

CHESHIRE EAST COUNCIL

REPORT TO: Children and Families Scrutiny Committee

Date of Meeting: 17.1.2012

Report of: Lorraine Butcher Strategic Director of Children, Families and Adults

Subject/Title: Academies the Impact on Cheshire East Council

Portfolio Holder: Cllr Hilda Gaddum

1.0 Report Summary

- 1.1 This report outlines the level of conversions of maintained schools within Cheshire East to Academy status and the financial consequences of these conversions on Cheshire East Borough Council (the Local Authority).
- 1.2 This document aims to open up debate around the future direction for Cheshire East in terms of responding to the Academies agenda to minimise financial impact where possible.
- 1.3 To date, eight schools within Cheshire East have converted to Academy status (7 secondaries and 2 primaries) and one school has achieved Free School status. 17% of Cheshire East pupils are now educated in an Academy school, with Academies accounting for 6% of schools in Cheshire East. There is one further confirmed conversion in April 2012.
- 1.4 The financial consequences to Cheshire East for Academy conversions are significant. The Dedicated Schools Grant (DSG) which supports schools and associated central expenditures, has already reduced in 2011/12 by £20m from £231m to £211m, with further reductions anticipated for those schools converting in September 2011. Whilst the majority of the reduction came directly from the schools budgets transferring approximately £200k related to central expenditure supporting schools. In addition to DSG reductions Formula Grant was reduced by £1m related to the corporate activities undertaken by the Council generally supporting our schools. These figures will increase as Academy conversions continue. See section 7 for further information around the financial implications.

2.0 Decision Requested

- 2.1 Children and Families Scrutiny Committee are asked to consider the information within this report and provide guidance on the approach to be taken with the services to be provided to both maintained and Academy schools at a differentiated cost.

3.0 Reasons for Recommendations

- 3.1 Schools which have converted to Academy status have expressed a desire to continue to retain a buy-back relationship with the local authority (LA). A clear and strong offer of service provision to Academies would place the LA well in terms of reducing the financial implications of conversions. Strategically, the creation of a service provision relationship with Academies, might also be an intelligent move for the LA. If the decision to pursue trade with Academies is made, then there should be a coordinated and consistent approach across all services. Charging policies should be clear and transparent and there should be a differential in price between maintained schools and Academies. The financial impact of Academies **is a cross-council** one.
- 3.2 Cheshire East currently has the opportunity to reshape its services so that they may be offered to Academies. The market for providing services to Academies is becoming increasingly populated, with external competitors offering specialised services at premium rates. The rate of conversion to Academy status has not been overwhelming in Cheshire East, with only 7 of 21 secondaries, and 2 of 124 primaries. Of the 4 special school only one has given the issue any consideration. However, if there were a sudden increase in Cheshire East schools converting to Academy status, and an offer of service provision is not developed, there is a danger that the business and strategic opportunity may be missed. The only option then available in reaction to the reductions in funding would then be cuts in services, which ultimately would fall as a pressure on maintained schools and corporate and support services. Cuts in services would also have considerable staffing reduction costs, which would offset potential savings.
- 3.3 The provision of services to Academies most likely means that there is a need to 'Invest to Grow' to be able to pitch services in an attractive manner. A steer is required to inform services whether they should be actively looking at options for service delivery to Academies, and quantifying any investment required, and the size of the market that might be accessed.
- 3.4 The financial impact of Academies is apparent now. This impact will increase over time with the growth in conversions. Decisions and actions to minimise this impact are becoming increasingly necessary.
- 3.5 The buyback relationship with maintained schools is strong with many services continuing to attract very high percentage buy back, the majority exceeding 90% of schools. Income from the buyback of services to schools is £4.9m for 2011/12, with a breakdown shown in Appendix A. Academies currently buyback services of only £194k, which represents 4% of income, which isn't proportionate to the number of Academies (6%), and reflects that there is scope to extend the service offer to Academies.
- 3.6 If effective service packages are developed for Academies, the LA potentially has the option to offer such services beyond Cheshire East. Consideration

could also be given to the idea of creating a separate trading company, if this were the favoured option.

