

## Questions and Answers

This document has been issued by Woodhouse College as part of the consultation about whether Woodhouse College should become a 16-19 academy (within a new multi academy trust, or MAT) and cease being a sixth form college.

### Why has this proposal been put forward?

#### 1. Why is the College considering converting to academy status?

The primary focus of the College is on providing the highest possible quality education to its students. Part of the role of the Governing Board is to consider whether changes would help improve the prospects for future success. The Woodhouse Governing Board recognises that:

- The College becoming a 16-19 academy would be financially advantageous as a result of the ability to reclaim VAT and the generally more favourable financial settlements that schools receive compared to colleges. In 2019/20 the combined total from all of the funding differences would have resulted in approximately an additional £290k funding being available to the College.
- The proposed Maths School would be an academy and must be established within a Multi Academy Trust (“MAT”). Proactively establishing a MAT allows both the College and the Maths School to be academies within the same MAT.

The financial benefits are significant, and the Governing Board believes that establishing a Maths School in partnership with Imperial College London would benefit learners across north London and benefit Woodhouse College too.

#### 2. What is the proposed Maths School?

A Maths School is a 16-19 academy that provides a specialist Maths-based sixth form experience for a small number (typically 150 – 200) exceptionally talented mathematicians. Maths schools are established in partnership with universities that have strong maths and science departments.

The DfE has prioritised establishing a network of Maths Schools across England with at least one in each region. Currently there are two open Maths Schools (Exeter and Kings College London), and others in development (Durham, Liverpool, Cambridge, Surrey, and Lancaster).

The College has been in discussions with Imperial College London to jointly establish a specialist Maths School on the Woodhouse campus and an application has been submitted to

the DfE. The Maths School would serve north London and surrounding areas. If the application is approved, we anticipate opening the Maths School in September 2022.

A Maths School can only be established within an Academy Trust – to become a 16-19 academy would establish the Academy Trust that would in time contain both Woodhouse College and the new Maths School.

### **3. Would the MAT look to grow?**

The MAT is proposed to operate Woodhouse College and the Maths School. There is no current intention to grow the MAT any further. Government cannot force a MAT to admit more schools.

## **What is an academy?**

### **4. What is an Academy?**

An Academy is an independent state school, funded directly from central government. A charitable company limited by guarantee (the Academy Trust) is responsible for the academy, and the Academy Trust signs the Funding Agreement (the contract) with the Secretary of State as part of the establishment of the academy.

Woodhouse would be a 16-19 academy in accordance with section 1B of the Academies Act 2010 as it would be principally concerned with providing full-time or part-time education suitable to the requirements of persons over compulsory school age but under 19.

### **5. How is a 16-19 academy different from a sixth form college?**

A sixth form college is a corporation established under the Further and Higher Education Act 1992. The corporation is a corporate body that is an independent legal entity and is an exempt charity.

There are a number of legal and practical differences between a sixth form college and a 16-19 academy, outlined in the Annex at the end of this document. A sixth form college corporation has greater legal freedom than an academy trust in respect of borrowing and educational provision (overseas pupils and higher education). Woodhouse has – since it was incorporated in 1992 – operated in a very similar manner to a school and has not used the legal freedoms that sixth form colleges have but academies do not (for example, to borrow funds or to engage in provision of higher education).

In terms of educational provision, employment, and operational management, there would be no discernable difference.

In essence, Woodhouse would be giving up some freedoms that it has never used and gaining some increased DfE oversight in return for the better financial position of schools / academies compared to sixth form colleges.

## **6. Does Ofsted inspect academies?**

Yes, in exactly the same way as for maintained schools.

## **7. How can the Secretary of State intervene in an academy?**

The Secretary of State has the ability to terminate the Funding Agreement for each of the schools within the MAT in specified situations. This would transpire if a school is eligible for 'special measures' or 'requires significant improvement' following an Ofsted inspection; if student performance is unacceptably low; if there has been a serious breakdown in the governance or management of the academy; or if the safety of pupils or staff is threatened. In this situation the Secretary of State would be able to enter into a Funding Agreement with another Academy Trust to take over the governance and management of the MAT.

