

REPORT FOR: EDUCATION CONSULTATIVE FORUM

Date of Meeting:	6 April 2011
Subject:	Update report on Potential Conversion of 7 High Schools to Academy Status
Key Decision:	No
Responsible Officer:	Catherine Doran, Corporate Director Children's Services
Portfolio Holder:	Councillor Brian Gate, Portfolio Holder for Schools and Colleges
Exempt:	No
Decision subject to Call-in:	No
Enclosures:	None

Section 1 – Summary and Recommendations

This report updates the Education Consultative Forum (EdCF) on the potential transfer of 7 Harrow High schools since the last EdCF meeting on 1st March 2011. It is intended to provide a short summary of developments and work undertaken and to be a basis for broader conversation at the meeting itself. Officers working on the issue will attend EdCF to provide an additional verbal update.

Recommendations:

EdCF members to note the developments and work undertaken in this report and provide comment on the process.

Reason:

To enable EdCF members to be updated on the rapidly moving position and provide informed comment upon the process so far for consideration by officers and Member level decision makers where relevant.

Section 2 – Report

Introduction:

1. At its last meeting on 1st March 2011 EdCF received a detailed report on the Academies Act 2010, the position of 7 Harrow high schools investigating the possibility of transferring to Academy status and some of the potential implications of any such transfer. It also set out a possible timetable that would lead to any schools deciding to transfer becoming Academies in August 2011. EdCF had a wide ranging debate feeding into a Cabinet decision on 17th March that set a council position on the academy transfer issue.

Update:

2. The Governing Bodies of 7 High schools (namely Bentley Wood, Canons High, Harrow High, Hatch End, Nower Hill, Park High and Rooks Heath College) have now formally determined to investigate a transfer to Academy status.
3. The next formal decision that those Governing Bodies will take will be whether or not to transfer to Academy status. It is likely these decisions will be taken by the schools on different dates between 4th and 26th May 2011. As described in the previous report, in the event that any of those schools do decide to transfer a considerable amount of work will be required by the Local Authority and the schools in question to facilitate a smooth transfer prior to the end of the summer term.
4. At the date of drafting this report each of the schools has commenced the required consultation process, running from 7th March to 4th April. Harrow Council is using its best endeavours to ensure a wide civic debate on this important issue, ensuring that parents, pupils and communities are encouraged to have their say and have access to a wide variety of resources and views on the issue. Officers and members have attended public meetings for all governors, held conversations with concerned staff and their representatives, as well as with the schools concerned, to make clear the process and the various responsibilities that exist. The Council's

website and Communications activities have also been used to encourage widespread involvement across communities. Members, MPs, staff, community organisations and the Youth Parliament have all been sent copies of, or provided with access to, the consultation documents and encouraged to respond. The Council had helped to facilitate a debate by the Youth Parliament on the issue. The Director of Children's Services will be formally responding to each of the schools' consultation papers.

5. Each of the 7 schools concerned has held public meetings and begun conversations with staff about the possible implications of transfer.
6. It is currently anticipated that each school will collate responses that are specific to their own decision. One school will collect and collate generic responses to the Academy issue and then provide those to all of the other schools. Governing Bodies will want to carefully consider the product of the consultation in making their decisions. The ultimate decision however is one for the Governing Bodies concerned.

Ongoing work:

7. All schools have stated that if they decide to transfer, it will be prior to the start of the autumn term 2011. In reality this would mean a transfer date of 1st August 2011. Council officers have carried out preliminary work on the basis that the transfer of 7 schools may happen. It has been a careful balancing act between doing just enough work to enable deadlines to be met if schools decide to go forward, without over-committing resources on issues that may not be needed if Governing Bodies decide not to proceed. Officers have been developing co-ordinated work streams on:
 - Consultation and communications (e.g. ensuring Harrow communities are aware of the consultation process and encouraging a wide debate with good access to a variety of information and resources)
 - Staffing and pensions (e.g. ensuring correct data is held on workforce issues before any formal TUPE transfer processes started)
 - Land and property (e.g. investigating title and understanding any particular issues for individual schools around shared use, community use, playing fields, building condition, etc)
 - Finance (e.g. modelling what likely financial implications are of transfer of all or some of the schools)
 - Service Level Agreements (e.g. clarifying what any Academy might wish to "buy back" from the Local Authority, and investigating how best to organise and offer new services)
 - Third party contracts (e.g. identifying the contracts that exist, those that need renegotiation, novation or termination and re-letting)
 - Data and information transfer issues (e.g. identifying protocols for effective and lawful transfer of a range of sensitive data)

- Broader corporate implications for the Council (e.g. working through what some of the broader policy and organisational impacts might be if a significant number of schools decided to transfer)
8. Briefings have been provided to all members of the Council on this important issue and a small project team has been established to manage the Local Authority work involved.
 9. In the event that any school does decide to become an Academy, the way that the Academies Act (and related guidance) requires the actual transfer to take place is by the Local Authority, the transferring school and the new Academy Trust entering a tripartite transfer agreement. The Department for Education (DfE) has provided a model document which covers issues such as transfer of non land assets, contracts, staff and information as well as issues around warranties and indemnities expected in the transfer of a sizeable going concern.
 10. The DfE has also provided a model 125 year lease to transfer the school premises, as defined by the Act. The Act requires the Council to transfer any land and buildings used exclusively by the school. In the event that the school and the Local Authority cannot agree on the terms of the lease, including the extent of the school premises, the Secretary of State has power to compel the transfer of land. Legal Services are currently preparing site constraints reports in respect of all the schools which will be used to determine the precise land to be transferred in consultation with the schools. Investigation into issues around building condition (for the purposes of determining the condition in which the buildings would be required to be handed back at the end of the lease) are ongoing.
 11. A further set of decisions is being requested of Cabinet on 7th April 2011. If agreed these will provide the requisite authority for officers (contingent upon any Governing Body voting “yes” to becoming an academy) to complete the land and contract work required and to offer services to any new Academies under Service Level Agreements. For the purpose of clarity, should any of the Governing Bodies decide not to transfer, then the authority given by Cabinet will be voided and those schools remain community maintained schools as at present.
 12. As set out in the previous report to EdCF a significant part of the work involves the potential transfer of staff in the 7 schools concerned to the new Academy Trust employer. A series of conversations with staff and their representatives have started and will continue. These highlight important issues around the process or identify matters best fed into the formal consultation process of each of the schools. As a model employer Harrow Council takes its formal responsibilities towards its staff seriously and has sought to go above and beyond the minimum legal requirements in helping staff understand the process and, where possible, reduce anxieties inherent in any such change process. The Director of Children’s Services has personally chaired meetings with trades unions on the

