

Transfers of voluntary managed pre-schools to school managed

Time Line setting

Discuss proposal at a committee level.
Staff must not be present at this meeting.
Confidentiality is crucial at this stage

If the committee decide to go ahead a preliminary EGM must be called in line with the dissolution clause in the setting's governing document.

Staff should be informed of the plans at this stage

Members should be informed about any changes to the provision post transfer. This should include opening times, fee structure and staffing structure

(See **Governing Document** below)

If the membership vote in favour of the transfer the committee can then go ahead with the process.

The provider will need to have permission from the Early Years Alliance (previously Pre-school Learning Alliance) and/or Charity Commission for any transfer to take place
(See **Approval** below)

Once the approval letter/email has been received from the EYA/Charity Commission a dissolution EGM will need to be called. Again this needs to be in line with the Governing Documents Dissolution Clause
(see **Governing Documents** below)

Time line school

The governing body need to agree the transfer in principle
Confidentiality is crucial at this stage

The school obtain the Establishing Early Years Provision 2019 document
(see **Process for schools** below)

Information will need to be produced about the school's plans post transfer. For example opening hours, staffing levels etc. This information will need to be available for the setting's preliminary EGM meeting.

It is helpful to have a representative from the school present at the preliminary EGM to answer any questions from members

The school is advised to follow the guidance in the Establishing Early Years Provision 2019 in order for a smooth transition to take place.
The guidance applies to academies and maintained schools.



Staff will be subject to Transfer of Undertakings (Protection of Employment) TUPE legislation. Legal advice must be sought.
(see **TUPE** below)



On the date of the final transfer the charity must be solvent
(see **Charity Closure** below)



When the provision has been transferred the Charity will need to be officially closed.
(see **Charity Closure** below)



Process for providers

Governing Document

All charitable organisations will have a governing document. This will be in the form of a constitution or articles of association. To obtain a copy of a setting's governing document, if this cannot be located, [Contact the Charity Commission](#) with the Charity's number. The charity commission will send you a pdf by email.

The governing document will contain a **dissolution clause** this will outline the steps that need to be taken to dissolve the charity and/or transfer the assets to a different organisation.

Voting on any resolution for closure/transfer will need to include the charity's members. These are usually the parents/carers of the children that attend the setting. This is explained in the governing document under the **Membership clause**.

The group will also need to refer to the calling an **Annual General Meeting (AGM) / Extraordinary General Meeting (EGM) clauses**. These outline the notice that needs to be given and how many members need to attend for the meeting to be quorate.

Providers will need to hold a preliminary EGM to give the Committee a mandate to investigate the proposed closure. This must be followed by an EGM to finally close the Charity.

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Transfer of Assets

Approval from the [Early Years Alliance](#) (Formally the Pre-school Learning Alliance) Information Service Team will be needed to transfer any assets to another organisation.

Any transfer must be in line with the group's dissolution clause. This usually states that assets should be passed to a like-minded charity or the Early Years Alliance. This means that the intended recipient charity must have similar objects (what the charity was set up to do) to the charity that is closing. The objects of a charity form part of the governing document. The email asking for approval will need to be accompanied by the following documents:-

- Preliminary EGM minutes – including a list of attendees and the voting outcome i.e. how many for and against.

- A copy of the recipient organisation’s governing document
- A letter from the recipient organisation stating that assets will only be used in line with the transferring organisation’s objects (this will only be necessary if the recipient organisation’s objects are general i.e. ‘education’)

Transferring assets to an Academy – most academies are set up as charities. The PLA may be reluctant to pass assets to a charity that has wide ranging educational charitable objects. You may need to get a letter, signed by the academy trustees, guaranteeing that any transferred assets will be used for the benefit of the under 5s only. It is helpful to ask for the current objects of pre-school charity to be quoted in the letter.

Transferring assets to a voluntary aided/maintained school – the school will have trustees. Again, you will need to get a letter, signed by the school’s trustees, guaranteeing that any transferred assets will be used for the benefit of the under 5s only. It is helpful to ask for the current objects of pre-school charity to be quoted in the letter.

Transferring assets to a maintained school – this is often challenging. The PLA will not approve a transfer to maintained school or a PTA. An option that could be explored is for the governors to set up a [trust](#) with similar objects to the transferring pre-school. If approved the trust can then receive the assets

The school should take legal advice when setting up a trust.

Approval for those who do not have an Early Years Alliance model constitution

The dissolution clause in the constitution/governing document will need to be followed. Approval for any transfer of charitable assets will need to be given by the Charity Commission. More information can be found on the [Closing a Charity](#) webpage.

Additional Information

TUPE

When services are being transferred staff have rights that must be considered. All employed staff, including cleaners and administrators, may have the right to be transferred with the service. Legal advice must be sought from the provider’s Employee Liability Insurer.

Sharing of information

If you have any funded 2 year olds and/or vulnerable children attending your provision you will be asked to supply contact details for the children's' parents to Oxfordshire County Council. This will allow the Family Information Service Team to find new places for these children. This is not a breach of data protection. The parental declaration form and Early Education Funding Terms and Conditions both contain clauses that allow for the sharing of information.

Premises

If the provider operates under a lease you will need to check the break clause. This will include notice periods and, in some cases, removal of temporary buildings. The provider will need to inform the lease holder of their intentions to transfer services/close.

Charity Closure

The charity must be solvent when closed. All outstanding debts must be settled. It is advisable to plan closure of services for the end of term. This will avoid having to repay any Early Education Funding and will be helpful to parents looking for alternative provision.

Final accounts will need to be produced

The charity can be dissolved using the [Closing a charity](#) pages of the Charity Commission website. [Guidance documents](#) are also available from the Charity Commission.

The following organisations will need to be informed about the transfer/closure

- [Ofsted](#)
- Early Education Funding Team – earlyeducation@oxfordshire.gov.uk
- Early Years Team – earlyyears@oxfordshire.gov.uk
- Family Information Service Team – fisenquiries@oxfordshire.gov.uk
- Estates, providers that have a lease with Oxfordshire County Council – estates.team@oxfordshire.gov.uk
- Your landlord if you rent/lease land/premises
- Insurance company
- District Council

- Membership organisation – Contact the Early Years Alliance and any other membership organisations
- Magazine subscriptions – Cancel any subscriptions
- Suppliers/utilities - For example your milkman, gas and electricity supplier, educational resource suppliers etc.
- Bank and building society account - This should be left until all outstanding receipts and payments have been cleared and your group has finally dissolved. A month is often sufficient for this.

Note: this list is not exhaustive and is for general guidance only

Process for schools

If, as part of the process, the school wishes to set up a nursery class and/or extend its current age range they are advised to follow the guidance set out in the **Nursery Class Guidance Pack**. This can be obtained from janine.foulkes-williams@oxfordshire.gov.uk