4.0 Wards Affected

4.1 All

5.0 Local Ward Members

5.1 All

6.0 Policy Implications including - Carbon reduction

- Health

6.1 Academies are publicly funded independent schools, free from local authority control, operating as Limited Companies. Other freedoms include setting their own pay and conditions for staff, freedoms concerning the delivery of the curriculum, and the ability to change the length of their terms and school days.

6.2 In May 2010, the Secretary of State for Education announced legislation which allowed the Secretary of State to approve schools to become Academies through a simplified streamlined process.

6.3 There are now 1,100 Academies open in England (old and new style). There have been a further 315 applications approved, and there are a further 186 Academies awaiting the results of their application process. In October 2011 alone, 63 schools converted to Academy status. Nationally, the number of open Academies represents 5.5% of the total number of schools in England (based on a total number of schools of approx 20,000). This equates to 2% of primaries now being Academies, and 23% of secondaries.

6.4 To date, primary sector levels of conversions in Cheshire East have followed the national pattern (2% of primaries in Cheshire East are now Academies.) Indications suggest that within the primary sector, the appetite for conversion, appears to be limited at present.

6.5 However, within the secondary sector, Cheshire East, currently at 33%, is approaching a 'tipping point', where being Academy status may become the norm.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

7.1 LAs receive funding for central services provided to schools. The services LAs provide without charge for maintained schools, and for which Academies are

compensated through LACSEG (Local Authority Central Spend Equivalent Grant), are funded in two different ways. The Dedicated Schools Grant (DSG), which local authorities receive through the Department for Education (DfE), makes up one element of this funding. The other source is Formula Grant which local authorities receive from the Department for Communities and Local Government (DCLG).

- 7.2 To fund Academies for their central services functions, the DSG and Formula Grant paid to the local authority is reduced, and this funding instead goes to the Academy via the LACSEG. Broadly speaking, the element of central services funding that sits in the DSG is aimed towards providing services for individual pupils, and the Formula Grant element of the funding provides whole school / corporate and administrative services.

Funding for Academies from Dedicated Schools Grant

- 7.3 The total DSG award for all Cheshire East schools of £231.3m has been reduced by £20.326m to give a DSG award of £210.974m for 2011/12. This figure will reduce following a revision of the award for September 2011 conversions. The reduction in DSG represents the funds which now instead go straight to the Academy, rather than to the local authority. A proportion of the funding removed from DSG represents the funding that was previously awarded to local authorities for central activities. When an Academy converts, this funding instead is given to the Academy. This element falls as a pressure on the local authority. This pressure is approx £200k for 2011/12.

Funding for Academies from the Local Authorities Formula Grant

- 7.4 For all Academies which opened prior to March 2011 (known as old style), the DfE funded central education services from within its own budget. To the DfE this meant that the services for which LACSEG was paid to Academies were being double funded. Academies were funded by the DfE via LACSEG, yet local authorities continued to receive full funding for the same services, which they were no longer providing, as part of formula grant received from DCLG. The DfE saw this as an unsustainable situation which needed to be addressed, particularly as the criteria for becoming an Academy was widened. The transfer of funding out of LAs Formula Grant was aimed at addressing the double funding issue.
- 7.5 Deductions made by the DfE from LAs Formula Grant are £0.9m in 2011/12 and £0.7m in 2012/13. These deductions are based on the DfEs estimates and do not relate to the current pattern of Academy schools, or the pattern of growth in Academy numbers which could take place over the next two years. The DfE have stated that the need to provide certainty and stability for local authorities in relation to their available budgets was a key consideration when making the decision about the transfer of funding. A consultation was launched in respect of DfEs statements in July 2011, following a challenge to proposals by a number of councils via a judicial review. Part of the

consultation asked for comments around the relative merits of certainty of funding compared with uncertainty of funding, but with a distribution mechanism that more accurately reflects the numbers, location and growth of Academies and Free Schools.

