

CHARGING FOR ACADEMY CONVERSIONS

To: Children and Young People Committee

Meeting Date: 12 June 2017

**From: Wendi Ogle-Welbourn Interim Executive Director:
Children, Families and Adults Services**

Electoral division(s): All

Forward Plan ref: n/a Key decision: No

Purpose: To advise the Committee of:

- a) the process and arrangements for maintained schools converting to academies and subsequently operating independently of the Council;**
- b) the order of costs currently borne by the Council whenever a school converts to an academy;**
- c) the options available for meeting those costs in future; and**
- d) the outcome of an application to the Department of Education (DfE) for grant funding to support the Council to meet its duty to facilitate academy conversions.**

Recommendation: That the Committee endorse the proposal that the Council introduces a charging arrangement for the work it is required to undertake and the costs it incurs as a result of the conversion process which will apply to all future conversions. The charge to reflect the actual costs incurred.

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1. BACKGROUND

- 1.1 Academies are publicly-funded schools, operating independently of local authorities, held accountable to the Secretary of State for Education through a legally binding funding agreement with the Department for Education (DfE).
- 1.2 There are three different routes for maintained schools to become academies:
 - Those deemed to be high performing schools by Ofsted, that is, those judged to be good or outstanding can choose to become academies either by joining a multi-academy trust (MAT) or by converting as a stand-alone academy. This route is used less frequently than in the early years of the academy programme as the Government, local authorities and schools themselves increasingly recognise the importance and value of schools working together in formal partnerships in a self-supporting education system.
 - Those deemed to require improvement can choose to become academies by joining an established MAT.
 - Those deemed to be under-performing by the Office for Standards in Education (Ofsted), for example those judged to have serious weaknesses or to require special measures, are required to become academies. These are termed sponsored academies.
- 1.3 Proposals set out in the Education White Paper, Educational Excellence Everywhere, published in March 2016 that all schools would have to become academies by 2022 were subsequently rescinded in response to significant cross-party opposition. However, it remained the Government's ambition prior to the dissolution of Parliament, that all schools become academies as evidenced by the duty placed on local authorities in the Education and Adoption Act 2016 to facilitate the conversion of all poorly performing schools to become sponsored academies.
- 1.4 In March 2017, the Council was successful in securing £50,000 in strictly time-limited grant funding from the DfE in recognition of the additional demands placed on officers as a result of the academy conversion process. The funding comes, however, with a target to increase the average number of conversions from two to three a month effective immediately. The majority of the funding will enable the Council to employ an Academies Project Manager on a one year fixed-term contract. Recruitment to this role is underway.
- 1.5 The Council currently bears all the legal and associated costs. Other Councils have introduced charging arrangements as the attached example (Appendix A) from Milton Keynes illustrates.
- 1.6 Given the clear expectation that more schools will convert to become academies it is an appropriate time to consider whether to continue with the current arrangements or introduce charges as other local authorities have done.

2. AVAILABLE OPTIONS

- 2.1 The options available to the Council are to:
 - Maintain the status quo.

- Charge a set fee per conversion as per the Milton Keynes' example.
- Charge the actual costs.

2.2 **Option 1: Maintaining the status quo**

This would avoid the potential challenge from MATs and schools that, to date, the Council has met all the conversion costs and that it would be inequitable, therefore, for the Council to introduce a charging arrangement for future conversions. The response to this would be:

1. Schools receive £25,000 to support them with the costs of the conversion process. It is not unreasonable to expect, therefore, that they should use some of this funding to meet the costs which the Council currently incurs.
2. Whilst it has been possible for the Council to absorb the cost of conversions to date, the increasing number of conversions and funding pressures it faces mean that this is no longer possible.

2.3 **Option 2: Charge a set fee per conversion**

This would have the advantages of being simple and quick to administer. MATs and schools would know upfront the amount they would need to set aside to cover the costs. However, as each academy conversion is unique as it relates to the particular circumstances of the school, a set charge based on the Council's experience to date would mean that some MATs would be significantly over-charged whilst others would be under-charged. The costs for primary school academy conversions which took place in 2016/17 ranged from £475 to £7,744.

