



Department  
for Education

# **Statutory faith protections for academies with a religious character**

**Schools Bill Factsheet**

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# Schools Bill Factsheet: Statutory faith protections for academies with a religious character

## What is the government's policy objective?

The government's aim is that by 2030, all children will benefit from being taught in a family of schools, with their school in a multi-academy trust or with plans to join or form one. That is why the government has committed to support more faith schools to become academies by removing barriers to conversion that specifically apply to schools with a religious character. These legislative measures are designed to provide statutory protections in two areas:

- **Governance of academy trusts that include academies with a religious character** – The government supports a diverse school system in which schools with a religious character can flourish. This legislation will provide statutory protections so that such schools are able to retain equivalent governance arrangements to those that applied to them in the maintained sector.
- **Provision of religious education and collective worship in academies with a religious character** – The government wants to ensure that the legal protections for academies with a religious character relating to religious education and collective worship are equivalent to those in the maintained sector. This will mean that where academies deliver religious education and collective worship in a way that reflects their religious character, they and their religious bodies can be confident that conducting these activities is protected in law.

## What do the measures do?

Schools with a religious character (more often referred to as 'Church' or 'faith' schools) make a significant contribution to the education sector. A third of state funded schools are designated with a religious character. Approximately 38% of Church and other faith schools are academies.

Schools with a religious character have specific freedoms and protections which do not apply to other schools, and which play a key role in safeguarding the religious character of the school. This is true for both maintained schools and academies.

- i. Religious bodies, such as Church Dioceses, have a clearly defined role in the governance arrangements and preservation of the religious character of a Church or faith school. For example, the religious body may be required to be involved in the appointment of key leaders in the school, may need to give their consent to any changes in the governance arrangements of the school and may play a role in key decisions (for example, the religious body has a fundamental role in deciding

- which academy trust a Church or faith school should join, or transfer into, in order to ensure the trust is able to preserve the religious character of the school).
- ii. Schools with a religious character are able to provide religious education and collective worship in accordance with the tenets and practices of the relevant religion or denomination.

For local authority maintained schools, these protections are underpinned by legislation.

However, the protections for academies are on a significantly weaker footing. The protections are entirely non-statutory and are instead set out in academy trusts' articles of association and contractual obligations in their funding agreements. Religious bodies, including the Churches, have long made clear that these weaker arrangements afforded to academies are holding back some faith schools from converting to academy status and joining a multi-academy trust, and have campaigned for change that provides academies with equivalent protections to maintained schools.

The government is legislating to introduce equivalent statutory protections for academies. This is to protect the religious character of a faith school through its governance arrangements and provision of religious education and collective worship to pupils. These provisions will only apply to academies designated with a religious character, and academy trusts that manage such schools. The protections mirror as far as possible those that currently exist for local authority maintained faith schools.

These measures are intended to strengthen the safeguards that religious bodies have made clear are required to secure the religious character of their schools when they become academies. They are intended to give confidence to maintained schools that their unique religious character will be protected in the long term once after they have converted to become academies and to secure the support of religious bodies, including the Churches, for the government's proposals for all schools to join, or be in the process of joining, a multi-academy trust by 2030. The government's aim is to both encourage, and remove any barriers to, Church and faith schools joining a multi-academy trust.

## Why is legislation needed?

To ensure that the existing role and interests of religious bodies and the freedoms that safeguard the religious character of faith schools are preserved and protected in law for academies. Legislation will align the faith protections afforded to academies with those of maintained schools by placing them on an equivalent statutory footing.

## What is the effect of the legislation?

The statutory faith protections Bill measures focus on:

- **Providing powers to the Secretary of State to make regulations regarding the governance of academy trusts which have academies designated with a religious character.** This power enables the Secretary of State to specify in

regulations mandatory governance requirements that academy trusts must include in their articles of association or scheme of delegation. This mirrors the arrangements for maintained schools, where the details in relation to governance are set out in regulations for maintained schools with a religious character. For example, this may include requirements relating to the composition of Members, Directors, and local governing bodies. This will ensure there is sufficient representation or control by the relevant religious body to guard against the proprietor of a faith academy changing the articles of association or scheme of delegation in such a way that would weaken the religious character of the academy. The effect of this legislation is that enforcement of these regulations will be through the provisions set out in this Bill's intervention clauses, rather than contractual enforcement by the Secretary of State. For example, this will enable the Secretary of State to issue a statutory direction to enforce compliance where an academy trust breaches the requirements of the regulations. This is a much more workable and equivalent enforcement power than those contained in the funding agreement which require the Secretary of State to threaten termination of the funding agreement to ensure compliance. Regulations made under this power will only apply to academy trusts that have (or in the future have) at least one academy designated with a religious character.

