



Principles of effective financial governance

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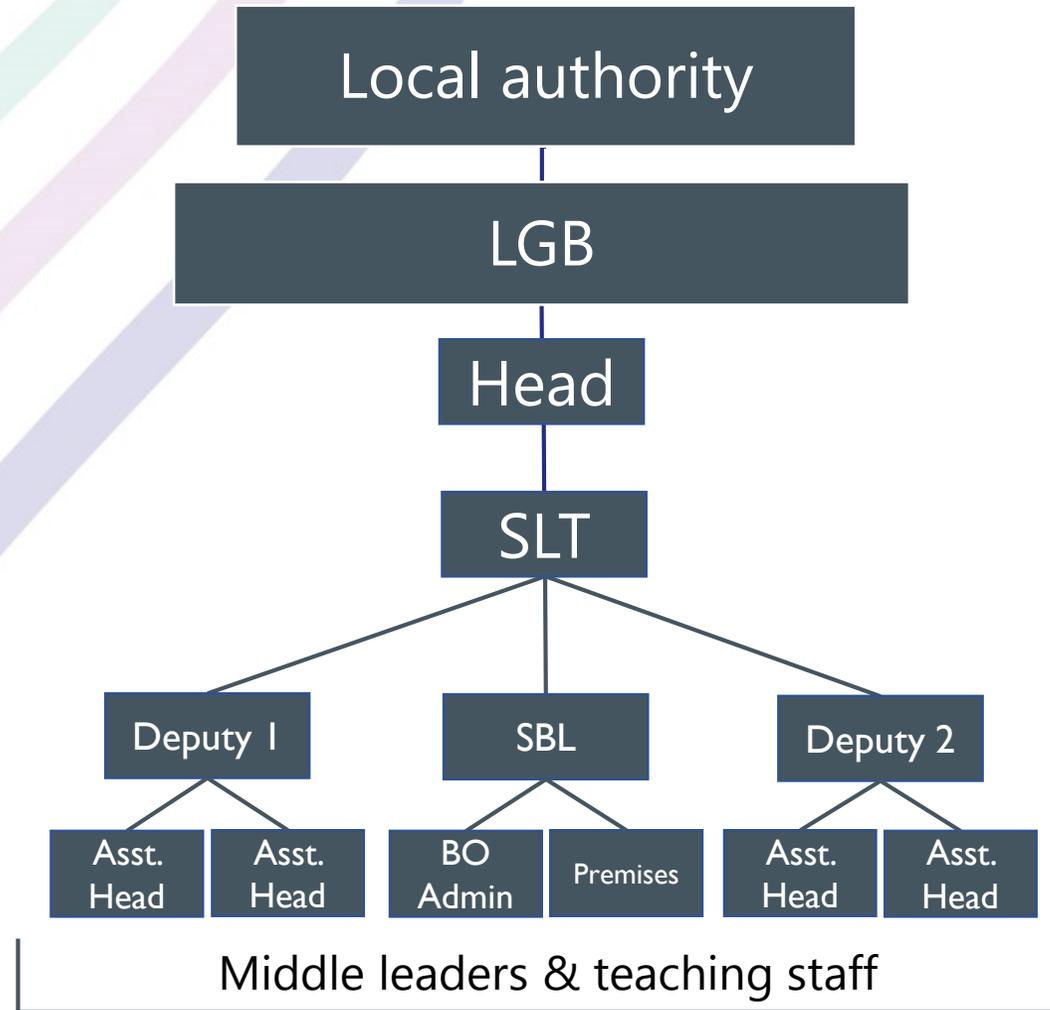




Differences between the governance, assurance and accountability frameworks for maintained schools and academies



Traditional maintained context



Maintained schools

- **Governance & accountability**
- **Ownership of physical asset**
LA for community schools
Other types, the land and buildings may be owned by a charity, religious group or governing body
- **Decision-making & fiscal responsibility**
Governing body (and LA)
- **Reporting requirements**
Monitored and analysed by LA and Ofsted (with some DfE requirements too)

