




**Haringey Council**

|                    |         |                     |  |
|--------------------|---------|---------------------|--|
| <b>Report for:</b> | Cabinet | <b>Item Number:</b> |  |
|--------------------|---------|---------------------|--|

|               |   |
|---------------|---|
| <b>Title:</b> | Report relating to the conversion of a Primary and Secondary educational establishments to Sponsored Academy and Academy status |
|---------------|---|

|                              |   |
|------------------------------|---|
| <b>Report Authorised by:</b> | <br>Pp Libby Blake, Director |
|------------------------------|---|

|                      |                            |
|----------------------|----------------------------|
| <b>Lead Officer:</b> | Jan Doust, Deputy Director |
|----------------------|----------------------------|

|                          |                                  |
|--------------------------|----------------------------------|
| <b>Ward(s) affected:</b> | <b>Report for Key Decisions:</b> |
|--------------------------|----------------------------------|

**1. Describe the issue under consideration**

- 1.1 A primary school and a secondary school have expressed an interest in converting to Academy Status, the secondary school as a self converter and the primary school as a sponsored academy under the Academies Act 2010 (AA 2010).
- 1.2 The Secretary of State for Education (SoS) pursuant to his powers under the AA 2010 has issued Academy Order in respect of Heartlands High School and confirmed that Statement of Intent in respect of Earlham Primary school to convert as a Sponsored Academy with Woodside High School as the sponsor had been approved to move forward.
- 1.3 The AA 2010 provides that on the Conversion Date the educational establishment closes and opens as an Academy under Academy Arrangements in accordance with Section 1 of the AA 2010. Under the provisions of the AA 2010, where the Council are freeholders of the land they are required to negotiate and enter into a 125 year lease with the new Academy Trust. In addition the Local Authority enter



**Haringey Council**

into a separate Commercial Transfer Agreement relating to the commercial arrangements.

## **2. Cabinet Member introduction**

2.1 I note the decision of the various educational establishments to convert to academy status. As the establishments convert to academy status the local authority would still wish to work with these establishments as part of the Haringey family of schools. The recommendations proposed enable the local authority to comply with their statutory obligations.

## **3. Recommendations**

3.1 The Cabinet is asked to note the decision of the educational establishments to convert to Academy Status.

3.2 In order to facilitate the statutory process and conversion of the schools to Academy status the Cabinet is asked to approve that for each of the establishments the Local Authority, as appropriate enter into:

- (i) A Commercial Transfer Agreement
- (ii) A Lease for 125 years where the Local Authority is the freeholder
- (iii) Novation and/or assignment of any building contracts.

3.3 That the Cabinet delegates authority to the Director of Children's Services to agree the terms of the documents in paragraph 3.2 above to be entered into after consultation with the Lead Member for Children's Services.

## **4. Alternative options considered**

4.1 None – this is a statutory process following the exercise of the educational establishments' discretion to choose to convert to academy status under the Academies Act 2010.

## **5. Background information**

5.1 The Governing Body's of Heartlands High School and Earlham Primary School both maintained education establishment, applied to the Secretary of State to convert to Academy status under the Academies Act 2010 (as amended).

5.2 The SoS having considered the applications by Heartlands High schools made an Academy Order on 17 January 2013 for Heartlands High School;



**Haringey Council**

- 5.3 The SoS having considered the application by Earlham School confirmed on 19 February 2013 the Statement of Intent to convert to sponsored Academy status made by Earlham Primary School could proceed to the next stage:
- 5.4 The Academy Order obliges the Council to cease maintenance of the schools on the conversion date. The anticipated conversion dates for the schools are:
- 1 May 2013 for Heartlands High School as Converter Academy
  - 1 November 2013 for Earlham Primary School as a Sponsored Academy;
- 5.5 Under the provisions of the Academy Order and of the Academies Act, where the Council is the freeholder of the land where the school is sited, it is required to negotiate and enter into a 125 year lease, a failure to agree terms will mean that 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.
- 5.6 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.
- 5.7 A commercial transfer agreement will transfer the maintenance responsibility of the schools to the Academy Trust to facilitate the conversion process.
- 5.8 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.
- 5.9 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 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 (LGPS).
- 5.8 The Council will remain the coordination 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.
- 5.9 A assignment of building contracts will transfer the responsibility of liaising and reporting of defects of the school under the building contracts to the Academy



**Haringey Council**

Trust, this will apply to Heartlands High School and will facilitate the conversion process and comply with the obligation under the AA 2010 requiring the Council to cease to maintain the school.

