

# FAQs about a school changing category and acquiring a Trust

This document provides further detail on the proposal to establish the Lowestoft Learning Trust. It should be used in conjunction with the main consultation document. The public consultation on the proposal is from April 20 to May 22, 2009.

This document is structured into several categories:

- General questions about Trusts and Trust Schools
- The process of becoming a Trust School
- The role of the Trust – who runs the school?
- Governance
- HR and employment
- Admissions
- Land and Buildings
- Possible future changes / issues
- Lowestoft specific issues

## General questions about Trusts and Trust Schools

### 1. What is a Trust?

A Trust is a legally incorporated charitable company, regulated by the Charities Commission and the processes for all companies. The 'Directors' (or Trustees) of the company are appointed by the 'members' who form the company – in this case these 'members' are the schools (Ashley, Benjamin Britten, Denes, Kirkley, Warren), Lowestoft College, Suffolk County Council, Waveney District Council, Adnams, Suffolk Association of Voluntary Organisations, Young Suffolk, Sixth Form Colleges' Forum, University Campus Suffolk, Lifeskills Solutions, and YMCA Training.

A Trust must by law have objectives to improve education for people attending 'Trust Schools' and promoting community cohesion.

### 2. What is a 'Trust School'?

A Trust School has two attributes:

- It is a 'Foundation School' in legal terms
- It has a 'Foundation' (known as a Trust) who appoints some of the Governors of the school

### 3. What is a Foundation School?

All maintained schools (i.e. those schools who receive their funding from a Local Authority such as Suffolk) have a legal status. There are four types of status:

- Community Schools: Most schools in Suffolk are community schools. The LA owns the land, employs the staff, and has responsibility for pupil admissions. The Governing Body is responsible for pupil achievement, recruitment and retention of staff (including the headteacher), and day to day management of pupils, staff, and buildings (most of these functions are usually delegated to the headteacher to manage on behalf of the Governing Body).
- Foundation Schools: In addition to the responsibilities of a Community School, the Governing Body owns the land and buildings, is the employer of staff, and is responsible for setting and managing their admissions criteria and process.
- Voluntary Controlled Schools: These often have a relationship with a faith-group, but the LA owns the land and employs the staff

- **Voluntary Aided Schools:** These schools usually have a relationship with a faith-group. The Governing Body is responsible for all building management, and have to contribute 10% of the costs of any building projects. The Governing Body is the employer, and is responsible for admissions to the school. The buildings are usually owned by the school or a faith-group (such as a Diocese), although the Local Authority may own the playing fields.

Foundation schools are still part of the Suffolk 'family of schools'. They would retain strong links with Suffolk County Council, especially as the council would be a member of the Trust. The schools would continue to work very closely with middle and primary schools to ensure the successful implementation of the School Organisation Review and more generally to ensure that the educational offer to young people continues to improve.

#### **4. What would change if these schools became Trust school?**

As all three High Schools, the Ashley School and Warren School are currently Community Schools the following changes would take place:

- The schools would each change status to become a Foundation School
- The schools would each acquire a shared Trust to become a 'Trust School' (a Trust school is defined for the purposes of this document as a foundation school with a foundation acquired under the provisions of the Education and Inspections Act 2006).

This means that each school will take on two new areas of responsibility;

- The governing body will be the employer of staff rather than the local authority; and
- The governing body will be responsible for setting admissions arrangements (in accordance with the law and the Admissions Code).

The governing body would continue to have day to day control of the school's land and assets (which the Trust would hold on trust for the school).

#### **5. Will this give the schools more freedom from the local authority?**

Trust Schools are bound by the same legal responsibilities as community schools, and gain responsibilities as the employer of staff and the admissions authority for their school. The schools want to continue to work closely in partnership with Suffolk County Council, and the Council will be a partner in the Trust.

The schools would remain part of the family of local authority maintained schools:

- They would still be funded by the local authority on the same basis as other schools;
- They would have to act in accordance with the Admissions Code, would be entitled to be represented on the local admissions forum and would take part in co-ordinated admissions arrangements;
- The local authority would be able to intervene in a Trust school as in any other school if it is failing or underperforming; and
- The local authority would still be able to publish proposals to make certain changes to the school (including closure).

