




Report for:	Leader of the Council	Item number	
Title:	Report relating to the conversion of Primary Schools to Sponsored Academy status		
Report authorised by :	 Libby Blake, Director		
Lead Officer:	Jan Doust, Deputy Director		
Ward(s) affected:	Report for: Key Decision		

1. Describe the issue under consideration

The Secretary of State for Education (SoS) pursuant to his powers conferred under the Academies Act 2010 (AA 2010) has exercised powers to convert four primary schools, Downhills, Coleraine Park, Nightingale and Noel Park Primary schools (the Schools) to Sponsored Academy status. The Academy Act provides that on the Conversion Date the School closes and opens as a Sponsored Academy under Academy Arrangements under Section 1 of the AA 2010.

Under the provisions of the AA 2010, the Council are required to negotiate and enter into a 125 year lease and a separate Commercial Transfer Agreement and as this is a sponsored Academy process there is an additional requirement for the Sponsor, the Local Authority, the Governing Body of the School and the Department for Education to negotiate and enter into a Expression of Interest (also known as an Academy Action Plan).



2. Cabinet Member Introduction

I note the powers of intervention exercised by the Secretary of State for Education in the case of Coleraine Park, Downhills, Nightingale and Noel Park Primary Schools under the relevant Academies Act legislation as amended. The recommendations proposed enable the local authority to comply with their statutory obligations.

3. Recommendations

- 3.1 The Leader is asked to note the decision of the Secretary of State to exercise his statutory powers in respect of the four Schools to convert to Academy Status.
- 3.2 In order to facilitate the statutory process and conversion of the schools to Academy status the Leader is asked to approve that for each of the four schools the Local Authority enter into:
 - (i) An Expression of Interest (EoI)
 - (ii) A Commercial Transfer Agreement (CTA)
 - (iii) A Lease for 125 years.
- 3.3 That the Leader delegates authority to the Lead Member for Children in consultation with the Director of Children's Services to agree the terms of the documents in paragraph 3.2 above to be entered into.

4. Other options considered

None – this is a statutory process following the exercise of the SoS of his statutory powers and functions under the Academies Act 2010.

5. Background information

The Department of Education in July 2011 identified a number of local authorities where they were concerned about primary schools performance. Under the Academies Act 2010 the Secretary of State for Education has powers to issue an Academy Order where a school is eligible for intervention; these powers of intervention were increased under the Education Act 2011. The DfE acknowledged that in Haringey the SoS had powers of intervention in relation to four primary schools, Downhills, Coleraine Park, Nightingale and Noel Park Primary schools.

The SoS considered the position of these four Schools, intervened and exercised his powers under the provisions of the Academies Act, that the Schools should become sponsored Academies.



Haringey Council

The Local Authority pursuant to the Education Act 1996, have a duty to assist the SoS and where the Local Authority does not carry out its functions under this Education Act 1996 he may issue directions to the Local Authority.

On 21 February 2012 the SoS intervened at Nightingale Primary School by replacing the Governing Body with an Interim Executive Board (IEB) under Section 69 of the Education and Inspection Act 2006. The SoS also on 21 February 2012 served an Academy Order under section 4 of the Academies Act 2010.

On 15 March 2012 the SoS intervened at Downhills Primary School by replacing the Governing Body with an Interim Executive Board under Section 69 of the Education and Inspection Act 2006. The SoS also on 15 March 2012 served an Academy Order under section 4 of the Academies Act 2010, that Downhills School should be converted to Academy status with Harris Federation as the sponsor.

Coleraine Park Primary School and Noel Park Primary School's governing bodies have not been replaced by interim executive boards but have voluntarily agreed to work with the Department for Education (DfE) to undertake consultation under the Academies Act 2010 to become sponsored Academies.

The Department for Education has identified the Academies Education Trust (AET) as the sponsor for Noel Park Primary School and Nightingale Primary School.

The Department of Education has identified the Harris Federation as the sponsor for Coleraine Park Primary School.

The process to achieve the objectives of the commercial transfer agreement and the lease requires the Local Authority to enter into a expression of interest with a Sponsor, the Governing Body (or IEB) and the DfE. The expression of interest is required to set out the understanding of the parties on the challenges faced by the sponsor, detail the extent of the assets to be transferred under 125 year lease by the local authority and set out the position of the employment of personnel and pension obligations to be captured in the Commercial Transfer Agreement.

