



## **To clarify the Council's position on Academies**

### **SUMMARY**

- 1.1 Academies are publicly-funded schools which operate outside of local authority control. Academies have autonomy over the decisions they make and the education they deliver to their pupils. They have the freedom to change the lengths of terms and school days, set their own pay and conditions for staff, and freedom from following the National Curriculum. There are also proposals for academies to have more flexibility in the way that they engage in local partnerships and deliver 14-19 education. The Academies Act includes provision to allow the Secretary of State to require schools that are eligible for intervention to convert into academies.
- 1.2 The process of consulting on an academy proposal is led by the Governing Body of the school considering academy status. The school's Governing Body is also the decision maker with no requirement for Local Authority approval. Following consultation, Chellaston School's Governing Body took the decision to convert to academy status from 1 December 2010. West Park School has also written to Derby City Council to indicate that they are consulting on academy status. To date, there has been no indication that any other schools in Derby have submitted a formal application for academy status, although governing bodies will be beginning to consider the pros and cons.
- 1.3 The Government's aim is to allow more schools to obtain academy status and the 'freedoms and flexibilities' associated with that status. The Government also expects the Local Authority to consider academy conversion for individual and groups of schools where performance needs improving. The purpose of this report is to brief Council Cabinet on academies, together with the proposal for Council Cabinet to agree a policy position to support the establishment of academies in Derby, as part of the Council's approach to securing a high-performing school system to improve outcomes for children and young people.

### **RECOMMENDATION**

- 2.1 To approve a policy of supporting academy school and academy trust proposals in Derby, as one part of the Council's approach to securing a high-performing school system.

### **REASONS FOR RECOMMENDATION**

- 3.1 The Government's aim is to allow more schools to obtain academy status and the 'freedoms and flexibilities' associated with that status.
- 3.2 The school system in Derby should be performing at a higher level. There is some evidence that well-founded academy developments do lead to improvements in outcomes for children and young people.

## SUPPORTING INFORMATION

- 4.1 The Secretary of State for the Department for Education (DfE) has written to the Council Leader, Cabinet Member for Children and Young People, the Chief Executive and the Strategic Director for Children and Young People advising of the Government's intention to reform the school system. The Government's aim is to tackle educational inequality and to give greater powers to parents and pupils to choose a good school as part of a 'mixed economy of school provision'. As part of this, the Government plans to allow more schools to obtain academy status and the 'freedoms and flexibilities' associated with that status.
- 4.2 The Academies Bill became law on 27 July 2010. Immediately following the implementation of the Act, any school with an Ofsted judgement of outstanding for overall effectiveness was deemed to have automatically met the criteria to gain academy status. On 17 November 2010, the Secretary of State announced an extension to the academy programme. In addition to outstanding schools, all primary and secondary schools judged as good with outstanding features by Ofsted are now automatically eligible for academy status. Other primary and secondary schools that wish to acquire academy status as part of a formal partnership can do so providing at least one is judged as outstanding or good with outstanding features. Special schools rated outstanding by Ofsted will also be able to formally submit an application for academy status from January 2011. Pupil Referral Units (PRUs) are governed by a different legal framework and the Government aims to extend the opportunity to acquire academy status to PRUs as soon as possible.
- 4.3 The School White Paper - The Importance of Teaching - published on 24 November 2010 sets out the Government's aspiration for all schools to be academies. The aim is for schools to be autonomous units with increased support for schools to collaborate. In practical terms, where there is a need for a new school the first choice is likely to be an academy or free school. The paper states that Local authorities will have a "*a strong strategic role as champions for parents, families and vulnerable pupils; promote educational excellence, through ensuring a good supply of school places, co-ordinating fair admissions and developing their own school improvement strategies to support local schools.*" The paper indicates that consultation will take place with local authorities and academies on what role local authorities should play as strategic commissioners. A summary of the points within the White Paper that relate to academies is set out in Appendix 2.

- 4.4 The Secretary of State has also written to schools setting out the following freedoms and flexibilities that are associated with Academy status:
- Freedom from local authority control
  - Ability to set your own pay and conditions for staff
  - Freedom from following the national curriculum
  - Ability to change the length of terms and school days
  - Having greater control over school budgets
  - Freedom to spend the money the local authority currently spends on your behalf

Although the Academies Act requires schools that are considering academy status to consult with 'appropriate groups' it does not specify local authorities.

- 4.5 As with maintained schools, all academies are required to adopt clear and fair admission arrangements in line with the admissions law and the School Admissions Code. If a school converts to academy status, it will be responsible for its own admission arrangements. This will mean little change for some schools such as foundation and voluntary-aided schools which already are self-standing admission authorities. However, if community schools and voluntary controlled schools become academies, they will need to manage the admissions process themselves rather than the Local Authority doing so. Local authorities continue to have overall responsibility for ensuring that there are sufficient pupil places to meet demand locally and all academies are required to participate in the Local Co-ordination of admissions. The responsibilities of academies in relation to special educational needs and exclusions will be the same as they are now with maintained schools.
- 4.6 The Local Authority is considering alternative models of school organisation in order to raise standards and improve outcomes for children, young people and families in the city. Academies are one part of this change with others being considered such as federations, trusts and partnerships of schools working together.

