

CABINET

9 March 2016

Title: School Alliances	
Report of the Cabinet Member for Education and Schools	
Open Report	For Decision
Wards Affected: Becontree, Heath, Gascoigne, Parsloes and Valence	Key Decision: Yes
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Accountable Director: Helen Jenner, Corporate Director Children's Services	
Summary <p>This report seeks Cabinet approval for an alliance of eight primary schools known as the Primary Alliance for Collaborative Engagement (PACE) Network to formalise their partnership by setting up a school company.</p> <p>The Schools are responding to the government agenda to promote school to school support and enter into formal partnerships. They approached the Council to request support for identifying a model which would give the partnership legal status. The school company will not affect each school's individual status and they will continue to remain local authority community schools. However, it will give them some of the benefits of a larger organisation such as economies of scale and improved purchasing power to procure goods and services alongside the ability to appoint staff to the Company.</p> <p>The Council will be a member of the company and is requested to give its consent for the setting up of the Company.</p>	
Recommendation(s) <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none">(i) Approve and provide consent to the formal establishment of a school company as set out in this report including the appointment of two Council members of the company, subject to the relevant statutory requirements;(ii) Agree that the Council's two Member representatives on the School Company shall be one councillor and one senior officer, to be nominated by the Cabinet Member for Education and Schools and the Corporate Director of Children's Services respectively.	

- (iii) Delegate authority to the Corporate Director of Children’s Services, in consultation with the Cabinet Member for Education and Schools, the Director of Law and Governance and the Strategic Director of Finance and Investment, to negotiate and approve on behalf of the Council the constitution of the proposed school company in order to discharge its responsibility as the supervising authority under the regulations; and
- (iv) Delegate authority to the Corporate Director of Children’s Services, in consultation with the Director of Law and Governance and the Strategic Director of Finance and Investment, to enter into any contracts, agreements and documents necessary to implement the above recommendations.

Reason(s)

The proposal strengthens the collective capacity of the eight schools to support each other’s improvement and development. Also, involvement of the local authority in the development of the school company may have wider benefits as the model is likely to be of interest to other groups of schools.

1. Introduction and Background

- 1.1 this proposal sets out an innovative response by a group of local schools to two themes in national policy for education:
- a) Schools should support each other and schools themselves should lead and drive school improvement – as set out in the White Paper “The Importance of Teaching” November 2010;
 - b) Schools should organise themselves in formal partnerships. The new government has stated categorically that any school which gets into difficulty must become a sponsored academy as part of a Multi-Academy Trust.
- 1.2 In Barking and Dagenham schools have been encouraged to form local networks and the alliance is an established group of eight primary schools:
- Becontree Primary School
 - Five Elms Primary School
 - Gascoigne Primary School
 - Grafton Primary School
 - Henry Green Primary School
 - Southwood Primary School
 - Valence Primary School
 - William Bellamy Primary School
- 1.3 The schools approached the local authority in summer 2015 for support in identifying the best way to give their partnership a formal legal status without changing the status for the individual community schools. All are strong and active members of the local authority family of schools and wish to remain community schools so long as that is permissible.

1.4 They do, however, wish to benefit from some of the opportunities which a formal partnership can bring. LBBB Legal Services and senior Education officers are working with the alliance to develop a model which meets their needs.

2. Proposal and Issues

2.1 The proposal to form a school company as permitted by the Education Act 2002 allows the group to give their alliance legal standing. It fulfils two important objectives for the group:

- To retain their status as local authority community schools and the strong partnerships that exist;
- To move forward as eight equal partners, (no chief executive but a Chair of the Board which could be rotated around the schools).

2.2 The timeline for setting up the school company is set out in Table 1 below.

Development – Timeline and Key Actions	
Action	Timeline
Governing bodies set out and agree the basis for the partnership and the framework for the alliance. This provides the basis for future developments including setting up a school company.	
Each GB to agree Memorandum of Understanding	End Dec 2015
The alliance agrees a constitution for the partnership to allow it to set up a school company.	
Each GB agrees to enter into a school company based on the constitution set out in the articles of association	Mid Feb 2016
Council to approve through Cabinet	March 2016
The company goes live	1 April 2016

2.3 The timetable is on course to meet the 1 April 2016 implementation date.

2.4 The Education Act 2002 gives school companies the power to undertake the following activities:

- To provide services or facilities for any schools;
- To exercise relevant local education authority functions or
- To make or facilitate the making of arrangements under which facilities or services are produced for any school by other persons.

