

Report to CABINET

LA Policy on Academy Conversion and Guidance for Schools

Portfolio Holder: Cllr Mohan Ali (Cabinet Member for Education)

Officer Contact: Gerard Jones, Managing Director Children and Young People (DCS)

Report Author: Andy Collinge (Head of School Support Services)
Ext. 4239

23rd January 2023

Reason for Decision

The purpose of the report is to seek formal approval for a revised LA Academy Conversion Policy and Guidance and its application in all cases where maintained schools convert to academy status.

The original Local Authority Policy on Academy Conversion was agreed in 2016. In March 2022 the government released a new white paper 'Opportunity for All'. A key aim of the white paper is to enable the conversion of all maintained school to academies by 2030. In September 2022 the Department of Education also published new guidance on schools causing concern. In effect this means that schools that are currently meet the Dfe definition of 'coasting schools' will be required to convert to academy status. The guidance is also clear that this process will be accelerated in areas that are designated as EIA (Priority Education Investment Areas). Oldham is one of four such areas within GM (Greater Manchester)

Recommendations

It is recommended that the attached policy and guidance is approved by Cabinet for distribution to all maintained schools within the borough.

It is recommended that authority be given to the Director of Education and Early Years and the Cabinet Member for Education to authorise all associated agreements in respect of academy conversions and approve any changes to the policy resulting from changes to primary legislation.

Cabinet

LA Academy Conversion Policy and Guidance

1 Background

- 1.1 Currently there are 13 Secondary Schools, 86 primary schools and 6 special schools in Oldham. Since 2010 10 secondary schools in the borough have converted to academy status along with 25 primary schools and 5 special schools. There are currently 61 primary schools, 3 secondary schools and a pupil referral unit maintained by the Local Authority, of these 31 are community schools/voluntary controlled schools, 22 are Voluntary Aided Church of England Schools and 12 are voluntary aided Catholic Schools. Currently there are 13 academy trusts operating in the borough.

The recent White Paper, 'Opportunity for All' signals the Government's aim that all schools convert to academy status by 2030. As a result of these developments it is anticipated that there will be a very significant increase in the number of academy conversions, and we are already seeing an increase schools who have made the decision to convert to academy status. There is therefore a need for the LA to proactively manage and influence the process within the current statutory framework in order to both shape the future of education in Oldham and on an operational level manage any reputational, educational and financial risks.

- 1.2 Given the current educational landscape it is vitally important that the LA seeks to have maximum influence over the choice of sponsor for every school currently maintained by the Local Authority. The economic future of the borough and the life chances of its young people are closely linked to the quality of its education system. The recommended policy on conversions outlines what criteria the LA should insist on for any sponsor hoping to run a school within Oldham, this includes working in partnership with the LA and its strategic partners to develop and improve the education offer for parents, young people and the community.
- 1.3 The principal issues in relation to conversion are: the transfer of staff; transfer of land; and transfer of Assets and Contracts. These matters are dealt with in two main documents, a Commercial Transfer Agreement (CTA) and Lease Agreement together with supporting ancillary documentation, although it should be noted that conversion can take place even if these agreements are not concluded. The suggested policy on Academy Conversion is clear that these agreements must be in place and agreed by the LA before any conversion can take place.
- 1.4 The advantage to the LA in completing these agreements is that the interests of the LA can be protected as much as possible. If a lease agreement is not concluded the Secretary of State may direct a form of disposal of the land under his/her powers under the Act. This could result in terms which are less favourable to the LA than those contained within the Lease Agreement. The Commercial Transfer Agreement contains certain indemnities and warranties that protect the LA against certain future liabilities. If the agreement is not concluded the LA would not have the benefit of these. The agreements provide clarity and certainty with regard to the obligations between the parties.

2 Current Position

- 2.1 The current LA Policy on Academy Conversions was approved by Cabinet in 2016, therefore there is a requirement to update this policy to reflect recent changes in legislation and Department of Education Guidance.

3 Options/Alternatives

3.1 There are no suggested alternatives.

4 **Preferred Option**

4.1 The recommended option is to formally adopt the attached revised Academy Policy and Guidance on Academy Conversion as this will provide a framework for securing the best sponsors in order to drive forward the LA's ambitions for the borough and its young people. A revised policy will also provide assurances with regard to management of any financial or reputational risks.

5 **Consultation**

5.1 Consultations have taken place with a range of services within the LA and its partners including finance, legal and HR. Trade Union colleagues have also been consulted.