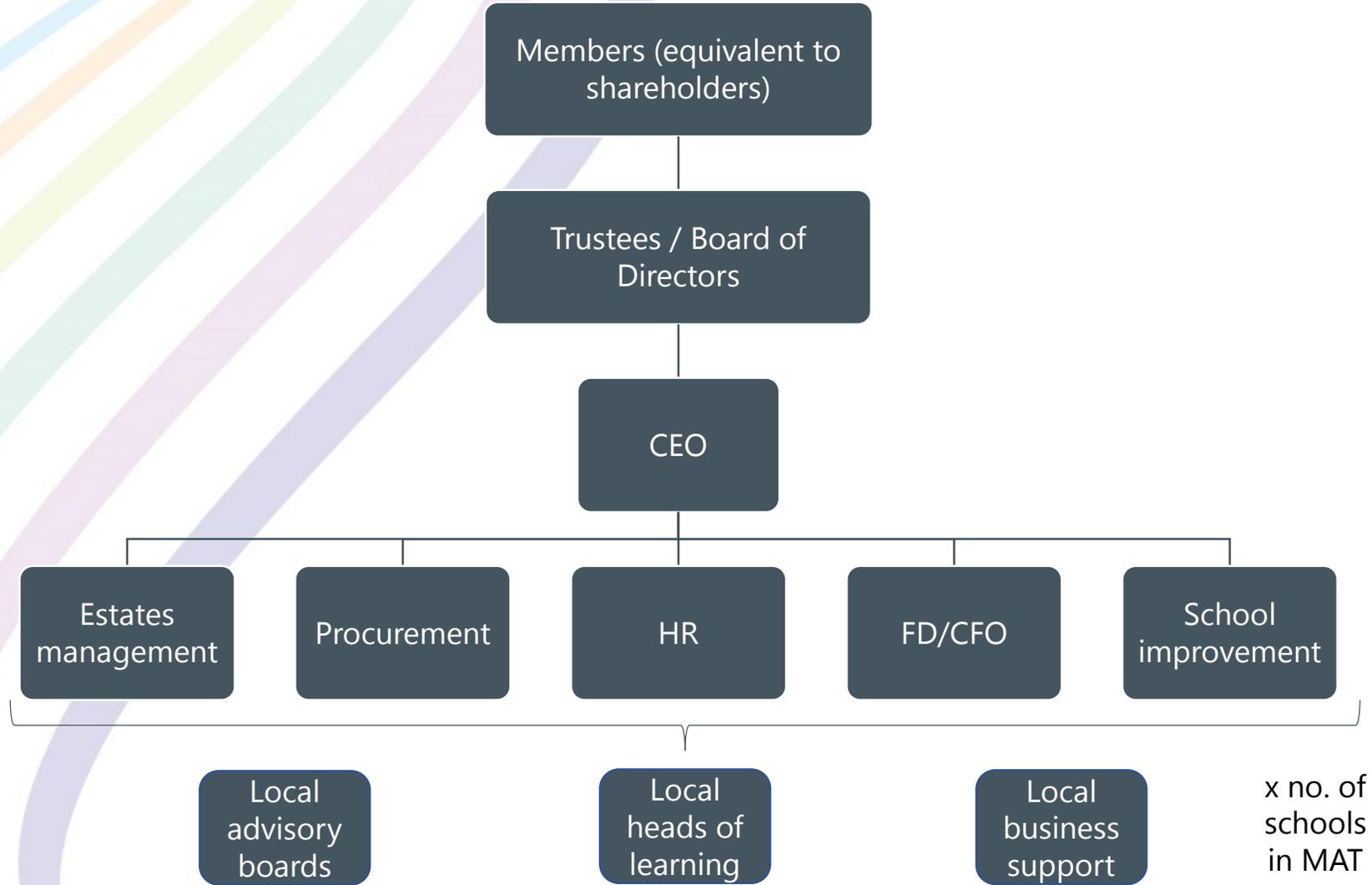


Maintained schools

- **Source of revenue and disbursement**
Public – funding disbursed by LA
- **Revenue per pupil**
Varies significantly by local authority, both in terms of contextual factors and influence of schools forum
- **Allocation**
Schools free to allocate all funds received but LA keeps a proportion back for 'central services'



