

CHESHIRE EAST COUNCIL

REPORT TO: Children and Families Scrutiny Committee

Date of Meeting: 19 October 2010
Report of: Lorraine Butcher, Director of Children's Services
Subject/Title: Academies Update

1.0 Report Summary

- 1.1 This report is to update the Children and Families Scrutiny Panel on the Academies Act 2010 which received Royal assent in July 2010. The report also provides an update on the financial implications for both Academies and the Local Authority (LA).
- 1.2 There are currently two confirmed Academies in Cheshire East:-
 - Fallibroome High School (1 September 2010)
 - Brine Leas High School (2 September 2010)
 - Sandbach High School (anticipated 1 November 2010)

2.0 Decision requested

- 2.1 That the Children and Families Scrutiny Panel notes the report and request further updates at regular intervals
- 2.2 Request further reports as Academies evolve in Cheshire East.

3.0 Reasons for Recommendations

- 3.1 To ensure effective scrutiny of the ongoing development of Academies in Cheshire East

4.0 Wards Affected

All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 There are significant policy implications resulting from the Academies Act 2010 in relation to:-

- Land Transfer
- Transfer of Employees
- Property and Asset Transfer
- Finance
- Governance

- 6.2 The land and buildings occupied by the school will be transferred to the Academy Trust so that they are available for use by the Academy. The exact arrangements depend on the type of school, i.e. Community Schools, Foundation (or Trust) School or Voluntary and whether public land, private land, or combination of the two involved. Mixed public/private land may require lease arrangements with private owner to LA and sub-lease to Academy Trust. The Secretary of State (SoS) is to have increased powers over provision of land for Academies and greater powers of intervention in disputes. The protection of public element of mixed ownership land on closure of an Academy is to be safeguarded along with public purse investment in buildings.
- 6.3 Transfer of Undertaking Protection Employment Regulations (TUPE) - automatic transfer of employees – applies to all teaching and non-teaching employees to Academy Trust. Schools transferring are required to provide Information and fulfil their consultation obligations with staff and their representatives. There are some timing implications regarding September 2010 academies/pre-transfer access and related indemnities. Converting schools could be open to challenge on the length of this process due to the summer holidays. There are implications for LA service staff and there is the potential for redundancies should Academies choose not to buy back from LA services. With regard to pensions, the Academies will be regarded as the ‘scheme employer’ and, therefore, are required to notify the administering authority of the change of status.
- 6.4 There will be other property and assets that will need to be transferred and there is a need for an asset transfer agreement (including employee provisions) to be drawn up.

The following will need to be considered as part of the transfer:-

- Assets/liabilities
- Surplus/ Deficit budgets
- List of contracts
- With LA or third parties
- Transfer or renegotiate?
- Software licences
- Books and records (NB Data Protection)

7.0 Financial Implications for Transition Costs

- 7.1 There are substantial financial implications for the Council following the transfer. This ranges from funding allocated by the Government to facilitate the provision of specific Council wide educational provision (via the central element of the Dedicated Schools Grant, (DSG)) being top sliced with an element passed direct to each school to allow them to

decide on the level of provision they feel appropriate, to a full range of disaggregation issues splitting schools from the Council. The disaggregation will differ in the level of complexity depending on the nature of the school, with Foundation Schools, operating in a 'full cheque book' mode with their own payroll functions being the simplest to disaggregate, through to those schools who buy back the majority of their support from the Council, where more activity will be required.

From a finance perspective it will be necessary to ensure activities such as Pension Fund status for support staff, insurance provision, VAT registration, full accounting and procurement arrangements just to mentions a few are quickly resolved and the detail of the basis of disaggregation agreed.

- 7.2 Academies will receive the same level of per pupil funding as they would from the Authority as a maintained school, with top up funding to meet those additional responsibilities that are no longer provided from them by the Authority. There is an additional payment of £25,000 to cover transfer costs in 2010/11. This is funded directly by the government. The Government is explicit that a change to academy status should bring neither financial advantage nor disadvantage to a school. The Act retains the existing legal requirements for funding agreements to last seven years, with agreements still providing for intervention or termination, if the academy fails.
- 7.3 The Department for Education (DfE) has provided all Schools and Local Authorities with guidance and access to a online toolkit that allow LAs and transferring schools to understand what central LAs resources would transfer to schools during 2010/11. Whilst it is possible to use the toolkit to estimate the impact on later years, the DfE have stated
- 7.4 Utilising the toolkit the estimated impact on schools is summarised below:

	All Secondary	Secondary Average	Primary Average
	£m	£m	£m
LA Recoupment (current basis 2010/11; DSG)	1.6	0.08	0.03
One Line Budget	91.3	4.57	0.69
Total impact on DSG	92.9	4.65	0.72
Recoupment Extension (possible for 2011-12; non-DSG)*	3.9	0.20	0.04
Total possible Recoupment from LA	96.8	4.84	0.76