# **Academy governance**

## **8. How would the academy be governed?**

A new MAT would be established, and this MAT would sign a Funding Agreement (the contract) with the Secretary of State to establish Woodhouse as a 16-19 academy.

A MAT has three levels of governance:

- Members – the guarantors of the charitable company – their main role is to appoint Trustees, but they also have to approve changes to the name of the Academy Trust and the Articles of Association and have certain powers under company law;
- Trustees – Trustees' exercise all of the powers of the MAT, and determine what powers are delegated to other committees and / or office holders. The Board of Trustees is the legal Governing Body for all schools within the Trust, and Trustees are also Directors under company law; and
- Governors – Where a multi-academy trust has more than one school, Trustees generally establish Local Governing Bodies (LGBs), each of which may work with one or more schools. The Trustees determine the composition of these LGBs and the powers that are delegated to them. Individuals on an LGB are generally referred to as Governors.

If the decision is to form the MAT, it is currently anticipated that:

- The Members would include individuals who have current experience of Woodhouse and Imperial College, and would include the ability for Imperial College to appoint a Member;

- The Trustees would include the Principal of Woodhouse College and up to 10 other individuals appointed by the Members / Imperial College who would bring a range of skills such as pedagogy, finance, HR, community knowledge, etc. This breadth of skills is important to ensure that the Board can set the strategic direction for the Trust and challenge the leadership team). This Trustees Board would include individuals from the current Woodhouse College Governing Board.
- A Local Governing Body would be established for Woodhouse, and a separate one would also be established for the Maths Schools as it moves towards opening. Each LGB would include parents, staff and students.

Besides individuals who are elected (i.e. parents, staff and students on an LGB) or who are ex-officio (i.e. Headteacher and Chief Executive), all other Governors, Trustees, and Members are appointed based on the skills and experience that they would bring to the role. The emphasis is upon creating teams who are collectively well qualified to undertake the tasks required of them in helping the MAT and its schools succeed.

### **9. How would parents, staff and students become part of the Local Governing Body?**

The same process as for Woodhouse currently. When there is a vacancy, applications are sought from the relevant group (parents, staff, students), which may outline particular skill sets that would be useful to the LGB. If there are the same number or fewer applications than vacancies then those individuals who applied are appointed. If there are more applications than vacancies, the relevant group vote to decide who joins the LGB.

## **Academy funding**

### **10. Do academies receive extra funding compared to sixth form colleges?**

Yes. Although the budget is calculated using the same national post-16 funding formula, as a 16-19 academy Woodhouse would, in 2019/20, have received three additional funding streams as an academy, totaling £290k of additional funding:

- VAT reclaim: approximately £175k per annum
- ESFA rates reclaim £42k per annum
- Teachers Pay Grant for 19-20: £73k (only payable to academies).

The academy financial year runs from September to August.

## **Academy policies**

### **11. Would there be changes to the number of pupils admitted to Woodhouse?**

No, the pupil numbers and curriculum at Woodhouse are not expected to change.

### **12. Would there be changes to the admissions criteria?**

No.

## **Educational implications**

### **13. What are the safeguards for vulnerable pupils?**

Under the terms of the Funding Agreement (which is the contract between the MAT and the Secretary of State), an academy has to act in exactly the same way as a maintained school in relation to Special Education Needs, behaviour, and exclusions.

### **14. Who is responsible for deciding if a student needs an Education, Health and Care (EHC) Plan?**

The local authority would retain the legal responsibility for leading this process, and for determining whether Woodhouse is named on the EHCP.

## **Land and buildings**

### **15. What happens to the land of Woodhouse?**

The College owns the freehold title to the land occupied by the College. At conversion, the freehold title would be transferred to the MAT.

