equality and inclusion and a commitment to support the well-being of every child and family connected with our schools. We have considered a variety of school structures, including academies, but feel that this model best meets our context, needs and values.

**2.2** The consulting schools already work closely together alongside the other schools who will be joining the Trust as founding partners. Our Headteachers meet together regularly to share ideas, identify common areas for school improvement, and to plan and share provision for training and the professional development of staff. They also help each other to identify and moderate areas for development in our schools and increasingly teachers across our schools are starting to work more closely together.

**2.3** Becoming legally a shared Trust will help us to clarify our vision and aims, continue to raise expectations and standards across the partnership, and make our existing collaboration and associated school improvement strategies more sustainable. We believe that to meet the needs of our communities we need to work together as a community of schools. We know that we can achieve more by working together than we can by working alone. A shared Trust will help to make that vision a reality.

### 2.4 Our Values

Every child with SEN deserves to thrive and succeed and, in our view, students have the best chance of success when they:

- have their personalised needs fully and consistently met
- learn things which interest them and are useful to them
- have high quality learning experiences personalised to their individual needs
- have a sense of belonging to their community and an ability to become active citizens who can successfully contribute to society in the way each chooses
- have high expectations of themselves and their community and aspire to challenging goals
- feel safe and secure and enjoy their school experience
- feel cared for and understood and valued and respected as individuals
- attend regularly
- are inspired by their environment
- are enabled to achieve meaningful independence, with appropriate choices and opportunities within their home and school communities
- are encouraged to achieve to the maximum extent of their abilities.

The Kent SEN Trust will work to ensure a high quality learning experience for children and young people with special needs throughout the Kent-wide community.

The creation of the Trust will provide a strong and well-tested legal entity through which to collaborate with our partners for the benefit of our students.

Key aims for our Trust will be to:

- Further improve outcomes for all our learners in all our schools, with a strengthened focus on school-to-school self improvement.
- Support each school to become - and then stay - 'Outstanding'.
- Strengthen our ability to work collaboratively and co-operatively to enable our schools to grow, develop and improve together.
- Formalise and further develop arrangements already in place for joint working, including support for innovation and research in teaching and learning by our colleagues.
- Develop further the skills and expertise of staff across the schools to secure high quality teaching and learning for all
- Further share resources and skills across the schools and investing in our staff and our organisational systems to increase our skills, experience and efficiencies
- Further increase levels of aspiration across our school communities thereby impacting positively upon standards.

We believe the proposed changes will improve the life chances of our vulnerable children and young people in Kent, by:

- ensuring that all have full and fair access to specialist resources according to their identified individual needs
- ensuring that all have equality of opportunities in each and every aspect of their education and beyond into adulthood
- strengthening each special school's unique identity and recognising areas of expertise
- ensuring that all students have a voice that is at least as high profile as their mainstream peers
- building a coherent and inspiring learning journey for all
- increasing engagement and ownership of the schools within their respective communities (local, regional and specialist communities)
- working in partnership with other organisations, schools and colleges to maximise opportunities and promote the best possible outcomes
- increasing our commissioning and buying power to improve best value for all students
- supporting each and every school within the Trust to raise standards
- supporting parents and carers, particularly in response to emerging changes in funding/SEN legislation.

## **2.5 Co-operative Values and Principles**

The ethos of the schools within the Kent SEN Trust aligns very well with co-operative values and the principles of the co-operative movement (see Appendix B). Co-operatives are based on the values of self-help, self-responsibility, democracy, equality, equity and solidarity. In the tradition of their founders, co-operative members believe in the ethical values of honesty, openness, social responsibility, and caring for others.

The principles of the co-operative movement are: voluntary and open membership; democratic member-control; member economic participation; autonomy and independence; education, training and information; co-operation among co-operatives; concern for community.

Each school within the Trust will retain its own individual identity, specialisms, values and ethos, but its work will be underpinned by these co-operative values and principles and we believe these will contribute to strengthening the schools and their links with their communities.

### **3. What will the Trust do?**

#### **3.1 What will be the Trust's particular focus?**

It will be the key role of the Trust to raise attainment by:

- Improving the quality and consistency of teaching.
- Increasing aspirations among learners, parents and all those who work with our children.
- Harnessing resources efficiently in the interests of learning.
- Creating the right conditions for enjoyable and effective learning.

#### **3.2 Further Improving the Quality and Consistency of Teaching**

As a Trust we will:

- Look to recruit the brightest and the best to work in our schools.
- Develop talented professionals within our schools.
- Encourage teachers and school leaders to share their expertise for the benefit of all members of our Trust.
- Provide professionals working in our schools with the best in terms of training, facilities, resources and support.

#### **3.3 Raising Aspirations Further**

As a Trust we will work in partnership to:

- Encourage parents and professionals to have high expectations of our young people and our young people to have high expectations of themselves.
- Enable those attending our schools to acquire the skills and attitudes needed to become life-long learners.
- Foster creativity and innovation in our young people through an exciting and challenging curriculum.
- Create amongst learners a sense of local pride and of the possibilities afforded by the wider world.
- Further enable our local communities to aspire and achieve.

#### **3.4 Harnessing Partnership Resources and Beyond**

As a Trust we will work:

- To develop and share resources to continue to improve outcomes for our learners.
- With our parents/carers to help them to make their contribution to learning.
- With local community organisations to extend what schools can offer.
- With external partners to support our efforts in a variety of ways

### 3.5 Improving Conditions for Learning

As a Trust we will work:

- To provide an enjoyable, stimulating educational environment in which both learners and teachers can flourish.
- To ensure that children arrive at school ready and willing to learn.
- To improve attendance, so that all our children are in a position to learn.
- To continue to promote good behaviour through clear and consistent expectations and a curriculum which encourages children to learn.
- To ensure that good transition arrangements are in place to provide continuity in learning as pupils move from classes or to new schools.
- With partners, to improve the health and well-being of our learners.

### 3.6 How will we benefit from Trust Partners?

Trust status, crucially, will widen for all member schools, the range and quality of active partner groups who will be able to add to both the corporate strength of the Trust, and to the individual strengths of our schools and the communities they serve. Working with a variety of innovative educational partners from our local communities and beyond, will enable us to impact positively on learner outcomes.

Our schools will thus be enabled to build on their strengths and track records to further enhance current high standards and outstanding partnership/collaborative working within their communities. The Trust will enable and strengthen a coherent vision in order to improve outcomes for our children, through shared support and appropriate challenge.

The Trust partnership will provide a framework to support autonomy whilst retaining strong accountabilities and roots within local communities. This is at the heart of localism.

Our partnerships have been secured to ensure the values that underpin the essence of our work will be embedded for the long term (written into the fabric).

### 3.7 What will each Partner bring to the trust?

**The Co-operative Movement** - has extensive experience in supporting educational establishments to develop and embed a co-operative, values-driven ethos, both within and across schools, and across the whole curriculum. It also helps to bring a global dimension to school and community perceptions, through national and international links with other co-operative educational institutions and organisations. Initially, it will be represented by The Co-operative College, which is the educational arm of the 6,000 strong Co-operative Movement in this country. The College will work with the Trust to identify a suitable long-term co-operative partner for the Trust in the Kent area. Being co-operative trust schools will also allow us to become members of the Schools Co-operative Society (SCS). SCS is the fastest growing network of schools across England and is itself a co-operative of co-operative schools. Being part of a national cooperative schools organisation will be of great assistance as we try to navigate our schools through the rapidly changing educational landscape facing all mainstream schools. We will also be able to participate in a strong international network of co-operative schools and colleges.

**Kent Association of Special Schools (KASS)** - Kent Association of Special Schools has developed an increasingly strong collaboration over the past three years and is now leading initiatives within school improvement, leadership development and mainstream outreach and support. A key aim of the Trust, to provide collaborative partnership to support effective school improvement in all respects, is in line with these developments across Kent's wider Special needs school community, and therefore KASS will work as a partner to the Trust and have a place on the Trust Board. This will ensure that this exciting initiative develops and grows in partnership with county-wide initiatives.

**Other Partners** - The Trust is keen to explore links with other partners from the public, voluntary and commercial sectors that can help to further its aims, including universities and colleges. Charitable status and existing partnerships will help significantly in identifying suitable partners.

**The Governing Body of each consulting school** - will also itself be represented on the Trust with two trustees, including the Head Teacher and Chair of Governors (or nominee). Each partner school and organisation will appoint one trustee.

### **3.8 How will the Trust make a difference?**

By focussing collective attention and resources on enjoyment and achievement. The formation of the Trust will focus the minds and energies of all partners on the task of raising attainment and increasing opportunities across all our communities.

By bringing coherence and continuity to lifelong learning at a time when Local Authority services are diminishing and schools increasingly find themselves working alone, the Trust will provide the means of bringing local schools together to serve a common purpose and to provide continuous pathways to enjoyment, learning and achievement from early years to adulthood and beyond.

By making efficient and effective use of resources, the Trust will provide schools with significant collective bargaining power in their negotiations with suppliers of goods and services. This will enable them to secure best value and prioritise funding for teaching and learning. It will also encourage schools to pool expertise and resources to enable them to maximise the benefits for staff and learners.

By providing the motivation of membership, a number of partnerships have demonstrated the value of treating stakeholders as members. The Trust will extend the offer of membership to parents/carers, learners, employees and local community groups and individuals. This will have the value not only of identifying specific benefits for each of these groups, but also enlisting their support in achieving the aims of the Trust.

## 4. How will the Trust work?

**4.1** The Trust will be a charitable, not-for-profit company, limited by guarantee, and meeting the legal and other requirements as set out by the Department for Education (DfE). It will carry out its duties in relation to the school as set out by the DfE, specifically by appointing a minority (probably two) governors to the Governing Body of any supported school and by holding the land and assets mutually in trust for its school communities.

**4.2** The Trust will be legally established and regulated (as with all charities) by the Charities Commission and registered as a company limited by guarantee with Companies House.

