



WARDS AFFECTED
All wards

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
CYPS Scrutiny
Cabinet

24th September 2009
5th October 2009

STRUCTURAL SOLUTIONS FOR NATIONAL CHALLENGE SCHOOLS

Report of the Strategic Director, Children

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to update Members on the outcome of the exploration of an Academy option for the following three schools; Babington Community Technology College, Fullhurst Community College and Riverside Business & Enterprise College in response to the Members directive of 08.12.08. These are three of the five in the National Challenge initiative. The other two are New College and Hamilton Community College.

2. SUMMARY

- 2.1 This report outlines the exploration exercise and its outcomes.
- 2.2 The report concludes with the summary outcomes and recommendations for possible future developments.

3. RECOMMENDATIONS

- 3.1 CYP Scrutiny is recommended to consider the report and advise Cabinet of its views on the proposed recommendations.
- 3.2 Cabinet is recommended to:
- (i) Note the current position with regard to the five identified National Challenge schools;
 - (ii) Accept the recommendation that an Academy solution for the three colleges has been fully explored and found to be inappropriate at this time; further that there is currently consultation on a closure option for Riverside Business and Enterprise College.
 - (iii) Authorise officers to work with Headteachers and Chairs of Governors/IEB to implement the necessary actions to work towards a National Challenge Hard Federation Trust between Rushey Mead and Fullhurst and for a National Challenge Trust/co-operative National Challenge Trust for Babington, and New

College. If the consultation on closure for Riverside results in the outcome that it remains open, it will also be considered for National Challenge Trust status.

4. REPORT

4.1 Background

4.1.1 The background to the report is rooted in the national priority of improving all secondary schools. This is underpinned by:

- (i) The 2006 Education and Inspections Act and particularly the duty on Local Authorities to promote choice, access and diversity; and
- (ii) The National Challenge programme, which is designed to ensure that all secondary schools reach a national minimum floor target of 30% of students achieving five A*-C including English and Mathematics.

4.1.2 The low performance of many of Leicester's schools, the partnership with DCSF and the Transforming Leicester's Learning initiative are also of significance.

4.1.3 The DCSF are now encouraging National Challenge Hard Federations involving a National Challenge school joining with a High Performing school under a single Governing Body and usually led by an Executive Headteacher.

4.1.4 National Challenge Trusts are being recommended as specific hard edged solutions for schools that are struggling to raise their results but where an Academy might not be the right solution.

4.1.5 Although New College needs to consolidate its improvements, it was considered appropriate not to include it in the Academy exploration as more time is needed to make a judgement. However, the LA works closely with the school and a radical option such as a National Challenge Trust continues to be a strong possibility.

4.1.6 Hamilton Community College is on a secure trajectory of improvement and it is judged that any change of status would impede rather than enhance improvements

4.2 Outcomes of exploration

4.2.1 In exploring the Academy option, Members gave a clear steer that any change to the status of the schools must enhance the outcomes for children and young people. This, together with the Guiding Principles for Partnership agreed by the Labour administration in 2003 and reconfirmed by the Administration in 2008 set the Cabinet agenda for seeking Sponsors to work with the LA as a Co-Sponsor in Academy options. They were clear that the Lead Sponsor must be education or charity based and private companies could not be considered. This directive considerably reduced the number of Sponsors available.

4.2.2 The University of Leicester, De Montfort University and Leicester FE College all expressed a commitment to supporting a strategy for transforming education in the

West of the City but felt unable to be Sponsors. They prefer a particular partnership model which gives them access to all schools.

- 4.2.3 Unions and Professional Organisations have made it very clear since the start of the process of exploring radical options that they would not support an Academy proposal. They have the full backing of their National Executives for disruption across all schools in the City. They are also opposed to Trust Schools but see this as a preferred option to Academies. However, despite their opposition, a rigorous assessment of an Academy option has been considered alongside others.
- 4.2.4 Extensive exploration of the Academy option was carried out through detailed discussions with possible Sponsors and interested parties. An update of the business cases for the three schools provided the necessary evidence to inform decisions about the best way forward. The fact that, at this stage, there is only one possible Lead Sponsor who fulfilled the necessary conditions made serious considerations of other options imperative.
- 4.2.5 The following three areas of focus underpinned decisions about possible radical solutions for all National Challenge schools:
- (i) Raising standards
 - (ii) Sustainability of improvement
 - (iii) Potential disruption to the trajectory of improvement
- 4.2.6 Early Academies gained from considerable additional funding. This is no longer the case and the Schools Secretary, Ed Ball, recently announced moves to open up the Academies programme to new Sponsors by scrapping the £2m sponsorship fee. The same conditions will apply to all Sponsors that currently apply to universities, schools and colleges who are exempt from providing financial support.