#### **6. How do Trusts fit with specialist status?**

Each High and Special School has developed relationships with other organisations over time, including through the specialisms that schools have been successful in obtaining. These specialisms have allowed schools to develop specific expertise and enhance facilities in these areas. In addition, the schools and Lowestoft College have developed shared relationships with partners.

The schools already work with Lowestoft College and other partners to develop the future curriculum for 14 – 19 year olds. This partnership has successfully bid to Government to begin running the new Diploma qualifications. The Trust will help all the partners work together effectively to ensure the widest choice and the highest quality for the Lowestoft community. We would plan any future specialist provision and specialisms in partnership.

## **7. How do Trusts fit with federation?**

Federation is a term applied when schools work together. These federations can be 'soft' federations of informal collaboration – such as working together on staff training – or 'hard' federations where one Governing Body and one Headteacher is responsible for several schools.

Establishing the Trust does not prevent any future federations between specific schools. If schools choose to 'hard' federate and have a single governing body any Trust appointed governors would have voting rights on the issues affecting other schools (even if they were not Trust schools).

The proposal is that the Lowestoft Learning Trust is a form of 'soft federation' so that the Trust Management Board has specific powers delegated from each of the Governing Bodies to enable the partners to take a town-wide approach to specific issues such as curriculum planning.

## **8. Can Trust schools work with schools that aren't part of the Trust?**

Yes. Trust schools can continue to work with other schools in the same way as they did before acquiring a Trust. In Lowestoft, the high and special schools would need to continue to work with all schools in Lowestoft to ensure, for example, effective implementation of the School Organisation Review. The Trust provides an impetus to our 14-19 work. In time the Trust could – if the members and other schools desire – grow to include Middle and Primary Schools within the town.

## **9. How will each school be funded?**

Trust schools are funded on the same basis as other maintained schools, according to the local authority's funding formula. Each school will continue to be allocated capital money on the same basis as other schools.

## **10. How much money is the Trust going to invest?**

Working with a Trust is not about generating income for the schools – there is no requirement or expectation that the Trust will contribute financially. The Trust's value is in how it strengthens the school's leadership and governance. We intend to ensure that we use the Trust to ensure that we use our resources as effectively and efficiently as possible, for example through working together to minimize our spending on agency staff, since this increases the funding that is available for work with pupils.

## **11. Will the Trust partners make a profit out of the schools?**

No. The budget for each school will continue to go directly to the governing body, not to the Trust. Trusts must be constituted as not-for-profit charities – any income must be used to support their charitable aims, which must focus on the advancement of education and community cohesion.

Trust-appointed governors would have a conflict of interests if the Trust (or a partner involved in a Trust) were to sell goods or services to the school. There are already rules so that these governors would withdraw from the discussion and not vote on the decision.

## **12. How will the Trust make things better for learners?**

The Trust does not 'replace' school autonomy. The Trust will instead focus on identifying opportunities or challenges that individual schools, colleges, and partners can not address successfully on their own – but through a partnership can pool resources to achieve a better overall result for learners.

There are several practical examples of this where the Trust could add value:

- Developing the new 14-19 curriculum with a whole Lowestoft view (including linkages to North Suffolk and into Great Yarmouth) to ensure that there are the widest number of courses on offer at the highest quality. If schools and colleges developed this on their own we could have duplication of some courses and no provision in other courses.
- Staff training and development, where the Trust can work across several schools, and in partnership with businesses, ensure that we continue to invest in staff effectively and in a co-ordinated manner
- Co-ordinating the information, advice and guidance provided to young people to help them make informed choices about future courses or institutions. By working together we can also improve the support for students as they study courses at different institutions, whether this is learning support or pastoral support.

## **13. Would becoming a Trust School change what children and young people learn?**

Trust Schools still teach the National Curriculum. We have chosen partners who can help ensure the best quality and widest range of choices for learners aged 14-19.