- 7.6 The DfEs view is that it is reasonable to conclude that local authorities should be able to make savings which are commensurate with the reduction in responsibilities which a transfer of schools to Academy status entails, and which is commensurate with the cost to the DfE of providing LACSEG.
- 7.7 The basis of the consultation indicated that further reductions to Formula Grant could be significant. On a worst case scenario, should all Cheshire East maintained schools convert to an Academy, the LA could lose £15m, which far exceeds current amounts being spent locally on our schools for central services.
- 7.8 The DfE have a difficult funding situation with LAs continuing to retain responsibility for tracts of activity for its maintained schools, but additionally having to fund, some would argue over generously, the converting Academies. The estimates from the DfE, are that the central costs and double running costs range from £370m nationally in the current year to just under £700m next year. The table below shows the national and local position. Local position in brackets.

	<i>Current</i>	<i>Proposed</i>
<i>Total LACSEG transfer 2011/12</i>	£148m (£0.9m)	£360m - £365m (£2.2m - £2.2m)
<i>Total LACSEG transfer 2012/13</i>	£265m (£1.6m)	£580m - £680m (£3.5m- £4.1m)

- 7.9 Whilst the DfE have given assurance that there will be no further reductions in 2011/12, further future claw back of the Formula Grant will fall as a pressure to be met from across the Council, with little opportunity to make planned and informed decisions. The additional spending pressure has arisen solely because of the rapid expansion in the number of Academies at short notice with resulting increased double running costs. Cheshire East have argued that no additional funding should be clawed back from Formula Grant in 2011/12 and that the grant already transferred should be returned. From the latest information from the Secretary of State, it would seem that a return of grant is unlikely.
- 7.10 In Cheshire East's opinion the DfE should continue to expect a large element of double running costs whilst both local authorities and the DfE support schools from different platforms. There are a large range of responsibilities that continue to be undertaken by LAs as well as Academies or the DfE. For example, Local authorities are expected to devise and operate school funding

formula appropriate to their areas, which the DfE, through the Young Peoples Learning Agency (the YPLA) utilise. CEBC believe that the issue is not a double funding issue but rather an issue of double running costs, which is inevitable with the schools system that has been established.

- 7.11 In respect of Academies, LAs also continue to retain the responsibility and funding for a number of areas:- Home to school transport (including Special Educational Needs), Education Psychology, Special Educational Needs Statutory Assessments and Statements, Monitoring of Special Educational Needs provision, Parent Partnership Service, etc, Prosecution of parents for non-attendance, Individually assigned special educational needs resources for pupils with rare conditions needing expensive tailored provision. (this is usually a top up to formula funding), Provision of Pupil Referral Units or education otherwise for a pupil who is no longer registered at an Academy.
- 7.12 If the DfE implement a further reduction in Formula Grant, then Cheshire East will have a serious financial challenge. The financial implications outlined in this section strengthen the need to have a clear vision for Cheshire East in response to the Academy agenda. Whilst the pursuit of trade with Academies is a clear option, there needs to be a consideration of whether this alone will generate sufficient income to offset or limit the reductions to Formula Grant and DSG. This may need to be carried in conjunction with some alignment of services.

7.13 Access to Schools contingencies

- 7.14 The DfE have released a letter outlining their intention to makes schools contingencies accessible to Academies. This letter was received on 6th October 2011, with a deadline response of 17th October 2011. The Local Authority submitted a detailed response to this letter, outlining schools contingencies totalling £4.060m that have a specific intended purpose and should not be accessible by Academies. The outcome of this brief consultation is in the new year.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 By complying with the provisions of the Academies Act 2010 and its associated regulations, the LA is not at additional risk of legal proceedings being brought against it by local academies. However, as there are practical difficulties in complying with some of the land and contract transfer requirements necessary within the deadlines specified in the streamlined process introduced by the Academies Act 2010 and the DfE, any delay could lead to complaints about the Local Authority to the Secretary of State and, in extreme cases, an application for the Local Authority's actions to be judicially reviewed in the High Court.
- 8.2 In addition, as the Local Authority remains responsible for ensuring that children who have not been admitted to their preferred academy have access to an appropriate school place, including children with statements of special educational needs whose

parents want them to attend an academy, there is a risk of a slight increase in school admission appeals, Special Educational Needs & Disability Tribunals and applications for judicial reviews, if the parents of those children fail to obtain a place at their preferred or alternated choice school.