The Local Authority are required to negotiate and enter into a 125 year lease otherwise the SoS has power to make a property transfer scheme. The 125 year lease will enable the Academy to use the land and assets in accordance with the lease. A commercial transfer agreement will transfer the maintenance responsibility of the School to the Academy Trust.



Haringey Council

The grant of a 125 year lease will be of the school site at a peppercorn rent to the Academy with the Academy taking responsibility of maintaining the assets. The freehold interest will remain with the Council.

A commercial transfer agreement is required to transfer responsibility of all the administration, including employment of personnel and pension obligations, maintenance of the school and insurance to the Academy Trust.

Non-teaching staff at schools fall within the Local Government Pension Scheme (LGPS). As the employer, the Academy would be responsible for meeting the employer's pension contribution. Academies are obliged to offer LGPS membership to staff and staff transferring would simply continue their scheme membership. The Council will remain the pension authority under the Local Government Pension Scheme.

The Council will remain the co-ordination body for admissions for the Academy which means that parents/carers only need to complete one application form. The Academy will be responsible for applying its allocation criteria to the list of applications supplied by the Council. The Academy will be responsible for setting up an independent admissions appeals panel on conversion to hear appeals, however whilst the Academy is establishing its own independent panel the recommendation is that the Council hears any outstanding appeals.

Detailed discussions have been on-going with the Department for Education regarding the particular challenges of these conversions given the wish of the schools to remain as maintained schools and, in some cases, the imposition of an IEB. However, as the SoS has exercised his power to convert the school to a sponsored Academy the LA are required to comply with conversion process

6. Comments of the Chief Financial Officer and financial Implications

The conversion to Academy status has a number of financial implications for the Council. However, as set out in the Legal comments the authority must cease to maintain the school on the appropriate date.

- The transfer of staff who are members of the LGPS as described above creates an obligation on the school to meet an appropriate proportion of the pension fund scheme deficit; agreement was made by the Council's Corporate Committee on an appropriate basis for determining the relevant resource and this has been advised to the schools and their identified sponsors.
- The EoI/ CTA can also provide for certain liabilities to fall on the Council, e.g. certain staff termination costs where a reorganisation is necessary to balance the budget and action has not been



previously taken by the school. The extent of such liabilities would need to be identified in the CTA.

- The creation of an Academy means that resources are paid to the school directly by the Education Funding Agency (EFA) once the local Authority ceases to maintain the school. There is a consequent reduction in an Authority's Dedicated Schools Grant (DSG), based broadly on replication of the Authority's funding formula for schools.
- Currently a further reduction to an Authority's DSG is made in respect of the Local Authority Central Service Equivalent Grant (LACSEG) although this aspect is set to change under the broader Education Funding changes scheduled for April 2013.
- The Local Authority has made it clear that it expects the School and the Governing Body or the Interim Executive Board to discharge their financial responsibilities in respect of public money appropriately. All schools, except for Noel Park Primary School, are predicted to have a surplus on conversion.
- Any deficit budget will revert to the Local Authority on the conversion date and an estimated provision for such an eventuality has been made as part of the 2011-12 closure process to avoid as far as possible, this impacting on other schools' budget.
- The Local Authority requires that any surplus at the point of closure will be treated in accordance with the provisions of the Academies Act 2010 and the guidance on Academy surplus and deficits issued by the Department for Education. For schools where the SoS has intervened through an IEB (e.g. Nightingale and Downhills) this requires that a surplus would revert to the Council. For other schools the surplus transfers to the new Academy Trust.

The Council, in common with all other 'upper tier' Councils has already had removed from its 2011-12 and 2012-13 Formula Grant allocation amounts in respect of 'Central Services LACSEG' and this deduction has been reflected in the Council's Medium Term Financial Plan (MTFP). The methodology for future deductions has been the subject of a recently closed consultation the outcome of which is still awaited.



7. Head of Legal Services and Legal Implications

The Head of Legal Services notes the contents of this report and advises that under section 6 subsection (2) of the Academies Act 2010, the Council as the local authority must cease to maintain the school on the conversion date, being 1 September 2012, the date on which the schools are expected to open as an Academy. In order to facilitate this, approval is required to enter into expression of interest and the two legal agreements, being a lease and a commercial transfer agreement.