## OTHER OPTIONS CONSIDERED

- 5.1 This report recommends that a policy of supporting academy proposals is adopted by Derby City Council. An alternative option would be for Derby City Council not to adopt a policy position or to adopt a position of opposing academy proposals, which would be counter to emerging national policy. It is suggested that a policy will provide clarity in relation to Derby City Council's position on academy status.

**This report has been approved by the following officers:**

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>Service Director(s)</b>	Robin Constable, Solicitor, Legal Services Alison Parkin, Acting Head of Finance, Children and Young People's Dept. Ed Cicinski, Interim HR Manager, Resources Department Rita Silvester, Service Director – Performance and Commissioning, CYP
<b>For more information contact:</b>  <b>Background papers:</b> <b>List of appendices:</b>	Rita Silvester, Service Director – Performance and Commissioning, tel. 01332 716840, email <a href="mailto:rita.silvester@derby.gov.uk">rita.silvester@derby.gov.uk</a> None. Appendix 1 – Implications Appendix 2 – Summary of Schools White Paper (The Importance of Teaching)

<b>IMPLICATIONS</b>
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**Financial**

- 1.1 The principle of academies' funding is that academies should receive the same level of per-pupil funding as they would receive from the local authority as a maintained school. In addition, they receive top-up funding to meet additional responsibilities that are no longer provided for them by the local authority.
- 1.2 Unlike maintained schools, that are funded on the traditional financial year basis (April to March), academies are funded from September to August to reflect the academic year. The funding for academies comes in the form of a grant, known as the General Annual Grant (GAG), paid by the Young People's Learning Agency (YPLA). The GAG is made up of different elements, as indicated below:
- An amount equivalent to the school's current budget share  
By far the largest element of GAG is the school's core funding, known as its delegated budget share. This will be the same as the school's current budget share received from the local authority.
  - Local authority central spend equivalent grant (LACSEG)  
This is the additional money to cover those central services that the local authority no longer provides. This is not a uniform figure across the country. It varies between local authorities and will reflect the amount the local authority already holds back to pay for central services. This element of grant is calculated by the Young People's Learning Agency (not the local authority), using a formula, based on an academy's pupil numbers and the amount that the relevant local authority spends on the services and costs. It is not based on the actual costs of the services supplied to the individual school. The relevant services and costs include:

<b>Services and costs funded from a local authority's centrally retained Schools Budget (Dedicated Schools Grant DSG)</b>	<b>Services and costs funded from other local authority sources</b>
<ul style="list-style-type: none"> <li>• Special educational needs (SEN) support services (see next section)</li> <li>• Behaviour support services</li> <li>• 14-16 practical learning options</li> <li>• School meals and milk</li> <li>• Assessment of free school meals eligibility</li> </ul>	<ul style="list-style-type: none"> <li>• Costs of a local authority's statutory/regulatory duties</li> <li>• Asset management costs</li> <li>• School improvement services</li> <li>• Monitoring national curriculum assessment</li> <li>• Education welfare service</li> <li>• Pupils support (e.g. clothing grants)</li> </ul>

<ul style="list-style-type: none"> <li>• Repair and maintenance of kitchens</li> <li>• Museum and library services</li> <li>• Licences and subscriptions</li> <li>• Central staff costs (maternity, long term sickness and trade union duties)</li> <li>• Costs of certain employment terminations.</li> </ul>	<ul style="list-style-type: none"> <li>• Music services</li> <li>• Visual and performing arts services</li> <li>• Outdoor education services</li> <li>• Certain redundancy and early retirement costs.</li> </ul>
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1.3 Academies will need to consider how they will obtain these services using the additional funding they receive. They are free to buy back the services from the Local Authority or find them elsewhere. The Local Authority also retains some funding for services that it has to continue to provide, and related costs. These are:

- Home to school transport (including SEN)
- Education psychology, SEN statementing and assessment
- Monitoring of SEN provision, parent partnerships, etc
- Prosecution of parents for non-attendance
- Individually assigned SEN 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

1.4 In terms of of SEN funding, individually assigned funding for children with statements will continue to be paid as normal, through the local authority. In Derby, we fund approximately £1million in cases where pupils have statements with more than 15 hours support. The local authority will continue to have a legal duty to ensure that the statement of SEN is fulfilled and does this by paying the individually assigned funding, and monitoring provision made by the academy.