- 8.3 With regards the remaining maintained schools, the Local Authority continues to have a statutory duty to provide support and assistance to these schools, despite the reduction in grant funding received from the DfE. Should it fail to comply with these duties, any individuals or organisations, e.g. children, parents, employees, schools, contractors, other local authorities, etc., adversely affected by that failure could be entitled to bring proceedings against the Local Authority by way of a complaint or application, to name but a few:
- to the Local Authority;
 - to the Local Government Ombudsman;
 - to the Secretary of State for Education;
 - to a Tribunal, including an Employment or Special Educational Needs & Disability Tribunals;
 - to the Courts.

9.0 Risk Management

Transfer process

- 9.1 When a school converts to an Academy, there are a number of considerations which need to be made in respect of Land Transfer, Legal Arrangements, Finance, Insurance, Human Resources and staff Transfer of Undertakings Protection of Employment (TUPE) and Governance. An Academy policy is available from the Cheshire East's School Governors website which sets out the involvement of each of these parties in the conversion of a maintained school to an Academy. Important information for converting Academies is also contained within this document.

Financial Risk

- 9.2 The financial risk of the Academies programme is outlined in section 8 above.

There is also a potential risk to the income currently generated from maintained schools. If the loss of income due to Academy conversions, is attempted to be offset by an increase in prices levied to maintained schools, this may lead to services no longer being competitive, and hence reducing the levels of buyback and income. The local authority is currently reviewing the trading package for maintained schools, with a view to relaunching the Schools Business Support Agreement (SBSA) as a more refined and up to date package for the academic year 2012/13. Feedback received from schools is that they value the services Cheshire East provide, because they are considered to be Value for Money, of high quality, and that the services are delivered by officers who know their schools. Income generated from

schools in Cheshire East will be £4.9m for 2011/12. This represents an increase compared to 2010/11 of £0.5m. This is largely due to a recalculation of service costs, to ensure that services are delivered on a full cost recovery basis.

- 9.3 However, maintaining the buyback levels from schools requires a fine balance. Schools are becoming increasingly aware of the Local Authorities financial position, and also about what services are offered to them on the open market. Any approach to raise maintained schools prices to offset financial challenges, may have the opposite impact due to the resultant reduction in uptake. The high level of take up and general satisfaction with the level of service provided, would appear to indicate that schools find the current services to provide value for money at the current time, and that a suitably packaged offering to Academies should also generate a good level of response and take up.

Educational Risk

- 9.4 Once a school becomes an Academy its accountability to the LA both officer and politician ceases. Academies are directly accountable to the SoS. The risk here is that the LA will have little indication if an Academy is providing high quality educational provision. Furthermore the LA has no power of intervention should an Academy begin to fail. Should an Academy fail the likely solution would be for to join a successful Academy chain, which is not a local solution meeting the needs of the local community.

Governance

- 9.5 Academies unlike the maintained school sector are not required to include a Local Authority nominated governor on their governing bodies. However they may choose to continue to retain a place for a LA appointed person. Some Cheshire East Academies have done so as have many nationally.