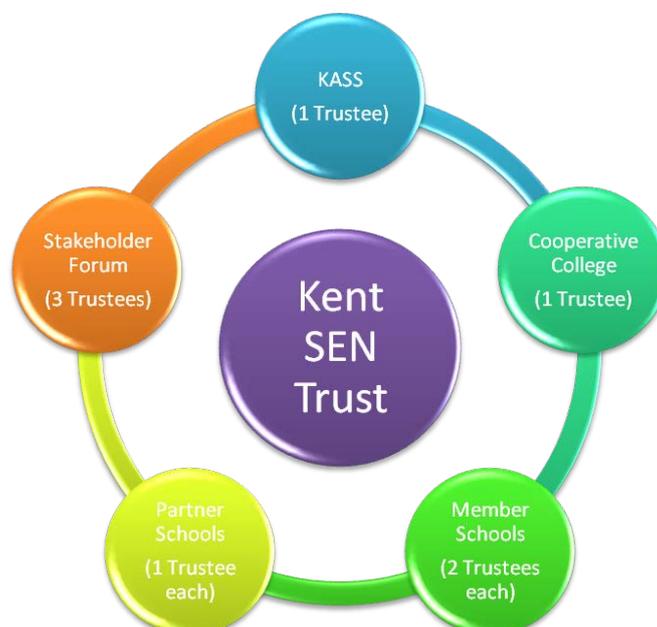
**4.3** Trustees will not be able to derive an income from the Trust, but the Trust may become an employer as it develops its work and activities. Any income generated by the Trust must only be used to support its charitable aims. The Trust will not seek to alter the individual characteristics of the member schools and it will not seek to change the character (religious or otherwise) of a partner school.

**4.4** The Trust will meet a minimum of three times per year (co-ordinated with existing school governance arrangements, as required) and will be made up of representatives from schools, partner institutions and its membership – via a representative Stakeholder Forum that will be established once the Trust is up and running.

**4.5** The Trust will work with other people and organisations, as appropriate, in order to carry out its work. As the Trust develops its work in the future, it may become appropriate to consider additional partners. There will be a process involving existing Trustees to ensure that any future partner will comply fully with the vision, values and aims of the Trust.

**4.6** The Trust will have an ethos of co-operation and democracy consistent with co-operative values. It will seek to empower learners and their communities. The Trust will help young people prepare for the challenges facing them as global citizens.

**4.7** The Trust will be made up of the school, partners, and members as shown in the diagram below.



## **5. Foundation Status**

**5.1** To facilitate the organisation of a trust, Community Schools are required to change their category to become Foundation Schools. In acquiring Foundation category, each Governing Body - and not the Trust - will take on new responsibilities, including responsibility for the employment of staff and admission of students to its school.

**5.2** The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 - known as the SOPAM regulations - provide for all the rights, powers, duties and liabilities to transfer existing staff from the Local Authority to the Governing Bodies.

**5.3** Existing and new teaching staff will continue to work under the terms of the 'School Teachers Pay and Conditions Document' (STPCD). Each school's Governing Body will set out the terms and conditions for new support staff, which will be no less favourable than those applying to existing staff. All staff will, therefore, always enjoy, as a minimum, the same terms and conditions of employment as in any maintained state school.

**5.4** Each school will continue to teach the National Curriculum and will be inspected by Ofsted at appropriate times.

**5.5** Each Governing Body will continue to have day-to-day control and management of its school's land and assets (which the Trust will hold 'in trust' for the school) as is the case at present.

**5.6** The Trust will work in collaboration with the Local Authority in ensuring strict adherence to the Schools' Admissions Code, whilst reserving the legal right to review admission arrangements if deemed appropriate.

**5.7** Valence School Goldwyn School and Ifeild School are already foundation schools and their Governing Body already has the powers and responsibilities outlined above.

## **6. What Trust and Foundation status will mean for parents and carers, learners, employees and the wider community**

### **6.1 Admissions**

The schools will remain part of the Local Authority's family of schools. We will continue to have a fair admissions policy and parents will apply for places at a Trust school as part of the Local Authority process. The schools will continue to work in partnership with the Local Authority to ensure that student places are given fairly and in line with the published admissions criteria that conform to the School Admissions Code. However all Trust school Governing Bodies reserve the right to review admissions arrangements as deemed appropriate.

### **6.2 Composition of Governing Bodies**

From September 2012 the Government has changed somewhat the arrangements for appointing Parent, Community, Local Authority and Staff Governors. Community governors have now become known as 'co-opted' governors.

We are proposing - see below - that changes should be as minimal as possible when compared with the current composition of each governing body. However each consulting governing body will now have a minority of governors (probably the legal minimum of two) appointed by the Trust. This will help to ensure that there is a good link between the Trust and each Governing Body.

The governing body of a foundation school with a 'minority' Trust as its foundation, which is what we are proposing, has to be composed as follows;

- The Headteacher;
- One staff governor;
- At least two parent governors;
- One Local Authority governor;
- At least two, but no more than 45% of the total – foundation governors appointed by the named Trust; in our case we are proposing the legal minimum of two;
- As many co-opted governors as the governing body considers necessary. However, the total number of co-opted governors who are also eligible to be elected as staff governors must not exceed one-third of the total membership of the governing body - you must also count the Headteacher in this figure.

### **6.3 Membership of the Trust**

All parents/carers and learners attending a Trust school are eligible to become members of the Trust. This is also true of all members of staff employed by Trust schools and members of a range of community organisations supporting the work of the Trust – as well as individuals living or working locally who identify with what the trust is seeking to achieve.

We are planning to establish a Trust Forum whose members, including parents, staff, learners and representatives of community – both organisations and individuals, are elected from their respective membership constituency. The purpose of the Trust Forum will be to hold the Trust to account, to help shape policies and to appoint a minority of trustees (in this case three).

In keeping with the co-operative tradition, we will be looking to identify a range of benefits to members which would be consistent with the aims of the Trust.

#### **6.4 Employee Terms and Conditions**

The SOPAM Regulations 2013 provide for all rights, powers, duties and liabilities to transfer existing staff from the Local Authority to the Governing Body of each school and employees will, in future, be employed by their school's Governing Body instead of the Local Authority.

Co-operative Trust schools will continue to recognise the same unions and professional associations as are currently recognised and the existing rights of teachers will be fully protected if schools acquire a Trust. The schools will continue to be bound by the School Teachers' Pay and Conditions Document.

Each governing body will set terms and conditions for its own support staff. However, these will be safeguarded as per the prescribed regulations and the same employment rights they currently have as Local Authority employees, will be maintained.

Employees will still be represented on all the governing bodies, but in two categories going forward. Some will continue to be elected by their colleagues, others can also be co-opted onto a governing body. There will still be representatives from parents, the community and the Local Authority, as is currently the case, together with the additional two foundation governors nominated by the Trust.

Under the terms of the 2013 regulations referred to above, all staff will continue to enjoy, as a minimum entitlement, the same terms and conditions of employment as staff in any maintained school.

## 7. The Consultation Process

**7.1** We would like to consider your response to the proposals contained in this booklet, so please let us know what you think about our plans by using one or more of the following means:

- a) Complete and return the Questionnaire Response Form
- b) Send in your comments to your school
- c) Attend a consultation meeting at one of the consulting schools

**7.2** The views of learners will be gathered by a variety of appropriate methods including formal consultation meetings with our Student Councils as well as through assemblies and newsletters.

**7.3** Consultation meeting details are listed below. You are welcome to attend any consultation meeting convenient to yourself

### **Foxwood and Highview School**

Staff Consultation	Thursday 02 <sup>nd</sup> October at 4PM
Parent/Community	Thursday 02 <sup>nd</sup> October at 6PM

### **Bower Grove**

Staff	Wednesday 01 <sup>st</sup> October at 2.15 PM
Parent/Community	Wednesday 01 <sup>st</sup> October at 6.00PM

### **Grange park**

Staff	Thursday 16 <sup>th</sup> October at 3.30PM
Parent/Community	Thursday 16 <sup>th</sup> October at 5.30PM

### **Goldwyn**

Staff	Thursday 09 <sup>th</sup> October at 4.30PM
Parent/Community	Thursday 09 <sup>th</sup> October at 4.30PM

### **Meadowfield**

Staff	Thursday 02 <sup>nd</sup> October at 3.30PM
Parent/Community	Thursday 02 <sup>nd</sup> October at 6.00PM

### **Ridge View**

Staff	Thursday 09 <sup>th</sup> October between 4PM & 7PM
Parent/Community	Thursday 09 <sup>th</sup> October between 4PM & 7PM

### **Rowhill**

Staff	Thursday 09 <sup>th</sup> October at 3.30PM
Parent/Community	Thursday 09 <sup>th</sup> October at 6.00PM

**Valance**

Staff	Tuesday 14 <sup>th</sup> October at 7.30PM
Parent/Community	Tuesday 14 <sup>th</sup> October at 7.30PM

**Ifield**

Staff	Monday 06 <sup>th</sup> October at 3.00PM
Parent/Community	Thursday 02 <sup>nd</sup> October at 6.00PM

**7.4** You can comment at any time from noon on 29th September to noon on 20th October 2014.

**7.5** After the consultation is closed, all comments will be considered and a report will be prepared for the Governing Bodies. These reports will be made available on each school's website. Individual responses will not be published but will be made available to the respective Governing Bodies and will be available for inspection by the public on request. The Governing Bodies will then hold meetings to review the report and all the comments made before individually reaching informed decisions.

**7.6** Each Governing Body may decide to:

- a) Agree a change to Foundation Category (if currently in Community Category) and to adopt the Trust (schools which are already Foundation Category will decide only whether to adopt the Trust)
- b) Modify the proposal in the light of suggestions made during consultation and, if the changes are significant, re-consult on the changes
- c) Decide to remain as a Community Special School without changes (unless already in Foundation Category)
- d) Pause the process to allow further time for debate and consideration

**7.7** If one Governing Body decides not to proceed, it does not prevent the others from proceeding. The outcome of consultation for each school is mutually exclusive.

**7.8** The proposed implementation date for the Trust is 1st January 2015.

**7.9** Copies of all of the consultation documents can be obtained from the individual consulting schools as well as downloaded from the appropriate school website. If you have any queries about anything you have read here and would like further clarification, please contact your school (full address below).