### **16. How does an academy access capital funding?**

Academies receive some capital funding, called Devolved Formula Capital, according to the same methodology as maintained schools and sixth form colleges. This funding is provided directly to the academy. This is the same arrangement as applies now for the College.

The process for applying for additional capital funding for specific projects (most typically those related to condition needs of the building, such as boilers or roof works) is the same for sixth form colleges and academies and currently involves bidding to the Education and Skills Funding Agency (ESFA), which acts on behalf of the DfE.

## **Consultation process**

### **17. Who is being consulted?**

The consultation document (and Statutory Notice for the dissolution of the sixth form college) has been issued to students, staff, and parents at Woodhouse, as well as the local authority, local secondary schools and colleges, the local MP, the DfE, and college Trade Unions representatives.

### **18. Will the Governors listen to the views from the consultation?**

Yes, every response will be considered. Responses might include arguments for and against the proposal. The responses will help the Governing Board consider the relevant issues before it makes a decision about whether to proceed.

## Annex: Differences / implications of academy status

Area	Current	16-19 Academy status	Implication of becoming a 16-19 academy
<b>Legal structure / governance / Funding Agreement termination</b>			
Legal structure	Corporation is a body corporate under F&HE 1992. Corporation is an exempt charity, with Secretary of State as the regulator.	A Multi Academy Trust is a charitable company limited by guarantee. It is an exempt charity, with Secretary of State as the regulator.	Different governance structure (Members, Trustees, Local Governing Bodies). Secretary of State continues to be regulator.
Accountable Body	Corporation	Board of Trustees	
Accounting Officer	Principal	Chief Executive	
Changes to constitution	Instrument and Articles of Government which must comply with requirements of Schedule 4 of F&HE Act 1992 but within that can be amended by the Corporation.	Articles of Association – Members approve changes, except for governance clauses (which also require DfE approval, 1.27 of Master Funding Agreement) or Objects of charity (where also require Charity Commission approval)	DfE approval required for future changes to governance structure.
Governance info to DfE	Governance information does not need to be shared with DfE.	Have to provide details re Members / Trustees / Governors to DfE via GIAS website within 14 days of changes (Members requirement from 1.24 of Master Funding Agreement; others from Academies Financial Handbook).	Need to share governance information with DfE.
DfE intervention powers / Funding Agreement termination	Powers set out in 56E of F&HE 1992 – mismanagement by GB (including failure to discharge duties), have or are proposing to act unreasonably in	<ul style="list-style-type: none"> <li>• 7 years' notice by either side</li> <li>• Secretary of State can seek to terminate if breach of Funding Agreement, standards are</li> </ul>	Similar basis for Secretary of State intervention; mechanism is via contract (academy trust) rather than governance (college).

	<p>exercise of duty, or college is performing significantly less well than it might in all the circumstances reasonably be expected to perform, or is failing or likely to fail to give an accepted standard.</p> <p>After consulting with GB the Secretary of State can appoint / remove Governors, give directions to the GB (which can include a direction to collaborate or to dissolve the Corporation) and the GB must comply with any direction.</p>	<p>“unacceptably low”, serious breakdown in management / governance, safety of pupils or staff is threatened. Must provide MAT with opportunity to state actions it would take and consider MAT representations.</p> <ul style="list-style-type: none"> <li>• Secretary of State may seek to terminate after adverse Ofsted</li> <li>• MAT can seek to terminate if no longer a going concern</li> </ul>	
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<b>Curriculum and student support</b>			
Safeguarding	Subject to legislation and DfE statutory guidance re safeguarding. Staff, Governors require DBS.	Subject to legislation and DfE statutory guidance re safeguarding. Staff, Governors require DBS.	No change.
Single Central Record	Required.	Required.	No change.
Prevent	Specific statutory guidance for FE corporations	Statutory guidance for schools.	No change in practice.
Curriculum	No legislative requirements.	Must be “suitable to the requirements of students and can include vocational, social, physical and recreational training” (clause 2.J of Supplemental Funding Agreement)	No change in practice.
RE / Worship	Collective worship: section 44 (2A) requires the Corporation to “ensure that at an appropriate time on at least one day in each week during which the	Must provide teaching of RE for any student wishing to receive it (2.K of SFA); and must ensure that at least once a week an act of collective worship is held which students may attend (2.L of SFA)	No change in practice.