## **The process of becoming a Trust School**

### **14. Do the schools have to become Trust schools?**

No. This is a voluntary decision for the current governing body of each school, after consulting with parents and other local stakeholders and publishing formal proposals. In Lowestoft the Governing Body of each high school and special school believes that Trust status and the collaboration it embodies would significantly enhance opportunities for young people across the town.

### **15. What is the process for becoming a Trust School?**

The schools have been working with the proposed partners during 2008 to develop this proposal, and to ensure that this proposal integrates with the new Sixth Form College, the new High School and the School Organisation Review.

This public consultation provides the opportunity for staff, parents, residents and other interested individuals or organisations to provide their views on whether the Trust is a good idea.

After the consultation each Governing Body will consider the responses and decide whether to proceed any further. If a Governing Body decides not to proceed, the other Governing Bodies can still continue. If the decision is to proceed, formal statutory proposals and notices will be published by the school(s). This provides another opportunity for any interested individuals or organisations to respond.

After that period is completed, the Governing Bodies again consider the responses before making a final decision whether to proceed. If they do decide to proceed the legal process to establish the Trust begins and the implementation of the land, HR and admissions changes begins.

In Lowestoft we anticipate that the public consultation would take place in April / May 2009, with each Governing Body considering the responses in July 2009. If Governing Bodies do proceed with the proposal, statutory notices would be published, probably in September 2009, and there would be a four week period for representations. Each Governing Body would then consider the representations in November / December 2009 and make a final decision. If they decide to proceed with the Trust it would become 'live' on 1 April 2010.

### **16. Do parents have a say about whether to become a Trust school?**

These FAQs are part of the public consultation with parents and other interested parties to consider the proposal to form the Lowestoft Learning Trust. The views of all respondents, including parents, will be carefully considered by each Governing Body before they take a decision about whether to proceed further.

### **17. Who makes the decision about whether a school becomes a Trust School?**

The Governing Body of each school will make the decision as to whether that school becomes a Trust School.

There are certain circumstances where Suffolk County Council (as the local education authority) could object to the formation of the Trust. In this instance the Council would be a member of the Trust and is supportive of its formation; it does not therefore envisage objecting to the creation of the Lowestoft Learning Trust.

## The role of the Trust – who runs the school?

### 18. Who is responsible for managing the school?

**School Standards:** like all maintained schools, Trust schools are subject to the Ofsted self-assessment and inspection arrangements. The local authority's and Secretary of State's intervention powers if the school is failing or underperforming apply to all maintained schools (including Trust schools).

Ofsted will in future ask Trust schools to describe their distinctive aims and features as part of their self-evaluation (SEF). Inspectors will assess the impact of Trust-appointed governors on the school's work.

**Keeping Children Safe:** the Governing Body is responsible for establishing child protection procedures and for health and safety within the school and on school trips. The governing body must ensure that child protection and health and safety requirements will be met if external partners come into school, host a trip etc – this applies whether or not the partner is involved in the school's Trust and/or has obtained a CRB check.

**Finance:** Trust schools will follow the financial reporting procedures laid down by the local authority, which will be able to suspend the right to a delegated budget if there are serious problems.

## Governance

### 19. What happens to the existing Governing Body?

Governors look at what is best for the school: they would only decide to acquire a Trust if it will help the school. A Trust is a way to develop a long- term and sustainable relationship with partners. In Lowestoft, the proposal is that the Lowestoft Learning Trust would appoint two governors with skills, energy and experience to strengthen the governing body.

When a school determines proposals in favour of acquiring a Trust, it will have to draw up a new instrument of government in accordance with the published proposals and send this to the local authority, which will formally 'make' it. Acquiring a Trust does not mean a complete change of governors. The governing body of each school will still include elected parent and staff governors and others appointed by the local authority and co-opted from the community. These may include the people who are already on the Governing Body of particular schools.

In this Trust, the Trust will appoint 2 governors to the governing body of The Ashley School, Benjamin Britten High School, The Denes High School, Kirkley High School, and the Warren School. Governing Bodies will be reconstituted within 3 months of the Trust becoming operational.

### 20. How many people will the Trust appoint to each Governing Body? How will they be selected?

The Trust will appoint 2 governors to the governing bodies of Ashley, Benjamin Britten, Denes, Kirkley and Warren. These governors will be selected by the Trust for their ability to support the school.

