

Service level agreement in relation to a trust partnership

For adaption by schools and trusts

April 2021

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# Key information

* **Party 1 (“trust”)**

[Insert name of trust, address and key contact]

* **Party 2 (“school”)**

The governing body of [insert name of school, address and key contact]

**The parties are known collectively as the partnership**

* **Partnership start date:** [INSERT DATE]
* **Partnership end date:** [INSERT DATE]
* **Is there the possibility of extending the partnership beyond the partnership end date?** [YES/NO] **If so, specify the maximum term.**
* **Service charge:**

See schedule 1

Payment will be by BACS

* **Internal reference number:** [INSERT HERE]
* **Purchase order:** [if a PO is needed before payment will be released, specify number and details]

**The services:**

* See schedule 2

# Terms and conditions of the partnership agreement

## Definitions and interpretation

1.1 The following terms have the following meanings for the purposes of this agreement:

**Academy** means an academy established in accordance with the Academies Act 2010;

**Academy order** an order made by the Secretary of State under the Academies Act 2010, section 4;

**Agreement** means this agreement between the parties;

**Confidential information** means any information which has been designated as confidential by either party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets or Intellectual Property Rights of either party and all personal data and sensitive personal data within the meaning of the data protection legislation. Confidential information shall not include information which:

* + was public knowledge at the time of disclosure;
  + was in the possession of the receiving party, without restriction as to its disclosure, before receiving it from the disclosing party;
  + is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
  + is independently developed without access to the confidential information;

**Consultation** means consultation as required in accordance with Academies Act 2010, section 5;

**Existing IPR** means any and all IPR that are owned by or licensed to either party which are or have been developed independently of the agreement whether prior to the date of the agreement or otherwise;

**EIR** means the Environmental Information Regulations 2004;

**FOIA** means the Freedom of Information Act 2000;

**Intellectual Property Rights (IPR)** means any copyright, rights in designs, database rights, domain names, trademarks, service marks, patents or any applications for any of the foregoing, know-how or similar rights or obligations (whether registerable or not) including Moral Rights as defined in Chapter IV of the Copyright, Designs and Patents Act 1988;

**New IPR** means IPR in items created by the trust (or by a third party on behalf of the trust) specifically for the purposes of the agreement and updates and amendments of these items including (but not limited to) data base schemes;

**Partnership** means the arrangement between the parties as set out in this agreement;

**Parties** means together the school and the trust;

**Request for information** means a request for information under FOIA;

**Secretary of State** means the Secretary of State for Education;

**Services** means the services to be provided by the trust during the partnership as set out in schedule 2 (services);

**Service charge** means the charges for the services as set out in schedule 1 (service charge);

**SVA** means the Safeguarding Vulnerable Groups Act 2006 (as amended under the Protection of Freedoms Act 2012);

## Purpose

* 1. The trust and the school are forming the partnership so that the trust can provide immediate, short term school improvement support to the school based on the services set out in schedule 2 and for the service charge set out in schedule 1. During the partnership, the school will consider converting into an academy based on its experience of working with the trust.
  2. The purpose of this agreement is to set out the services which the trust will provide to the school as it explores the possibility of academisation, the key information which governs and underpins the partnership and to define the responsibilities of the parties.

## Commencement and Duration

* 1. This agreement will come into force on the date that it has been signed by both parties.
  2. The partnership will run for an initial period as set out in the key information above.
  3. With the agreement of both parties the partnership can be extended for a period of no more than [INSERT DURATION] [[1]](#footnote-2). Any such agreement to extend the partnership shall only take effect when recorded in writing by the parties, as a variation to this agreement.

## Service delivery and trust responsibilities

* 1. The trust will deliver the services as set out in schedule 2 (service) and in doing so will:
     1. [[2]](#footnote-3)[provide robust leadership to the school;
     2. support the school in exploring the possibility of converting into an academy;
     3. support the development of effective, strong governance at the school;
     4. strengthen teaching and learning;
     5. provide opportunities to develop middle and senior leaders; and
     6. provide suggestions to the school for improvement.]

## School responsibilities

* 1. The school will:
     1. share data and information with the trust as is reasonably required to enable the trust to provide the services and to meet its responsibilities;
     2. attend trust events and training;
     3. ensure that staff are available as reasonably required to enable the trust to provide the services;
     4. involve trust leaders in decision making; and
     5. allow trust staff to access its premises as reasonably required to deliver the services and will take all reasonable precautions to ensure the health and safety of trust staff and agents whilst on the school's premises.