Academy Trust structure



Trustees and Members

Members

- Academy trusts, according to their Articles, must have at least three
- DfE's policy is that Trusts should have five to avoid deadlock when passing a special resolution requiring a 75% majority
- Members are those individuals (or companies) who have agreed to be Members and whose names have been entered onto the Register of Members, a register which must be kept by the Trust



Trustees and Members

Members

- In most cases, Members will simply be those individuals who agreed to establish the Trust, with subsequent Members being appointed by the Members as and when desired.
- In some cases, particularly for Trusts established to operate academies with a religious character or Trusts founded by a sponsor or other non-religious foundation, Members will be either the foundation or sponsor (such as a Diocesan Board of Education (DBE) or the Diocesan Bishop) or individuals appointed by the sponsor or foundation or, indeed most commonly, a combination of the two. Members can be either individuals or other corporate or statutory bodies.



Trustees and Members

Trustees

- Responsible for the carrying out of the business of the charity/Trust, i.e. the running of the academies, though management responsibility will be delegated further still to a management board or leadership group made up of executive officers (such as the "Chief Executive Officer") and the headteachers of the academies
- Also the directors of the Trust, given the Trust is a company, and under a fiduciary duty to act in the best interest of the Trust

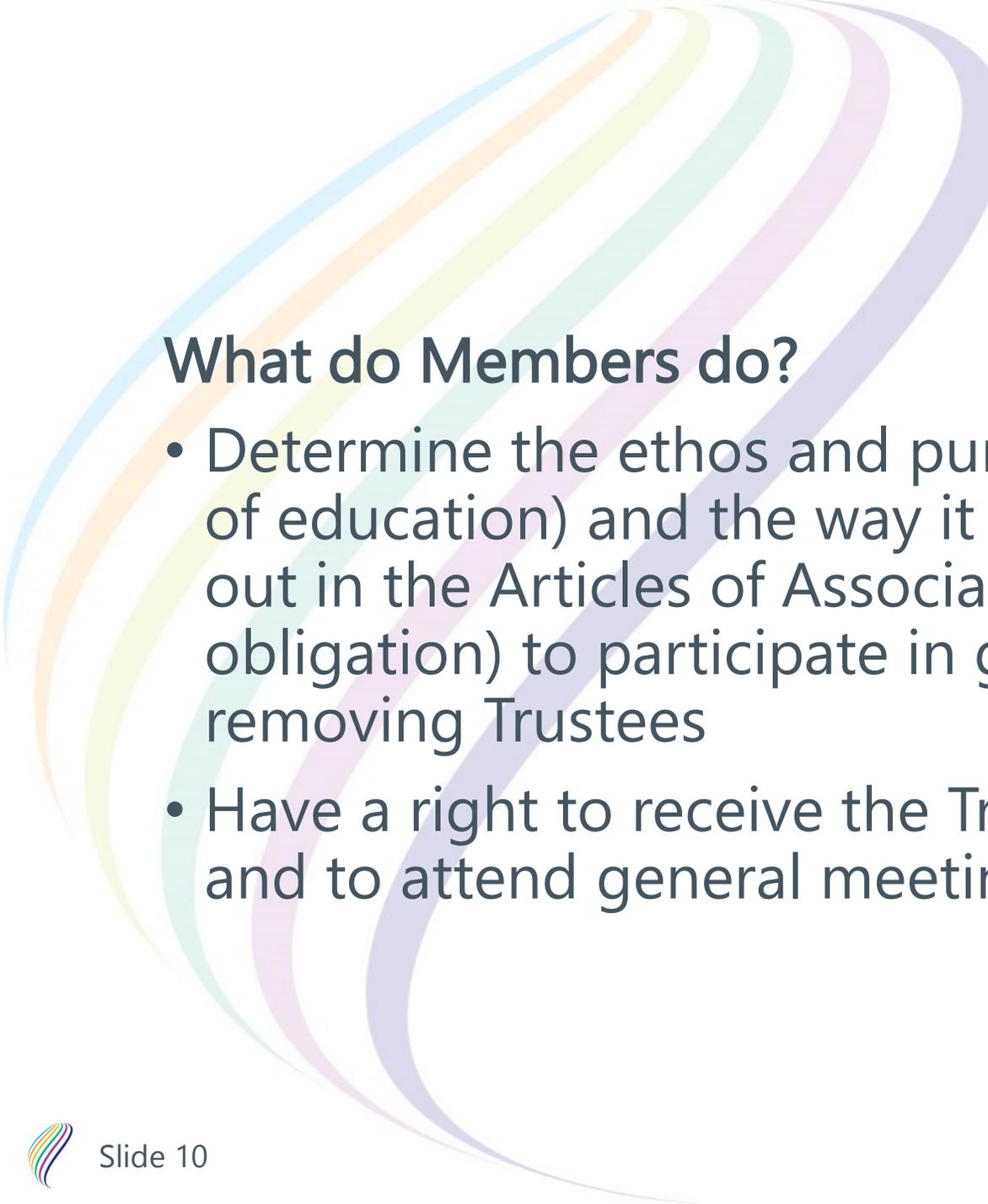


Trustees and Members

Can Members be Trustees?

- Yes – common in the wider charity sector where the Articles will state that the Trustees are the Members (and the Members are the Trustees)
- DfE's Governance Handbook recommends that there is separation between the Members and the Trustees of an academy trust so that Members can properly hold Trustees to account – some limited overlap is permitted though





Trustees and Members

What do Members do?

- Determine the ethos and purpose of the Trust (i.e. the provision of education) and the way it will be governed (which will be set out in the Articles of Association) and have a right (not an obligation) to participate in governance by appointing and removing Trustees
- Have a right to receive the Trustees' annual report and accounts and to attend general meetings of the Trust



Academies

- Academy trusts are independent charitable companies
- Classified by ONS as central government public sector bodies
- While academies are responsible for their own financial management, they are subject to public standards of accountability
- The DfE, rather than the Charity Commission, is the principal regulator of academies and is responsible for overseeing financial compliance and adherence to charity law