- **Providing protection in law for academies designated with a religious character to provide religious education and collective worship in accordance with the tenets and practices of the relevant religion or denomination.** Essentially, this measure will mirror the provisions that already exist for maintained schools with a religious character in primary legislation. The effect of the legislation will be a statutory duty on academy trusts to ensure that pupils attending an academy with a religious character are able to receive religious education and collective worship in accordance with the religious designation of the school.

In combination, these measures aim to provide reassurance to religious bodies that their role in maintaining and developing the religious character of faith schools will be protected in the long term and to give confidence to schools that their unique religious character will be protected once they become academies.

## How will this work in practice?

The government expects that there will be minimal operational impact on religious bodies, academy trusts or academy schools with a religious character, and no noticeable effect for parents and pupils, as provisions included in legislation or set out in regulations made under this measure will largely mirror existing requirements and current practice.

The government expects that the new legislation will provide further reassurance to religious bodies and maintained schools with a religious character that their unique character will be protected once they have converted to become an academy.

In the event that an academy trust needs to take action to ensure they are compliant with the new regulations, the government will ensure that a transitional period will apply.

## **Key questions and answers**

### **Why is new legislation required if it is only going to mirror existing arrangements, and nothing will really change for schools, academy trusts or religious bodies?**

Protections provided in relation to maintained schools with a religious character are set out in primary legislation. The arrangements for academy trusts are different. The requirements for academy trusts are set out in their funding agreement with the Secretary of State or in their articles of association. Religious bodies are concerned that having contractual rather than statutory protections makes the protections weaker. The government is introducing academy specific legislation so that academies with a religious character have equivalent statutory protections as those that currently apply to maintained schools.

### **Why are you taking a power to make regulations, rather than setting out all the protections in primary legislation?**

A power to make regulations will give use time for appropriate consultation with religious bodies and other relevant people before the regulations are introduced. This approach will provide flexibility for the future. Regulations can be amended as necessary to reflect any changes to the model articles of association.

### **Will this place additional burdens on academy trusts, or discourage trusts from taking on Church or faith schools due to potential changes in governance?**

We do not anticipate that this measure will place additional burdens on academy trusts as these provisions mirror requirements on academy trusts that are already imposed through model articles and contractual clauses in funding agreements. For example, model articles of association already set out requirements relating to the appointment of directors in academy trusts or matters to be included in an academy trust's scheme of delegation.

Our intention is to strengthen these requirements by placing them on a statutory footing. We expect there will be minimal operational impact on academy trusts as these measures largely mirror what is already happening.

## **Why are we legislating to encourage more faith schools in the future schools system?**

The government believes in a diverse school system in which schools with a religious character can continue to flourish within multi-academy trusts. This legislation will give such schools and their religious bodies the confidence to take that step, and will support the government in meeting its objective to have all schools part of or joining a multi-academy trust by 2030.

## **Does this measure place new burdens on academy trusts?**

No, there should be no significant new burdens. Similar obligations already exist for academy trusts that have academies with a religious character and this measure simply ensures equivalent statutory protection as for maintained schools.

## **If the obligations already exist, why do we need new legislation?**

We're making this change so that the requirements for religious education and collective worship are similar for both maintained schools and academies with religious character, and therefore offer equivalent protections once maintained schools become academies.

## **Will the changes impact non-faith schools that are part of an academy trust that includes both faith academies and non-faith academies?**

No. The measures apply only to academies that are already, or will be, designated with a religious character. The requirements for governance and the teaching of religious education and delivery of collective worship in non-faith schools is not affected.

## **Why are we not using this opportunity to relax or change the religious education and collective worship requirements for non-faith schools?**

The government has no plans to change current legislation on religious education or collective worship requirements.

The government firmly believes in the importance of good quality religious education in developing children's knowledge of the values and traditions of Britain and other countries and fostering understanding among different faiths and cultures. It is also important in enabling schools to meet their legal duty to promote young people's spiritual, moral and cultural development.