**Foxwood School**

Headteacher: Mr Neil Birch

Email: [Headteacher@foxwood.kent.sch.uk](mailto:Headteacher@foxwood.kent.sch.uk)

Add: Seabrook Road, Hythe, Folkestone Kent CT21 5QJ

Tel: 01303 26155

Chair of Governors: Mr Richard Hewson

**Highview School**

Headteacher: Mr Neil Birch  
Email: [Headteacher@highview.kent.sch.uk](mailto:Headteacher@highview.kent.sch.uk)  
Add: Moat Farm Road, Folkestone Kent CT19 5DJ  
Tel: 01303 258755  
Chair of Governors: Mr Richard Hewson

**Bower Grove School**

Headteacher: Mr Trevor Phipps  
Email: [office@bower-grove.kent.sch.uk](mailto:office@bower-grove.kent.sch.uk)  
Add: Fant Lane, Maidstone Kent ME16 8NL  
Tel: 01622 726773  
Chair of Governors: Mrs Alison White

**Goldwyn School**

Headteacher: Mr Bob Law  
Email: [headteacher@goldwyn.kent.sch.uk](mailto:headteacher@goldwyn.kent.sch.uk)  
Add: Godinton Lane Great Chart Ashford TN23 3BT  
Tel: 01233 622958  
Chair of Governors:

**Grange Park School**

Headteacher: Mr Robert Wyatt  
Email: [Office@grangepark.kent.sch.uk](mailto:Office@grangepark.kent.sch.uk)  
Add: Borough Green Road, Wrotham Kent TN15 7RD  
Tel: 01732 882111  
Chair of Governors: Mr Matthew Balfour

**Meadowfield School**

Headteacher: Ms Jill Palmer  
Email: [Office@meadowfield.kent.sch.uk](mailto:Office@meadowfield.kent.sch.uk)  
Add: Swanstree Avenue, Sittingbourne Kent ME10 4NL  
Tel: 01795 477788  
Chair of Governors: Mr Ray Hollis

**Ridge View School**

Headteacher: Mrs Jacqui Tovey  
Email: [Jacqui.tovey@ridge-view.kent.sch.uk](mailto:Jacqui.tovey@ridge-view.kent.sch.uk)  
Add: Cage Green Road, Tonbridge Kent TN10 4PT  
Tel: 01732 771384  
Chair of Governors: Ms Anna Pritchard

**Rowhill Special School**

Headteacher: Mr Timothy South  
Email: [Headteacher@rowhill.kent.sch.uk](mailto:Headteacher@rowhill.kent.sch.uk)  
Add: Main Road, Longfield Kent DA3 7PW  
Tel: 01474 705377  
Chair of Governors: Mr Carl Sizmur

**Valance School**

Headteacher: Mr Roland Gooding  
Email: [RGOODING@valance.kent.sch.uk](mailto:RGOODING@valance.kent.sch.uk)  
Add: Westerham Road, Westerham Kent TN16 1QN  
Tel: 01959 567841  
Chair of Governors:

**Ifield**

Headteacher: Ms Pam Jones  
Email: [Pamjones@ifield.kent.sch.uk](mailto:Pamjones@ifield.kent.sch.uk)  
Add: Cedar Avenue, Gravesend Kent DA12 5JT  
Tel: 01474 365485  
Chair of Governors:

## 8. Appendices

### **Appendix A: List of Consultees**

As part of the consultation process, the following will all be consulted:

Students currently at each school

Their parents/carers

Staff currently employed at each school, both teaching and support staff

Other personnel who work at the school

Governors

Local MPs and serving local Councillors

All Kent Schools and Settings

Relevant Local Authorities

Children and Adolescents Mental Health Service (CAMHS)

The Clinical Commissioning Groups in Kent (CCG)

Kent Parent and Carer Forum

Voluntary Groups

Kent Community Health

The local Teacher Associations and Trade Unions representing our support staff - Via a rep in each school

EP Service

Social Services

KAH

## **Appendix B – Co-operative Values and Principles**

The Values and Principles embraced by today's worldwide Co-operative Movement have evolved from the ideas of the early co-operators of the 18th and 19 centuries. They are embodied in the statement of Cooperative Identity published by the International Co-operative Alliance (<http://www.ica.coop/al-ica>)

**Self-responsibility** - Individuals within co-operatives act responsibly and play a full part in the organisation.

**Self-help** - In co-operatives, people help each other whilst helping themselves by working together for mutual benefit.

**Equality** - Each member will have equal rights and benefits (according to their contribution).

**Co-operative Values** - Co-operatives throughout the world share a set of values that give them their distinctive character.

**Solidarity** - Members will support each other and other co-operatives.

**Democracy** - A Co-operative will be structured so that members have control over the organisation – one member, one vote.

**Ethical Values** - In the tradition of their founders, co-operative members believe in the ethical values of: Honesty, openness, social responsibility and caring for others.

**Equity** - Members will be treated justly and fairly

**The co-operative principles are guidelines by which co-operatives put their values into practice.****1st Principle: Voluntary and Open Membership**

Co-operatives are voluntary organisations; open to all persons able to use their services and willing to accept responsibilities of membership, without gender, social, racial, political, or religious discrimination.

**2nd Principle: Democratic Member Control**

Co-operatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to the membership. In primary cooperatives members have equal voting rights (one member, one vote), and co-operatives at other levels are also organised in a democratic manner.

**3rd Principle: Member Economic Participation**

Members contribute equitably to, and democratically control, the capital of their co-operative. At least part of that capital is usually the common property of the co-operative. Members usually receive limited compensation, if any, on capital subscribed as a condition of membership.

Members allocate surpluses for any of the following purposes:

Developing their co-operative, possibly by setting up reserves, part of which at least would be indivisible; benefiting members in proportion to their transactions with the co-operative; and supporting other activities approved by the membership.

**4th Principle: Autonomy and Independence**

Co-operatives are autonomous, self-help organisation controlled by their members. If they enter into agreements with other organisations, including governments, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their co-operative autonomy.

**5th Principle: Education, Training and Information**

Co-operatives provide education and training for their members, elected representatives, managers and employees so they can effectively and strengthen the Co-operative Movement by working together through local, national, region and international structures.

**6th Principle: Co operation among Co operatives**

Co-operatives serve their members most effectively and strengthen the Co-operative Movement by working together through local, national and international structures.

**7th Principle: Concern for Community**

Co-operatives work for the sustainable development of their communities through policies approved by their members.



## **Kent SEN Trust**

**(A mutual special schools co-operative membership trust)**

### **Initial Consultation: Booklet Two**

**Changing from Community School to Foundation School Category  
and Acquiring a Charitable Trust**

**Public Consultation  
Booklet Two (Revised April 2014)**

**Changing to Foundation School Category and Acquiring a Charitable Trust**

**Questions & Answers  
Applicable to all Co-operative Foundation School Trusts**

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*NB. These Questions & Answers have been compiled largely from official Department for Education (DfE) (previously DCSF), publications and apply to all co-operative foundation trust schools. However aspects which have been updated or amended by the Co-operative College and/or relate particularly to co-operative trust schools are the intellectual property of the Co-operative College and as such are bound by copyright.*

## **1. The Basics**

### **1.1 What is a Trust School?**

A Trust School is a local authority maintained school which is supported by a charitable Trust. To become a Trust school, schools must adopt their own foundation e.g. community schools need to change their category to become a foundation school and simultaneously either singly or jointly acquire (establish) a foundation trust to act as their legal foundation; or alternatively join an existing foundation trust. This trust then appoints some of the governors to serve on the school governing body.

All Trust schools operate within the same frameworks as other maintained schools: they teach the National Curriculum, follow the School Admissions Code and are inspected by Ofsted. Teaching staff will still be employed under the terms of the School Teachers' Pay and Conditions Document. The local authority will fund the school on the same basis as all other local authority schools and will retain its intervention powers if there are problems at the school.

### **1.2 What would change if the school became a Trust school?**

Trust schools differ because their charitable trust establishes a long-term relationship with external partners and involves them in the school's governance and leadership. The proposal is to form a Trust with the partners and develop a shared sense of direction. There are other external partners who normally each nominate a Trustee on the Trust Board.

The governing body of a Trust school (which retains parents, staff, community /co-opted and local authority governors) remains responsible for all major decisions about the school and its future. The governing body of a Trust school also remains responsible for all aspects of the conduct of the school (including the school's budget and staff) and so responsibilities and accountabilities remain clear. The Trust holds the land and capital assets on trust for the Governing Body of any school for which it acts as the legal foundation.

In becoming a foundation trust school a community school changes its legal category; (a Trust school is defined for the purpose of this document as a foundation school with a foundation acquired under the provisions of the Education and Inspections Act 2006). This means that as a foundation trust school its Governing Body (not the Trust), will take on two new areas of responsibility, namely:

- It will become the ultimate legal employer of staff rather than the local authority; and
- It will be responsible for setting admissions arrangements (in accordance with the law and the Admissions Code).

Existing Foundation schools (known in law as 'Foundation Schools without a foundation), who wish to acquire a trust or join an existing trust however do not change category and in most cases would already have these responsibilities.

In either case, the governing body would continue to have day-to-day control of the school's land and assets although the Trust would hold these on trust for the school.

Having a Trust that appoints governors means that the school can strengthen its relationship with partners and their energy and expertise can support the school's leadership and direction.

### **1.3 How does a school acquire foundation category?**

Regulations published in 2007 provided a route for schools to acquire foundation category. These regulations -The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007, ( often known as the SOPAM regulations), were revised and updated at the end of 2013 to allow for a more 'streamlined' process and these took effect this year. This shorter route involves a decision by the governing body following a period of informal consultation with parents, the local authority and other stakeholders and the publication of a statutory notice and accompanying proposals followed by a four-week period for representations.

#### **1.4 Does the school have to become a Trust School?**

No, this is a voluntary decision for the current governing body, after consulting with parents and other local stakeholders and publishing formal proposals.

#### **1.5 Will it change what children and young people learn?**

The school chooses which partners can help to support its vision and priorities – it could choose a Trust with expertise in a particular area in order to give learners more opportunities and to raise standards.

In our case we would anticipate that the co-operative stake-holding membership nature of the Trust will increase stakeholder involvement and encourage and enable parents to become more informed about their children's learning. Like all maintained schools, Trust schools will teach the National Curriculum and still be inspected by Ofsted.

