

ACADEMIES AND SCHOOLS WORKING TOGETHER IN CLUSTERS

A GUIDANCE NOTE FOR SCHOOLS ON THE ESTABLISHMENT OF LOCAL COLLABORATION

This paper sets out the legal basics, lists the various options via which schools and academies may now seek to work together in groups and gives some guidance on the various mechanisms and their desirability or effectiveness for schools. It is not however a substitute for detailed consideration of individual circumstances. Schools and academies must take their own legal advice on specific situations.

1. Schools should think of LCTs as being rather more like schools working together under Collaboration Regulations rather than like hard Federations (under Federation Regulations).
2. While large schools may feel secure in converting into academies on their own, smaller schools (and especially very small primary schools) may have great anxieties over doing so. Yet they may equally not wish to give up their independence and autonomy by converting as part of a multi-academy company.
3. The DfE has a concept of such smaller schools joining together in "Local Umbrella Trusts" (LUTs) so that they can work together, sharing staff, budgets and management as seems good to them from time to time.
4. However the detail of LUTs does not work appropriately where Church of England schools are to be part of such local collaborative clusters. The Church of England has therefore developed through LBMW this model "Local Collaboration Trust" (LCT). The documentation is based on the government LUT model and has been shared with the DfE as well as with the Charity Commission.
5. LCTs are suitable for any local cluster of schools and/or academies with or without a religious character. This includes any local independent schools that might wish to join.
6. The governance of each school/academy is left intact, while the creation of the LCT (which is effectively owned by them all jointly) enables them to share staff, budgets and committees to whatever extent they wish. Some members of the cluster may share more than others if that is what they want.
7. Special arrangements have been designed to enable Community Schools to be members of LCTs by creating their own small charitable trusts which in turn appoint members on behalf of their school. This is because (unlike voluntary/foundation schools and academies) Community School governing bodies are not charities and could otherwise only become members of companies formed under the School Companies Regulations 2002. The DfE has accepted that it is desirable to be able to include Community Schools without bringing these Regulations into play.

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8. The LCT enables schools to assist one another, especially where one is encountering a difficult period in terms of standards. This is going to be especially important given the proposed changes in the OfSTED inspection regime which have already been made public.
 9. LCTs are therefore useful vehicles for “satisfactory” or “good” schools to work together and offer a strong context within which to convert into an academy if this is desired in due course.
 10. Similarly, the LCT may provide in some cases a sufficiently strong context for the DfE to agree to locate within it academies created to replace “failing” schools. The DfE may well require the LCT to be specially strengthened (eg by allowing for shared governance) in such circumstances, but this can easily be done without change to the LCT Articles and without affecting the other schools/academies in the cluster.
 11. Normally the LCT is established in the form of a company which is also a charity. As well as enabling the sharing of staff and budgets the LCT can buy supplies or services on behalf of all the members and can also act as a forum to establish policies and priorities agreed by the cluster as a whole. The LCT formalises and takes a step further forward the kind of working together that many schools already undertake either informally or under Collaboration Regulations. Schools in a Federation or a Multi-academy Trust can also join an LCT without disturbing their existing governance arrangements.
 12. There may be situations in which the local cluster believes that it will actually be selling services to schools or academies elsewhere (ie that are not part of the cluster). If so, then this can be done via the normal LCT charitable company only to a limited extent because of Charity Commission restrictions. If sales of more than £50,000 pa (or 25% of LCT turnover, whichever is the smaller) are contemplated then either the LCT must set up a trading company under its ownership and control or (and in our view better) the LCT should itself be constituted as a trading company (ie not a charity) right from the start. Such a trading company can equally readily act as the collaboration structure. If a prospective cluster believes that it will be likely to be trading in this more major way then the LBMW can supply a model trading company as an alternative to the LCT. In general however the ordinary LCT is simpler and better unless such major trading is envisaged.
 13. The LCT is deliberately set up with broad aims and powers (though never infringing the ultimate autonomy of each school/academy) and the LCT Articles themselves consequently do not go into great detail about what exactly the LCT will do. It is envisaged that there would normally be a written strategic plan agreed by the schools/academies which would set out detailed goals and strategies. Such a plan can include details as to how joint activities are funded and should always be about actual actions. An LCT that is used only as a talking shop will have failed. It exists to enable schools and academies to do together what is better, more effectively or more efficiently done together, especially in situations where the Local Authority may be reducing its support role and services. The strategic plan would be regularly reviewed and monitored.
 14. Church of England dioceses generally have support services already operating in some areas of school life. These are normally ones where economy of scale is best served at that level – eg procurement and management of building work. Dioceses might reasonably encourage LCTs to seek to work in liaison with diocesan services, so that schools/academies or the LCT itself procure services from the diocese or via the

