

**REPORT FOR: EDUCATION
CONSULTATIVE FORUM**

Date of Meeting: 27 June 2011

Subject: INFORMATION REPORT - Update on the Potential Conversion of Seven High Schools to Academy Status

Responsible Officer: Catherine Doran, Corporate Director Children's Services

Exempt: No

Enclosures: None

Section 1 – Summary

This report updates the Education Consultative Forum (EdCF) on the potential transfer of 7 Harrow High schools since the last EdCF meeting on 6th April 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. EdCF members are requested to note the developments and work undertaken in this report and provide comment on the process.

FOR INFORMATION

Section 2 – Report

Introduction:

At its meetings on 1st March and 6th April 2011 EdCF received detailed reports 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. Those reports set out a possible timetable that would lead to any schools deciding to transfer becoming academies by August 2011. EdCF had wide ranging debates feeding into a Cabinet decision on 17th March and 7th April 2011 that set a council position on the academy transfer issue and provided delegated authority to take work forward.

Update:

At the time of the last EdCF meeting the Governing Bodies of 7 High Schools (namely Bentley Wood, Canons High, Harrow High, Hatch End, Nower Hill, Park High and Rooks Heath College) had formally determined to investigate a transfer to academy status.

Each of the schools undertook a statutory consultation exercise, running from 7th March to 4th April. Harrow Council used its best endeavours to ensure a wide civic debate on this important issue, ensuring that parents, pupils and communities were encouraged to have their say and had access to a wide variety of resources and views on the issue. Officers and members 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 existed. The Council's website and communications activities were used to encourage widespread involvement across communities. Members, MPs, staff, community organisations and the Youth Parliament were all sent copies of, or provided with access to, the consultation documents and encouraged to respond. The Council helped to facilitate a debate by the Youth Parliament on the issue. The Director of Children's Services formally responded to each of the schools consultation papers with a detailed letter of response highlighting a range of important issues to be taken into account.

Each of the 7 schools concerned held public meetings and conversations with their staff about the possible implications of transfer.

Each of the 7 Governing Bodies has collated responses and prepared comprehensive analysis of the 'pros and cons' of status transfer. This has involved balancing the perceived benefits of new funding streams and greater autonomy from the Local Authority with the risks inherent in running a medium sized organisation, the school land and buildings, directly employing a workforce and entering a range of supply contracts.

All Governing Bodies have met and made the final decision to transfer to academies (subject to Secretary of State agreeing to enter a funding agreement with them.)

Section 3 – Further Information

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 will mean a transfer date of 1st August 2011. As previously reported to EdCF Council officers have carried out preparatory 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 all schools decide to go forward, without over-committing resources on issues that may not be needed if some Governing Bodies decide not to proceed. Officers have been developing co-ordinated work streams on:

- Consultation and communications (e.g. ensuring Harrow communities including our remaining maintained school community 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 to Harrow Council 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)

As previously reported 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.

For the schools transferring to academy status, the transfer of assets, staff and information will take place 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 for this purpose.

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 to the new academy trust any land and buildings used wholly or mainly by the

community 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 have prepared site constraints reports in respect of all the sites 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.

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. On the basis all 7 schools convert to academies nearly 1400 staff will be TUPE transferred to the 7 new Academy Trusts. A series of conversations with staff and their representatives have started and will continue. For those schools that have voted 'yes' in May, the formal TUPE transfer process is already underway. The Council 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. Whilst the rights of employees under both pension schemes (Teachers and LGPS) concerned would not be affected by transfer, a range of complex issues requiring specialised actuarial advice required detailed investigation and consideration by the Pension Fund Investment Fund and the Licensing and General Purposes Committee. On 17th May the LGPC determined:

- A deficit recovery period of 20 years be used to recover the share of deficit allocated to each academy.
- That the 20 year recovery period was applicable only for as long as the academy or the DfE does not give notice of exiting its academy status.
- That the share of the deficit to be transferred to the school be calculated based on the liabilities of the current LGPS staff who transfer to the Academy and the estimated liability for deferred and pensioner member formally employed by the former maintained school.
- That any school transferring to Academy Status will pay a separate employer contribution and not be pooled with Harrow Council. There would be no stabilisation of contributions.

There is now a significant amount of work that both Harrow Council and the schools concerned will need to undertake over the next 2 months to meet the 1st August 2011 deadline.

A significant amount of detailed legal work is required to ensure that the academy trust's solicitors have received the information that they need to prepare and submit reports on title to DfE for approval by the date DfE have set (15th June) as the deadline 6 weeks before the 1st August cut off point. Shared usage, kitchen arrangements, playing field usage, issues around mobile classrooms, caretaker's houses and evidencing historic building works are all

currently being progressed by the Council and the schools. The leases will need to be negotiated and agreed between the parties during June and July.

Perhaps the largest area of work will be in the TUPE transfer of staff. Whilst it is not anticipated that there will be a significant number of 'measures' that require detailed working through, the large number of staff and the complexity of individual terms and conditions will mean a sizeable amount of time will be devoted to staff transfer. The Council's HR team are taking on an additional resource to ensure they can cope with the anticipated increase in requests for information from individual staff members.

