

BHA BRIEFING: Mixed multi-academy trusts
7 September 2016



Briefing from the British Humanist Association (BHA):
Oral evidence to the Education Committee's inquiry on mixed multi-academy trusts

About the BHA

The British Humanist Association is the national charity working on behalf of non-religious people who seek to live ethical and fulfilling lives on the basis of reason and humanity. We promote Humanism, support and represent the non-religious, and promote a secular state and equal treatment in law and policy of everyone, regardless of religion or belief. Founded in 1896, we have around 45,000 members and supporters, and over 70 local and special interest affiliates.

The BHA has a long history of contributing towards and improving state education. We provide materials and advice to parents, governors, students, teachers and academics. We also work closely with others on wider equalities issues in a range of forums. The BHA is a member of the Religious Education Council for England and Wales (REC), National Children's Bureau Sex Education Forum (SEF), the PSHE Association, the Children's Rights Alliance for England (CRAE), and Rights of the Child UK (ROCK).

Summary

Mixed multi-academy trusts (MATs) are multi-academy trusts that involve both religious and other schools. The rules around them give religious groups control of the appointment of either at least 25% or at least a majority of the trustees of the MAT. This is problematic because the MAT appoints the governing bodies of the schools that make it up, and the MAT and governing body control the school.

If a school of no religious character enters a mixed MAT, it is therefore open to religious control over its governance, its ethos (it could declare itself to have a faith ethos, for example), its senior staffing (who could now be recruited using religious 'genuine occupational requirements'), and its approach to collective worship, RE and sex and relationships education.

There are currently at least 350 schools with no religious character in a mixed MAT with religious schools, compared with 54 Church of England schools in mixed MATs with schools of no religion.

In what follows we set out in more detail the structures of MATs; the ways in which religiously controlled MATs can influence schools they run that are of no religious character; the numbers of schools currently involved; and examples of this happening in practice.

Multi-academy trusts (MATs)

There are two main types of academy chain. The first is the multi-academy trust, whereby several academies are run by one trust and operate using one 'master funding agreement', with each

academy having its own ‘supplemental funding agreement’. Only the MAT itself has a legal identity: individual Academies within the MAT do not have legal identities of their own.

There are also what are known as ‘umbrella trusts’ (UT), which are trusts where each component part is a legal entity with its own funding agreement and company, and then an overarching trust has oversight of all the components. The component parts could be single academy trusts or MATs themselves.

As this inquiry is primarily about MATs we do not dwell much on UTs but for reasons that will become apparent it is necessary to be aware of them to have the complete picture. Academies can also collaborate in other ways as well, such as through a ‘collaborative partnership model’, and we return at the end to less formal ways in which the Church of England (CofE) in particular has gained control over schools with no religious character.

Mixed MATs

Mixed MATs are MATs that contain different types of academy, whether they be of the community, voluntary controlled (VC) or voluntary aided (VA) model. Such mixed MATs sometimes result from community schools seeking to join religious MATs so as to gain the support that they can provide, and the Church has also been proactive on this score; more typical is where a MAT is set up as mixed from the start, or becomes mixed because of religious schools joining a hitherto secular MAT (see *Case studies*, and also *Beyond mixed MATs – affiliation schemes*, below).

Almost all mixed MATs are predominantly CofE, predominantly Christian, or a mix of CofE/secular in their articles of association.

The governance arrangements for mixed MATs depend on which types of school are involved.

Governance

Voluntary Controlled schools in mixed MATs

If a Voluntary Controlled (VC)-model school (i.e. a school that was VC before converting to being an Academy) joins a MAT with any academies without a religious character, the relevant religious body (ordinarily the local diocese) is entitled to 25% of the directors on the trust’s board. This is [set out](#) in the ‘Church of England minority VC/non-Church of England multi-academy model articles of association’, at paragraph 50AA:

‘The Diocesan Board of Education shall appoint no fewer than [●] Directors provided that the total number of Directors appointed under this Article would not thereby exceed 25% of the total number of Directors.’¹

The Memorandum of Understanding between the National Society and the Department for Education, agreed this year, adds the following:

‘The department, recognising the importance of the diocesan family of schools, will only approve an application for a church school **to join an existing MAT without appropriate church governance (see footnote 1) where that application is supported by the DBE.**

¹ <https://www.gov.uk/government/publications/church-academies-model-documents>

Footnote 1: *This will include MATs that currently have no Church schools but will need to amend their articles of association to reflect appropriate Church representation in the governance of the MAT.*²

Religious bodies are entitled to this minimum level of representation regardless of the make-up of the MAT and of how many schools they have in it.