#### **1.6 So what is the difference between an 'ordinary' Foundation Trust and a Co-operative Trust?**

In a co-operative trust, the Trust itself is a co-operative, ie a membership organisation which allows parents/carers and learners attending a Trust school to become members of the co-operative trust. This is also true of members of staff employed by co-operative trust schools and members of a range of community organisations supporting the work of the Trust – as well as individuals living or working locally who identify with what the trust is seeking to achieve. Going forward this should see the trust's membership growing and it taking on an increasingly mutual nature.

As a co-operative trust, the Trust will adopt the values and principles of the co-operative movement (see Appendix A).

Co-operatives are based on the values of self-help, self-responsibility, democracy, equality, equity and solidarity. In the tradition of their founders, co-operative members believe in the values of honesty, openness, social responsibility and caring for others.

These values and principles should underpin the work of a co-operative trust with its schools, with each other and with the young people in the schools. A key role of the Trust is to develop and sustain the co-operative ethos and ways of working of the Trust - and the schools within it.

Another key feature of a co-operative trust is the democratic voice it gives to its members. Over a period of time, it should seek to establish a Trust Stakeholder Forum, whose members, including parents, staff, learners and representatives of the local community – both organisations and individuals, are elected from the respective membership constituencies. The purpose of the Stakeholder Forum will be to hold the Trust to account, to help shape policies and to appoint a minority of trustees - normally two or three.)

In keeping with the co-operative tradition, it is also recommended to seek to identify a range of benefits to members which would be consistent with the aims of the Trust.

#### **1.7 How is it different from a maintained school?**

It isn't; trust schools are part of the family of local authority maintained schools.

#### **1.8 Isn't this the same as the old Grant Maintained (GM) schools?**

No. Trust schools remain part of the local authority family, whereas GM schools 'opted-out' and were funded directly by Central Government. GM schools were allowed to select pupils by ability, whereas Trust schools will have to act in accordance with the Admissions Code and will not be able to introduce any new selection by ability.

#### **1.9 How will the school be funded?**

Trust schools will be funded on the same basis as other maintained schools, according to the local authority's funding formula. They will be allocated their own capital money on the same

basis as other schools.

### **1.10 How much money is the Trust going to invest?**

Working with a Trust is not about generating income for the school – there is no requirement or expectation that the Trust will contribute financially. The Trust's value is in how it strengthens the school's leadership and governance. The Trust could of course contribute financially to the school if it chose to do so.

### **1.11 Can a Trust school dispose of surplus non-playing field land?**

Yes – but if the Trust wants to dispose of land it must consult the governing body of the school concerned. If the governing body wants to dispose of land it must ask the Trust to agree. The Trust must then inform the local authority of their plans to dispose of non-playing field land. Local authorities can object to proposals if they feel that they are not in the interest of the school in the long term, or would disadvantage the wider community. Local authorities will also be able to object to reinvestment proposals and to claim a share of the proceeds attributable to public investment in the land. Where local agreement cannot be reached, the matter will be referred to the Schools Adjudicator for resolution. Local authorities will not be able to force a Trust to sell any surplus land to raise money.

Trust schools will be able to benefit directly from the disposal of land, but all proceeds must be used for capital investment in educational assets in either the school itself or the maintained sector (according to the Trust's Memorandum and Articles of Association) and the trust itself will not be able to profit from any such disposals. There is no change to the rigorous procedure for any disposal of school playing fields, which will continue to require the consent of the Secretary of State.

### **1.12 Will the Trust partners make a profit out of the school?**

No. The school budget will continue to go directly to the governing body, not to the Trust. Trusts must be constituted as not-for-profit charities – any income must be used to support their charitable aims, which must focus on the advancement of education and community cohesion. Trust-appointed governors would have a conflict of interest if the Trust (or a partner involved in the Trust) were to sell goods or services to the school. There are already rules so that these governors would withdraw from the discussion and not vote on the decision.

### **1.13 Why should the governing body be reconstituted?**

This is part of the required process of acquiring a Trust. Governors will look at what is best for the school: they will only decide to acquire a Trust if it (and the governors it appoints) will help the school. A Trust is a way to develop a long term and sustainable relationship with partners. The Trust will appoint governors with skills, energy and experience to strengthen the governing body now and for years to come.

When looking at the type of trust that a governing bod/ies may wish to establish, they have the choice of creating either a majority or a minority trust, ie one which appoints either a majority or minority of the governing respectively. The latter are extremely rare, only really been found in a relatively small number of secondary schools which 'had' to become part of a local majority under the last Government's National Challenge arrangements. The vast majority of foundation school trusts are therefore minority trusts. This is also true of almost all co-operative foundation trusts where only a tiny number, all previously National Challenge are majority trusts.

In a minority trust the Trust will only appoint up to 45% of governors – in practice this figure is likely to be much smaller, typically the legal minimum of two, perhaps three. It is anticipated however that these governors will help to further strengthen the governing body. For trusts coming into existence after September 2012 or for schools making the Trust their legal foundation after this date, new reconstitution regulations apply, namely The School Governance (Constitutions)(England) Regulations 2012. (See section 2.1 below)

### **1.14 Do parents have a say about co-operative trust schools?**

Parents will be consulted about the proposed Trust and will be able to express their views. As with all maintained schools' existing arrangements, the governing body includes parent

representation. They will also have an important say in the running of the Trust through the membership arrangements that are normally set up for a co-operative trusts.

### **1.15 What if something goes wrong?**

Acquiring a Trust is intended to be a permanent relationship, but there will be a process to remove the Trust if a school fails, or if there is real dissatisfaction at the Trust's performance. The school would become a 'foundation school without a foundation', and publicly funded land assets held by the Trust would automatically transfer to the school's governing body. The Charity Commission will be able to intervene if there are problems with the conduct or management of a Trust.

### **1.16 What if a school wants to remove its Trust?**

A foundation/voluntary school that had a foundation prior to the commencement of Section 18 of the Education and Inspections Act 2006 (E&I Act) cannot remove its foundation. A school that acquired a Trust under the provisions of the E&I Act 2006 must follow a statutory process, including the publication of proposals, in order to remove that Trust.

### **1.17 Can other schools join an existing Trust (making it a shared Trust)?**

Yes, so long as they do not already have a foundation/Trust. The governing body of the school will need to follow the same statutory process and publish proposals to acquire the Trust for that school. Where a school already has a foundation, there are a number of different models of collaboration between that school and schools in a shared Trust.

### **1.18 Can a school be removed from a shared Trust by the other schools in that Trust?**

No.

## **2. Governance**

### **2.1 How is the governing body of a foundation school made up?**

As the date that this trust would legally be established falls after 1 September 2012, the new regulations – the School Governance (Constitution) (England) Regulations 2012 will need to be adhered to. These regulations state that the governing body of every maintained school must be constituted in accordance with this regulation as follows.

The total membership of the governing body of a maintained school must be no fewer than seven governors.

The governing body of a maintained school must include the following:

- a) at least two parent governors;
- b) the head teacher unless they resign the office of governor;
- c) one staff governor; and
- d) one local authority governor.

The governing body may in addition appoint such number of co-opted governors as they consider necessary provided that the requirements in regulation 14 are met in respect of governing bodies of foundation and voluntary schools. This states that: 'the governing body of a foundation school which is not a qualifying foundation school must also include at least 2 (but no more than 45% of the total,) foundation governors.'

The total number of co-opted governors who are also eligible to be elected as staff governors under Schedule 2, when counted with the staff governor and the head teacher, must not exceed one third of the total membership of the governing body.

In practice this allows school governing bodies, if they wish, to minimise the initial changes in composition and retain a very similar representation through the use of co-options.

### **2.2 What is the legal requirement concerning the composition of the governing body?**

There are now five compulsory stakeholder groups for foundation schools that must be

represented on the school governing body. The make-up of the governing body will still include elected parent governors, staff governors and one governor appointed by the local authority as well as governors co-opted from the wider school community. In addition the head teacher is appointed as a governor by default, but may resign this office if they so choose.

### **2.3 What are sponsor governors?**

Sponsor governors are persons who give substantial assistance to the school – financially or in kind - or who provide other services to the school. They are additional to the other categories of governor and do not count as part of a governing body's basic composition.

### **2.4 Does the governing body have to be reconfigured if Trust membership changes?**

When a school determines proposals in favour of acquiring a Trust, it will have to draw up a new instrument of government in accordance with the published proposals and send this to the local authority, which will formally 'make' it. A subsequent change in the membership of the Trust, ie new partners joining or current partners leaving, should not necessarily mean a change in the number of foundation governors appointed by the Trust and so there should not be a need for a further reconfiguration of the governing body.

Trust nominated foundation governors are appointed for a term of office and will complete this term of office once appointed, unless either (a) they resign or (b) if the Trust (rather than individual trustees) votes to replace them. Therefore, a change in the trustees may ultimately lead to a change in the identity of the foundation governors, though a reconstitution of the governing body would not be necessary.

A change in the **membership** of the Trust should have no immediate impact on the governing body, but might eventually lead to the appointment of new trustees (or indeed the departure of some).

The governing body and local authority can review the instrument of government at any time, and provided they have the agreement of the foundation governors and the Trust itself, they can make changes to the instrument of government. However, if a minority of governors are appointed by the Trust and the governing body wished to acquire an instrument of government that allowed for the Trust to appoint a majority of governors, it would have to follow the statutory process and publish proposals.

### **2.5 Can the Trust change its objectives without reference to the governing body?**

Possibly – it will depend on the Trust's Memorandum and Articles of Association. However, the objectives must by law always include "the advancement of the education of the pupils at the school or schools for which it acts as a foundation".

### **2.6 How many people can each Trustee appoint to the governing body, especially when a Trust consists of four or five partners? Can they all appoint a member to the Governing Body?**

Trustees do not each appoint governors – the Trust (as a single entity) will appoint an agreed number of governors depending on the instrument of government of the school. The Trust's Memorandum and Articles of Association (MAA) will determine the voting rights of individual trustees on such matters. There are restrictions on the number of each category of governors and the maximum size of the governing body.

### **2.7 Can the Trust add new partners after the governing body has approved the Trust acquisition? What safeguards are there?**

When a Trust is established the formal proposals to acquire a Trust must give details of who the members (partners and foundation governing bodies making the trust their legal foundation), will be and how the Trustees will be appointed.