	<p>institution is open an act of collective worship is held at the institution...”</p> <p>RE: section 45 (2A) says that the Corporation “shall ensure that religious education is provided at the institution for all persons attending the institution who wish to receive it.”</p>		
Relationships and Sex Education and Health Education	No requirement	Academies are subject to the Relationships and Sex Education and Health Education requirements from September 2020 (basis is section 34 of the Children and Social Work Act 2017) – only applies to schools	Greater legislation from Sept 2020.
Admissions	No specific requirements.	Policy must be fair, objective and transparent – and must be approved by Secretary of State before Funding Agreement signed (2.G of SFA)	No change in practice.
Meals	Must comply with guidance in relation to free meals in FE sector.	Must comply with guidance in relation to free meals in schools.	No change in practice.
Careers guidance	Required to provide independent careers guidance (funding agreement and section 45 Education Act 1997)	In accordance with requirements for maintained schools from Education Act 1997 (2.27 of MFA).	No change in practice.

<b>HR and staffing</b>			
Employer	Corporation	MAT	Staff transfer via TUPE.
Teachers	No regulations / guidance.	Can employ anyone it believes is suitably qualified or otherwise eligible to plan and prepare lessons, teach, assess and report (2.A of SFA).	No change in practice.
T&C / payscales	Able to set for teaching and support staff	Able to set for teaching and support staff	No change.

Specific staffing requirements	Must have designated safeguarding lead.	Must have: <ul style="list-style-type: none"> <li>• Designated safeguarding lead</li> <li>• Designated teacher for looked after / previously looked after children</li> </ul>	Confirm the designated teacher for looked after / previously looked after children.
Pensions	Must offer TPS and LGPS – automatic entry to both.	Must offer TPS and LGPS – automatic entry to both	No change.
LGPS	Corporation is own employer with own fund. Employer rate may vary from LA.	MAT is own employer with own fund. Employer rate may vary to that of the Council or College.	No change in practice.

<b>Finance</b>			
Financial year	August to July	September to August	First academy financial year would be 13 months (1/8/20 to 31/8/21)
ESFA funding basis - revenue	National funding formula for 16-19 funding applies based on FE data returns (including individual learner records). Funding confirmed January / February. ESFA pay monthly, but on an uneven profile (broadly front loaded)	National funding formula for 16-19 funding applies and can continue on FE data returns. GAG funding confirmed usually beginning of April. ESFA pay GAG monthly in equal instalments, at the beginning of the month.	Similar principles, but slightly different processes.  Woodhouse would benefit from some school specific grants (i.e. teacher pay grant) –impact in 19/20 would have been around £73k benefit
LA SEN funding basis	Top up funding agreed with commissioning LA.	Top up funding agreed with commissioning LA.	No change.
Government capital funding	Receive Devolved Formula Capital.  Can apply to Secretary of State (ie Condition Improvement Fund) for larger projects, subject to application criteria.	Receive Devolved Formula Capital.  Can apply to Secretary of State (ie Condition Improvement Fund) for larger projects, subject to application criteria.	No change.