10.0 Background and Options

- 10.1 Academies are publicly funded independent schools, free from local authority control. Other freedoms include setting their own pay and conditions for staff, freedoms concerning the delivery of the curriculum, and the ability to change the length of their terms and school days.
- 10.2 In May 2010, the Secretary of State for Education announced legislation which allowed the Secretary of State to approve schools to become Academies through a simplified streamlined process.
- 10.3 The proposed legislation opened up the Academies programme allowing primary, secondary, and special schools to apply to become Academies. This is a key change in Academies Policy which previously focused on the lowest

performing secondary schools. Schools rated as outstanding by Ofsted were able to open as Academies as early as September 2010 subject to approval by the Secretary of State. In the first instance, Governing Bodies of schools that had been rated 'outstanding' by Ofsted in their most recent judgement could apply to become Academies. This has now been extended to schools which have been assessed as 'good' with one or more outstanding features in their most recent Ofsted inspection. The current consideration is that applications to convert will be welcomed from all schools that are performing well.

10.4 Each application will be considered on a case by case basis, with the decision being informed by various factors. The factors which will be taken into account, for mainstream schools, will be:

- The schools last three years exam results and the general performance trend
- Comparisons, both locally and nationally, with exam performance in similar schools i.e. the percentage of pupils making expected progress in English & Maths with KS2 for Primary schools, and KS2-4 in secondary schools. The DfE will be looking at whether the results are above, or moving rapidly towards, the national averages in attainment and progression.
- The last Ofsted inspections, taking particular notice of the schools capacity to improve; its outcomes; and effectiveness of the leadership team.
- The DfE will also consider any other evidence of a schools performance which a school considers to be significant.

10.5 Factors that will be taken into account, for special schools, include:

- the last two Ofsted inspection grades, with focus particularly on judgements for overall effectiveness, capacity to improve and leadership and management
- any available data on pupil attainment and progress;
- comparison with other special schools pupil attendance and exclusions; and
- We will also consider any additional evidence which the school feels is significant in proving their performance.

10.6 The DfE will also take into consideration the financial management of the school, including any deficits in addition, all schools can apply to convert in formal partnership with a school that is performing well.

10.7 In the case of foundation schools and voluntary schools, the Governing Body

may only apply for Academy status with the agreement of any existing trust and those entitled to appoint any foundation governors.

- 10.8 Unlike existing Academies, no additional external sponsor will be required where a school converts to Academy status, unless it is an underperforming school as judge by the DfE.
- 10.9 A requirement for well-performing schools wanting to convert is that they will be expected to commit to support another school to help raise that school's performance.
- 10.10 Following this change in legislation, conversions to Academies have grown. The table below shows the levels of Academy conversions up to 1st November 2011.

10.11 Table outlining Academy conversions

School sector	New Academies Opened	Approved applications	Grand Total
Middle deemed Secondary	25	13	38
Primary	321	111	432
Secondary	738	173	911
Special	16	17	33
Grand Total	1100	315	1415

- 10.12 There are now 1,100 Academies open in the UK. There have been a further 315 applications approved, and there are a further 186 Academies awaiting the results of their application process. In October 2011 alone, 63 schools converted to Academy status. Nationally, the number of open Academies represents 5.5% of the total number of schools in England (based on a total number of schools of approx 20,000). This equates to 2% of primaries now being Academies, and 23% of secondaries.
- 10.13 To date, primary sector levels of conversions in Cheshire East have followed the national pattern (2% of primaries in Cheshire East now Academies.) Indications suggest that within the primary sector, the appetite for conversion, appears to be limited at present.
- 10.14 However, within the secondary sector, Cheshire East is approaching a 'tipping point', where being Academy status may become the norm.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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SBSA COMPARISON YEARS 2010/11 TO 2011/12