Once a Trust has been established new individuals or organisations, may apply to become partners. When agreeing the MAA for the Trust you are advised to take your own legal advice to ensure that the MAA meet your requirements and you should consider the safeguards you would like to keep. However, the model MAA provided to co-operative foundation schools by the

Co-operative College, contain the DFE approved safeguards in relation to the addition of new partners and these are recommended as good practice.

Firstly, **new partners must be approved** by either the existing Directors of the Trust (the Trustees) or by the existing partners of the Trust as set out in the Memorandum and Articles – in either case it requires a majority to vote in favour. The trustees would have to satisfy themselves that the proposed new partner was interested in promoting the charitable objects of the Trust e.g. to act as a foundation and to advance the education of the learners at any school in respect of which they act as a foundation. In discharging these objects they have to have regard to the obligation to promote community cohesion. Secondly, **partnership in the Trust is not transferable**, so any individual or organisation wishing to become a partner of the Trust would have to be approved – it is not possible to become a partner and then pass that partnership to a different organisation or individual.

### **3. Money, Land and Assets**

#### **3.1 Who owns the land assets for foundation schools?**

Foundation schools (which do not have a legal foundation), own their own land and assets. There is a transfer of ownership from the local authority to the school governing body. The Secretary of State has the power to issue a direction in the event of any dispute in respect of such a transfer.

#### **3.2 Who controls the use of the premises of foundation schools?**

The governing body controls the use of the premises during and outside school hours. Exceptions to this might be if a trust deed says someone else has control of the use of the premises or a 'transfer of control agreement' has been made. Governing bodies are, however, expected to be sympathetic to the needs of the local community when deciding out of hours use. They must also follow any reasonable directions from the local authority as to the use of the premises on up to three days a week for education or welfare provision for young people.

#### **3.3 What is a 'transfer of control agreement'?**

This is an agreement by which the governing body can share control of the school premises with another body or transfer control to it. One of the aims of the agreement must be to encourage local community use of the premises. The governing body is required to obtain the local authority's consent before entering into any agreement which transfers control of the premises during school hours.

Where a school has a specific foundation, the land and buildings are transferred to the trustees to hold in trust for the purpose of the school. However, the local authority still has a duty to maintain the school. As such it retains an "insurable interest" in foundation trust schools. The local authority has a duty to provide (and fund) new premises if, for example, a foundation trust school was to be destroyed or substantially damaged by a fire.

If the local authority accepts it has an insurable interest in a foundation trust school it can make arrangements for such cover to be funded from centrally retained expenditure or through a school's delegated budget. In the latter case, the local authority would need to satisfy itself that the insurance the school arranged satisfactorily covered the authority's risk as well as that of the governing body or foundation.

#### **3.4 Does all a foundation school's land transfer to the foundation body or school governors?**

Regulations set out what land should transfer. In the case of a community school becoming a foundation trust school all land held and used by the local authority for the purpose of the school will transfer and be vested in the school's foundation body.

In the case where the local authority holds land partly for the purposes of the school and partly for other purposes its ownership is to be determined by reference to the tests contained in Schedule 10 of the Education Reform Act 1988, as amended by regulations. The first test is to see whether it is possible practically to divide the property. If it is not possible to divide the property its ownership should be determined by having regard to which party has greater need of the security afforded by having ownership and, if neither, which party is likely to make greater use of the facility. Schedule 10 also provides for the party not granted ownership of the property

to have its user rights protected.

Regulations also make provision for the local authority and the school to apply, either jointly or individually, to the Secretary of State to direct that specific land/property (and any associated rights and liabilities) be excluded from transfer.

### **3.5 What powers does a foundation school have to dispose of its land?**

Foundation trust schools are entitled to seek to dispose of their land, but in most cases the permission of the Secretary of State is required. It is open to the Secretary of State to decide that the local authority should have a share of the funds raised if they are not required for reinvestment in the school.

### **3.6 How are foundation schools funded?**

Foundation trust schools are funded through the same Local Management of Schools (LMS) formula as other schools. There are two factors within the formula that are particularly relevant. Voluntary aided and foundation trust schools receive additional funding through the admissions factor in the formula to recognise the additional costs to such schools of managing the admissions process including appeals. However, these schools also receive a reduced allocation through the premises factor to reflect reduced VAT on energy for schools that have charitable status.

### **3.7 Do foundation schools pay reduced rates?**

Foundation schools have charitable status and rates are reduced by 80%. LMS scheme rates are paid at actual costs, however, and so this reduction is helpful to the overall budget for school funding rather than a direct benefit to the individual school.

### **3.8 Do foundation schools have different freedoms in managing their budget than other schools?**

No. All schools have equal freedom to determine their spending priorities and secure the service they choose. All schools are subject to the provisions of the Scheme of Financial Delegation for Schools, which sets out the authority's requirements for financial management in schools. Under this scheme schools are, for example, required to provide budget information, provide information on a school surplus and, if necessary, to agree a budget recovery plan. Where there are grounds for serious concern, the authority may suspend delegation for any school. It is anticipated that this situation will remain under the Government's proposed National Funding arrangements.

### **3.9 Can a school claim a proportion of the local authority's budget if it acquires foundation category?**

No. The structure of school and local authority funding has been substantially overhauled since the days of grant maintained schools. Schools and local authority funding are separate and are calculated through different formulae. From 2006, school funding has been provided through a ring-fenced grant, the Dedicated Schools Grant. The authority's budget is aligned to its own responsibilities and its size is a matter for its Council to determine. A different set of issues arises with regard to provision for learners made by the authority, which is funded from the non-Individual Schools Budget (ISB), (non-regulated) part of the Schools Budget provided by the Dedicated Schools Grant. Again there have been recently some changes in the detail and mechanisms of these arrangements with more to follow under the Government's proposed National Funding arrangements; however broadly speaking it would appear that community schools becoming foundation trust schools will continue to be funded in a consistent and similar manner going forward.

It is within the remit of the local Schools Forum to provide advice to the local authority on such issues. Any decision to delegate funding and reduce central provision would apply to all schools not just a single school or group of schools.

### **3.10 Who holds the land and buildings in a Trust school?**

When a community school acquires a Trust (i.e. becomes a Trust school), the school's land and buildings will transfer to that Trust to be held on trust for the duration of its relationship with the

school. The Trust does not have to pay for the land and assets. This means that Trust schools will be in the same situation as existing foundation schools whose foundations (or Trusts) already hold the land, and also similar to existing voluntary schools. Special arrangements can be put in place where facilities are shared with another school or provider.

### **3.11 What does 'hold on trust' mean?**

A Trust has the legal title to the land, but it holds it on trust for the purpose or benefit of the school and subject to the provisions of the Trust's governing documents. If its role ends then publicly funded land will normally revert to the governing body or the local authority.

### **3.12 Does this mean that the Trust is responsible for the day-to-day control of the school's land and its buildings?**

No. Trust school governing bodies will have day-to-day control over the school premises in the same way that all governing bodies do. Local authorities are responsible for maintaining school buildings, although this is usually delegated to governing bodies. Governing bodies will be able to manage their buildings and services themselves, or to enter into agreements with their local authorities or with commercial organisations for the facilities managements of their premises, if they wish.

### **3.13 Is it only the land that the Trust holds?**

Usually the school's fixtures and fittings will transfer to the Trust along with the land and buildings. Equipment, including such items as books and computers, is usually owned by the local authority but for all practical purposes it will be under the control of the governing body.

### **3.14 What is the purpose of the Trust holding the school's land?**

It establishes the long-term relationship between the school and the Trust providing the basis for the Trust to support the school in developing provision for its pupils.

### **3.15 What responsibilities and liabilities does the Trust have in respect of land and buildings?**

The responsibility of the Trust to hold the land for the benefit of the school will be set out in its MAA. The actions of the Trust will be determined by these and by the requirements of trust and charity law. It does not have responsibility for the upkeep of the land or the buildings on it or for contracts for goods or services which the governing body enters into.

### **3.16 How does becoming a Trust school affect capital funding?**

Trust schools will have the same flexibility as foundation schools to manage their own assets while remaining a full and equal part of the local authority planning process for capital spending. This has already worked successfully with foundation schools. Trust schools will continue to receive devolved formula capital in the same way as other schools.

### **3.17 Who is responsible if there is a problem with one of the buildings at a Trust school?**

As a general rule, governing bodies are only responsible for those things for which they have received funding delegated from the local authority – but the Trust must ensure that the governing body has taken out proper insurance. Where there is an emergency, local authority support would be available as for any other maintained school.

### **3.18 Can Trust schools borrow to invest in their schools?**

No school can borrow money without the permission of the Secretary of State. However, the Trust could borrow commercially to fund investment in, for example, a sport facility on the premises, but they cannot use the assets of the school as collateral, nor can they commit the school or its authority towards repayment of the loan. In these circumstances, the borrowing would be entirely at the Trust's risk – and at no risk to the governing body of the school. In practice, a Trust will only be able to borrow if it has additional assets of its own and lenders are satisfied with its ability to repay. If a Trust defaults or gets into other financial difficulties, the assets or income of the school are not available to it or its lender. If a Trust cannot pay its debts then the Secretary of State can direct the Trust to pass ownership of the land to the governing body.

## **4. Staffing**

### **4.1 What does Trust category mean for staff?**

The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (often known as the SOPAM regulations), provide for all rights, powers, duties and liabilities to transfer existing staff from the Local Authority to the Governing Body of each school. Employees will be employed by their school's Governing Body instead of the Local Authority.

4.1.1 Co-operative Trust schools will continue to recognise the same unions and staff associations. The existing rights of teachers will be fully protected if schools acquire a Trust. The Trust schools will continue to be bound by the School Teachers' Pay and Conditions Document.

4.1.2 Each governing body will set terms and conditions for its own support staff. However, these terms and conditions will be safeguarded as per the prescribed regulations and the same employment rights they currently have as Local Authority employees, will be maintained.

Staff will be employed by the governing body, as is already the case in existing foundation trust or voluntary aided schools. For community schools, when the school acquires Trust category, existing staff will transfer to a new employer (from the local authority to the governing body). They transfer as per the prescribed regulations, which protect their existing conditions of service. Existing and new teaching staff will continue to work under the terms of the School Teachers' Pay and Conditions Document (STPCD). The school will set out the terms and conditions for new support staff. The Trust does not employ school staff and does not have any direct control over staffing issues in the school.

