



Lord Hill of Oareford

Parliamentary Under Secretary of State for Schools

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**To the Chief Executives of all local authorities
in England**

9th November 2011

Dear Chief Executive,

THE ACADEMIES (LAND TRANSFER SCHEMES) REGULATIONS 2011

I am today launching a full consultation with local authorities in England on draft regulations that will enable the Secretary of State to secure the information that he may need in order to make schemes for local authority owned land that is no longer used for maintained schools to be transferred to Academies and Free Schools. Alongside the draft regulations, I also attach model schemes for both freehold land and leasehold land, and include a Q&A with some further details on the measures, which I hope will address any further questions you may have. The consultation will run for ten weeks from today until 18 January 2012. I welcome any comments on the draft regulations and the model schemes, which should be sent to:
LandTransferSchemes.consultation@education.gov.uk

Rationale

Since opening up the Academies programme to increasing numbers of schools, there has been a strong response from schools wishing to convert. Ensuring that an Academy has security of its tenure of the land was one of the principal provisions of the original legislation. In the case of community schools, that security of tenure has for the most part been secured through a 125 year lease from the local authority.

We are extremely grateful that local authorities have responded so positively to the

increased interest from schools. We know that many local authorities have been working hard to engage with the programme, and have been doing all they can to support schools wishing to convert. We very much wish to carry forward the momentum which has been gained, working alongside local authorities as the academies programme goes forward, and as we also further develop plans for more Free Schools. It is very much our intention that the negotiated solutions for leasehold transfer will continue to be the route most schools will follow.

But with the speed at which local authorities are now being expected by schools to respond to their desire for conversion to Academy status, some local authorities have not always been able to meet schools' expectations with a lease or transfer of the freehold. We know that some authorities, for various reasons, may not necessarily be clear how land should be treated as part of the conversion process, or may not be as engaged with the programme. Consequently, we must ensure that where this is the case and problems do arise, there are mechanisms in place to facilitate conversions.

Since the Learning and Skills Act 2000, the Secretary of State has had the power to make schemes transferring local authority land that has been used for the purposes of a community school within the previous eight years (and no longer needed for those purposes) to those involved with the running of CTCs and Academies. These were carried forward in Schedule 35A to the Education Act 1996, by virtue of the Education Act 2002, and subsequently re-enacted and extended to cover all land used for maintained schools in the previous eight years in Schedule 1 to the Academies Act 2010. The regulations we are now consulting on are the next step in taking forward the use of these powers.

What do these regulations actually do?

These regulations specify the information and documents that a local authority must supply to the Secretary of State if he decides to make a scheme to transfer local authority land to an Academy or Free School.

Where it is necessary for the Secretary of State to make a scheme, we believe that setting out in regulations exactly what information the authority must provide to the Secretary of State in order for him to make a scheme will significantly reduce the risk of important issues relating to the land being overlooked, and of schemes which are made being open to challenge by either side.

We also believe there is an added benefit to identifying information in this way. We are aware that local authorities are incurring costs in supporting schools through the conversion process, not least in work which may be needed to identify and transfer relevant parcels of land, which may have a long and detailed history. We hope that the regulations will build on existing guidance to make it far clearer for all parties the specific items of information that are required during conversion, and that consequently authorities will be able to draw up leases speedily.

What land is to be covered by the regulations?

The power in Schedule 1 to the Academies Act 2010 to make a scheme to transfer land to Academies applies to land held by local authorities that has been used for the purposes of a maintained school in the last eight years and is no longer needed for those purposes. The power in the Academies Act (and the regulation making power) therefore covers the following land held by local authorities: land at a maintained school converting to an Academy; land at a maintained school that is closing or has closed; and land at a maintained school which is not closing but no longer needs part of its site. The Secretary of State may wish to use the power to transfer land to a converting Academy or may wish to transfer land to a new Academy or free school where the land is needed for those purposes.

As currently, local authorities will still have to apply to the Secretary of State for consent in respect of a disposal or appropriation of land that has been used for a community school within the previous eight years under Schedule 35A of the 1996 Act or section 77 in the case of playing fields land.

How often will such schemes be drawn up?

As already stated, the response from local authorities to the Academy and Free schools programme has been very positive with the majority being fully engaged and doing all they can to support schools wishing to convert. We therefore consider such schemes will be required only rarely and that in the vast majority of cases negotiated solutions will continue to be reached.

I appreciate that, in the current economic climate, many local authorities will rightly seek to dispose of all surplus land, including surplus former school land. We do not seek to undermine that process and will listen to all representations on a case by case basis before deciding the details of any transfer, should it be necessary to make a scheme. In making any decisions to impose a transfer scheme, the Secretary of State would always seek to find the most appropriate balance between securing sites for new and existing Academies and Free schools and ensuring value for money. The powers apply only where land is no longer required for the maintained school, and there is no intention to remove land from any existing school where the land continues to be used by the school.

I look forward to your comments on the draft regulations and model schemes.

Yours sincerely,


JONATHAN HILL
Parliamentary Under Secretary of State for Schools