### 21. What will the GB of each school look like once the Trust is established?

There are five compulsory stakeholder groups who must be represented on the Governing Body of a Trust school: parents, school staff, the Local Authority, the community and Trust – appointed governors.

The table below shows the current structure of each Governing Body and the proposed future structure once the Trust is established.

	<b>Parent</b>	<b>LEA</b>	<b>Staff</b>	<b>Community</b>	<b>Trust</b>	<b>Total</b>
BBHS / KHS	7	4	4	5		20
Denes	6	4	4	4		18
Ashley / Warren	4	2	3	3		12
<i>Trust High School</i>	7	3	4	4	2	20
<i>Trust Special School</i>	5	2	3	3	2	15

## HR and employment

### **22. What does Trust Status mean for staff?**

Staff at a Foundation School are employed by the Governing Body rather than the Local Authority.

Existing staff would transfer under regulations that protect their existing conditions of service, including pay and pensions. This would apply to all staff who are currently employed by the Local Authority on behalf of the Governing Body (i.e. where the Governing Body or senior staff made the decision to recruit that person). Existing and new teaching staff would continue to work under the terms of the School Teachers' Pay and Conditions Document (STPCD) and remain part of the Teachers Pension Scheme. Staff currently in the Local Government Pension Scheme would remain in it. The high and special schools have no intention of changing the terms and conditions for new support staff as they are appointed in the future.

Staff who currently work within a school but are employed by another organisation that provides services to the school will continue to be employed by their current organisation. This may apply to cleaning or catering staff.

Each of the schools proposing this Trust is committed to the successful implementation of the School Organisation Review, including the commitments to staff training and redeployment.

There are already staff who are employed by one school but who regularly work in several different schools. We expect these 'joint appointments' to increase in the future as the 14-19 curriculum changes continue.

## **Admissions**

### **23. What will happen to admissions?**

As a Foundation School, the Governing Body will become responsible for setting an admissions policy and for deciding who is offered places at the school.

All three high schools intend to retain their existing admissions policy and the criteria for selection if the school is over-subscribed. The process for applying to the high schools would remain as it is now. It is important to note that the establishment of the New High School in South Lowestoft (on the site of Pakefield Middle) will result in changes to the catchment area for Kirkley High School as the catchment area for the New High School is developed. The high schools are committed to continuing to ensure a balanced intake to all four High Schools and will work closely with Suffolk County Council and the New High School to make this a reality.

Admissions to Ashley and Warren Schools would continue to operate as they do now using a multi-agency panel who review the needs of individual learners.

## Land and buildings

### **24. Who holds the land and buildings for a Trust School?**

When a community school becomes a Trust School, the school's land and buildings will transfer to that Trust to be held on trust for the duration of its relationship with the school. The Trust does not have to pay for the land and assets.

### **25. What does 'hold on trust' mean?**

A Trust has the legal title to the land but it holds it on trust for the purposes or benefit of the school and subject to the provisions of the Trust's governing documents. If its role ends then publicly funded land will normally revert to the governing body or the local authority.

### **26. Does this mean that the Trust is responsible for day to day control of the school's land and its buildings?**

No. The Governing Body of the individual school will continue to have day-to-day control over the school premises in the same way that all governing bodies do. Governing bodies will be able to manage their buildings and services themselves, or to enter into agreements with their local authorities or with commercial organisations for the facilities management of their premises, if they wish.

### **27. Is it only the land that the Trust holds?**

Usually the school's fixtures and fittings will transfer to the Trust along with the land and the buildings. Equipment, including such items as books and computers, is usually owned by the local authority but for all practical purposes it will be under the control of the governing body.

### **28. What is the purpose of the Trust holding the school's land?**

It establishes the long term relationship between the school and the Trust providing the basis for the Trust to support the school in developing provision for its pupils.

### **29. Can a Trust school dispose of surplus non-playing field land?**

Yes, although it is subject to the same legal processes that a Local Authority is for community schools which impose restrictions on the reasons for sale and on the use of any sale proceeds. The Local Authority could object to any sale if it felt that it was not in learners' interests. The Local Authority would not be able to force a Trust to sell any surplus land.