Under the provisions of the Academy Order and of the Academies Act, the Council is required to negotiate and enter into a 125 year lease. If the Council fails to negotiate terms of the lease, the SoS has power to make a property transfer scheme and impose terms on the Council. The Council will finalise the terms of lease before the transfer.

The Council is required to formalise the transfer of the maintenance responsibility of the Schools to the Academy Trust by way of the commercial transfer agreement.

There are no other specific legal comments.

8. Equalities and Community Cohesion Comments

The SoS has confirmed that the Schools will convert to Academy status on 1 September 2011. Haringey Council will urge the new Academy, as a public body, to be mindful of its Public Sector Equality Duty in particular in relation to its admissions policy and recruitment and management of staff.

An Equality Impact Assessment (EqIA) should be undertaken by the relevant governing body/interim executive board of each school prior to conversion for the School to adequately discharge their equality duty. The Local Authority will work with and remind the schools governing body/interim executive board of its duty to ensure this is undertaken to address the impact prior to conversion.

9. Head of Procurement Comments

NA

10. Policy Implications

The governing body of an academy will be the admitting authority. This means they have the power to set and apply their admission criteria. They must adhere to the mandatory provisions of the School Admissions Code and follow the provisions set out in the local authority's scheme of



Haringey Council

co-ordination (this is determined by Haringey and sets out the general admission procedures which will be adopted by all schools and academies throughout the year to ensure that every child has one offer of a school place).

11. Use of Appendices

Template Expression of Interest
Academy Order for Nightingale Primary School dated 21 February 2012
Academy Order for Downhills Primary School dated 15 March 2012

12. Local Government (Access to Information) Act 1985

Academies Act 2010
Education Act 2011
Education and Inspection Act 2006
Education Act 1996. .



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Appendices:

**EXPRESSION OF INTEREST FOR
A SPONSORED PRIMARY ACADEMY**

**Department for
Education**

**EXPRESSION OF INTEREST FOR
A SPONSORED PRIMARY ACADEMY**

Project summary information	
Academy name:	
Local Authority: Haringey	
Sponsor(s):	
Opening date:	
Proposed size of Academy:	
Age range:	

Section 1: The Predecessor School (if applicable):

1.1 Background:

School Name:							
School Address:							
Type of establishment: e.g. Foundation School							
Co- Educational		Single Sex Boys		Single Sex Girls		Age range:	



Current specialism(s) if applicable):							
Is this a designated faith school?		Yes		No			
If yes – is this with or without faith admissions?				Which faith?			
Pupils on roll (3-11)		Pupils on roll (11-16)		Pupils on roll (16-19)		School capacity	

1.2 Educational attainment:

National Average data refers to all maintained schools in England	All subjects Average Points Score				English 2011		Maths 2011	
	2008	2009	2010	2011	L4+	L5+	L4+	L5+
National Average								
LA Average								
School –use provisional data where necessary								
Key stage 1 to 2 Progress Measures Percentage of pupils making expected progress:								
English				Maths				

1.3 Key data

Exclusions in 2010/11		Exclusions to date 2011/12		2010/11 Attendance %	2011/12 to date Attendance %
Fixed term	Permanent	Fixed term	Permanent		
				Persistent absence %	Persistent absence %

(based on 85%

(based on 85%



				<i>attendance)</i>	<i>attendance)</i>
2011/12 Admissions			SEN		
Year group	NOR	Admission no	Mid term admissions to date	On register	Statements
N					
R					
Y1					
Y2					
Y3					
Y4					
Y5					
Y6					
TOTAL					
Context 2011					
	% FSM	% EAL	% of pupils with SEN Statement or on School Action Plus		
National					
LA					
School					

1.4 Key challenges

Summary of the key challenges posed by the predecessor school that the sponsor will need to address in the first year of opening **(to be provided by DfE)**



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1.5 Finance

Does the predecessor school currently have a budget deficit?	Yes	
	No	
Will there be a deficit at the point of closure?	Yes	
	No	
If yes, please provide details:		
The LA should note that any deficit budget remaining at the point of school closure would not transfer to the Academy. If an Academy Order is used the surplus at the point of school closure would transfer to the Academy.		