Under the terms of the 2007 regulations referred to above, all staff will continue to enjoy as a minimum entitlement the same terms and conditions of employment as staff in any maintained school. The process itself is not full blown TUPE, but a process akin to, known as 'TUPE-like.' It does not require therefore the extensive consultation that is required under TUPE legislation as legally under the SOPAM regulations it is seen as 're-organisation within a public service', rather than the complete change of employment situation found for instance in staff transferring from a community school to an academy.

### **4.2 Who is responsible for employing staff in foundation schools?**

The governing body is the employer. As such, the governing body has the full range of employer responsibilities under employment law. The governing body will, however, usually delegate responsibility for day-to-day staffing matters to the head teacher.

### **4.3 Who appoints the head teacher at foundation schools?**

The school governing body is responsible for setting up a selection panel of at least three governors. The governing body may agree to grant „advisory rights“ to the local authority or to a representative of the local authority who would then be entitled to attend meetings of the selection panel and offer professional advice, but would not be able to vote. Where a governing body has not agreed advisory rights with the local authority the Secretary of State may determine that such rights should be granted. The governing body has to provide the local authority with details of the candidates selected for interview and must consider any views the local authority may have on the unsuitability of any particular candidates.

### **4.4 What about the appointment of other teaching staff?**

The school governing body is again responsible for such appointments. The local authority or a representative will have the right to attend selection meetings to offer advice if it has been agreed by the governing body or determined by the Secretary of State.

### **4.5 What liabilities may attach to the governing body in respect of employment matters?**

The governing body may, as employer, in some circumstances have to appear at an Employment Tribunal to defend themselves, if, for example, candidates for a post at the school complain that a governing body's decision or procedure discriminated against them, or if an

employee complains that they had been dismissed unfairly.

In cases of dismissal, the local authority has to continue to pay any compensation or legal costs awarded by an Employment Tribunal unless they can show that they have good reason to charge the school's delegated budget (for example, if the local authority had previously advised the governing body that an Employment Tribunal was likely to decide a dismissal was unfair).

#### **4.6 Who is responsible for the cost of premature retirements and compensation for redundancy?**

The governing body, as the employer, can grant premature retirement to the staff either for reasons of redundancy or can terminate a member of staff's employment in the interest of the efficient discharge of their employer function. The governing body also decides on the level of compensation to grant any member of staff they may make redundant.

The local authority, as the "compensating authority" has to pay "mandatory compensation" towards a teacher's annual pension and retirement lump sum if they are granted premature retirement by the governing body. However, the local authority has the power to take the costs of premature retirement from a school's delegated budget if the authority has not agreed to the premature retirement. Similarly, the authority is empowered to take the costs of discretionary compensation for redundancy from a school's delegated budget if they have good reason to do so (an example of this might be if the local authority thought the discretionary payment in a particular case was too high in relation to its own policy). (Again both of these matters are a continuation of the present arrangement in community schools.)

#### **4.7 How are the pensions of teaching and non-teaching staff affected by a school acquiring Foundation Category?**

Teaching staff would stay in the "Teachers Pension" Scheme and would not be subject to any change. The local authority would continue to be responsible for completing and signing off all the relevant documentation in relation to individual staff pensions.

Support staff at foundation schools are allowed to continue to be in the Local Government Pension Scheme (LGPS) if the local authority, with the consent of the school governing body, has by a statutory resolution specified them to be eligible to belong to the scheme. Otherwise, the support staff will no longer be members of the LGPS and it will be for them and the school governing body to make alternative pension arrangements. In almost every case we know of, the governing body has resolved to seek the continuity of pension arrangements for support staff through the local authority and the LGPS, as it has a legal responsibility to ensure that any alternative pension arrangement has to be 'at least as good as the current Local Government Pension Scheme (LGPS.) In effect it is ~~is~~ highly unlikely in today's climate that any new scheme will be better than the LGPS.

This covers going forward eligible support staff who have not yet joined the LGPS or indeed new starters. The recommended wording is as follows; for the purposes of Regulation 8 of the Local Government Pension Scheme (Administration) Regulations 2008 (As Amended), the employees of *Rowhill Special School* currently members of the *Local Government Pension Scheme*, or eligible to be members, or subsequently appointed to the school by the Governing Body, to school support staff posts on NJC conditions of service, shall, with effect from the (01<sup>st</sup> January 2015) be members of the Local Government Pension Fund administered by *the Local Authority* as the statutory pensions administering authority, or otherwise entitled to become members.

#### **4.8 What legal and personnel advice/support is available to Foundation Trust schools from the local authority?**

Foundation Trust schools, like all other schools maintained by the local authority, are able to purchase a range of legal and personnel services from the local authority. Like all other maintained schools, they are not restricted to purchasing these services from the local authority. There are a wide range of possible alternative providers. The school budget may have to stand certain costs, for example compensation or legal costs awarded by an employment tribunal, if the governing body makes an employment decision that has not been supported or advised by

the local authority.

## **5. Admissions**

### **5.1 What will happen to admissions?**

The school will set its own admissions arrangements. It will operate within the same legal framework as all other maintained schools, which means it will act in accordance with the School Admission Code and will not be allowed to introduce selection by ability. Trust schools will be required to play their full part in taking hard to place pupils, having fair admissions and working with other schools in admissions forums and coordinated admissions arrangements.

For foundation Trust schools and voluntary aided schools the governing body is the admissions authority and may determine the admission arrangements for the school. This function cannot be delegated to the head teacher in terms of determining policy or deciding on the admission of particular pupils. The governing body is also responsible for managing the admissions appeal process.

### **5.2 What statutory framework governs the admissions process?**

All admission authorities must have regard to the statutory guidance within the Schools Admissions Code of Practice and the School Admission Appeal Code of Practice. The admission code of practice provides admission arrangements before determining them. The coordinated process ensures admission details are published according to a common timetable.

### **5.3 How are admissions difficulties resolved?**

Local authorities must establish Admissions Forums to enable all local admissions authorities to discuss existing and proposed admission arrangements and to promote agreement on any difficult admissions issues in the area. School Adjudicators, appointed by the Secretary of State, determine school organisation and admissions issues where local agreement has not been possible.

### **5.4 Can foundation trust schools select pupils?**

Becoming a foundation trust school does not introduce the right to select pupils but any existing rights would remain.

### **5.5 Can the local authority direct admissions to a foundation trust school?**

Under Section 96 of the School Standards and Framework Act 1998, and in accordance with the statutory code of practice on school admissions, the local authority may direct the admission of a child refused admission or permanently excluded from schools within a reasonable distance if no other local school is available. The governing body may appeal to the Secretary of State within 15 days. A foundation trust school may be named in a statement of SEN and the school would be legally required to admit a child under such circumstances.

### **5.6 Are there particular arrangements to allow foundation trust schools to expand?**

No. The arrangements for the expansion of 'popular and successful' secondary schools and the addition of sixth forms date from 2003 when the Education Act 2002 changes were implemented. Subsequent consultations have largely concerned matters of process. Community and voluntary controlled schools have the same powers as foundation trust and voluntary aided school governing bodies to make proposals to enlarge their school or add a sixth form.

## **6. Relationship with the Local Authority**

### **6.1 Will becoming a Trust school give us more freedom from the local authority?**

Trust schools manage their own assets, employ their own staff and set their own admissions arrangements – this represents greater freedom for community schools that become Trust schools.

The school will remain fully part of the family of local authority maintained schools:

- It will still be funded by the local authority on the same basis as other schools;
- It will have to act in accordance with the Admissions Code, will be entitled to be

represented on the local admissions forum and will take part in coordinated admissions arrangements.

- The local authority will be able to intervene in a Trust school as in any other school if it is failing or underperforming.
- The local authority will be able to publish proposals to close the school and to make certain changes to the school.

## **6.2 Can foundation schools be included in any re-organisation or amalgamation proposals developed by the local authority?**

Yes. Where proposals to change a school's category to foundation category are published and conflict with existing proposals, for example to close or amalgamate a school to take surplus places out of the education system, the Local Authority may consider an earlier proposal within the timeframe already planned. Similarly, where a school becomes a foundation school before proposals for the school are decided, the Local Authority may still make decision on the other proposals although the school has meanwhile obtained a different category.

## **6.3 Does the local authority have any powers of intervention in foundation trust schools?**

The code of practice on LA – school relations (issued in 2001) does not distinguish foundation trust schools from any other local authority maintained schools in terms of the authority's powers of intervention in certain circumstances. Statutory guidance from the DFE makes it clear that all maintained schools causing concern should receive support from their local authority. Both local authorities and the Secretary of State have powers of intervention to tackle problems of schools requiring special measures or which have serious weaknesses.

Local authorities also have powers to intervene in schools that have been the subject of a formal warning and where the governing body has not complied with that formal warning. The local authority is able in such circumstances to appoint extra governors and/or suspend the school's governing body. They may also seek approval from the Secretary of State to replace the governing body by an interim executive board where the use of other intervention powers has failed or would in their view be likely to fail.

## **7. Extended Services**

### **7.1 What powers does the governing body of a foundation school have in relation to extended services?**

The governing body has the power to provide, or enter into contracts to provide, any facilities or services that will further any "charitable purpose," for the benefit of pupils at their school, families of pupils and people who live and work in the local community." 'Charitable purpose' in this context means services and activities such as childcare, adult and family learning, parenting support, coordinated health and social services etc. The governing body can provide such services directly or indirectly (through third parties), enter into agreements, incur expenditure and charge for services or facilities subject to certain limitations. Any profits that a school may make from providing such services must be reinvested in the service or in the school.

### **7.2 What limitations are there on such activities?**

A governing body cannot engage in any activity that might interfere with its legal duty to conduct the school with a view to promoting high standards of educational achievements at the school. The governing body's powers in this respect are also limited by any restrictions contained in the school's instrument of government or in its trust deed (if it has one) and to any directions issued by the local authority regarding the control of school premises.

The governing body must consult the local authority, amongst others, before providing community services and facilities and must have regard to any advice given to them by the local authority.