## Mutual responsibilities

* 1. The parties will keep discussions and information about the partnership confidential, in accordance with the provisions of clause 10 (confidentiality).
  2. The parties will act in the spirit of collaboration and cooperate with each other in relation to all matters under this agreement.
  3. The parties will comply with their respective obligations in relation to relevant legislation including as set out in clause 9 (safeguarding), clause 11 (freedom of information) and clause 12 (data protection).

## Academisation process and discussions

* 1. The parties agree that the existence of the partnership does not of itself mean that the school will convert to an academy. However, during the partnership, the school will give due consideration to academisation.
  2. It is anticipated that the school will launch a consultation, prior to the partnership end date. The consultation will be timed to ensure any potential/proposed academisation takes place on [INSERT DATE OF ENVISAGED ACADEMISATION][[3]](#footnote-4) subject to the granting of an academy order by the Secretary of State, and the stated conversion date in any academy order.
  3. Following conclusion of the consultation the governing body of the school will vote on whether to progress to academisation and will notify the trust of the outcome of that vote.
  4. If, the outcome is that the school will not convert to an academy, the partnership will automatically [dissolve/terminate][[4]](#footnote-5) if the partnership end date has not been reached.

## Charges for the support service

* 1. The service charge is set out in schedule 1.
  2. The service charge will be paid by the school to the trust as set out in schedule 1.
  3. The service charge will be paid by BACS.
  4. The service charge allows the trust to obtain access to meetings, training and data at the school and may include other items as set out in schedule 1.

## Safeguarding

* 1. The parties each undertake regulated activity as defined under the SVA and each party must comply with the legal requirements arising from the SVA in respect of referrals to the Disclosure and Barring Service (DBS).
  2. Both parties shall make arrangements for ensuring that the services are provided with a view to safeguarding and promoting the welfare of children receiving education. In doing so, both parties shall have regard to any guidance published, by the Secretary of State, which sets out the expectations in relation to safeguarding practice within schools.
  3. The trust confirms that it has carried out appropriate DBS checks on all staff who may work at the school in regulated activity relating to children (as defined by the SVA Groups Act 2006) at the school, through the partnership.
  4. Neither party shall employ or engage, or continue to employ or engage, any person who is subject to a prohibition order made under section 141B of the Education Act 2002 to carry out teaching work (as defined in regulation 3 of the Teachers’ Disciplinary (England) Regulations 2012).
  5. Each party must be able to demonstrate, at the request of the other, that they have robust record-keeping procedures in respect of safeguarding through checks on record keeping undertaken.

## Confidentiality

* 1. Except to the extent set out in this clause 10 or if disclosure or publication is expressly permitted elsewhere in the agreement, each party shall treat all confidential information belonging to the other party as confidential and shall not disclose any confidential information belonging to the other party to any other person without the other party’s consent, except to such persons and to such extent as may be necessary for the performance of the party’s obligations under the agreement.
  2. Clause 10.1 shall not apply to the extent that:
     1. such disclosure is a requirement of law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or the EIR;
     2. such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
     3. such information was obtained from a third party without obligation of confidentiality;
     4. such information was already in the public domain at the time of disclosure otherwise than by a breach of the agreement; or
     5. it is independently developed without access to the other party's confidential information.

## Freedom of information and environmental information

* 1. The parties acknowledge that they are each subject to the requirements of the FOIA and the EIR and that they each agree to promptly cooperate and assist the other, each at their own cost, if either party receives a request for information related to this agreement.

## Data protection

* 1. The parties agree to comply with the provisions of schedule 3 (Data Protection).

## Intellectual property rights

* 1. Each party keeps ownership of its existing IPR.
  2. Any new IPR created under this agreement will be owned by the trust.
  3. The trust gives the school a non-exclusive, perpetual, royalty-free, irrevocable, transferable UK-wide licence to use and change the trust’s existing IPR and any new IPR to enable it to receive and use the services for the duration of this agreement.
  4. The school gives the trust a licence to use the schools existing IPR for the purpose of providing the services for the duration of this agreement.
  5. Where a party acquires ownership of IPR incorrectly under this agreement it must do everything reasonably necessary to complete a transfer assigning them in writing to the other party on request and at its own cost.
  6. Neither party has the right to use the other party’s IPR, including any use of the other party’s names, logos, or trademarks, other than as set out in this clause 13 or as agreed in writing.
  7. The trust hereby waives any moral rights as defined at Chapter IV of the Copyright, Designs and Patents Act 1988.
  8. The trust confirms that the trust’s IPR comprise its own original work including where the IPR are created on behalf of the trust.