Academies

- EFSA oversees the arrangements that provide Parliament with assurance that academies operate to high standards of propriety and regularity
- It aims to keep a reasonable balance between academy trusts' independence and the need to account for public money
- It works with a steering group of academy trust practitioners to ensure a sustainable balance between accountability and minimum bureaucracy
- Components of the financial accountability framework and assurance arrangements are set out in slides below

The Academies Financial Handbook (AFH)

- AFH sets out the financial management, control and reporting requirements that apply to academy trusts
- It describes a financial framework focusing on key principles and aims to reflect the necessary accountability to Parliament and to the public
- AFH sets out the freedoms that trusts can exercise in their day-to-day business, the delegated financial authority levels that the Secretary of State for Education has given to them and the circumstances where trusts must seek the Secretary of State's consent



The Academies Financial Handbook (AFH)

- Compliance with the handbook is a condition of each trust's funding agreement
- Latest edition is the September 2019 published document

At cost requirements

- Trusts need to comply with the 'not for profit' principles set out in the handbook by paying no more than the proportionate sum for the services received and ensure that the supplier is not drawing inadvertent profits



Part of due diligence – Financial management and governance self-assessment (FMGS)

- FMGS is an online self-assessment checklist that highlights the main considerations for new academy trusts
- The requirements within the checklist apply from the date on which the funding agreement was signed
- It's a way for you and ESFA to gain assurance that your academy trust's financial management and governance arrangements meet these requirements



Academies Accounts Direction (AAD)

- The AAD is the reference pack for academy trusts and their auditors to use when preparing and auditing financial statements
- It supplements the Academies Financial Handbook
- In producing the Accounts Direction, the ESFA takes requirements set out by the Charity Commission in its Statement Of Recommended Practice (SORP) and translates them into a form applicable to academy trusts



Academies Accounts Direction (AAD)

The Accounts Direction outlines the requirements set out in academy trusts' funding agreements with the Secretary of State where each academy trust must:

- prepare an annual report and financial statements to 31 August
- have these accounts audited annually by independent registered auditors
- produce a statement of regularity, propriety and compliance and obtain a regularity assurance report on this statement from the auditor



Academies Accounts Direction (AAD)