Section 2: The Proposed Academy

2.1 Sponsor

Name of lead sponsor:
Name of co-sponsor/s:

2.2 Academy Population

Please provide details on the proposed number of pupils (both as a total figure, and broken down into the following age ranges: 3-11, 11-16 and 16-19), whether the Academy will be single sex (and



Haringey Council

if so, whether for girls or boys) or co-educational, and whether it would have a faith designation. Please provide a detailed justification for the size and age range of the proposed Academy.

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Proposed opening date for the Academy:	
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2.3 Nursery Provision

Is there a nursery on the school's premises or site?	Yes	
	No	
<p>If yes, please confirm who currently runs the nursery, what arrangements/agreements exist in relation to this, who is expected to operate the nursery when the Academy opens, and under what arrangements/agreements.</p>		

2.4 Consultation

Please confirm the method of consultation and school closure to be carried out during the development stage:

'A'

Local authority to carry out statutory school closure consultation and sponsor to consult on Academy proposals.	Yes	
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or

'B' (*Also refer to section 4.3*)

Governing body of predecessor school intends to use the Academy Order route and carry out consultation on Academy proposals:	Yes	
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Please complete in all cases:

We confirm that all parties (sponsors, local authority, and, if appropriate, governing body) have agreed to the chosen method of consultation.	Agreed	
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2.5 School Improvement Statement



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Please provide a description for the proposed Academy. **This should be no more than one page long** and should include reference to how the proposed Academy would contribute to improving standards, especially teaching and learning. You should outline how you will address the priority issues for improvement set out in section 1.4.

Section 3: Academy Site and Buildings

3.1 General information

The Academy would be located at the following address: Gladstone Avenue, Wood Green, London N22 6LH			
When were the building(s) constructed? (Please give details for each building, if applicable)			Year(s):
Are any of the buildings built or being built under a PFI contract?	Yes (give details):	No:	



What is the approximate size of the site to be transferred to the Academy Trust? hectares	
If there are current or planned building work at the school, please provide details, confirm how this will be funded, and to what extent, if any this funding will be affected by becoming an Academy:		
Does the proposed Academy have access to playing fields of a sufficient size to deliver its proposed vision and curriculum?	Yes	
	No	
	N/A	
If not, please explain how the PE curriculum would be delivered:		
Please attach a copy of the ordnance survey map with the boundaries of the Academy site clearly marked.	Attached:	
Does the LA hold all of the land occupied by the school and which the Academy will continue to occupy?	Yes	
	No	
If the LA holds the land please confirm that a standard 125 year lease will be entered into in relation to the land held by the land	Agreed:	
Is any of the land currently occupied by the school not held by the LA?	Yes	
	No	
If the land is not held by the LA, please explain who holds the land and what legal arrangements will be made to ensure that the land can be used by the Academy Trust after the Academy opens:		
If the site is owned by the LA, does it intend to seek permission to dispose of any part of it?	Yes	
	No	
	N/A	

If yes, please provide details and confirm that you would abide by PfS guidelines regarding contributions to the capital cost of the Academy project.

3.2 Shared Use of Site

Does the school have any shared use arrangements in relation to land or premises?	Yes	
	No	



If yes, please provide details of what arrangements/agreements are currently in place and what agreements will be in place when the Academy opens?

3.3 Leisure Facilities

Are there any leisure facilities used by the wider community on the school's premises or operated run/by the school?	Yes	
	No	
If yes, please provide details, what arrangements/agreements are currently in place and what agreements are planned to be in place when the Academy opens		

3.4 Children's Centres

Is there a children's centre on the school's premises or operated/run by the school?	Yes	
	No	
If yes, please confirm who currently runs the centre, what arrangements/agreements exist in relation to this and who will run the centre after the Academy opens and what arrangements/agreements are planned to be in place		

Section 4: Agreements

4.1 Local Authority Agreement

(Name of senior official at the Local Authority with overall responsibility for liaison on this Academy project)	
Name in full	
Position:	
Address and	



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contact number:	
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Does the LA agree to all aspects of this proposal? (If no, please supply details).	Yes	
	No	

Does the LA confirm that it would bring forward proposals for the closure of any predecessor schools if that is the chosen method of closure (see section 2.2)	Yes	
	No	

Please note that by agreeing to the section below, the LA is accepting legally binding obligations.