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- diocese where this offers best value and quality. There is no conflict between LCTs and diocesan structures. On the contrary, LCTs have been designed so as to fit creatively with them, yet also be entirely open to schools and academies without a religious character.
15. The LCT has been drafted to make it clear that it is the constituent bodies that are members and effectively own and control the LCT. This is a “bottom up” model, not a “top down” one. None the less, the LCT does have the technical power to appoint members or governors to the member community schools or non-church academies if that is desired. School instruments of government and academy articles would have to be changed to enable this.
 16. We have provided that the Diocesan Board of Education may be a member if this is desired locally but have otherwise restricted membership to the schools themselves. The acceptance of some other kind of body as a member seems contrary to the core purpose and nature of LCTs and would require careful consideration if for some reason it were desired.
 17. Since the concept of LCT is indeed “local” and hence the number of participating bodies is rarely likely to exceed 10, we have provided that each member may appoint more than one director, one of whom must not be an employee of any member. Hence the board of the LCT becomes an effective policy forum for the whole group. Numbers can of course be varied as required by local circumstances. If larger clusters are envisaged then an alternative model is available within which company directors are elected to keep director numbers reasonable and effective and which would require a meeting of the members that would act as a full forum for all the schools.
 18. Clearly the whole board of directors may be too large for some purposes, especially if the number of schools in the LCT moves into double figures. The Articles enables the directors to set up committees to take work forward. These can be wholly staff, wholly governors or mixed as seems good to the directors from time to time. To preserve accountability, only directors may be voting members of such committees but of course others may be invited to attend and speak.
 19. In addition, note that:
 - a. There is no minimum notice period for a party to withdraw from the LCT. Such a matter should be in the rules established under the Articles and schools should be aware that in becoming members they accept that they should abide by the rules agreed from time to time by the company.
 - b. Also in those rules might be any annual levy paid by the parties to the LCT. While such a central financial pot is not essential, it may be desirable if the LCT is (for example) to facilitate school improvement across the cluster or undertake other similar cluster-wide functions. These rules and also the payment arrangements agreed from time to time by the directors in budgets and work plans also constitute agreements which members must honour.
 - c. The DfE is aware that such collaborations strain somewhat the concept that GAG must be spent solely on the individual academy. This requirement is somewhat loosened in the latest version of the Funding Agreement. Careful track of such cross-expenditure should be kept in accounts.
 - d. The LCT is there primarily to procure and deliver services for and to its members. It may sell services to third
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parties to a limited extent. If extensive third party sales are in view at any time a trading company will be required and can easily be established. This would be owned by the LCT and would normally (we suggest) have the same directors. Meetings of the one body could thus flow into meetings of the other, though would have to be kept technically separate.

- e. Alternatively the LCT may be set up as a trading company (ie not a charity) if desired (see paragraph 12 above) and the board of the trading company could simply act as the policy forum or a members meeting could fulfil that role.
- f. The LCT (in either form) must be careful to comply with all relevant legislation, eg School Staffing Regulations (where relevant), VAT law, tax matters generally.

- g. The LCT must ensure that any teachers it might seek to employ have access to the School Teachers' Pension Fund. This may require special arrangements and advice should be taken at the time.
- h. If the LCT is to take on substantial commitments to third parties the LCT should ensure it has formal written service agreements with its member academy trusts, GBs and school trusts which "mirror" these commitments both in terms of payment for ongoing services which the schools and academies sign up to and notice required to withdraw from those service arrangements.

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