- submit the audited accounts and auditor's regularity assurance report to the ESFA by 31 December
- file the accounts with the Companies Registrar as required under the Companies Act 2006
- publish the audited accounts on the trust's website by 31 January



Academy auditors

The National Audit Office (NAO), auditor of the department's group accounts, which include academies' consolidated financial statements, has produced a set of group communications for academy auditors setting out in detail:

- the academy auditor's role in the department's group accounts
- NAO's expectations of academy auditors
- the risks of material misstatement in the group financial statements



Fraud and financial irregularities in academies

- ESFA has published resources to support academy trust accounting officers to manage their finances in a transparent and effective way, and to reduce the risk of fraud or financial irregularities
- These include a list of generic indicators of potential fraud and a checklist to help you review your academy trust's arrangements for preventing, detecting and dealing with fraud should it occur



Fraud and financial irregularities in academies

To reduce the risk of fraud you could consider taking the following actions:

- ensure anti-fraud and whistleblowing policies are in place and regularly update these and communicate them to staff
- conduct regular anti-fraud awareness training events for finance staff
- highlight to staff that they can also contact the ESFA with any concerns of possible irregularity or fraud
- management communications to pursue identified incidents of fraud



Fraud and financial irregularities in academies

- ensure your financial controls are regularly assessed and are well designed/implemented
- ensure that there is appropriate segregation of duties in your controls
- review your processes for references and background checks on new employees
- scrutinise significant business transactions and personal relationships to avoid possible conflicts of interest
- install a physical security system to protect your academy's assets



New focus on maintained schools

- As part of a drive to make financial reporting across all types of schools more consistent, the Department for Education opened a consultation on Wednesday 17 July to invite views from across the education system on applying some of the financial measures used in academies to local authority run schools
- Academy trusts already have strong financial reporting measures in place, including requirements to publish their annual accounts, declare or seek approval for related party transactions and report on high pay for executive staff



New focus on maintained schools

- The consultation sets out proposals for these arrangements to be adopted by local authority maintained schools to help strengthen their transparency and financial health, bringing them in line with the requirements and high standards that academy trusts already have to meet



New focus on maintained schools

Academies Minister Lord Agnew said:

“In everything we have done to strengthen the way schools are run since 2010, we can be certain that an unprecedented level of accountability and transparency has been brought into academy finances, with these robust processes allowing us to spot financial mismanagement quickly and intervene where we need to.

“We know that many local authorities do a good job in overseeing the financial affairs of their schools, but the accountability arrangements typically in place in their schools are not equal to that of academies.”

New focus on maintained schools

- The proposed changes follow data collected in from 2016 to 2018, which showed that across England, a larger percentage of maintained schools had an accumulated deficit compared to academy trusts, and the rise in 2017–18 continued to be higher in maintained schools



New focus on maintained schools

- The idea is to strengthen arrangements for maintained schools and reduce the future likelihood of growing deficits or misuse of funds in those schools
- As part of the consultation, the DfE will also consider how any new arrangements may create additional burdens, and so the benefits of any new changes introduced for transparency measures will need to outweigh any burdens on local authorities and schools

<https://www.gov.uk/government/consultations/financial-transparency-of-la-maintained-schools-and-academy-trusts>

Outline of different school types

1. Academies

- While there are different types of academies in operation in England, they all have the same status in law as 'academies'
- Academies are publicly funded, independent schools, held accountable through a legally binding 'funding agreement'
- These schools have more freedom and control over curriculum design, school hours & term dates, and staff pay & conditions
- Free schools, academy converters and traditional academies all have this status, yet there are a number of differences between them, principally: — Who sets them up; — Why they are set up; — Whether there is a predecessor school; and — What the 'provider' has to demonstrate in order to proceed.