## Termination

* 1. The trust or the school may terminate this agreement on one month’s written notice. In the event of termination, the school will pay the trust any outstanding component of the service charge.
  2. The trust may terminate this agreement immediately on the following grounds:
     1. If the school commits a material breach of this service level agreement which is not capable of remedy;
     2. If the school commits a material breach of this service level agreement which is capable of remedy but continues for more than 14 days after the trust gives written notice of the material breach and has requested that the school remedies the breach within 7 days.
  3. The trust may terminate the agreement immediately if the school fails to pay an agreed invoice within 30 days of receipt of the same and/or the parties are unable to agree a disputed invoice, as set out in schedule 1 (service charge).

## Variation

* 1. The agreement may be varied by the parties, any such variation to be recorded in writing and signed by each party.

## Dispute Resolution

* 1. The parties shall use all reasonable endeavours to negotiate in good faith and settle amicably any dispute that arises during the agreement. This shall include escalating the dispute to a more senior level within both the school and the trust with a view to reaching a settlement.
  2. Any dispute not capable of resolution by the parties in accordance with the terms of clause 16 may be settled as far as possible by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.

Signed on behalf of the trust:

Date:

Signed on behalf of the school:

Chair of governors:

Headteacher:

Date:

# Schedule 1: service charge

*[The payment of service charge should be set out here. It should be itemised so that it is clear what is being offered by the trust and so that the school knows what to expect. This could be a list of trust personnel, how many hours they will spend supporting the school and the cost per hour, cost for a training session etc. It should also include when payment should be made. Examples are included but it is very important that the specific arrangements between the trust and the school are fully recorded]*

**[One off service payment**

Following receipt of an invoice by the trust, the school will pay to the trust the sum of [INSERT AGREED SUM] on or around [INSERT DATE] [prior to commencement of the services as set out below] [Subsequent to delivery of the services as set out below]

If the school fails to pay the invoice within 30 days, the trust may terminate this agreement in accordance with clause 14.3]

**[Payment based on monthly invoicing**

The trust will submit a monthly invoice for the services on or around [INSERT DATE] of each month with the first invoice being submitted on [INSERT DATE]. The invoice will include the following details [INSERT REQUIRED DETAILS]

The school will pay the invoice within 30 calendar days of receipt of the same.

If the invoice is not agreed, the school will notify the trust within 7 calendar days of receipt of the invoice, setting out why it is not agreed. The parties will discuss the invoice with a view to reaching agreement following which, where necessary, the trust will issue a new invoice. If agreement cannot be reached the trust may terminate this agreement in accordance with clause 14.3]

**[Payment for specific services**

The trust will invoice the school as set out below.

*[Where payment will be neither one off or on a monthly invoiced basis then the parties should set out here what will be paid, and when, by reference to each of the services to be delivered]*

The school will pay the invoice within 30 calendar days of receipt of the same.

If the invoice is not agreed, the school will notify the trust within 7 calendar days of receipt of the invoice, setting out why it is not agreed. The parties will discuss the invoice with a view to reaching agreement following which, where necessary, the trust will issue a new invoice. If agreement cannot be reached the trust may terminate this agreement in accordance with clause 14.3]

Schedule 2: services

*[Services which the trust will provide to the school are to be set out in full below. The list is an example for the purposes of this template and should be removed and replaced with a full detailed description for each school before this agreement is finalised and signed. If all or any components in the list provided are applicable, they can stay in the agreement. Please use as much space as is required. The wording in the square brackets can then be deleted if it is not needed.]*

*[The trust will:*

* *Provide trust-wide training opportunities*
* *Provide mentoring and support to the headteacher and other senior managers*
* *Provide support to the school, for instance involving them in cross-trust data moderation and cross-trust activities such as joint sports days*
* *Share school improvement models proven to be effective within the classroom*
* *Share school improvement modelling that the trust has already implemented across its academies and how this has allowed collective contribution to improving a group of schools*
* *Provide experienced trust staff to undertake outreach work in the school and use teacher recruitment streams to ‘backfill’ these roles*
* *Provide guidance on effective recruitment and retention strategies to attract and train new colleagues and to retain and develop colleagues to remain within the school and trust*
* *Provide guidance on financial management and governance, including support through cross-trust monitoring and personnel*
* *Share information and good practice on the collective benefit of workforce planning across the academies/group of academies within a trust*
* *Sharing information and good practice on the collective benefit of operating governance processes and financial management across the academies within a trust].*

Schedule 3: data protection

## Definitions

**Control** means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and **controls** and **controlled** are interpreted accordingly;

**Data loss event -** any event that results, or may result, in unauthorised access to personal data held by the processor under this agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this agreement, including any Personal Data Breach.