### **30. What responsibilities and liabilities does the Trust have in respect of land and buildings?**

The responsibility of the Trust to hold the land for the benefit of the school will be set out in its Memorandum and Articles of Association. The actions of the Trust will be determined by these and by the requirements of trust and charity law. It does not have responsibility for the upkeep of the land or the buildings on it or for contracts for goods or services which the governing body enters into.

### **31. How does becoming a Trust school affect capital funding?**

Trust schools will have the same flexibility as foundation schools to manage their own assets while remaining a full and equal part of the local authority planning process for capital spending. This has already worked successfully with foundation schools across the country. Trust schools will continue to receive devolved formula capital in the same way as other schools.

The implementation of the School Organisation Review is not affected by the development of the Trust. Suffolk County Council would be a partner within the Trust, and will continue to work closely with all the schools to ensure that the pupil, staff, and buildings elements of the Review are implemented successfully. The same applies for the Building Schools for the Future programme, where the existence of the Trust would help ensure co-ordinated planning within Lowestoft.

### **32. Who is responsible if there is a problem with one of the buildings at a Trust school?**

As a general rule governing bodies are only responsible for those things for which they have received funding delegated from the local authority – but the Trust must ensure that the governing body has taken out proper insurance. Where there is an emergency, local authority support would be available as for any other maintained school.

There is no change to the rigorous procedure for any disposal of school playing fields, which will continue to require the consent of the Secretary of State.

## **Possible future changes / issues**

### **33. Can other schools join the Trust in the future?**

Yes, although the existing members of the Trust would have to approve their membership. The governing body of the school that wished to join the Trust would need to follow the same statutory process that the high and special schools are currently working through.

### **34. Can new partners join the Trust in the future?**

We have proposed that new members are able to join the Lowestoft Learning Trust only if existing Trust members approve their admission. The existing members would have to be satisfied that the proposed new member was interested in promoting the objectives of the Trust and would therefore improve the ability of the Trust to support schools and young people. This process of approving new members would enable us to continue to ensure that the Trust has the right partners involved to achieve our objectives.

Membership of the Trust would not be transferable, so it is not possible to become a member and then pass that membership to a different organisation or individual.

### **35. Can a school be removed from a shared Trust by the other schools in that Trust?**

No.

### **36. What if something goes wrong – can schools leave the Trust?**

Acquiring a Trust is intended to be a permanent relationship, but there would be a process to remove the Trust if the school fails, or if there is real dissatisfaction at the Trust's performance. The school would become a foundation school and publicly funded land and assets held by the Trust would automatically transfer to the school's governing body.

A school would have to follow a statutory process in order to remove the Trust. This process is similar to the process to acquire a Trust. It is initiated by the Governing Body of the school and involves public consultation prior to any decision being taken.

The Charity Commission will be able to intervene if there are problems with the conduct or management of a Trust.

### **37. In what situations might the Trust be removed?**

Becoming a Trust school is meant to establish a permanent relationship, but sometimes things change and so there are provisions for ending a Trust's role which could be used (for example) if the school is judged by Ofsted to be failing or is given notice to improve.

### **38. What happens if the Trust is badly managed?**

There are a number of safeguards to prevent and address problems in the Trust's management and conduct. Trusts will be charitable companies. As charities, Trusts are not allowed to make a profit and the Charity Commission has a range of statutory powers. For example, the Charity Commission can act on complaints if there is evidence of fraud or criminality, or if Trustees act in significant breach of the charity's governing document or the law.

The Secretary of State also has a power to remove a trustee if he is satisfied that the trustee has either:

- Acted in a way that is incompatible with the aims and objects of the Trust, or
- Is liable to harm the reputation of any schools that the Trust supports.

The schools would not be responsible for any liabilities incurred by the Trust. Members' liabilities are limited to the amount set out in the Trust documentation (normally £10) and as long as trustees act 'prudently, lawfully and in accordance with their governing document' then they are unlikely to be held personally liable.

