Academy Schools
The NASUWT’s Objectives
The NASUWT’s objectives on academy schools

The NASUWT will actively engage with the Government, local authorities, academy sponsors and governing bodies to attempt to secure a number of objectives in relation to academy schools.

1. Union recognition

Employer recognition of trade unions for consultation and collective bargaining purposes not only provide trade union representatives with access to important statutory legal rights, including time off for trade union duties, the right to represent and bargain on behalf of members, protection from victimisation for trade union representatives and the legal right to information for the purposes of collective bargaining, but is also critical to the Union’s capacity to organise in the school to protect and defend members’ interests. Staff in workplaces without union recognition will experience far less protection and increased demands from employers.

Trade union recognition and the continuation of consultation and bargaining rights is protected under Transfer of Undertakings (Protection of Employment) Regulations (TUPE) (2006) for staff transferring from an existing school, but is not guaranteed in newly established academies. The NASUWT wants to see all academy schools abide by the TUPE legislation and continue to recognise trade unions for representation and collective bargaining purposes. Recognition should not only cover staff transferring from existing schools but also be extended to apply to newly appointed members of staff. The vast majority of academy schools recognise trade unions for collective bargaining purposes but a minority do not. Where sponsors in new academy schools do not grant full trade union recognition, the NASUWT will pursue Statutory Trade Union Recognition as part of the Employment Relations Act (1999) and (2004).

2. Pay and conditions of service

The NASUWT believes that teachers in academy schools should receive identical terms and conditions to school teachers in all other maintained schools. The Union believes that the application

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of common policies, practices and procedures on pay, conditions of service and professional issues will help to maintain the cohesion and coherence of the education system. Academies may also find that they experience recruitment and retention difficulties as a result of offering inferior terms and conditions of service.

The Government claims that the right to vary pay and conditions of service for teachers enables academy schools to improve on national terms and conditions. However, the Union has concerns that improvements in one area are likely to be balanced by deteriorations in another area. For example, additional pay and incentives may be offered but always carry the risk of undermining the general package of terms and conditions.

The Transfer of Undertakings (Protection of Employment) Regulations (2006) provide that both the existing and new employer of teachers affected by a transfer of undertakings have a duty to consult with recognised trade unions about the implications and terms of the transfer. Teachers transferring from a pre-existing school have their terms and conditions protected under TUPE. However, newly appointed staff may be required to accept new contracts with very different terms and conditions. Although transferee teachers retain their previous entitlements under the TUPE Regulations, where they successfully apply for or agree to take a new post in an academy school, new contractual provisions could be applied.

The NASUWT is opposed to the creation of a two-tier workforce where staff who have transferred from existing schools retain protected terms and conditions, and newly appointed or promoted staff do not. This fragmentation of employment contracts undermines the principle of equal treatment and equal pay and has the effect of lowering staff morale and undermining team working.
The NASUWT believes that the Code of Practice on Workforce Matters in Public Sector Service Contracts should be extended to cover staff transferring to and appointed by academy schools. The code of practice requires organisations to apply the TUPE Regulations for transferring staff but also to ensure that the principles of TUPE are followed with newly appointed staff, with staff being treated no less favourably than if the Regulations had applied.

While the majority of academies have negotiated terms and conditions with the NASUWT and other recognised trade unions, some have not. Where an academy school has or seeks to vary national pay and conditions of service, the NASUWT will strongly resist any variations to contracts. However, where there is a detriment, the NASUWT will engage in negotiations with the academy to secure improved pay, conditions of service and benefits.

3. Democratic accountability

Schools independent from local authorities, and run by academy trusts involving a mixture of sponsors, are less democratically accountable than maintained schools. Academy governing bodies are not covered by many of the regulations that apply to maintained schools, yet they are able to take decisions about the ethos and future direction of the school with minimal reference to parents, teachers, the school workforce, pupils, the local authority or neighbouring schools and the local community.

Academies are accountable directly to the DCSF for the provision of education and the efficient use of public funding outlined in the terms of the funding agreement and the annual letter of funding signed by each academy and the DCSF. While local authorities are often engaged in initiating academy schools through Building Schools for the Future or commissioning arrangements, there is no legal duty on academy schools, once established, to co-operate or have a direct relationship with local authorities or

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1 The Code of Practice on Workforce Matters in Public Sector Service Contracts can be accessed online at archive.cabinetoffice.gov.uk/opsr/workforce_reform/code_of_practice/index.asp.
LSCs in the planning and organisation of educational provision in local areas. For parents and pupils, this means that accountability for decisions made by academy schools rests with the academy trust and the DCSF with no recourse to assistance from local authorities.

The recent trend of local authorities being joint or co-sponsors of academy schools alongside other private, faith or voluntary sector sponsors offers a viable solution, in the NASUWT’s view, to the issue of ensuring effective local co-operation and collaboration. Enhanced representation on academy schools’ governing bodies would support the local authority’s capacity to ensure that children and young people have access to appropriate education, training and development opportunities locally and strengthen local area accountability mechanisms.