2.5 However, a school company cannot be set up without the consent of the Local Authority. The local authority can refuse consent only in circumstances as outlined in Part 3 of the School Companies Regulation 2002. These are set out in the legal implications section.

- 2.6 When a school sets up a School company the Local Authority is designated as the “Supervising Authority” the purpose of which again is outlined in the legal implications.
- 2.7 The eight schools have been clear from the start – that they wish to work with the local authority and have the Council as part of the Company. The local authority should support the alliance as this represents a sensible opportunity for schools and the local authority to work together.

3. Options Appraisal

- 3.1 Four options were considered by the schools as set out below.

Option	Benefits	Risks
1. No change	<ul style="list-style-type: none"> • Maintains status quo. Schools can wait for possible government direction about the type of partnership required. 	<ul style="list-style-type: none"> • Possible loss of control over the schools’ destiny • Loss of opportunities to make savings/efficiencies through increased purchasing power of company. • Loss of the opportunity to innovate and share resources. • Reduced opportunity to support each other in a tough context for schools which get into difficulties.
2. Form a multi-academy trust (MAT)	<ul style="list-style-type: none"> • Brings the benefits of increased purchasing power and economies of scale. • Can provide strong and effective direction for a weak school. 	<ul style="list-style-type: none"> • Does not meet the objectives of the partnership as follows: • Individual governing bodies lack autonomy. • No longer eight equal partners as Chief Executive model is the norm. • Schools lose status as LA community schools.
3. Form a Trust with Cooperative Society	<ul style="list-style-type: none"> • Brings strength from a formal partnership with recognised values. • Schools remain local authority Trust Schools. 	<ul style="list-style-type: none"> • Loss of autonomy to umbrella organisation. • Land is held by the Trust rather than the local authority.
4. Schools form their own School Company	<ul style="list-style-type: none"> • No change to the status of each individual school • The legal framework of the company sets out what the company will achieve – to include economies of scale, shared resources and shared approaches to 	<ul style="list-style-type: none"> • Model of equal partners may not be robust enough where there are weak schools. However, 7 of the 8 are already good and the 8th the LA judges good pending inspection. • There is already evidence of schools improving through the

Option	Benefits	Risks
	school improvement.	partnership – hence the proposed model is not seen as a risk.

4. Consultation

- 4.1 The individual schools have consulted with their respective governing bodies and gained approval to the principles of setting up a school company.

5. Financial Implications

Implications completed by: Richard Tyler, Interim Group Finance Manager

- 5.1 This report requests approval for the formation of a school company and delegate authority to the Director of Children’s Services, in consultation with the Cabinet Member for Education and Schools, the Director of Law and Governance and the Strategic Director of Finance and Investment, to:

- negotiate and approve on behalf of the Council the constitution of the proposed company; and
- enter into contracts and agreements to form the company.

- 5.2 The eight schools who wish to be part of the partnership will continue to be a local authority maintained school and will be funded as part of the schools formula funding. Each of the schools will make a contribution from their delegated budgets to fund the company and the Local Authority will continue to undertake regular financial monitoring of the schools’ delegated budgets and highlight any risks. Seven out of the eight schools have managed within their delegated budgets without additional financial support from the local authority. One school received Schools Facing Financial Difficulties funding in 2012/13 (£60,000) and 2013/14 (£80,000).

- 5.3 A detailed business case will need to be produced and approved by the local authority to ensure that it is financially viable.

- 5.4 The Local Authority will be a Supervising Authority and also have participation in the company as two members of the company. This will provide oversight on the management of the company.

6. Legal Implications

Implications completed by: Assaf Chaudry, Major Projects Solicitor

- 6.1 This report seeks Cabinet approval for the Council to participate in an outside external organisation namely the Primary Alliance for Collaborative Engagement (PACE) a network of eight primary schools who have decided to formalise its partnership by setting up a school company in the form of a company limited by guarantee. The Council is participating in this school company by appointing two members.