## **8. Wider Partnerships**

### **8.1 How do Trusts fit with specialist status?**

A specialist school can become a Trust school. Some schools will work with the same partners

to form a Trust – many already have sponsor-appointed governors and so this is a natural next step. A shared Trust could underpin work with local secondary and primary schools to spread the subject specialist expertise. A specialist school could equally choose to work with different partners and draw on a different set of ideas and experience.

### **8.2 How do Trusts fit with federation?**

Schools can federate without a Trust and equally a Trust can support several schools with no federation. However, federations may find it helpful to have a Trust that can reinforce the long-term agreement between schools.

### **8.3 Can Trust schools work with schools that aren't part of the Trust?**

Trust schools can continue to work with other schools in the same way as they did before acquiring a Trust, but if several local schools were to acquire a shared Trust it could strengthen their existing relationship by making it more sustainable.

## **9. Health & Safety**

### **9.1 Who is responsible, under the relevant legislation, for Health & Safety issues at a foundation school?**

Statutory health and safety responsibilities fall to the governing body (as the employer) and on the head teacher and staff (as employees).

Under the Health & Safety at Work Act and related regulations, the governing body has a range of legal responsibilities, as employer, including devising and implementing a health and safety policy for the school, allocating adequate resources, carrying out accident reporting and investigation, ensuring access to a 'competent person,'" to assist with the management of health and safety, implementing various monitoring procedures and keeping up-to-date with changes in the health and safety legislation."

## **10. Liabilities**

### **10.1 Does foundation trust category confer any additional liabilities on the school governing body?**

The governing body has additional liabilities related to its responsibilities as the employer of staff, and as its own admissions authority. The governing body will need, therefore, to take out adequate insurance to cover its potential liability for negligence in carrying out these responsibilities. This can be either arranged by the governing body or through the local authority. If a governing body makes its own arrangements, rather than buying into a policy arranged by the local authority, the local authority is entitled to check that the arrangements are adequate and, if they are satisfied that they are not, can charge the cost of additional insurance to the school's delegated budget.

### **10.2 Are individual governors personally liable for the governing body's decisions and actions?**

Because it is a corporate body, individual governors are generally protected from personal liability in such circumstances. Provided they act honestly, reasonably and in good faith any liability will normally fall on the governing body as a whole rather than on individual members. This is exactly the same as in a community school situation.

## **11. Children with Special Educational Needs**

### **11.1 What responsibilities for children with special educational needs relate to foundation schools?**

All schools, including foundation trust schools, must take account of the statutory code of practice on special educational needs.

The governing body must admit any pupil with special educational needs whose statement issued by the local authority names their school. Before naming a school in a statement, the local authority must consult the school governing body.

The governing body is responsible, with the head teacher, for deciding the school's general policy and approach to meeting children's special educational needs, for those with statements and those without. The governing body has a legal duty to make every effort to ensure that the necessary special arrangements are made for any pupil who has special educational needs. Governing bodies do not have a right of appeal to the SEN and Disability Tribunal over issues concerning the statutory assessment and statementing procedures for children with special educational needs.

### **11.2 How does the Disability and Discrimination Act affect foundation schools?**

In the same way as any other maintained school. The Special Educational Needs and Disability Act 2001 amended the Disability and Discrimination Act 1995 to include education in school. There is now a duty on all schools, including foundation schools, not to discriminate against disabled pupils or prospective pupils on the grounds of disability. Schools, and the local authority, are also under a statutory duty to plan to increase access to education for disabled pupils over time.

## **12. School Attendance**

### **12.1 Who is responsible for enforcing the attendance of pupils of compulsory school age who attend foundation schools?**

The local authority has the legal duty to enforce school attendance. The school governing body, for its part, has a legal duty to assist the local authority in this respect by keeping an admissions and attendance register in the format required by statutory regulations and for telling the local authority about any pupils who do not attend regularly or who are absent for long periods.

## **13. Exclusions**

### **13.1 Who is responsible for exercising the power to exclude a pupil from school at a foundation trust school?**

Like all other maintained schools, only the head teacher (or acting head teacher) has the power to exclude a pupil, for a fixed period or permanently.

### **13.2 What is the governing body's role in exclusions?**

The governors' role is to review the head teacher's exclusion decision in the case of permanent exclusion and some fixed period exclusions and can reinstate the pupil if appropriate. In reaching a decision whether or not to direct reinstatement the governing body (or its discipline committee) is required to have regard to any guidance given by the Secretary of State. They must also have regard to any representations made by the parent and the local authority.

### **13.3 Who deals with appeals again any decision of the governing body of a foundation trust school to uphold a permanent exclusion?**

Such appeals are heard by an appeal panel established by the local authority. Its decisions are binding on all parties to the appeal. If the governing body considers the panel's decision to be perverse it may seek a judicial review. The Secretary of State has no power to quash or amend the decision of a properly constituted appeal panel.

## **14. What if Something Goes Wrong?**

This section summarises the accountability and intervention regime which covers all local authority maintained schools and explains what would happen if there were problems with the Trust.

Although there is a clear relationship between schools and the Trusts, there is also a clear distinction of responsibilities: the governing body remains responsible for the school and the Trust's role is to appoint good governors and to maintain the ethos of the Trust within its member schools.

## 14.1 Problems in the school

14.1.1 **School Standards:** Like all maintained schools, Trust schools will be subject to Ofsted inspection arrangements. The local authority's and Secretary of State's intervention powers if the school is failing or underperforming, apply to all maintained schools (including Trust schools).

Ofsted will, in future, ask Trust schools to describe their distinctive aims and features and Inspectors will assess the impact of Trust-appointed governors on the school's work.

14.1.2 **Keeping the children safe:** The governing body is responsible for establishing safeguarding procedures and for health and safety within the school and on school trips. The governing body must ensure that safeguarding and health and safety requirements will be met if external partners come into school. (All Trustees will need to have a CRB check. Schools might require Trust members to undergo a CRB check, depending on the Trust's activities within the school and the school's safeguarding arrangements. At the time of writing these arrangements are the subject of a Government review and further guidance is awaited.)

14.1.3 **Finance:** The school will continue to be funded by the local authority through the governing body. Trust schools will follow the financial reporting procedures laid down by their authority, which will be able to suspend the right to a delegated budget if there are serious problems.

14.1.4 **Employment:** As the employer, the governing body (not the Trust) is responsible for all staffing issues. Teachers will continue to be covered by the School Teachers' Pay and Conditions Document (STPCD) and the pay and conditions (including union recognition) of all staff will be treated in the same way as those protections set out in the Transfer of Undertakings Protecting Employees (TUPE) regulations. In co-operative trust schools, governing bodies are expected to have agreed local protocols with the recognised professional associations and trade unions representing school staff within that particular local authority, to the effect that they will continue to work within the existing negotiation and review arrangements within that authority for determining and reviewing local arrangements. They are also expected to have regard to the National agreements between the Schools Co-operative Society (SCs) and NASUWT and UNISON respectively, as well as going forward, that brokered between SCS and the Co-operative College and the TUC affiliated school staff trade unions.

## 14.2 Problems in the Trust

There are a number of safeguards to prevent and address problems in the Trust's management and conduct. Trusts will be charitable companies. As charities, Trusts are not allowed to make a profit and the Charity Commission has a range of statutory powers.

For example, it can act on complaints if there is evidence of:

- Fraud or criminality.
- Maladministration putting significant assets or funds at risk.
- The charity's assets being applied in significant breach of the terms of the governing document.
- Trustees acting in significant breach of the provisions of the charity's governing document or of charity or trust law.
- Risk of the charity being brought into serious disrepute, for example, through association with public disorder or links to terrorist organisations.
- The administration of the charity having broken down to such an extent that it is not working effectively.
- The trustees seriously misleading the public, or the Commission, or others with an interest in the charity (e.g. funders, beneficiaries or employees) about matters of material importance.
- Adequate accounts not being kept.
- Trustees receiving unauthorised benefits from the charity.
- Fund-raising or administration costs that are excessive.
- The charity undertaking improper political activities.

Trustees need to be aware of their fiduciary duty to always act in the interest of the trust, as doing otherwise could be deemed as criminal misconduct. Trustees are normally volunteers but the 2006 charities act contains limited powers to pay trustees. Trustees' liabilities can be found in Charities Commission guides and the expectations are described in the Trust Handbook pp 51-60.

The Secretary of State also has the power to remove a trustee if he is satisfied that the trustee has either:

- Acted in a way that is incompatible with the aims and objectives of the Trust; or
- Is liable to harm the reputation of any schools that the Trust supports. Most issues will be best resolved within the Trust or by the schools and Trust and so we expect this power to be used only in extreme situations.

A trustee may also be removed by resolution of the members present and voting at a general meeting after the meeting has invited the views of the Trustee concerned and considered the matter in the light of any such views. Obviously this is not something to be contemplated lightly but could include in a co-operative trust a clear failure to uphold the co-operative values and ways of working of the Trust.

The school is not responsible for any liabilities incurred by the Trust. Members' liabilities are limited to the amount set out in the Trust document (normally £1) and as long as trustees act "prudently, lawfully and in accordance with their governing document" then they are unlikely to be held personally liable.

### **14.3 Removing the Trust**

Becoming a Trust school is meant to establish a permanent relationship. Sometimes, however, things change and so there are provisions for ending a Trust's role, which could be invoked (for example) if:

- The school is judged by Ofsted to be failing or is given notice to improve.
- There is real dissatisfaction with the Trust's performance.
- The Trust partners are no longer able/willing to support the school for any reason.

**14.3.1 Removing the Trust of a failing school:** the Trust relationship is automatically ended when a failing school closes. Local authorities have a range of intervention powers in failing schools: if an interim Executive Board is put in place then the Trust's role (other than holding land) would be temporarily put on hold. If the local authority appoints additional governors then Trust-appointed governors would be a smaller proportion of the governing body – this could mean that in a 'majority' trust, the Trust loses its power to appoint the majority of the governing body. In either case, the Trust would resume its original role once the intervention powers end.