1.5 Academies also receive grant funding to meet the additional VAT they incur because they cannot use the local authority's VAT reclaim facility and to meet their insurance costs. All other specific grants, including Standards Fund grants and Schools Standards grants will continue to be paid as normal by the local authority up to 31 March 2011. Arrangements for these grants after that date, for all schools, are still under consideration.

## Legal

2.1 Schools wishing to become academies are required to register an interest with the Department for Education. Once the school has received approval in principle from the Secretary of State, they will be required to work with DfE to ensure all legal documents are completed relating to governance, land transfer and company registration. As a minimum, all schools converting must:

- Establish their trust as a company - registering with Companies House. The Academy Trust is a charitable company responsible for the running of the Academy and has control over the land and other assets. It has a strategic role in running the Academy, but delegates day-to-day management of the school to the governors.
- Establish a new bank account for the trust to ensure that the Academy will be able to receive funding

Transfer, renew or procure new contracts, SLAs and licences and purchase insurance as appropriate.

2.2 The process of transferring the school's land to the academy trust differs depending on whether the school converting to academy status is a community or foundation school. For community schools, where the land is owned by the LA, the usual procedure would be for the land to be leased to the academy trust on a 125 year lease at a peppercorn (nominal rent). However, the Secretary of State has power to make a scheme to transfer the land to the academy trust freehold or leasehold if the school puts forward a case for this.

2.3 If an existing foundation (or voluntary school) holds the land and has a preference for the academy trust to own the freehold on conversion, the land is transferred from the existing foundation or governing body directly to the academy trust, provided that there are no legal impediments to this arrangement. Alternatively, land from a foundation school can be transferred from the governing body or trust back to the LA, before it is transferred to the new academy trust on a 125 year lease, providing the school is happy with this arrangement.

## Personnel

3.1 For schools converting to academy status, the current employer of school staff will need to carry out TUPE consultation with all staff and unions as part of the staff transfer process. In the case of community schools, the Local Authority, as the employer of staff, would lead on this. For a foundation school, the school's Governing Body would carry out the consultation. In the case of the Chellaston School proposal, Chellaston is a Foundation School and therefore the school's Governing Body is responsible for carrying out consultation.

## **Equalities Impact**

- 4.1 The Government's aim is to tackle educational inequality and to give greater powers to parents and pupils to choose a good school as part of a 'mixed economy of school provision'. As part of this, the Government plans to allow more schools to obtain academy status and the 'freedoms and flexibilities' associated with that status.

## **Health and Safety**

- 5.1 None for consideration.

## **Carbon commitment**

- 6.1 None for consideration.

## **Value for money**

- 7.1 None for consideration.

## **Corporate objectives and priorities for change**

- 8.1 The proposal supports the Corporate Priority of building ambition, aspiration and achievement in the city's young people.

**Summary of Schools White paper – *The importance of teaching*  
(published 24 November 2010)**

**The School System**

- **Aspiration for all schools to be academies** – “our direction of travel is towards schools as autonomous institutions collaborating with each other on terms set by teachers not bureaucrats”.(p12),. This includes Primary and Special Schools by Sept 2011 – though the funding for the latter is more complex.
- Restore for all academies the freedoms that they originally had, while continuing to ensure a level playing field on admissions, particularly for SEN.
- Poorly performing schools will be considered for academies.
- Increase support for schools to collaborate through academy chains, multi—school trusts and federations (what’s new?).
- Local authorities will have “*a strong strategic role as champions for parents, families and vulnerable pupils; promote educational excellence, through ensuring a good supply of school places, co-ordinating fair admissions and developing their own school improvement strategies to support local schools.*”
  - **Ensure a supply of strong schools;**
    - Remove focus on surplus places
    - Encourage good schools to expand to meet the demographic challenge;
    - “in practical terms where there is a need for a new school, the first choice will be an academy or free school”.
    - Simplification of the competition process
    - LAs will be expected to identify and work with potential sponsors but SoS will assist LAs who cannot find a suitable sponsor for an academy.
  - **Ensure fair access**
    - Co-ordination of admissions arrangements to make them as fair and simple as possible;
    - Abolish need for admissions forums and annual reports to school adjudicator;
    - Simplification of admissions code but retain LAC and SEN rights to be completed by July 2011;
    - Consultation on whether academies should be able to prioritise children from deprived backgrounds in over subscription criteria.
  - **“stand up for the interests of children and parents”**
    - Use publically available data to hold schools to account both through lead member/ DCS and through scrutiny function;
    - Intervention powers in maintained schools, triggered inspections of academies where informal resolution has failed, then escalation to SoS;



- **“local authorities will, over time, also play a role in commissioning new provision and overseeing the transition of failing schools to new management. We will consult with local authorities and academies on what role local authorities should play as strategic commissioners**
- **Support maintained schools below the floor to improve or convert to Academy status and support collaboration in all other schools;**
  - LAs will have freedom to define their own role in school improvement for local schools including as a traded service for schools beyond their boundaries.