The government remains of the view that a change in legislation on collective worship in non-faith schools is unnecessary. Collective worship encourages pupils to reflect on the concept of belief and the role it plays in the traditions and values of this country. The law is both inclusive and flexible and it provides an opportunity for schools to develop and celebrate the school or academy's ethos and values. While schools have a duty to

provide a daily act of collective worship, parents have the right to withdraw their children from all or part of this.



## **Part 2: Additional detail on Delegated Powers**

### **Governance of academies with a religious character**

#### **What does this delegated power do?**

This delegated power allows the Secretary of State to set out the rules about academy schools with a religious character in law. This will make it very clear what academy trusts must do in order to protect the religious freedoms of any of their academies which have a religious character. It also ensures that the legal protection given to maintained schools with a religious character continues once those schools become academies.

This delegated power is split into two parts. The first part requires the Secretary of State to make specific rules. These rules will only apply to academy trusts that have a certain number and type of academy schools with a religious character. The rules will be about the proportion of the people in charge of the academy trust and their involvement with a particular religious body. These rules are to make sure that the governance of the academy trust reflects the religious character of the schools within it.

The second part of the delegated power allows the Secretary of State to make other rules about the governance of academy trusts which have academy schools with a religious character. The rules will cover academy trusts that have any type of academy with a religious character, including a mixture of different types – for example a trust which includes both former voluntary aided and former voluntary controlled schools with a religious character. There will likely be different rules for different types of academy trusts to ensure that appropriate distinctions are made (such as where an academy trust only has one academy of a certain type, in comparison to other academy trusts which have many academies of a certain type).

These rules will require relevant academy trusts to include the requirements in their own documents. These documents are:

- their 'articles of association' which set out the purpose of the academy trust and its governance structure, and/or
- their 'scheme of delegation' which set out who is responsible for certain areas

#### **How does the government intend to use this power?**

The government will use this power to make rules for academy trusts that they must follow if they have academies with a religious character. These rules will all relate to the way these academy trusts, or certain types of those academy trusts, should be governed.

The rules are likely to be similar to the current rules in place for academy trusts containing academy schools with a religious character. The current rules are mainly set

out in the government's current model articles of association for academy trusts that have certain types of academies with a religious character. These articles relate to the Church of England and Catholic churches, but other faith groups normally use modified version of the Church of England majority articles. Some academy trusts might also have a clause in the funding agreement for the particular academy with a religious character which outlines aspects of governance arrangements at the school.

We expect the rules will cover things like:

- the minimum number/proportion of members and directors in an academy trust who will be appointed by, or represent, the relevant religious body
- who can be appointed into different governance roles, such as the chair and vice-chair of the board of directors and any connection they must have with the relevant religion
- who must be involved in the decisions to appoint key staff, such as academy Principals or Chief Executive Officers
- the functions which must in certain circumstances, such as where a former voluntary-aided school with a religious character is in a trust with a minority or no members/directors appointed by the religious body, be delegated to a specified academy trust committee or employee

Different types of academy trusts will need to follow different rules depending on the number or type of academy schools with a religious character they have. We will make clear in the rules which academy trusts a certain rule applies to.

We plan to work with key people and bodies in the academy sector to decide what the final rules will be. We will finalise the regulations following this engagement.

The reason that the Secretary of State needs a delegated power to make these rules is because we anticipate the government will need to update the detail of the rules more regularly than would be possible if the rules were written into the Bill. These amendments may include tweaks to the requirements for certain types of academy trusts. The government may also want to update the rules to take account of changes to the model articles for academy trusts which do not contain schools with a religious character.

## **Will there be any further consultation on this issue?**

We aim to work with a wide range of religious bodies and providers of schools with a religious character including national representative bodies for the Church of England, Catholic, Methodist, non-denominational Christian, Muslim, Jewish, Sikh and Hindu groups, to develop an initial set of draft rules. In the future, if the government wants to change the rules, the Secretary of State will consult with a wide range of religious bodies, faith groups and academy trusts containing schools with a religious character before formally changing the rules. The exception to this is where the Secretary of State considers the changes are minor or technical.

## **Key questions and answers**

### **Will the rules apply straight away?**

No - there will be a transition period after the first set of rules are introduced. We will work with a wide range of religious bodies, faith groups and academy trusts containing schools with a religious character to decide how long this transition period should be. Academy trusts will need to make sure they are following the rules, which may involve updating some of their documents and how their governance structures work in practice, by the end of the transition period.