On top of that, it is sometimes the case that each individual academy within the MAT appoints one trustee to the MAT. For the VC schools, of course, this trustee may also be religious. If a mixed MAT is mainly made up of religious schools, this approach means that most of the trustees may end up appointed by religious groups.

Voluntary Aided schools in mixed MATs

If a Voluntary Aided (VA)-model school (i.e. a school that was VA before converting to being an Academy, or was established as a religiously designated sponsored Academy or Free School) joins a MAT with any academies without a religious character, the relevant religious body is entitled to a majority of seats on the trust's board. This is in line with existing arrangements for VA schools, laid out in regulation 14 of The School Governance (Constitution) (England) Regulations 2012.³ Accordingly, the Memorandum of Understanding between the Catholic Church (all of whose maintained schools are VA) and the Department for Education sets out that any sponsorship arrangements must:

‘at all times recognise that the governance arrangements must ensure that the Catholic Church retains control’.⁴

As above, the relevant religious body of the VA school is entitled to this minimum level of representation regardless of the make-up of the MAT and of how many schools they have in it. And, as above, in practice there may be even more religious representation than this.

Faith-established MATs

The above sets out the required minimum proportion of faith-based trustees in mixed MATs. But the group that founded the MAT is generally allowed to appoint the trustees of the MAT as it sees fit, so if the MAT was founded by a religious group then there is nothing stopping it from appointing all the trustees along religious lines if it likes.

There is no protection to ensure that a certain proportion of trustees are appointed for reasons other than religion, to mirror the protections to ensure that a certain proportion are appointed by the religious group.

Local governing bodies

Individual academies in MATs do not have to have their own governing body, but they generally do. However the MAT can appoint almost all of the governors to that individual governing body, with the exceptions being a minimum of two elected parent governors. MATs will often appoint some of the MAT's trustees to that body, so if these individuals are themselves appointed to the MAT for

² <https://www.gov.uk/government/publications/church-schools-and-academies-memoranda-of-understanding>

³ <http://www.legislation.gov.uk/uksi/2012/1034/regulation/14/made#f00010>

⁴ <https://www.gov.uk/government/publications/church-schools-and-academies-memoranda-of-understanding>

religious reasons then a school with no religious character could find itself with religiously appointed governors.

Concerns

Beyond the obvious point that organisations with a distinctive religious character should not be afforded decision-making power over schools with no religious character, there are a number of specific concerns that arise as a result of such arrangements. In sum, the rules and regulations that schools without a religious character in England are subject to are not sufficiently secular to protect against the encroachment of religion:

- **Ethos** – academies with no religious character can at any stage choose to simply declare a religious ethos, which is something a maintained school cannot do, and leads to the knock on implications in the following bullet points. This is more likely if religious groups have influence over them through the MAT.
- **Senior staffing** – an academy with a religious ethos can use a genuine occupational requirement in appointing certain senior staff. On top of that, academies sometimes share very senior staff (executive principals etc.) and so an academy in a mixed MAT that has not declared a religious ethos may still find itself with its most senior staff having a GOR.
- **Collective worship** – whilst it is generally understood that many schools without a religious character do not enforce a daily act of collective worship, the legal requirement that exists gives them free reign to do so. Collective worship is the issue we are contacted about by pupils, parents, and teachers more than any other, and these people rightly feel affronted to find that their choice of a ‘non-church’ school has not exempted them from such a requirement. The opt-out is inadequate, both because schools can be reluctant to properly accommodate it and because it can lead to children experiencing feelings of exclusion, or missing out on other aspects of school life. So long as the requirement exists, the involvement of religious bodies in the governance of schools without a religious character presents clear risks.
- **Religious Education** – whilst religious education (RE) in schools without a religious character cannot be provided by means of any catechism or formulary distinctive to a particular religious denomination, the ability of academies to set their own RE syllabuses allows MATs to influence that RE. Clearly, there is scope for a religious body with either some involvement or overall control of a mixed MAT to influence the RE within schools without a religious character in a way that does not provide the balance that may have existed before. This risk is further exacerbated by the fact that MATs understandably tend towards having as many policies aligned between their schools as possible. With no obligation to follow an agreed syllabus or any national framework/curriculum, there is little to mitigate this risk.
- **PSHE and SRE** – no PSHE or SRE is required in academies, so schools are free to teach what they like. Concerns about what might be taught, or not taught, in this area given the influence of a religious body are obvious.