## **6. Comments of the Chief Finance Officer and financial implications**

6.1 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 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 the Authority's Dedicated Schools Grant (DSG), replicating the Authority's funding formula for schools.
- With effect from April 2013, the complicated DSG LACSEG arrangements have been replaced by delegation to all schools. Maintained schools are able, by phase through Schools Forum, to agree to de-delegate funding for specific services to continue to be delivered through the LA on their behalf. From the conversion date, any de-delegated funding is recouped and the Academy is required to choose whether to buy the service from the LA or make alternative arrangements. The de-delegated budgets for contingency, staff costs supply cover and underperforming ethnic minorities will reduce by £13,322 in 2013-14 (£28,350 full year effect) based on the planned conversion dates for Heartlands and Earlham. Service Managers are aware of the risks associated with de-delegated budgets and will be required to manage the financial implications.
- The Local Authority has made it clear that it expects the School and the Governing Body to continue to discharge their financial responsibilities in respect of public money appropriately. Both schools are projected to have a surplus or balanced budget on conversion.
- Any deficit budget would revert to the Local Authority on the conversion date where the conversion is to a sponsored academy (Earlham Primary). If the returns submitted as part of the final account process for 2012-13 result in a deficit, then a provision will be made for this as part of the 2012-13 closure process to avoid (as far as possible) this impacting on the budget shares of other Haringey schools.



## **Haringey Council**

- Any deficit budget where a school is a converter school (Heartlands High) would need to be agreed with the Department for Education and the DFE will pay this agreed deficit to the Local Authority on the conversion date.
- The Local Authority requires that any surplus at the point of closure is 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.

6.2 From April 2013 funding for central services provided on behalf of schools will be funded through the Education Services Grant (ESG). The ESG comprises two elements. The smaller element (£15 per pupil) is for 'Retained Duties' in respect of all maintained schools, Academies and Free Schools in Haringey and will not be affected by these conversions. The larger element is for functions that devolve to Academies on conversion and funding will be recouped on a pro-rata basis from the date of conversion. The Council will have reduced funding of £108,541 available from 2014-15 onwards and, based on the planned conversion dates, will have £70k less funding available in 2013-14. These deductions have been included in the Council's Medium Term Financial Plan (MTFP). Service provision will need to be reduced to reflect the reduction in responsibilities.

## **7. Head of Legal Services and legal implications**

- 7.1 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, this date will be stipulated in the funding agreement entered into by the Secretary of State and the Academy.
- 7.2 In order to facilitate this, approval is required to enter into a lease where the local authority is the freeholder, and commercial transfer agreements as appropriate.
- 7.3 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.
- 7.4 The Council is required to formalise the transfer the responsibility of all the administration, including employment of personnel and pension obligations to the Academy Trust by way of the commercial transfer agreement.

## **8. Equalities and Community Cohesion Comments**

- 8.1 The SoS has confirmed that the Schools will convert to Academy status on the conversion dates. 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



**Haringey Council**

admissions policy and recruitment and management of staff.

- 8.2 An Equality Impact Assessment (EqIA) should be undertaken by the relevant governing body 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 board of its duty to ensure this is undertaken to address the impact prior to conversion

## **9. Head of Procurement Comments**

NA

## **10. Policy Implication**

- 10.1 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 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. Reasons for Decision**

- 11.1 This is a statutory process following the exercise of the educational establishments to choose to convert to academy status under the Academies Act 2010.

## **12. Use of Appendices**

- 12.1 Academy Order for Heartlands High School dated 17 January 2013  
Acceptance of Letter of Intent to proceed for Earlham Primary School dated 19 February 2013

## **13. Local Government (Access to Information) Act 1985**

N/A



**Haringey Council**  
Appendices

Academy Order  
Letter of Intent