		[Note, larger MATs get a formulaic allocation]	
Ability to generate income	Charitable company – can raise income (subject to it being within the Object of the company which is broadly education and ancillary services) and accept donations. Can establish trading subsidiary.	Charitable company – can raise income (subject to it being within the Object of the company which is broadly education and ancillary services) and accept donations. Can establish trading subsidiary.	No change. Existing trading subsidiary would transfer to the MAT.
Borrowing permissions	Can borrow commercially.	Only with Secretary of State consent. May be eligible for cash advance of General Annual Grant from ESFA if required (repayment without interest).	Woodhouse does not have any borrowing from third parties.  Legal change (loss of ability to borrow) but no practical change.
Carry forward permissions	No restrictions.	ESFA GAG funding: subject to any limit in Academies Financial Handbook Other funds: No limit.	No change in practice.
Student charging	In accordance with 16 to 19 Funding Guidance published by Secretary of State	In accordance with 16 to 19 Funding Guidance published by Secretary of State (SFA clause 2.E)	No change.
Non Domestic Rates	Charitable trust 80% reduction. College pays remaining 20% from core budget.	Charitable trust 80% reduction; cost of remaining 20% incurred refunded by ESFA (in addition to the GAG funding).	Woodhouse implication = approximately £42k additional funding in 2019/20.
Insurance	Commercially procure.	Eligible for DfE’s Risk Protection Arrangement (RPA) - £18 / pupil / year during 2019/20 (capped at £20 / pupil / year until August 2022) (with additional specialist insurance if required) or can commercially procure if better value.	No change or better off.

VAT	Unable to reclaim.	Reclaim in arrears.	Woodhouse implication = approximately £175k / year financial benefit.
Surplus at conversion	N/A	Transferred to MAT.	
Financial accounts	In accordance with FE and HE SORP and ESFA College Accounts Direction	In accordance with Charity SORP and ESFA Academy Accounts Direction	Similar principles with slight differences. Very limited change in practice.
Audit requirements	External audit of accounts. No internal assurance framework requirements Audit Committee required.	External audit of accounts. External assurance of annual accounts return. Internal Audit function required (options on how to discharge). Audit function must be clearly identified within governance structure (Audit Committee preferred but only required above a size threshold)	Additional internal audit requirements – but Woodhouse has voluntarily retained those as a College so very limited impact in practice.

<b>Land and buildings</b>			
Ownership	Freehold owned by Corporation	<ul style="list-style-type: none"> <li>Freehold owned by MAT</li> <li>Restriction added to title preventing disposal without Secretary of State consent.</li> <li>Grant option to Secretary of State to acquire the land for nil consideration if Funding Agreement is terminated.</li> <li>Funding Agreement says Secretary of State must “consult” with MAT about sharing the site if Secretary of State identified basic or parental need for additional places or if not all the land</li> </ul>	Some additional restrictions about disposal and new rights for Secretary of State to “consult” about land use.

		is required for the academy (4.G of SFA).	
Permissions required – current site	None	ESFA permission required for certain transactions (i.e. disposal, granting a lease / license)	New restrictions on disposal or lease / licence granting. Existing arrangements would transfer to the MAT. Woodhouse does not envisage granting rights (besides the Maths School) so no impact in practice.
Permissions required – any other site	None	ESFA permission required for certain transactions (i.e. entering into a lease of more than 6 years)	New restrictions on gaining usage of other sites. Woodhouse does not envisage requiring these so no impact in practice.
Charging / mortgaging	Can charge	Not allowed.	New restriction, but no impact as Woodhouse has no charging / mortgage on its legal title.

<b>Other</b>			
Provision of information		Various requirements to publish information (via legislation and / or Funding Agreement) about governance, curriculum, outcomes, Ofsted report etc.	Additional requirements, but Woodhouse already publishes similar information so limited practical impact.
Complaints	No regulations / guidance beside ESFA saying College “should” have a complaints procedure.	Policy / process must comply with Independent School regulations.	Policy to be updated but limited practical impact compared to current arrangements.
Web address	Eligible for .ac.uk domain due to being a sixth form college	.ac.uk requires being an “organisation in England recognised as [a] sixth form college by the DfE”.	Other SFCs have retained .ac.uk addresses so no impact expected.