<p>Does the LA confirm that:</p> <p>(a) if the Academy opens, it will indemnify the trust established to operate the Academy ("the Academy Trust") in respect of all costs and liabilities which transfer to the Academy Trust under the Transfer of Undertakings (Protection of Employment) Regulations 2006 and which relate to the period prior to the date when the Academy opens, including without limitation the costs arising out of any equal pay claims relating to that period;</p> <p>(b) subject to (d) below, it will be solely responsible for all costs and liabilities, including without limitation any notice, severance, redundancy or associated pension costs, which arise in connection with or as a result of any restructuring carried out by the LA, the Governing Body or the Academy Trust which relates to:</p> <ul style="list-style-type: none"> • the Academy inheriting staff from more than one school; • the Academy operating on fewer sites than the predecessor school(s); • the Academy offering fewer places than the predecessor school(s); • the predecessor school(s) being overstaffed; and/or • the predecessor school(s) running at a deficit. <p>(c) subject to (d) below, it will be responsible for 50% of any notice, severance, redundancy or associated pension costs reasonably incurred by the Academy Trust or in relation to the opening of the Academy in the period preceding the date on which the Academy opens and which do not fall within (b) above.</p> <p>(d) The LA and the Academy Trust shall co-operate in planning and effecting any restructuring or redundancy referred to in (b) and (c) above and the Academy Trust shall consult the LA in relation to any proposed redundancy and restructuring.</p>



In consideration of the above promises, the Department agrees to be responsible for the balance of 50% of the costs referred to in (c) above.

The LA hereby confirms that it is bound by these indemnities and that the Academy Trust will be entitled to enforce them against the LA as a matter of contract.

Agreed

The maintaining authority has a responsibility to ensure that any health and safety issues in the predecessor school are addressed before the land transfer takes place and the Academy opens.

Does the maintaining authority confirm that it will complete all outstanding health and safety work before the Academy opens?

Yes

No

If no, please provide details:

4.2 Governing Body and Foundation/Diocese Agreement

If the Academy Order route applies, (section 2.2 refers) a member of the Governing Body of the school must sign this section to apply for an Academy Order:

Has the governing body passed a resolution confirming its agreement to become a Sponsored Academy?

Yes

No

Please attach a copy of the minutes from the governing body meeting confirming this agreement.

Attached:

We, the Governing Body, of [insert school name] apply to the Secretary of State for Education for an Academy Order to become an Academy.

Signed by:

Name:

Position held:

Date:

Address:



If the school is a voluntary or foundation school with a foundation, has the governing body consulted the foundation and/or the diocese about the application to become an Academy?	Yes	
	No	
If yes, do the trustees of the school and the person (or persons) who appoint the foundation governors consent to this application to become an Academy?	Yes	
	No	
Please attach a letter or a copy of the minutes of the meeting (as appropriate) to confirm the consent of the trustees of the school and those who appoint the foundation governors.	Attached	

4.3 Miscellaneous

<p>In order to support the pre-opening delivery of Academy and Free Schools projects, the Department has established a Framework following an open competition. The Framework provides a pool of suppliers who compete against each other to deliver services to individual projects. The services are provided under two Lots - Lot 1 for Project Management services and Lot 2 for Educational Services. These arrangements provide quick and easy access to support for projects in compliance with government procurement regulations and avoid lengthy competition processes. The suppliers appointed have been selected on the basis of their expertise and commitment to deliver a quality service. Please confirm that all parties are content for pre-opening support to be provided through the DfE Framework.</p>	
Agreed	No see below
<p>If not:</p> <p>Alternative arrangements may be agreed with those Academy Trusts who can demonstrate that their employees have the capacity and experience to deliver or procure the services themselves. These arrangements must be agreed in discussion with the Project Lead who will require assurance that the arrangements are compliant with government procurement regulations and the Department's policy to maintain no financial gain in Academy sponsorship.</p>	
To be managed by the AET	

4.4 Signatory details

(Additional signature details may be inserted as necessary)

We fully support all aspects of this Expression of Interest and agree to use it as a basis for the future development of this Academy project.

Signature:	
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(For and on behalf of the lead sponsor)	
Name in full:	
Position:	
Address and contact number:	
Date:	

Signature	
(For and on behalf of the local authority)	
Name in full	
Position:	
Address and contact number:	
Date:	



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Academy Order