2.3 **Option 3: Charge the actual costs**

The costs of academy conversions are easily identifiable and it would be relatively straightforward, therefore, to provide an itemised invoice. This would be more time consuming to administer than a set charge, but would be fair and transparent.

2.4 Officers' preference is for Option 3 on the basis that as the costs range so widely, it would be easier to justify than a flat rate charge.

3.0 **ALIGNMENT WITH CORPORATE PRIORITIES**

3.1 **Developing the local economy for the benefit of all**

There are no obvious points of alignment.

3.2 **Helping people live healthy and independent lives**

There are no obvious points of alignment.

3.3 **Supporting and protecting vulnerable people**

There are no obvious points of alignment.

4.0 **SIGNIFICANT IMPLICATIONS**

4.1 **Resource Implications**

4.1.1 The Council incurs significant costs as a result of the each academy conversion, the majority of which are for the work undertaken not only by the Council's legal advisors (LGSS Law), but also by the solicitors employed by the academy trust. The total cost incurred by the Council in 2016/17 was £67,747. The cumulative total is £182,851 for the period 2010/11 to 2016/17.

4.1.2 Each academy conversion requires input from a range of Council officers (0-19 Place Planning & Organisation, Human Resources (HR), Finance, Strategic Assets and District teams), to a greater or lesser degree depending upon the status of a school prior to conversion, in addition to LGSS Law. There is a financial cost to these. The grant funding secured from the DfE for the 2017/18 financial year was on the basis of the following:

£30,000 Project Management

£250 per conversion for the work undertaken by Finance

£350 per conversion for work undertaken by Strategic Assets

£90 per conversion for the work undertaken by HR

4.1.3 The most complex and time-consuming conversions involve community and voluntary controlled schools. In all cases, officers seek to safeguard the Council's interests and enable it to continue to meet its statutory duties (for example, provision of sufficient of early years and childcare places) under the lease, statutory land transfer and Commercial Transfer agreements it has to negotiate and subsequently sign with the academy trusts.

4.1.4 As the grant funding awarded by the DfE will enable some of these costs to be defrayed in 2017/18, this needs to be recognised in any future charging arrangement to avoid double-funding.

4.2 Procurement/Contractual/Council Contract Procedure Rules Implications

4.2.1 As stated above, each conversion involves a legal process which results in a Commercial Transfer Agreement between the Council and the academy trust.

4.3 Statutory, Legal and Risk

4.3.1 The DfE and the Regional Schools Commissioner (RSC) have confirmed that it is both possible and acceptable for local authorities to seek reimbursement for the costs they legitimately incur whenever a school converts to an academy.

4.4 Equality and Diversity

4.4.1 Should the Council introduce a charging system, it can expect to have to respond to challenges from schools which become academies that they are being treated differently to those which have already converted.

4.6 Engagement and Communications

4.6.1 Schools are required to undertake consultation prior to seeking approval from the

Secretary of State to become academies. The Council seeks to work in partnership with schools and academy trusts and facilitate conversions as speedily as possible.

4.7 Localism and Local Member Involvement

4.7.1 The Council's policy is that it is for schools other than those who are required to become academies because they are under-performing to determine whether or not they should convert to become academies. The relevant local members will be informed of any planned conversions.

4.8 Public Health Implications

4.8.1 There are no significant implications.

Implications	Officer Clearance
Have the resource implications been cleared by Finance?	Yes Name of Financial Officer: Martin Wade
Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by Finance?	Yes Name of Financial Officer: Chris Malyon
Has the impact on statutory, legal and risk implications been cleared by LGSS Law?	Yes or No (awaiting a response) Name of Legal Officer: Lynne Owen
Have the equality and diversity implications been cleared by your Service Contact?	Yes Name of Officer: Keith Grimwade
Have any engagement and communication implications been cleared by Communications?	Yes or No (awaiting a response) Name of Officer: Matthew Hall
Have any localism and Local Member involvement issues been cleared by your Service Contact?	Yes Name of Officer: Keith Grimwade
Have any Public Health implications been cleared by Public Health	Not Applicable Name of Officer:

Source Documents	Location
Academy conversion costs incurred to date. List of academies and maintained schools.	Octagon second floor Shire Hall Cambridge