As reported elsewhere in this report the issue of Academies buying back Council Services (SLA's) is an important one. Whilst the transferring schools have expressed their intention to take most Council Services until Spring 2012 there is much to be done to understand particular requirements and ensure a consistent quality of services are provided to the schools.

Officers have built into the project a detailed evaluation of the strengths and weaknesses of the approach taken with the intention of producing a 'Rough Guide' to becoming an Academy in Harrow for the benefit of any other schools considering transferring, enabling them to be clear of the expectations that Harrow Council will have of them in the pathway to any transfer.

Officers working on the Academies Project will attend 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.

Section 4 – Financial Implications

Currently Harrow schools are funded from the Dedicated Schools Grant (DSG) which is allocated to the council based on pupil numbers and for 2011/12 is estimated at £169.4m. The majority of this funding is passed to schools however £11.9m is retained to fund central expenditure budgets, mainly specialist Special Educational Needs (SEN) provision.

Academies are funded directly from central government. An Academy will continue to receive its current school budget however they will get additional funding, known as Local Authority Central Spend Equivalent Grant (LACSEG), to take account of the new responsibilities which they take on from the Local Authority. There are significant financial implications of the seven schools converting to Academy, mainly in the following three areas:

- **Clawback of DSG in respect of the seven schools' budgets**

From 1 August the Academies will receive their funding directly from the Young People's Learning Agency (YPLA). To enable the YPLA to make these payments the DfE will reduce the DSG allocated to the council for 2011/12. Work has begun with the YPLA to determine the amount they will recoup from the 2011/12 DSG. For the period in the 2011/12 Academic year

(Sept 2011 to March 2012) it is straightforward however there are complications for August 2011 as the YPLA use the 2010/11 school budget, which in Harrow's case is skewed due to the change to the age of transfer. This is currently being worked through with the YPLA to ensure accuracy.

- **Clawback of Dedicated School Grant in respect of Central Items**

The DfE will also clawback a proportion of centrally retained DSG to partly fund the LACSEG funding given to the Academies. The clawback in 2011/12 is expected to be £126k. The full year impact in 2012/13 is expected to be £189k. This mainly relates to the Ethnic Minority Achievement Service and Admissions service.

It is hoped to minimise the impact of this loss of funding by offering an SLA (service level agreement) for these services to the newly converted academies. If SLA income does not cover the lost DSG it will create a budget pressure in the DSG central expenditure. This will have to be addressed, in conjunction with Schools Forum, probably through a combination of service reductions, efficiencies and ultimately a compensating increase in the DSG central expenditure budget. It should be noted that the DSG central expenditure budget has overspent in recent years solely as a result of relentless pressure on specialist SEN provision.

The DfE had planned to clawback DSG in respect of SEN which would have significant implications for the specialist provision for the visually and hearing impaired. Fortunately the DfE deferred this for 2011/12 though it may return as an issue when setting the 2012/13 DSG budgets.

- **Implications for services provided to schools through SLAs**

As detailed above the Council currently provides services to the seven schools through a range of SLAs. If schools were to cease purchasing Council services there is a potential loss of income which will have both budget and service implications for the Council, especially where the Council employ staff to provide these services. Detailed work is being undertaken on each SLA following which the full financial impact will be known.

The amount of additional funding (LACSEG) that the seven schools will receive has now been agreed. As the schools transfer in the 2010/11 academic year they will get protection funding for 2011/12 although due to technical adjustments by the DfE it is not as high as anticipated. Based on the revised LACSEG rate the schools will receive between of £260k and £503k depending on the size of the school. Without protection the additional funding would range from £220k to £417k.

The funding of both academies and maintained schools is currently under national review and is expected to change significantly for 2012/13 onwards.

Best practise project management approaches have been adopted in creating a programme to meet the demanding timetables involved if all Governing Bodies

decide to proceed. This includes a risk log that seeks to identify key risks and manage them as part of the programme governance.

Equalities implications have been considered throughout the process and brought to the attention of the Governing Bodies as decision makers in relation to conversion. The Council has focused on its new strategic role for education provision, which includes ensuring equity on issues such as admissions, exclusions and special educational needs across all schools whatever their status. An EQIA for the Council has been completed and a copy passed to the consultant advising the schools. Each of the 7 schools also undertook its own Equalities Impact Assessment.

Section 5 – Corporate Priorities

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| Name: Emma Stabler | <input checked="" type="checkbox"/> | on behalf of the Chief Financial Officer |
| Date: 14 June 2011 | | |
| Name: Sarah Wilson | <input checked="" type="checkbox"/> | on behalf of the Monitoring Officer |
| Date: 14 June 2011 | | |

Section 6 - Contact Details and Background Papers

Contact:

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Background Papers:

Previous papers of EdCF, Cabinet Reports and Licensing and General Purposes Committee Reports (all publicly available on the Harrow Council website)