**DPA -** Data Protection Act 2018

**Data protection impact assessment (DPIA) -** an assessment by the controller of the impact of the envisaged processing on the protection of personal data.

**Data protection legislation -** (i) the GDPR, the LED and any applicable national implementing laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iiii) all applicable law about the processing of personal data and privacy;

**Data subject request -** a request made by, or on behalf of, a data subject in accordance with rights granted pursuant to the data protection legislation to access their personal data.

**Controller, processor, data subject, personal data, personal data breach, data protection officer** shall have the meanings given in the GDPR;

**GDPR -** the General Data Protection Regulation (Regulation (EU) 2016/679)

**Law -** means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, byelaw, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the processor is bound to comply;

**LED -** Law Enforcement Directive (Directive (EU) 2016/680)

**Processor contractor staff -** employees, agents, consultants, and contractors of the processor and/or of any sub-processor engaged in the performance of its obligations under this agreement.

**Protective measures -** appropriate technical and organisational measures which may include: pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it including those set out in the agreement.

**Sub-processor -** any third party appointed to process personal data on behalf of the processor related to this agreement.

* 1. The parties acknowledge that for the purposes of the data protection legislation, the school is the controller, and the trust is the processor unless otherwise specified in section 2 of schedule 3. The only processing that the processor is authorised to do is listed in section 2 by the controller and may not be determined by the processor.
  2. The processor shall notify the controller immediately if it considers that any of the controller's instructions infringe the data protection legislation.
  3. The processor shall provide all reasonable assistance to the controller in the preparation of any DPIA prior to commencing any processing. Such assistance may, at the discretion of the controller, include:
     1. a systematic description of the envisaged processing operations and the purpose of the processing;
     2. an assessment of the necessity and proportionality of the processing operations in relation to the services;
     3. an assessment of the risks to the rights and freedoms of data subjects; and
     4. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of personal data.
  4. The processor shall, in relation to any personal data processed in connection with its obligations under this agreement:
     1. process that personal data only in accordance with section 2 of schedule 3 unless the processor is required to do otherwise by law. If it is so required, the processor shall promptly notify the controller before processing the personal data unless prohibited by law;
     2. ensure that it has in place protective measures, which are appropriate to protect against a data loss event, which the controller may reasonably reject (but failure to reject shall not amount to approval by the controller of the adequacy of the protective measures), having taken account of the:
        1. nature of the data to be protected;
        2. harm that might result from a data loss event;
        3. state of technological development; and
        4. cost of implementing any measures;
     3. ensure that:
        1. the processor contractor staff do not process personal data except in accordance with this agreement (and in particular this schedule 8);
        2. it takes all reasonable steps to ensure the reliability and integrity of any processor contractor staff who have access to the personal data and ensure that they:
           1. are aware of and comply with the processor’s duties under this clause;
           2. are subject to appropriate confidentiality undertakings with the processor or any sub-processor;
           3. are informed of the confidential nature of the personal data and do not publish, disclose or divulge any of the personal data to any third party unless directed in writing to do so by the controller or as otherwise permitted by this agreement; and
           4. have undergone adequate training in the use, care, protection and handling of personal data; and
     4. not transfer personal data outside of the EU unless the prior written consent of the controller has been obtained and the following conditions are fulfilled:
        1. the controller or the processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the controller;
        2. the data subject has enforceable rights and effective legal remedies;
        3. the processor complies with its obligations under the data protection legislation by providing an adequate level of protection to any personal data that is transferred (or, if it is not so bound, uses its best endeavours to assist the controller in meeting its obligations); and
        4. the processor complies with any reasonable instructions notified to it in advance by the controller with respect to the processing of the personal data;
     5. at the written direction of the controller, delete or return personal data (and any copies of it) to the controller on termination of the agreement unless the processor is required by law to retain the personal data.
  5. Subject to clause 1.6, the processor shall notify the controller immediately if it:
     1. receives a data subject request (or purported data subject request);
     2. receives a request to rectify, block or erase any personal data;
     3. receives any other request, complaint or communication relating to either party's obligations under the data protection legislation;
     4. receives any communication from the Information Commissioner or any other regulatory authority in connection with personal data processed under this agreement;
     5. receives a request from any third party for disclosure of personal data where compliance with such request is required or purported to be required by law; or
     6. becomes aware of a data loss event.
  6. The processor’s obligation to notify under clause 1.5 shall include the provision of further information to the controller in phases, as details become available.
  7. Taking into account the nature of the processing, the processor shall provide the controller with full assistance in relation to either party's obligations under data protection legislation and any complaint, communication or request made under clause 1.5 (and insofar as possible within the timescales reasonably required by the controller) including by promptly providing:
     1. the controller with full details and copies of the complaint, communication or request;
     2. such assistance as is reasonably requested by the controller to enable the controller to comply with a data subject request within the relevant timescales set out in the data protection legislation;
     3. the controller, at its request, with any personal data it holds in relation to a data subject;
     4. assistance as requested by the controller following any data loss event;
     5. assistance as requested by the controller with respect to any request from the Information Commissioner’s Office, or any consultation by the controller with the Information Commissioner's Office.
  8. The processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the processor employs fewer than 250 Staff, unless:
     1. the controller determines that the processing is not occasional;
     2. the controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or personal data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
     3. the controller determines that the processing is likely to result in a risk to the rights and freedoms of data subjects.
  9. The processor shall allow for audits of its data processing activity by the controller or the controller’s designated auditor.
  10. Each party shall designate its own data protection officer if required by the data protection legislation.
  11. Before allowing any sub-processor to process any personal data related to this agreement, the processor must:
      1. notify the controller in writing of the intended sub-processor and processing;
      2. obtain the written consent of the controller;
      3. enter into a written agreement with the sub-processor which give effect to the terms set out in this clause 1 such that they apply to the sub-processor; and
      4. provide the controller with such information regarding the sub-processor as the controller may reasonably require.
  12. The processor shall remain fully liable for all acts or omissions of any sub-processor.
  13. The controller may, at any time on not less than 30 business days’ notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this agreement).
  14. The parties agree to take account of any guidance issued by the Information Commissioner’s Office. The controller may on not less than 30 business days’ notice to the processor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner’s Office.