Outline of different school types

2. Free schools

- New state schools
- Who sets them up? Teachers, parents, existing schools, educational charities, universities, community groups
- To do so, the group must form a company limited by guarantee and choose members and directors to run it
- Free school companies must use the DfE model memorandum and articles of association, meaning that once constituted the company will be an academy trust
- Free schools are independent, free from local authority control
- Like other academies they are held accountable through the 'funding agreement'

Outline of different school types

3. Traditional (or 'type 1) academies

- Usually, underperforming existing schools that are allocated to an academy sponsor who will take them over
- Academy sponsors can be universities, FE colleges, education charities and business sponsors
- Traditional academies are independent, free from local authority control
- They are held accountable through the 'funding agreement'



Outline of different school types

4. Academy convertors

- Usually, good schools already in existence, who opt out of local authority control to gain independence and autonomy
- They are existing state schools
- The school governing body signs a funding agreement with the Government and are independent from the local authority



Outline of different school types

5. Maintained schools

- While the number of academies in England is expanding, the majority of state schools are still maintained schools
- They are overseen, or 'maintained', by the local authority
- These schools must follow the national curriculum and national teacher pay and conditions
- There are four main types of maintained schools
- The differences are related to the following:
 - Who employs the staff
 - Who owns the land and buildings
 - Who controls the admissions arrangements



Outline of different school types

5. Maintained schools

Community schools

- Schools that are controlled and run by the local authority
- The local authority employs the staff, owns the land and buildings and determines the admissions arrangements

Foundation and trust schools

- Schools run by their governing body
- The governing body employs the staff and sets its own admissions criteria
- The land and buildings are usually owned by the governing body or, in trust schools, a charity



Outline of different school types

5. Maintained schools

Voluntary aided (VA) schools

- The majority of voluntary aided schools are faith schools
- A foundation or trust (usually a religious organisation) inputs a small proportion of the capital costs for the school and forms a majority on the school's governing body
- The governing body employs the staff and sets admissions criteria
- The land and buildings are usually owned by the religious organisation



Outline of different school types

5. Maintained schools

Voluntary controlled (VC) schools

- VC schools are like VA schools, but are run by the local authority
- The local authority employs the staff and sets admissions
- The foundation or trust (usually a religious organisation) owns the land and buildings, and usually forms a quarter of the governing body



Comparison of different school types

There are many detailed differences between free schools and academies and the maintained sector.

These centre around:

- The curriculum
- The students
- Finance
- Personnel management
- Governance
- Accountability



Comparison of different school types

	Free schools	Academies	Maintained	Independent
Curriculum				
Content	<p>Exempt from following National Curriculum.</p> <p>Must teach certain subjects including maths, English and science. Must be 'broad and balanced' in curriculum.</p>	<p>Exempt from following National Curriculum.</p> <p>Must teach certain subjects including maths, English and science. Must be 'broad and balanced' in curriculum.</p>	<p>Must follow National Curriculum.</p> <p>Can focus on specific subjects as long as National Curriculum requirements are still met.</p>	<p>Exempt from following National Curriculum.</p> <p>Must give 'pupils experience in linguistic, mathematical, scientific, technological, human and social, physical and aesthetic and creative education'.</p>



Comparison of different school types

	Free schools	Academies	Maintained	Independent
Curriculum				
Assessments	Required to assess students in accordance with their funding agreement.	Required to assess students at all key stages in accordance with their funding agreement.	Students must be assessed at all key stages.	Not required to perform national assessments (e.g. GCSEs). However, most do.
Teaching hours	Free to change day and term lengths.	Free to change day and term lengths.	Voluntary controlled and community schools must go through a lengthy consultation process to change school day.	Free to change day and term lengths.



Comparison of different school types

	Free schools	Academies	Maintained	Independent
Curriculum				
Specialised programmes	Must establish a clear Special Educational Needs (SEN) policy.	Must establish a clear SEN policy.	Must follow the code of practice. LA oversees provision.	Must ensure that facilities and access are suitable for those with special educational needs and disabilities.



Comparison of different school types

	Free schools	Academies	Maintained	Independent
Curriculum				
Outcome indicators	Student outcomes monitored through inspection by Ofsted.	Student outcomes monitored through inspection by Ofsted.	Student outcomes monitored through inspection by Ofsted.	No mandatory inspection requirements for achievement. No external targets set.