FULL CHARGE

	2010/11	2011/12		2010/11	2011/12		2010/11	2011/12		2010/11	2011/12		2010/11	2011/12		2011/12	2010/11	2011/12	%
Service	Primary		%	Secondary		%	Nursery		%	Special		%	Academy		%	PRU	Total		%
School Governance **	153607	163,767	6.61	10581	9,957	-5.90	1066	1,133	6.29	5608	5,908	5.35	156	3,496	2141.03	890	171018	185151	8.26
EARS	73071	72,814	-0.35	78203	61,060	-21.92	126	124	-1.59	3001	3,072	2.37	5906	4,640	-21.44	106	160307	141816	-11.53
Insurance	403453	445,112	10.33	329853	310,062	-6.00	1007	1,109	10.13	16839	19,350	14.91	16779	21,367	27.34	0	767931	797000	3.79
Copyright Licences	41963	46,407	10.59	37072	34,994	-5.61	106	54	-49.06	734	871	18.66	6360	19,467	206.08	98	86235	101891	18.16
Asset Management	30849	64,951	110.54	4715	21,761	361.53	0	350	0.00	1692	3,106	83.57	236	235	-0.42	0	37492	90403	141.13
Financial Management **	264747	293,884	11.01	1265	428	-66.17	2435	2,717	11.58	6272	5,648	-9.95	0	1,132		1692	274719	305501	11.20
Long Term Sick	351932	326,480	-7.23	213808	230,180	7.66	1054	1,382	31.12	57678	39,352	-31.77	15008	2,707	-81.96	3778	639480	603879	-5.57
ESC/Exchequer Services **	498829	527,298	5.71	126811	117,709	-7.18	1114	1,162	4.26	19102	24,620	28.89	7671	8,015	4.48	0	653527	678804	3.87
Library Service	284918	271,540	-4.70	0	-	0.00	1988	2,023	1.76	5269	4,500	-14.59	0	2,611		1190	292175	281864	-3.53
Environmental Health	34217	33,995	-0.65	7015	6,028	-14.07	225	231	2.67	2118	2,108	-0.47	1212	3,467	186.06	204	44787	46033	2.78
Schools ICT **	342772	335,932	-2.00	103458	83,529	-19.26	790	813	2.91	15719	13,007	-17.25	7596	28,847	279.76	729	470335	462857	-1.59
Legal	17566	61,632	250.86	5593	9,976	78.37	142	498	250.70	568	2,138	276.41	401	2,653	561.60	584	24270	77481	219.25
Human Resources	222615	241,598	8.53	86515	77,325	-10.62	935	990	5.93	9080	9,798	7.90	12100	27,948	130.97	743	331245	358402	8.20
Occupational Health	82332	83,765	1.74	44820	35,651	-20.46	144	160	10.92	3780	3,846	1.76	4356	14,181	225.56	155	135432	137759	1.72
Broadband	315073	352,864	11.99	107834	99,853	-7.40	1469	2,058	40.12	7261	9,108	25.44	13617	41,672	206.03	1358	445254	506914	13.85
Strategic Procurement	0	1,264	0.00	0	-	0.00	0	-	0.00	0	79	0.00	0	-	0.00	79	0	1422	
Health Safety & Risk Mgmt	40273	47,848	18.81	21349	20,891	-2.15	191	219	14.66	967	1,145	18.41	2891	9,315	222.21	123	65671	79541	21.12
Organisation & Capital	0	2,975	0.00	0	2,100	0.00	0	-	0.00	0	175	0.00	0	-	0.00	175	0	5425	
Communications & Marketing	0	9,660	0.00	0	1,890	0.00	0	-	0.00	0	420	0.00	0	210	0.00	210	0	12390	
SIPS	0	20,196	0.00	0	1,496	0.00	0	-	0.00	0	748	0.00	0	-	0.00	748	0	23188	
Science Technology	0	1,459	0.00	0	3,013	0.00	0	9	0.00	0	18	0.00	0	2,045	0.00	8	0	6552	
Services Charging Direct:																			
ICT Strategic Service																			
Safeguarding																			
SBSA Appeals																			
TOTAL	3158217	3405442	7.83	1178892	1127903	-4.33	12792	15032	17.51	155688	149017	-4.28	94289	194008	105.76	12870.3	4599878	4904272	6.62

Academies 2010/11 – Brine Leas; Fallibroome; Sandbach High School

Academies 2011/12 – Brine Leas; Congleton High; Fallibroome; Holmes Chapel; Lacey Green; Macclesfield High; Mottram St Andrews; Sandbach High School

Note: Academies cannot buy-back EARS; Insurance; Long Term Sick