In effect, therefore, when schools with no religious character join MATs controlled or influenced by religious bodies, they can quickly become ‘faith ethos’ academies.⁵ They could, down the line, also choose to convert to being legally designated as religious – and the control of the MAT over the governing body makes this more easy and so likely than ever before.

Figures

⁵ <https://humanism.org.uk/wp-content/uploads/bha-briefing-faith-ethos-academies-and-free-schools-explained.pdf>

Here are the top line figures for the number of schools currently in mixed MATs (researched by us earlier this month and published here for the first time):

- 350 schools with no religious character are in a mixed MAT of one kind or another (and there are more (17 currently) in the pipeline)
- Focusing just on mixed MATs involving CofE schools
 - 275 schools with no religious character are in mixed MATs involving CofE schools. 233 of these are in MATs that are a mix of CofE and secular, and a further 42 are in entirely CofE-run (typically diocesan) MATs
 - By contrast, there are just 54 CofE schools in these mixed MATs
 - **Therefore the CofE has gained some control over five schools with no religious character for every one that has joined a mixed MAT**
- The rest of the schools with no religious character are typically in Christian MATs (generally either Oasis or United Learning Trust) or in three cases in a Muslim MAT (with one more proposed)

This is to say nothing of the existence of umbrella trusts, which can provide overarching governance for MATs. There may be a number of MATs that are themselves secular except that they are part of an umbrella trust in which religious bodies have some level of control. We don't know how many of these there are.

Case studies

These examples are far from unique but representative of the general picture.

Central Walker Church of England School

In March 2016 it was announced that the Church was proposing an MAT consisting of four schools without a religious character and one converting Church of England voluntary aided school. The move would give the church the majority of positions on the trust's board, and therefore ultimate control over all the schools in the trust, not just its own.⁶

Local MP Nick Brown has stated that he has 'some concerns about this specific proposal, which sees Church of England appointees as a majority of the academy trust's members', and local councillor Dave Wood described it as 'not democratic' and a 'takeover' by the Church.

Somerton Infant School

In March 2014 it was announced that Somerton Infant School in Somerset, which had no religious character, was to enter a multi-academy trust with neighbouring Montclefe Academy. As Montclefe is a Church of England Academy it was decided that Somerton Infant School should be converted into a Church of England academy as well.⁷

Oasis

⁶ <https://humanism.org.uk/2016/03/10/church-of-england-diocese-in-takeover-of-primary-schools-with-no-religious-character/>

⁷ <http://www.westerngazette.co.uk/Education-secretary-Michael-Gove-shows-support/story-20772604-detail/story.html#ixzz2vr2saVJ8>

Oasis has over 40 academies in England, almost all of which, if not all, are not formally designated with a religious character, but rather are 'faith ethos' academies. Almost all are academies that were formerly maintained schools (i.e. were not set up as free schools), and none had any religious ethos prior to conversion. Nonetheless, and despite presenting themselves as 'inclusive', Oasis states that it has a Christian ethos, and has established churches on the site of its schools and employed chaplains within its schools.⁸ These churches are promoted on the schools' websites and are often situated in the schools rent-free, and the chaplains are said to 'contribute to the curriculum and pedagogy through RE lessons...PSHE education and SMSC education'.