** i.e. to include bits from 'LA Other' section of S251 Budget Statement*

8.0 Financial Implications 2009/10 and beyond

8.1 Whilst no information is currently available to LAs about 2011/12 and onwards modelling, including the LA recoupment for 2010/11 and the recoupment extension for 2011/12, would indicate approximately £5.5m being recouped from Cheshire East's Dedicated Schools Grant (DSG) central funding and £91.3m from the DSG schools one line budgets. Linked to these transfers is the possible impact on the School Business Support Agreement (SBSA) for both schools and the LA. Each SBSA supplier needs to consider with each school whether it intends to continue to trade with that school and on what basis. It is possible as further consideration is given, that there will be a charging differential to reflect the different status that Academies have over LA schools. For example, there will be a small impact on the Council needing to provide additional professional liability cover for the advice it provides to the Academy companies.

8.2 In addition to the amounts recouped from LAs and transferred to schools the DfE have added additional funding to contribute to the additional costs borne by Academy schools for both VAT and the costs of Insurance that they will be issuing further guidance on the amount to be recouped from LAs in later years. It is anticipated that the amounts to be recouped will follow the Comprehensive Spending Review (CSR) announcements.

8.3 The table below details the anticipated funding to be recouped from Cheshire East in 2010-11 in relation to the three new academies. 'One Line Budgets' have already been devolved to schools and any verified surplus at conversion date will transfer to the new academies. The calculation of such surpluses will only be completed in November 2010 for Fallibroome and Brine Leas and in January 2011 for Sandbach.

	Fallibroome	Brine Leas	Sandbach
	£'m	£'m	£'m
LACSEG recoupment *	0.06	0.04	0.04

* LACSEG: Local Authority Central Spend Equivalent Grant

8.4 The table below details the possible funding to be recouped from Cheshire East in 2011-12 in relation to the three new academies if, as anticipated, the current basis of calculation of the Local Authority Central Spend Equivalent Grant (LACSEG) is changed to incorporate other areas of the S251 Budget Statement. Also shown in the table are the 'One Line Budgets' (shown at 2010-11 levels) for the three converting schools as the income for these will not be received by Cheshire East,

i.e. there will be a reduction in DSG received.

	Fallibroome	Brine Leas	Sandbach
	£'m	£'m	£'m
LACSEG recoupment	0.31	0.21	0.28
One Line Budget	6.21	4.49**	5.27

*** Adjusted to reflect full year effect of VI Form*

9.0 Legal Implications

- 9.1 The full extent of legal implications of conversion to academies continue to emerge.

10.0 Risk Management

- 10.1 The most significant risk to Local Authority will be the ability to continue to provide services to those schools that don't convert to academies.

11.0 Background

- 11.1 The Academies Act 2010 enables all types of maintained schools to become an academy, including secondary, primary, faith and special schools. Those rated 'outstanding' by OFSTED have pre-approval. Special schools are not currently anticipated to be able to convert to academy status before September 2011. The Secretary of State has the power to issue an Academy Order where the Governing Body so applies, or if the school is 'eligible for intervention' under the Education and Inspections Act 2006.
- 11.2 The act has several significant implications for Cheshire East as an Authority which has a number of outstanding schools. These, and others which have expressed an interest in possible conversion to academy, status are detailed in the tables below (taken from the DfE website 22nd September 2010).
- 11.3 The nature of the relationship between academies and the Local Authority is not prescribed but it is anticipated that academies will wish to continue to work collaboratively with other schools, clusters and Education Improvement Partnerships (EIPs). The Local Authority will continue to be responsible for statutory duties around SEN statements, home to school transport and admissions co-ordination.
- 11.4 The school Governing Body is required to "consult such persons as they think appropriate" on whether the school should be converted to

an academy. They are able to do so either before or after an application or an academy order has been granted in respect of the school but before the conversion process is completed. Thus the consultation process is the sole responsibility of the Governing Body. The Local Authority has endorsed National Governors' Association advice that this consultation, to be 'meaningful' should include consultation with parents, students, staff and local partners and should provide full information on a range of issues, including proposed changes in governance and details of the Trust, as well as any planned changes in curriculum or other policy and practice. There is a requirement for an academy to have at least two parent governors on its Governing Body, and an entitlement to continue with one Local Authority governor.

- 11.5 The Local Authority retains its overall responsibility for ensuring that there are sufficient high quality school places locally. It will be consulted on any request made by an academy to the Secretary of State for an increase of pupil numbers or change of age range. A lower-performing academy, unless it is eligible for intervention, can only be closed after it has been given seven years' notice by the SoS to terminate the funding agreement.

12.0 Overview of Year One and Term One Issues

- 12.1 Appropriate Council departments are working together in response to the issues identified above in a concerted manner.

13.0 Access to Information

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

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