## Processing, personal data and data subjects

This schedule shall be completed by the controller, who may take account of the view of the processors, however the final decision as to the content of this schedule shall be with the controller at its absolute discretion.

1. The contact details of the controller’s Data Protection Officer are: [INSERT SCHOOL DETAILS]
2. The contact details of the processor’s Data Protection Officer are: [INSERT TRUST DETAILS]
3. The processor shall comply with any further written instructions with respect to processing by the controller.
4. Any such further instructions shall be incorporated into this schedule.

Description and details are as follows:

**Identity of the controller and processor**

The parties acknowledge that for the purposes of the data protection legislation, the school is the controller and the trust is the processor in accordance with schedule 3 paragraph 1.1.

**Subject matter of the processing**

The processing is needed for the delivery of the agreement:

1. in order to ensure that trust can effectively deliver the services;
2. in order that the school can effectively manage the delivery of the services;
3. for the purposes of the school’s development and improvement, the data provided will give an insight into current levels of pupil achievement and attainment.

**Duration of the processing**

Up to [INSERT PARTNERSHIP END DATE] but the data will be retained for longer in accordance with the retention period noted below.

**Nature and purposes of the processing**

*[TO BE COMPLETED: Please be as specific as possible, but make sure that you cover all intended purposes.*

*The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.*

*The purpose might include: employment processing, statutory obligation, recruitment assessment etc]*

Personal data is shared and processed on the legal basis that the processing is necessary to enable the processer to effectively deliver the services in the public interest.

**Type of personal data**

*[TO BE COMPLETED. Examples include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]*

**Categories of data subject**

*[TO BE COMPLETED. Examples include: staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students/pupils, members of the public, users of a particular website etc]*

**Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data**

The data may be retained (in a restricted folder) by the controller and the processor as long as is required for the purpose(s) of this agreement; this period shall not exceed 7 years. All data will be deleted or destroyed after this period unless the controller wishes to keep the data for longer period for research and statistical purposes only. Confirmation of destruction will be provided by the processor to the controller, within 15 business days of a request being made.



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1. Please include details as appropriate, remove the square brackets before the agreement is finalised and signed. [↑](#footnote-ref-2)
2. Please note that this list can be adapted on a case-by-case basis to suit your requirements. Please remove the square brackets before the agreement is finalised and signed. [↑](#footnote-ref-3)
3. Please insert date and then please remove the square brackets before the agreement is finalised and signed. [↑](#footnote-ref-4)
4. Please delete as appropriate and then please remove the square brackets before the agreement is finalised and signed. [↑](#footnote-ref-5)