- 6.2 Any local authority Maintained Schools can set up a school company by exercising their statutory powers under section 11-13 of the Education Act 2002, School Companies Regulation 2002 and the School Companies (Amended) Regulation 2014. However the schools can only set up such a company with the consent of the local educational authority. The local authority can only refuse to provide consent to a school(s) becoming a member as outlined in Part 3 of the School Companies Regulation 2002, which in summary are as follows:
- a) the school is subject to special measures;
 - b) the school has serious weaknesses;
 - c) the LEA considers that the school is likely to become subject to special measures or be assessed as having serious weaknesses within the next year;
 - d) the school has a deficit budget;
 - e) the Governing Body of the school has within the last 3 years been a member of a school company which became insolvent at a time when the Governing Body was a member or
 - f) the Governing Body of the school has been a member of a company which failed to act in accordance with these regulations within the last 3 years.
- 6.3 Under the School Companies Regulation 2002 each school(s) company must have a local education authority designated as its Supervising Authority. This role means that the supervising authority has a duty to monitor the management and finance of the school company and ensure that the company is not poorly managed or there is a risk of the company becoming insolvent.
- 6.4 The participation of the Council to the external organisation means that it is able to appoint two members. Although the Council does not own the entire company it would be considered as an 'influenced company' under Part V of the Local Government and Housing Act 1989 because the Council will have two members(which gives the Council 20% ownership) in which case it will be subject to financial and propriety controls of the Council . The relevant extracts from Part V of the Local Government and Housing Act 1989 state that:

"A company is subject to the influence of a local authority if **all** of the following conditions are met:

- It is not a controlled company.
- There is a business relationship between the company and the authority.
- There is a "personnel association" between the company and the authority. A personnel association exists when:
 - at least 20% of the total voting rights at a general meeting are held by persons associated with the authority; or
 - at least 20% of the directors are persons associated with the authority; or
 - at least 20% of the total voting rights at a directors' meeting are held by persons so associated.
 - A person is at any time "**associated**" with an authority if they are at that time a member or officer of the authority, or both an employee and a director, manager, secretary or similar officer of the company under the authority's control, or if they have been a member of the authority within the preceding four years....."

6.5 The Council does have the power to appoint to an outside body members or officers under section 111 of the Local Government Act 1972 and under section 1 of the Localism Act.

7. Other Implications

7.1 **Risk Management** - This proposal represents a sensible and measured response by the schools to a challenging financial context and to a national policy context of reducing local authority resources to support education. In order to maximise the benefit for all schools and minimise any risks the report proposes that the Council takes an active interest and role in the development of the Company through taking membership and a seat on the Board in order to ensure that it is fulfilling its obligations as a “Supervising Authority”

7.2 **Contractual Issues** - There are no direct contractual issues arising from the recommendations.

7.3 **Staffing Issues** - The status of staff employed by the individual schools will not be affected. However, the School Company will have the power without approval of the Council to appoint staff directly to the School Company and to set its own terms and conditions of employment. All the schools intend to employ any staff appointed in line with nationally and locally agreed terms and conditions.

7.4 **Corporate Policy and Customer Impact** - This proposal supports the Council’s vision of “One Borough; One Community; London’s Growth Opportunity” by showing a group of schools actively taking charge of their own future and responsibility for their own improvement, whilst working with and remaining part of the local authority community of schools.

The proposal supports the Education Strategy’s two overarching objectives. The framework of shared objectives for the alliance and the increased powers should support their collective drive to become outstanding schools, providing an excellent rounded education for their children.

7.5 **Safeguarding Children** - The proposal has no particular implications for safeguarding children. It does, however, allow the eight schools to improve their support for children’s well being for example through joint funding of additional posts, clubs and activities.

7.6 **Health Issues** - The proposal has no particular implications for children’s health. However, it does allow for the schools to improve their health offer through joint funding of posts, clubs and activities should they choose to do so.

7.7 **Property / Asset Issues** - Matters of land and property for the individual schools will remain unchanged. The Company will have the power to bid for resources to develop land and property – for example if they decided to apply to set up a free school.

Public Background Papers Used in the Preparation of the Report: None

List of appendices: None