Comparison of different school types

	Free schools	Academies	Maintained	Independent
Students				
Restrictions on age range of school	Anything between the 5–19 age range.	Anything between the 5–19 age range.	Depends on LA.	None.
Admissions	<p>No selection by aptitude permitted.</p> <p>Priority by faith limited to 50% of pupils.</p> <p>Can prioritise up to 10% of secondary pupils on aptitude.</p>	<p>No selection by aptitude permitted.</p> <p>Can prioritise up to 10% of secondary pupils on aptitude.</p>	<p>Selection by ability allowed for grammar schools but no other schools.</p> <p>Can prioritise up to 10% of secondary pupils on aptitude.</p>	<p>Selection by ability permitted.</p>



Comparison of different school types

	Free schools	Academies	Maintained	Independent
Students				
Cap on number of students	<p>Primary – classes limited to 30 pupils by statute.</p> <p>Secondary – none.</p>	<p>Primary – classes limited to 30 pupils by statute.</p> <p>Secondary – none.</p>	<p>Primary – classes limited to 30 pupils by statute.</p> <p>Secondary – none.</p> <p>Other – none.</p>	<p>Primary – none.</p> <p>Secondary – none.</p> <p>Other – none.</p>



Comparison of different school types

	Free schools	Academies	Maintained	Independent
Finance				
Source of revenue and disbursement	Public – funding disbursed directly by formula calculated by the DfE. Funding varies between LAs.	Public – funding disbursed directly by formula calculated by the DfE. Funding varies between LAs. May enjoy additional funding from the academy sponsor.	Public – funding disbursed by LA.	Private – fees and bequests – no public funds committed.
Revenue per pupil	Comparable to state schools in the local area.	Comparable to state schools in the local area.	Varies significantly by Local Authority.	Variable – dependent on level of fees charged.



Comparison of different school types

	Free schools	Academies	Maintained	Independent
Finance				
Allocation	Schools have full flexibility to allocate funds as deemed fit, including services normally provided by LA.	Schools have full flexibility to allocate funds as deemed fit, including services normally provided by LA.	Schools free to allocate all funds received, but LA keeps a proportion back for 'central services'.	Schools have full flexibility to allocate funds as deemed fit.



Comparison of different school types

	Free schools	Academies	Maintained	Independent
Personnel management				
Teacher selection criteria	Not required to have teachers with QTS (except SENCO) but are required to have a training and development plan.	QTS required.	QTS required.	No QTS required.
Adding non-teaching positions	Free to hire as required.	Free to hire as required.	Depends on school type.	Free to hire as required.
Performance incentives	Free to set own pay and conditions.	Free to set own pay and conditions.	Follow national pay and conditions.	Free to set own pay and conditions.



Comparison of different school types

	Free schools	Academies	Maintained	Independent
Personnel management				
Performance management	Free to evaluate and manage performance as required. Inspected by Ofsted and must fill conditions.	Free to evaluate and manage performance as required (subject to TUPE restrictions).	Performed by LA.	Free to evaluate and manage performance as required.



Comparison of different school types

	Free schools	Academies	Maintained	Independent
Governance				
Ownership of physical asset	Charitable trusts (must be non-profits, but within that could include charities, parent/teacher groups, universities, etc.).	Charitable trusts.	LA for community schools. Other types, the land and building may be owned by a charity, religious group or governing body.	Private. Usually, but not always, a trust.
Decision-making & fiscal responsibility	Trustees / Governing body	Trustees / Governing body	Governing body (and LA)	School governors / trustees



Comparison of different school types

	Free schools	Academies	Maintained	Independent
Governance				
Involvement of private sector	Able to subcontract elements of the running and management of the school to other private sector organisations.	Able to subcontract elements of the running and management of the school to other private sector organisations.	Able to subcontract elements of the running and management of the school to other private sector organisations.	Can be fully or partially privately operated.



Comparison of different school types

	Free schools	Academies	Maintained	Independent
Accountability				
Reporting requirements	Analysis and monitoring performed by DfE and Ofsted.	Monitored by ESFA.	Monitored and analysed by LA and Ofsted (with some DfE requirements too),	No public reporting requirements.
Public transparency	All results made publicly available.	All results made publicly available.	All results made publicly available.	Ofsted reports publicly available (most also publish exam results).