4. Equality of opportunity

Academy schools must fully comply with equalities legislation and the Race, Gender and Disability Equality Duties and ensure that their approach to equal opportunities is transparent, fair and open to accountability from the public. The NASUWT believes that all schools, including academy schools, should work to promote equality of opportunity on the grounds of race, gender, age, disability, sexual orientation, religion and belief, and trade union membership.

While academy schools are bound to ‘act in accordance with’ the Schools Admissions Code of Practice and the Schools Admissions Appeals Code of Practice, as their own admissions authorities, academy schools have considerable flexibility over the number of pupil places on offer, the age ranges covered by the school and the oversubscription criteria to be applied. There is a lack of clarity about the effects of academy schools’ control over their own admissions and its potential impact on equal opportunities in terms of the allocation of pupil places.
However, a recent Institute of Public Policy Research (IPPR)\textsuperscript{2} report suggests that schools that are their own admissions authorities are six times more likely to be highly unrepresentative of their surrounding area than community schools whose admissions are overseen by a local authority.

The local authority’s responsibility for handling appeals against pupil exclusions is delegated to the academy trust in the case of academy schools. The National Audit Office Report found that “permanent exclusions...were higher at academies than most schools in similar circumstances and other secondary schools. The proportion of permanent exclusions in academies was 0.61% of pupils, compared to 0.16% in all schools”,\textsuperscript{3} even though academy schools are required to have exclusion procedures that are consistent with those covering maintained schools. There is a danger that disadvantaged, disaffected pupils and those with special educational needs are likely to have an enhanced risk of being overrepresented in the numbers of excluded pupils from academy schools.

The NASUWT believes that academy schools should be returned to the local authority family of schools by becoming maintained schools, with local authorities planning the provision of school places in an area on the basis of identified local need and dealing with school exclusions.

5. Raising standards

As schools designed to tackle disadvantage and raise educational standards in challenging circumstances, academy schools have the capacity to vary the curriculum offered to pupils. Examples of curriculum changes include modularisation, delivering the core National Curriculum entitlement alongside additional time for specialist subjects, the use of a longer school day and vertical pastoral systems.

\textsuperscript{2} The full IPPR report \textit{School Admissions: Fair choice for parents and pupils} can be accessed online at \url{www.ippr.org.uk/publicationsandreports/publication.asp?id=546}.

\textsuperscript{3} The National Audit Office Report \textit{The Academies Programme} can be accessed online at the following web link: \url{www.nao.org.uk/publications/nao_reports/06-07/0607254.pdf}.
There is no conclusive evidence⁴ that academy schools are more effective at raising educational standards than other types of maintained schools. The National Audit Office report *The Academies Programme (2007)* concludes that while academy schools’ performance, as measured by pupils achieving five GCSEs A* to C, demonstrates an overall improvement, this was not as marked as the improvement rates for Excellence in Cities schools in deprived areas. Academy schools’ performance at advanced level has been poor and a small percentage have continued to display serious weaknesses in OFSTED inspections.

6. **Value for money**

The NASUWT believes that high-quality, fully funded public services are at the heart of a democratic and inclusive society. Public services are democratically accountable and operate in the public interest, promote community cohesion and are valued and respected. The provision of state education is critical to the public sector ethos and the creation of a democratic and inclusive society.

The NASUWT believes that there should be a level playing field between the funding of academy schools and maintained schools. The unequal allocation of financial resources between different types of school is likely to undermine the educational opportunities of pupils attending underresourced schools and lead to wider disparities in educational achievement and an imbalance in access to opportunities. Value for money can be quantified by an analysis of evidence in relation to comparable capital costs, comparable recurrent funding costs and the achievement of economies of scale between academy schools and maintained schools.

Evidence in the National Audit Office report highlighted the increased capital costs of academy schools in comparison to maintained schools, with academy schools being more expensive than newly built maintained schools. The report found that 17 of the first 26 academy schools exceeded their capital budgets by

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⁴ See the NASUWT’s Report *Academy Schools: Case Unproven* for further information.
an average of £3.2 million. A Times Education Supplement (TES) analysis of the accounts of 14 academy schools in 2005/06 reveals that academy schools receive almost £1,600 more per pupil on average to neighbouring schools. The National Audit Office report also highlights the failure of academies to benefit from the economies of scale that are typically experienced by local authority schools, for example the absence of academy school group purchasing arrangements for services such as education welfare services and schools insurance, which are provided by local authorities for maintained schools at a lower cost.

The NASUWT believes that returning academy schools to the local authority family of schools as maintained schools would not only achieve economies of scale by reducing the costs of purchasing services for schools but would also ensure an equitable settlement for the financing of capital and recurrent funding costs for all schools. It would also enhance local authorities’ capacity to plan appropriate educational provision locally and implement key DCSF policies, including Every Child Matters and 14-19 educational provision.
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