### **What will happen if an academy trust does not follow the rules?**

Where the Secretary of State is aware of an alleged breach of the rules, they will first consult with the relevant religious body before taking any enforcement action in relation to the trust. If the religious body thinks there is a good reason why the academy trust is not complying with the rules, they will have the opportunity to make a case to the Secretary of State who will consider this before deciding what to do next. If there is no satisfactory reason why the trust is not following the rules, the Secretary of State may issue the trust with a compliance direction setting out the breach and informing the trust that it must take action to follow the rules, and set out what follow up intervention action may take place if it does not comply.

### **How often do you expect to make changes to the rules?**

We don't expect to make substantive changes very frequently. It is likely that the frequency of any substantive changes will be every 2 to 3 years at most. All substantive changes will be preceded by a public consultation on those changes. The Secretary of State may though from time to time make minor or technical changes and these will not be subject to consultation.

### **Will the protections for academies really be stronger than they currently are?**

Yes. The key change is that the requirements will be in legislation, rather than individual trust documents (articles of association or schemes of delegation) which risk being amended to reduce the level of protection of the religious ethos.

There is further protection in the legislation itself which ensures there would be appropriate religious input into any substantive changes to the requirements.

What action have you taken to ensure that these changes cannot be amended by the wider powers relating to the Academy Trust Standards?

We want to ensure that powers made under other measures in the Bill could not be used in the future to affect these faith governance requirements. We have therefore expressly set out that the Academy Trust Standards regulations cannot make rules about the points that could be covered in the faith governance rules. The only way that the provisions on the face of the Bill about academy faith governance could be amended in the future is through further primary legislation.

## **RE and collective worship in academies with a religious character**

### **What does this delegated power do?**

The power allows the Secretary of State to make rules about aspects of the inspection of religious education and collective worship in academy schools with a religious character. This is different to an Ofsted inspection.

It is the responsibility of an academy trust which has academies with a religious character to arrange an inspection by the relevant inspection authority for their faith or by an appropriately qualified person. This inspection relates only to the provision of certain types of religious education and of collective worship provided by academy schools with a religious character.

### **How does the government intend to use this power?**

Most of the requirements about the inspection of religious education and collective worship in academy schools with a religious character are set out clearly on the face of the Bill. There are just some aspects, particularly relating to timings, which are more suited to rules set out elsewhere. This approach reflects how these inspection arrangements work for maintained schools.

The rules may prescribe:

- a description of persons who may be consulted about the choice of inspector
- the frequency of inspections
- the period in which an inspection must be carried out
- the period in which a written report of the inspection findings must be prepared
- the period in which the academy trust must inform the parents of pupils in the academy of the overall assessment in the report

The rules will largely mirror the rules that already exist for inspecting religious education and collective worship in maintained schools with a religious character .

At the moment, the rules for inspecting these elements of academies with a religious character are set out in each academy trust's funding agreement. This requires academy trusts to choose a person to conduct the inspection and to ensure that the inspection complies with the rules that would apply if the academy was a maintained school with a religious character. Academies are unlikely to notice any significant change in the requirements for the inspection of religious education and collective worship after these rules are introduced.

The reason the Secretary of State needs a delegated power to make these rules is because we anticipate the government will need to update the detail of the rules more

regularly than would be possible if the rules were written into the Bill. For example, the government might need to change the period between inspections to account for external factors. The overarching rules and framework about inspections of religious education and collective worship in academy schools with a religious character, such as what the inspections should report on, are included in the text of the Bill.

## **Will there be any further consultation on this issue?**

We are not planning to consult on the rules at this time because they broadly reflect the rules that already apply in law to maintained schools with a religious character and through the funding agreement to academies with a religious character.

## **Key questions and answers**

### **Who will carry out the inspections?**

The academy trust will choose the person to carry out the inspection, having first consulted with anyone as required in the rules that will be created.

Most of the main faith groups have inspectorate services and arrangements which academy trusts containing schools with a religious character normally access to carry out these inspections.

### **Why are you creating a delegated power and putting inspections arrangements into law if nothing will really change for academy schools?**

Currently these requirements are purely contractual and as such provide less certainty for schools with a religious character and religious bodies than the statutory provisions which exist for maintained schools. Putting in place equivalent rules into legislation for academies will help to ensure that the religious character of academy schools and the freedoms associated with their religious designation are equally protected in law to those of maintained schools with a religious character.

### **How often do you expect to make changes to these rules?**

We expect to make substantive changes infrequently. As an estimate, we imagine this could be around every three to four years.



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