6 **Financial Implications**

6.1 Academies will receive their funding direct from the Education Funding Agency following conversion to an academy and the Dedicated School Grant received by the Local Authority will be reduced by the budget share of the academy.

6.2 The Local Authority will charge schools converting to academies to recover the considerable amount of officer time required for academy conversions.

Schools will be charged a rate of £10K and PFI conversion costs will be agreed on a case-by-case basis. Schools receive a grant of up to £25,000 for conversion costs.

Only schools that are converting on a voluntary basis can be charged for conversion costs, schools who are subject to conversions due to falling into a category for intervention cannot be charged conversion costs.

6.3 Schools converting to academy status will only receive funding for any capital works if the expenditure has already been agreed by the Cabinet Member for Education or by Cabinet if the value is over £400,000. The LA will only consider funding projects prior to conversion in very exceptional circumstances such as works required immediately due to health and safety implications.

6.4 If a school is a converter academy and is in deficit the Education Funding Agency will recover the deficit from the school. If a school is a sponsored academy the deficit remains the responsibility of the Local Authority. The Local Authority will work closely with schools to manage any potential deficit at conversion.

6.5 All contracts, agreements and arrangements should only be negotiated to run up to the date of conversion so that there is clarity over financial liabilities and commitments. The Council will therefore seek to minimize the on-going legacy costs that might have to be financed once schools become Academies.

6.6 Teachers working in an academy fall within the scope of the Teacher's Pension Scheme (TPS), just as if they were employed in a local authority-maintained school. As an employer, the academy is responsible for remitting contributions to the TPS and for all other administrative responsibilities that fall to employers who employ teachers who are subject to the teachers' pension regulations.

6.7 In respect of non-teaching staff, an academy is a "Scheduled Body" within the Local Government Pension Scheme (LGPS) which allows non-teaching staff to be members of

the local authority's pension scheme, with members of staff transferring from the "old" maintained school to the "new" academy retaining their membership of the LGPS. Newly appointed academy non-teaching staff should also have the right to join the scheme.

6.8 The admission of all non-teaching staff within converting Academies into the Oldham Council "pension pool" and hence the continuation of these non-teaching staff within the LGPS is in accordance with the Councils Pension Policy approved by Cabinet at its meeting on the 13 November 2013 and further approved at the Council meeting of 18 December 2013.

6.9 The Council is currently undertaking a comprehensive review of its Pension Admission Policy in the light of the proposed Schools Bill 2022 and any future applications could be subject to a potentially amended policy.

LIZ CAYGILL/JOHN HOSKINS

7 Legal Services Comments

7.1 Legal issues are addressed in the body of the report.

COLIN BRITTAIN

8. Co-operative Agenda

8.1 Schools who convert to academy status will continue to play an active part in supporting and collaborating with other Oldham Schools.

ANDY COLLINGE

9 Human Resources Comments

9.1 As a school is re-designated as an academy the staff will have their employment transferred from the existing employer to the new academy, following Transfer of Undertakings (Protection of Employment) Regulations (TUPE). Schools which currently purchase the HR Advisory SLA from the Local Authority will receive support in ensuring that correct process are followed. There may be an additional cost levied to the school for the due diligence process. Schools not receiving support through the LA's HR Advisory Service will need to engage with their preferred HR provider for advice and support.

ADELE SAVAGE

10 Risk Assessments

10.1 The Council policy on Academy Conversions seems appropriate to manage its risks from a Risk Management perspective.

MARK STENSON

11 IT Implications

11.1 There are no implications for IT.

MARK EDGAR

12 Property Implications

-
- 12.1 It is considered that all property related matters have been captured and addressed within the LA Academy Conversion Policy and Guidance.

ROSALYN SMITH

13 **Procurement Implications**

- 13.1 There are no procurement implications

DAN CHEETHAM

14 **Environmental and Health & Safety Implications**

- 14.1 For the schools that become academies the LA will no longer be responsible for any breaches of Environmental and Health and Safety Legislation. Academies will still require ongoing Health and Safety advice from a 'competent' person. This can be provided for a fee from the Health and Safety Team, or they can chose to use another company, or employ a competent person to fulfill their legal obligations.

SAMANTHA COX

15 **Equality, community cohesion and crime implications**

- 15.1 None.

16 **Equality Impact Assessment Completed?**

- 16.1 No

17 **Key Decision**

- 17.1 Yes

18 **Key Decision Reference**

- 18.1

19 **Background Papers**

- 19.1 N/a

20 **Appendices**

- 20.1 Revised Oldham Local Authority Policy and Guidance on Academy Conversions.