## **Lowestoft specific issues**

### **39. Will the New High School be part of the Trust?**

Suffolk County Council's proposal for the new school included an intention for it to join the Lowestoft Learning Trust and have an identical legal status to the three existing high schools. The involvement of the new High School in the Trust would help ensure a town-wide approach to developing the 14 – 19 curriculum and enable all partners to work together on shared opportunities and challenges. In February 2009, the Schools Adjudicator approved the School Organisation Review (including the new high school) and so the new high school will be a Foundation School and part of the Lowestoft Learning Trust.

### **40. Will the Local Government Review have an impact upon the Trust?**

The Trust is being created because we believe it will help learners achieve more. Suffolk County Council and Waveney District Council would be members of the Trust and are fully committed to its success. If the Local Government Review does result in changes to local authorities we expect the local Council in the future would want to be an active partner in the Trust.

### **41. What happens if some of the schools named decide they don't want to create the Trust?**

The decision on whether to become a Trust School will be made by the Governing Body of each individual school. If some schools decide to proceed and others decide that they do not want to become Trust Schools, the schools who do want to become Trust Schools can do so. They would want to revisit the proposal to ensure that the desired objectives of the Trust are still achievable. The schools who decided not to become Trust Schools at this opportunity could apply to join the Trust at a later date, although the existing members would have to approve their application.

### **42. How will the Lowestoft Learning Trust be structured and organised?**

The Lowestoft Learning Trust builds on the successful history of collaboration in the town and embeds this partnership ethos to ensure that the schools, colleges, and other learning providers will work together for the benefit of all learners. The existing collaboration includes headteachers and senior managers from each of the schools and Lowestoft College in a series of processes, including:

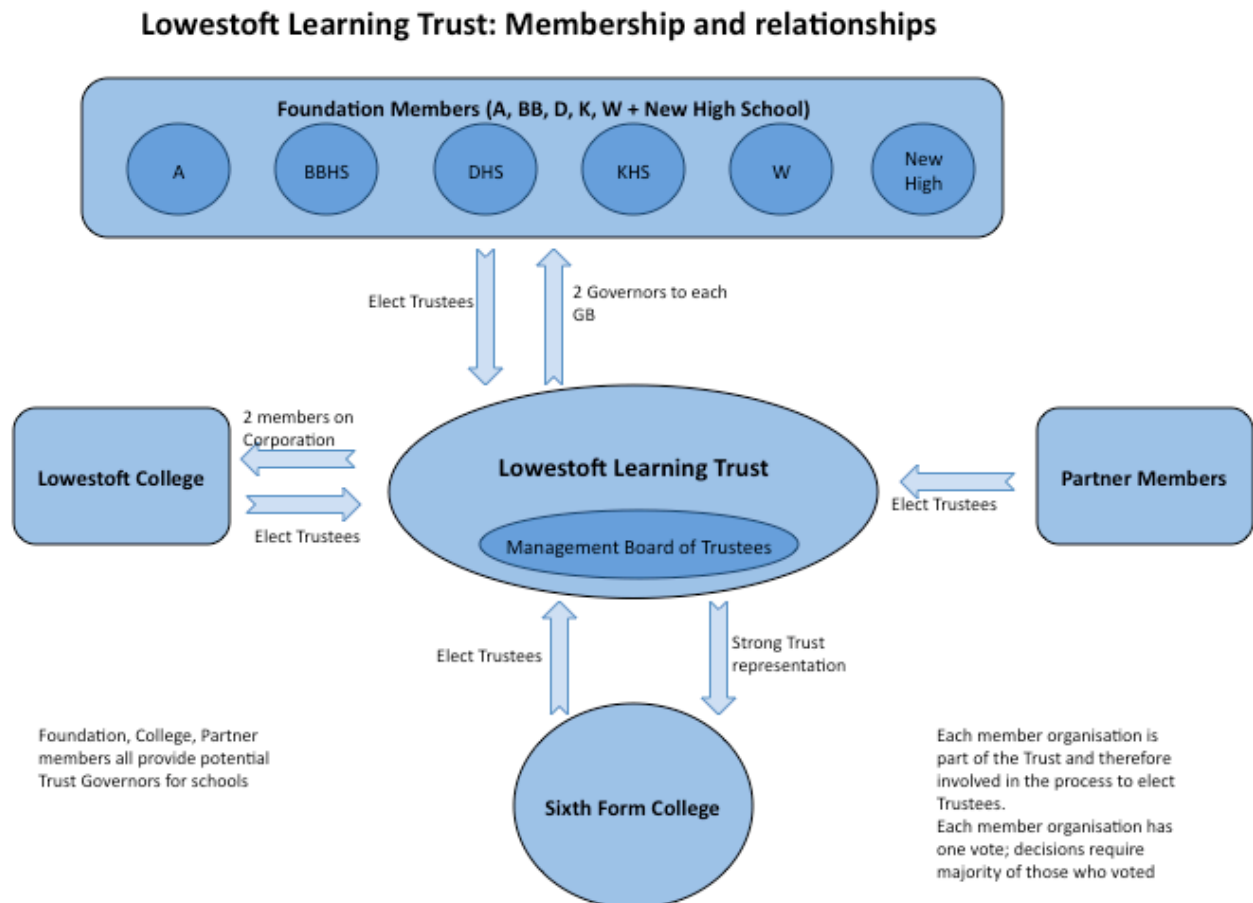
- a. The Lowestoft Sixth (the three high schools) – involves meetings of headteachers, and meetings of the three Heads of Sixth Form
- b. The 14 – 19 Partnership (the three high schools, two special schools, Lowestoft College, YMCA Training, SCC)
- c. The Curriculum Deputies Group who manage the integrated curriculum and prepare Diploma submissions on behalf of the 14-19 partnership