**14.3.2 Removing a Trust because of dissatisfaction** (or changing from a majority to a minority of Trust governors) will broadly follow the same process under the 2013 SOPAM regulations, as for acquiring a trust: informal consultation; publication of proposals; representation; final decision. A majority of the governing body will be able to publish proposals at any time to remove the school's trust or to move from a trust appointing a majority of the governors to a trust appointing a minority.

Where the trust appoints the majority of the governing body, one-third of the governors will be able to trigger the publication of proposals, but only after the trust has been in place for 7 years or no less than 7 years after any previous proposals to remove the trust, it will be removed or it will change to appoint a minority of the governors in the future.

If the trust is removed pursuant to the process outlined above, the school will become a foundation school without a foundation. Publicly funded land will transfer to the school's governing body when the trust is removed. Land that was originally provided by the Trust may also transfer to the governing body in accordance with any transfer agreement entered into between the governing body and the Trust.

All questions relating to the transfer of the land, including the terms of any transfer agreement (and considered to be paid to the Trust) and any compensation payable (if the Trust has invested in the school's land/buildings, for example) will have to be resolved by the governing body and the Trust (and the local authority, where appropriate) before a decision to remove the Trust is taken. If they cannot reach agreement, the Schools Adjudicator will determine questions around the transfer of the land and compensation before the decision is taken. Further details about the process are set out in regulations and guidance.

14.3.3 **If a Trust ends the relationship for any reason** then publicly funded land will revert to the governing body and the school will continue as a foundation school without a foundation. If the Trust originally provided the school's land, it must give two year's notice, so that another site can be found, if necessary. The relationship also ends if the school closes for any other reason. If the Trust originally provided the land but becomes insolvent, the land is protected for two years for the same reason.

## 15 Further Information

### 15.1 Co-operative Schools.

For more information on Co-operative Schools visit:

<http://www.co-op.ac.uk/schools-and-young-people/co-operative-schools/>

and <http://www.school.coop/>

Also see the DFE booklet

***Co-operative Values Make a Difference – In the Curriculum and Governance of Schools***

[http://www.co-op.ac.uk/wp-content/uploads/2010/06/4050\\_Co\\_op\\_leaflet\\_WEB.pdf](http://www.co-op.ac.uk/wp-content/uploads/2010/06/4050_Co_op_leaflet_WEB.pdf)

Being co-operative trust schools will also allow you to become members of the Schools Co-operative Society (SCS). SCS is the fastest growing network of schools across England and is itself a co-operative of co-operative schools. Being part of a national co-operative schools organisation will be of great assistance as we try to navigate our schools through the rapidly changing educational landscape facing all mainstream schools. We will also be able to participate in a strong international network of co-operative schools. SCS can be contacted at [www.co-operativeschools.coop](http://www.co-operativeschools.coop)

### 15.2 For more information on the Co-operative College visit [www.co-op.ac.uk](http://www.co-op.ac.uk).

There is now an extensive list of publications available from the College to support both the formation and the development of maintained co-operative schools and their trusts. For further information contact-mail; [Schools@co-op.ac.uk](mailto:Schools@co-op.ac.uk) ( Website; [www.school.coop](http://www.school.coop) or Telephone; 0161 819 3000).

### 15.3 The process for changing category

- The DFE School Organisation website: <http://www.education.gov.uk/schools/leadership/schoolorganisation>
- FASNA (Foundation and Aided Schools National Association) has expertise on the issues around Foundation category: [www.fasna.org.uk](http://www.fasna.org.uk)
- DTI advice on TUPE provisions: [www.dti.gov.uk/files/file20761.pdf](http://www.dti.gov.uk/files/file20761.pdf)
- Schools Adjudicator: [www.schoolsadjudicator.gov.uk](http://www.schoolsadjudicator.gov.uk)

### 15.4 School Governance

The national organisation for school governors is the National Governors' Association.

<http://www.nga.org.uk/>

### 15.5 Setting up a Trust

- National Council for Voluntary Organisations: [www.ncvo-vol.org.uk](http://www.ncvo-vol.org.uk)
- Charity Commission: [www.charity-commission.gov.uk](http://www.charity-commission.gov.uk)
- Companies House: [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

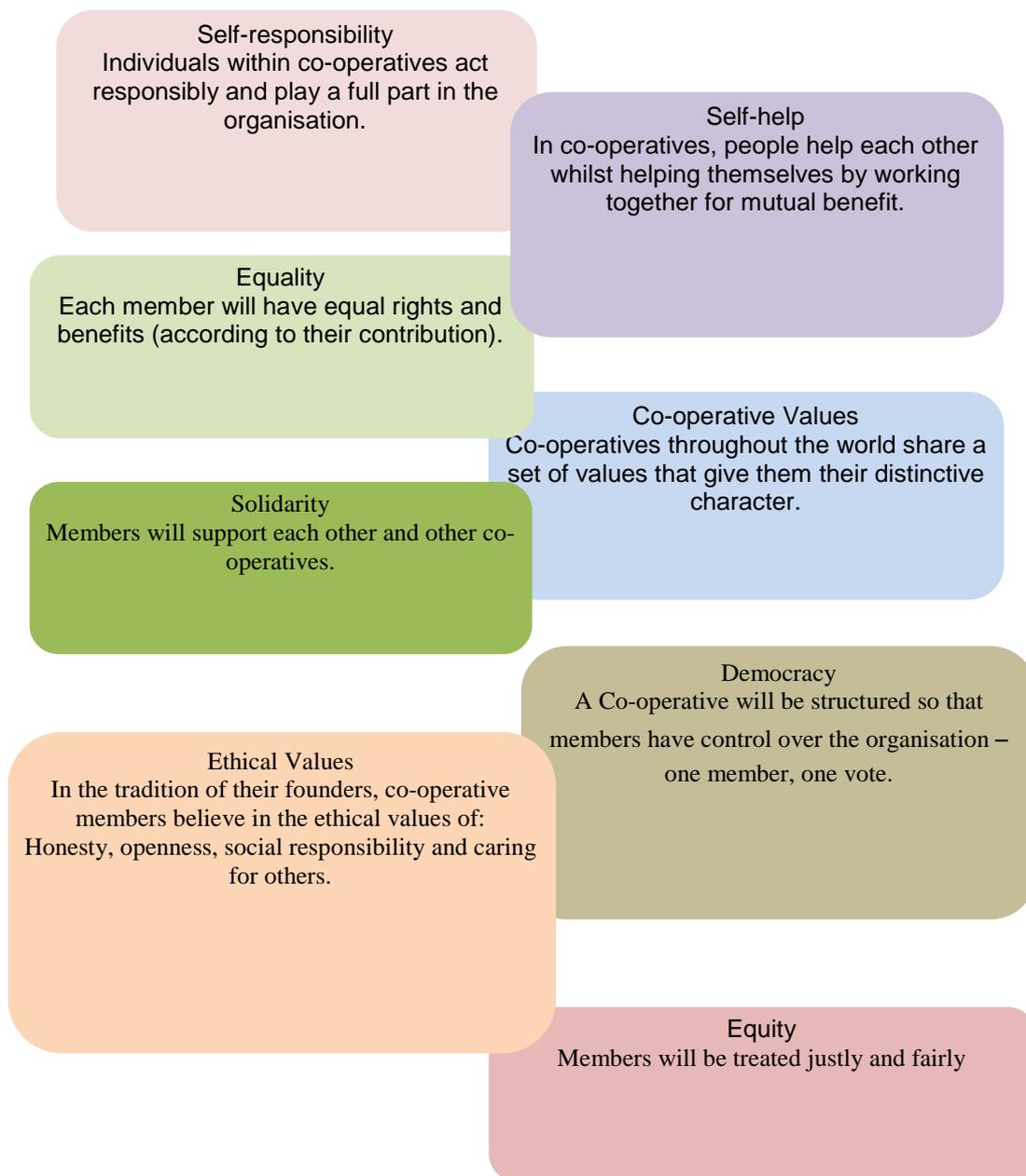
### 15.6 Equality duties for Trusts

Commission for Racial Equality: [www.cre.gov.uk](http://www.cre.gov.uk)

Disability Rights Commission: [www.drc-gb.org](http://www.drc-gb.org)

## Appendix A – Co-operative Values and Principles

The Values and Principles embraced by today's worldwide Co-operative Movement have evolved from the ideas of the early co-operators of the 18<sup>th</sup> and 19 centuries. They are embodied in the statement of Co-operative Identity published by the [International Co-operative Alliance](http://www.ica.coop/al-ica) (<http://www.ica.coop/al-ica>)



The co-operative principles are guidelines by which co-operatives put their values into practice.

<p>1<sup>st</sup> Principle: Voluntary and Open Membership</p>	<p>Co-operatives are voluntary organisations; open to all persons able to use their services and willing to accept responsibilities of membership, without gender, social, racial, political, or religious discrimination.</p>
<p>2<sup>nd</sup> Principle: Democratic Member Control</p>	<p>Co-operatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to the membership. In primary co-operatives members have equal voting rights (one member, one vote), and co-operatives at other levels are also organised in a democratic manner.</p>
<p>3<sup>rd</sup> Principle: Member Economic Participation</p>	<p>Members contribute equitably to, and democratically control, the capital of their co-operative. At least part of that capital is usually the common property of the co-operative. Members usually receive limited compensation, if any, on capital subscribed as a condition of membership. Members allocate surpluses for any of the following purposes: Developing their co-operative, possibly by setting up reserves, part of which at least would be indivisible; benefiting members in proportion to their transactions with the co-operative; and supporting other activities approved by the membership.</p>
<p>4<sup>th</sup> Principle: Autonomy and Independence</p>	<p>Co-operatives are autonomous, self-help organisation controlled by their members. If they enter into agreements with other organisations, including governments, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their co-operative autonomy.</p>
<p>5<sup>th</sup> Principle: Education, Training and Information</p>	<p>Co-operatives provide education and training for their members, elected representatives, managers and employees so they can contribute effectively and strengthen the Co-operative Movement by working together through local, national, region and international structures.</p>
<p>6<sup>th</sup> Principle: Co-operation among Co-operatives</p>	<p>Co-operatives serve their members most effectively and strengthen the Co-operative Movement by working together through local, national and international structures.</p>
<p>7<sup>th</sup> Principle: Concern for Community</p>	<p>Co-operatives work for the sustainable development of their communities through policies approved by their members.</p>