issues to ensure strong leadership of these important relationships and she has made clear to schools and Governing Bodies the importance of keeping staff fully involved. Any formal TUPE process will not commence unless and until a Governing Body decides to proceed, but preparatory work around for example ensuring the currency and validity of employment data held, is underway. Whilst the rights of employees under both pension schemes (Teachers and LGPS) concerned would not be affected by transfer, with the LGPS (for non teaching staff) the Council is currently undertaking actuarial valuations of any potential liabilities that the new employer Academy Trusts would be responsible for and whether they will therefore be required to pay a separate and different rate of employer contribution to the pension fund. Any decisions on this issue are expected to be made at the Council's Licensing and General Purposes Committee in April.

13. Officers working on the Academies Project will attend to EdCF to provide a further verbal update on what is a fast moving programme, and to answer any further questions that members of the Forum may have.

Financial Implications:

14. Academies are funded directly from central government. On conversion an academy will continue to receive its current budget plus additional funding to take account of the new responsibilities which they take on from the Local Authority. The amount of additional funding that the high schools will receive is yet to be finalised but is expected to be between £300k and £550k, depending on the size of the school. Only schools with a deficit less than £100k are able to apply for Academy status and if a school has a deficit at the time of conversion this would transfer to the new school. Each school is eligible for £25k funding from the DfE to support the cost of conversion however there is no additional funding to assist the Council with conversion costs.
15. The additional funding that academies receive is forecast to reduce between the 2010/11 and 2011/12 academic years. The full extent of the reduction is yet to be confirmed. Schools that convert during the 2010-11 academic year will receive protection which limits the reduction in their top up funding to 10%. Schools that convert on or after 1st September do not receive protection and will just receive funding at the lower 2011/12 rate. This does incentivise schools to seek to transfer before 1st September 2011.
16. The funding of academies is currently under national review and is expected to change significantly for 2012/13 onwards. No details for capital funding of academies have been confirmed by the DfE but a review is underway.
17. To finance the new funding to academies the DfE will clawback a proportion of centrally retained Dedicated Schools Grant (DSG). This is

currently estimated at £21 per pupil and based on the schools considering conversion would result in approximately £160k loss of grant. It is hoped to minimise the impact of this loss of funding by offering an SLA (service level agreement) for the admissions service to the newly converted academies.

18. There are a range of financial implications and risks to the Council should the schools decide to convert to Academy status. The transfer of the seven school premises on a long lease would remove these assets from the Council's balance sheet. The responsibility for maintaining the premises would also transfer including the liability for any back log maintenance.
19. Following conversion non-teaching staff would continue to be members of Harrow's Local Government Pension Scheme. The impact on the pension scheme is being determined and will be considered by Licensing and General Purposes Committee on 11 April 2011. All liabilities in respect of the Teachers Pension Agency would transfer to Academies.
20. Currently the Council provides services to the seven schools through a range of service level agreements that earned the Council income totalling £1.6m in 2010/11. The Academies have stated their intention to continue to purchase these services in 2010/11 where possible, however there may be circumstances where services can not be provided and going forward there is no certainty that the Academies will not transfer to alternative providers. If schools were to cease purchasing Council services there is a potential loss of income which will have budget implications for the Council, especially where the Council employ staff to provide these services.

Risk Management Implications:

21. Best practise project management approaches have been adopted in creating a programme to meet the demanding timetables involved if Governing Bodies decide to proceed. This includes a risk log that seeks to identify key risks and manage them as part of the proper programme governance.

Equalities Implications:

22. Equalities implications are being designed into the programme rather than waiting to do an EQIA at the end of the process. Given that the drivers for any change are statutory, and that the Local Authority has no real power of veto, then the focus long term will be on a new role for the Council as champion of all pupils and parents (whatever their abilities or disabilities) as well as ensuring equity on issues such as admissions, exclusions and special educational needs across all schools whatever their status.

Corporate Priorities:

23. The work in relation to academy status contributes to the Council's vision Working Together: Our Harrow, Our Community and the corporate priorities 'United and involved communities: a Council that listens and leads' and 'Supporting and protecting people who are most in need'.

Section 3 - Statutory Officer Clearance

Name:	Emma Stabler	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date:	24 March 2011		
Name:	Sarah Wilson	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date:	24 March 2011		

Section 4 - Contact Details and Background Papers

Contact: Alex Bailey / David Harrington (academies project team) 0208 420 5248 alex.bailey@harrow.gov.uk david.harrington@harrow.gov.uk

Background Papers: Previous papers of EdCF and Cabinet Reports (all publicly available on Harrow Council website)