CREATING A SCHOOLS COMPANY FOR LOCAL IMPROVEMENT – LEGAL ASPECTS

Andrea Squires, Partner
Educational Excellence Everywhere
Schools that Work for Everyone
Schools National Funding Formula
Schools Causing Concern
Interpreting Government Policy

- A school led system
- Focus on school collaboration
- Breaking down location barriers
- Ensuring financial efficiency
- Safeguarding expertise
- Raising standards
Statutory Framework

- Schools Standards & Framework Act 1998
- The School Companies Regulations 2002
- The School Governance (Collaboration) (England) Regulations 2003
- Academies Act 2010
Legal Personality

- Risk management
- Limited liability
- Ring fence funding
- Power to employ and contract
- Enshrine vision and values
- Freedom from regulation?
- Vulnerability?
Legal Options

- A company
- A limited liability partnership
- A cooperative or community benefit society
- A trust corporation
- Company - a multi academy trust
- Company - a community interest company
- Company - a charitable incorporated organisation
- Company - a company limited by shares or by guarantee
Characteristics of a School Company

- Involvement of maintained schools
- Requirement for a Supervising Authority
- Limited membership
  - governing body of a maintained school
  - local authority
  - proprietor of an independent school
  - [an educational services provider]
  - governing body of an FE or HE institution
  - [an individual who can be a charity trustee]
- restrictions on schools causing concern
Factors influencing Camden’s decision

- Include all Camden schools
- Must be easy to manage
- Must secure provision
- Ability to act as a sponsor
- Need for flexibility
- Allow evolution
<table>
<thead>
<tr>
<th>Question</th>
<th>Company limited by shares</th>
<th>Company limited by guarantee</th>
<th>Community interest company</th>
<th>Charitable interest organisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Can all Camden Schools join in their current form?</td>
<td>✓</td>
<td>✓</td>
<td></td>
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<tr>
<td>2. Is exposure of schools to risk limited?</td>
<td>✓</td>
<td>✓</td>
<td></td>
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<td>3. Is it easy to establish?</td>
<td>✓</td>
<td>✓</td>
<td></td>
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<td>4. How significant is the ongoing burden of regulation – is it easy to manage?</td>
<td>✓</td>
<td>✓</td>
<td></td>
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<tr>
<td>5. Does the membership and governance model work for Camden given the stated aims?</td>
<td>✓</td>
<td>✓</td>
<td></td>
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<td>6. Could the organisation employ staff?</td>
<td>✓</td>
<td>✓</td>
<td></td>
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<td>7. Could the organisation trade and enter into contracts – either itself or through a subsidiary?</td>
<td>✓</td>
<td>✓</td>
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<td>8. Would there be a significant tax burden – is charitable tax status possible?</td>
<td>✓</td>
<td>✓</td>
<td></td>
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<tr>
<td>9. Is there the possibility that it could become an academy sponsor in future or a School Improvement Partner?</td>
<td>✓</td>
<td>✓</td>
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</tr>
</tbody>
</table>

**Key:**
✓ = test met
✖ = test not met
Things to watch out for

- Clarity as to roles and responsibilities/achieving balance of needs and interests
- Charitable status and trading/tax considerations
- TUPE (accepted function provider)
- Procurement Regulations (Teckal)
- State Aid/securing funding
- Consultation/communication
- Timing
Thank You

Schools Company – Legal Aspects

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