Establishing the Trust structure will:

- Simplify the existing collaboration arrangements by integrating the 14-19 Partnership and the Lowestoft Sixth into the Trust.
- Enable the existing main providers to have a direct relationship with key partners through the Trust

- Ensure that the total curriculum offer in Lowestoft is comprehensive and includes progression routes for all learners to achieve their potential
- Provide a forum for town-wide discussion and decisions to develop a curriculum that inspires and supports all learners

The proposed structure of the Trust is shown in the following diagram:



All member organisations will elect Trustees. These Trustees will be accountable for the management of the Trust. Trustees are not able to be paid members of staff at schools (with the exception of headteachers) and all Trustees must be CRB checked.

The Management Board of Trustees will also be constituted as a joint committee of Governing Bodies. This enables it to have delegated powers from each school to determine the 14-19 curriculum in the town to ensure that it meets the Trust's aspirations of providing a high quality, comprehensive range of opportunities suitable for all young people.

The following structure shows the proposed 'who does what' of the Trust structure:

## Lowestoft Learning Trust: Structure

Lowestoft Learning Trust

### Trust Membership

- Includes all member organisations of the Trust
  - Appoints Trustees
- Vision is that this becomes the forum to discuss 14-19 learning in Lowestoft, including the links with business, voluntary sector and regeneration
- Each member organisation has 1 vote; decisions require majority of those who vote
  - Meets termly
- Shadow structure to be established in Spring 2009

### Management Board of Trustees

- Membership: all Trustees
- Chair and Deputy Chair elected annually
- Each Trustee has 1 vote; decisions require majority of those who vote
- Board is also constituted as a joint GB committee with delegated powers
- Board responsible for management of the partnership, including implementation of the 14-19 Action Plan and this proposal. Oversee the work of the 14-19 Transformation Team
  - Meets monthly
- This group evolves from the Bid Steering Group and the 14-19 partnership board and replaces both
- Board will be established in shadow form following the competition outcome

### 14 – 19 Transformation Team

- Membership: representatives from each school / college / provider, LA, LSC and partners as appropriate, including the lead individuals for each work strand of the 14-19 Action Plan and this bid
  - LA chairs
- Responsible for implementing the Post 16 bid, including launch of the Sixth Form College, and 14 – 19 action plan
  - Meets monthly
- Not formally part of the Trust, but reports to the Management Board; to be established following the competition
  - Replaces the existing CDG and Strategy Groups