Tauheedul Education Trust (TET)

Tauheedul is a Muslim trust which runs 15 Muslim academies throughout England. Over the course of this year, it has also assumed control of three schools without a religious character after it was chosen as the preferred sponsors to turn around the schools, which had previously been rated inadequate.⁹

Feversham Education Trust

Feversham Education Trust, a MAT with a Muslim character, is due to assume control of Queensbury School, which has no religious character.¹⁰ In 2014, Feversham College (the school that founded the MAT) was found to be requiring every member of staff to be female, which is illegal gender discrimination. It was told to stop discriminating on the basis of gender in this way by the DfE after the BHA alerted it to the practice.¹¹

Kent

A TES article from 2011 revealed the level of effort that the Canterbury Diocesan Board of Education had put into working with schools in the area:

In Kent, the Canterbury diocese has been working on establishing formal collaborative relationships between different types of schools - faith and secular - since the summer. In part this will be pooling buying power to get cheaper deals, but it will also involve sharing good teaching practice and continuing professional development training. Reverend Nigel Genders, the director of education, insists that it will be down to the schools involved whether they want to involve the Church, but that it would be natural for the diocese to want a 'seat at the table'.¹²

See also the Tudor Grange example, below, which involves both a mixed MAT and an affiliation scheme.

Beyond mixed MATs – affiliation schemes

⁸ <https://humanism.org.uk/2014/04/08/chain-academies-religious-character-establishing-parallel-network-churches-often-rent-free-school-premises/>

⁹ <http://schoolsweek.co.uk/tauheedul-education-trust-set-to-takeover-non-faith-schools-in-blackpool-and-bradford/>

¹⁰ <http://www.fevershameducationtrust.com/consultation-letter/>

¹¹ <https://humanism.org.uk/2014/03/06/government-tells-muslim-state-schools-stop-discriminating-staff-basis-gender/>

¹² <http://www.tes.co.uk/article.aspx?storycode=6158763>

The rise of mixed MATs is only part of a wider pattern of an expansion of church control over schools with no religious character. The Church can gain an informal link with schools through ‘affiliation schemes’, which are informal arrangements between a school, including both maintained schools and Academies, and their local Diocesan Board of Education. Affiliated schools receive a range of benefits from the Diocese including consultancy, guidance, and other types of support that might formerly have been provided by the local authority. The Church therefore gains influence in religious matters in an informal process that has no basis in law and is at the entire discretion of the school’s governors.

The Church of England’s Chadwick report into the future of CofE schools quoted one Diocesan secretary as saying ‘We are keen to see such schools as part of our mission and we feel that we don’t have to own these schools. So, through having affiliated schools with a clear link between diocese, school and parish, we are doing what we want to do, which is to promote the Christian ethos’.¹³

This has happened in Guildford, York, Birmingham, Manchester, Rochester, Blackburn, Blackpool, and other places. The most well known example of the dangers of this, however, is the case of Tudor Grange Academy in Solihull.

Case study – Tudor Grange Academy

Tudor Grange, a secondary in Solihull which had no religious designation or ethos, converted from a community school in 2010. When a nearby Church primary school, St James, was failing, the Diocese asked Tudor Grange to save the school by sponsoring it, and also signed an affiliation agreement with the school. The resulting affiliation agreement included commitments by the school to ‘seek to celebrate and acknowledge the importance of spirituality and faith to our school life’, and to ‘acknowledge the affiliation with the Diocesan Board of Education in material produced and published by the school’. There was no consultation on this proposal with parents or staff and no other mention of it other than one paragraph in a news item posted on its website that was primarily about something else entirely.

Tudor Grange then designated St James, now Tudor Primary Academy St. James, as a feeder school alongside another Church of England school, St Alphege C of E Junior School, giving children attending these schools (the fifth and fifteenth nearest to the school) priority in admissions. Both these primary schools applied religious criteria in selecting pupils for admission. As a result, by giving them feeder school status, Tudor Grange essentially became a religiously selective school, despite not being designated with a religious character.¹⁴

For more details, information and evidence, contact the British Humanist Association:

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[https://www.churchofengland.org/media/1418393/the%20church%20school%20of%20the%20future%20review%20-%20march%202012\[1\].pdf](https://www.churchofengland.org/media/1418393/the%20church%20school%20of%20the%20future%20review%20-%20march%202012[1].pdf)

¹⁴ <https://humanism.org.uk/2013/02/04/non-religious-academy-in-solihull-defers-to-church-in-proposing-faith-based-admissions-criteria/>
<https://humanism.org.uk/2013/04/15/non-religious-academy-in-solihull-decides-to-religiously-select-in-admissions/>