1.1 What is a Foundation School?
A Foundation School is a Local Authority maintained school. All Foundation 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 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 Does the school have to become a Foundation School?
No, this is a voluntary decision for the current Governing Board, after consulting with parents and other local stakeholders and publishing formal proposals.

1.3 What would change if our school became a Foundation School?
The school will take on three new areas of responsibility:

- The Governing Board will be the employer of staff rather than the Local Authority; and
- The Governing Board will be responsible for setting admissions arrangements (in accordance with the Law and the Admissions’ Code)
- The Governing Board would continue to have day to day control of the school’s land and assets.

1.4 How will the school be funded?
Foundation 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.

1.5 Can a Foundation School dispose of surplus non-playing field land?
The Governing Board must 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 Foundation School to sell any surplus land to raise money. Foundation 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. 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.

1.6 Who owns the land assets for Foundation Schools?
Foundation Schools own their own land and assets. There is a transfer of ownership from the Local Authority to the School Governing Board. The Secretary of State has the power to issue a direction in the event of any dispute in respect of such a transfer.
1.7 Who controls the use of the premises of Foundation Schools?
The Governing Board controls the use of the premises during and outside school hours. Governing Boards are, however, required to have regard to the desirability of the school premises being used for community use outside school hours.

1.8 Does all 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 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 or, if it had no Foundation Body, the Governing Board.

1.10 How does becoming a Foundation School affect capital funding?
Foundation Schools will have the same flexibility as maintained schools to manage their own assets while remaining a full and equal part of the Local Authority planning process for capital spending.

1.11 Who is responsible if there is a problem with one of the buildings at a Foundation School?
The responsibility for the school buildings rests with the Governing Board. However, where there is an emergency, Local Authority support would be available as for any other maintained school.

1.12 What does Foundation status mean for staff?
Staff will be employed by the Governing Board. Existing staff will transfer to a new employer (from the Local Authority to the Governing Board). 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 relevant terms and conditions for Teaching and Support staff. The school will not have a two tier workforce with new employees offered the same terms and conditions as transferred employees.

1.13 Who is responsible for employing staff in Foundation Schools?
The Governing Board is the employer. As such, the Governing Board has the full range of employer responsibilities under employment law. The Governing Board will delegate responsibility for day-to-day staffing matters to the Headteacher.

1.14 What liabilities may attach to the Governing Board in respect of employment matters?
The Governing Board 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 Board’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 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 Board that an Employment Tribunal was likely to decide a dismissal was unfair).

1.15 How are the pensions of teaching and non-teaching staff affected by a school acquiring Foundation Status?
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’s pensions. Non-teaching 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 Board, has by a statutory resolution specified them to be eligible to belong to the scheme.
1.16 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. Foundation Schools will be required to play their full part in taking hard to place students, having fair admissions and working with other schools in admissions forums and co-ordinated admissions arrangements. For Foundation Schools the Governing Board is the Admissions Authority and may determine the admission arrangements for the school.

1.17 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 guidance on acceptable oversubscription criteria.

1.18 Who is responsible, under the relevant legislation, for Health & Safety issues at a Foundation School?
Statutory health and safety responsibilities fall to the Governing Board (as the employer) and on the Headteacher and staff (as employees). Under the Health & Safety at Work Act 1974 and related regulations, the Governing Board 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.

1.19 Does Foundation status confer any additional liabilities on the School Governing Board?
The Governing Board has additional liabilities related to its responsibilities as the employer of staff, the owner of the school land and buildings and as its own Admissions' Authority. The Governing Board 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 Board or through the Local Authority. If a Governing Board 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.

1.20 Are individual Governors personally liable for the Governing Board'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, prudently, reasonably and in good faith any liability will normally fall on the Governing Board as a whole rather than on individual members.

1.21 What impact will Foundation status have on the curriculum students have to follow at school?
The school will still have to follow the national curriculum and will be held accountable for the progress students make based on the national accountability measures; Progress 8, Attainment 8, A*-C English and A*-C Mathematics (nothing changes)

1.22 What responsibilities for children with special educational needs relate to Foundation Schools?
All schools, including Foundation Schools, must take account of the statutory code of practice on special educational needs. The school must admit any students with special educational needs whose statement issued by the Local Authority names their school.
1.23 Who is responsible for enforcing the attendance of students of compulsory school age who attend Foundation Schools?
The Local Authority has the legal duty to enforce school attendance. The School Governing Board, 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 students who do not attend regularly or who are absent for long periods.

1.24 Who is responsible for exercising the power to exclude a student from school at a Foundation School?
Like all other maintained schools, only the Headteacher (or acting Headteacher) has the power to exclude a student for a fixed period or permanently.

Tuesday, 10 May 2016