5. OPTIONS

5.1 Closure Option

- 5.1.1 The viability of Riverside Business & Enterprise College has been of concern for some time. The low number of first preferences for this year (29) and a significant budget deficit informed Cabinet's decision to consult on a proposal to close this school.
- 5.1.2 The first stage of the consultation process is complete and Cabinet will be asked to make a decision in October. It is anticipated that the matter will be discussed prior to this by Scrutiny. Whatever the decision, appropriate detailed plans will need to be drawn up to support students and staff.

5.2 Academy Option

- 5.2.1 Through the comprehensive process of considering an Academy option for both Fullhurst Community College and Babington Community Technology College, many advantages have been acknowledged. However, the number of disadvantages identified are significant. Of central concern is the impact this option could have on the good work of the community of schools by ignoring a local solution and imposing a

nationally recommended model, with a Lead Sponsor with little knowledge and understanding of the Leicester community.

5.2.2 Advantages

- (i) Increased capacity for school improvement
- (ii) External challenge and support
- (iv) Increased capacity at governing body level.
- (v) Support for leadership is enhanced (networking).
- (vi) Ability to recruit and retain more effectively (incentives).
- (vii) Attracts high quality staff.
- (viii) Attracts additional government and private sector funding.
- (ix) Transitional funding is more generous.
- (x) Increased flexibility on curriculum, school organisation and pay and conditions.
- (xi) Extended curriculum opportunities.
- (xii) Fresh start' element

5.2.3 Disadvantages

- (i) Variability of sponsor quality with the added disadvantage of a limited choice for LCC.
- (ii) More centralised rather than local control.
- (iv) Trade Union opposition bringing local disruption.
- (v) Reduced accountability to local community.
- (vi) Impact on other local schools e.g. admission of pupils.
- (vii) Changed relationship with LA and family of schools.
- (viii) Sixth forms expected – negative impact on tertiary partnership.

5.3 Hard Federation Option

5.3.1 As part of the Government's policy to raise standards in schools, it is encouraging institutions to work together rather than compete or operate in isolation. This national drive for schools to collaborate is an essential part of education provision and is reflected in the Government's Five year Strategy, 14-19 proposals and the focus in the recently published White Paper, "Your Child, your schools, our Future: building a 21st century schools system".

5.3.2 There is considerable evidence of the success of a collaborative approach in the City through the delivery of the "Transforming Leicester's Learning" Strategy. This has been underpinned by the successful partnership between the Local Authority, the Education Improvement Partnership (EIP) and Unions/Associations. Over the last 18 months, there has been a considerable increase in the formal and informal arrangements to share resources and expertise between and across a number of schools. Headteachers are starting to take responsibility for children beyond their own schools.

5.3.3 An excellent example of a formal partnership between an outstanding school and a less effective school is that between Rushey Mead School and Fullhurst Community College. The Headteacher of Rushey Mead School is working two days per week supporting leadership and management in Fullhurst Community College. Several

members of Rushey Mead staff are supporting subject specialisms and the desire to raise the quality of teaching and learning. This arrangement is having a very positive impact on the improvements taking place in Fullhurst Community College. Rushey Mead School has the capacity and desire to extend the partnership to a formal Hard Federation. The time needed to explore the appropriateness of an Academy option for Fullhurst has had a detrimental impact on the school. Unfortunately, a permanent principal could not be appointed until the status of the school was confirmed. It is imperative that a decision is made urgently to ensure that the leadership can be stabilized and much needed improvements accelerated.

5.3.4 The advantages of this would be:

- (i) Local Solution.
- (ii) Reduced tolerance for poor teaching and learning performance. Improved quality of performance management.
- (iii) Strengthening partnership between low and high performing schools.
- (iv) Increasing evidence of positive impact of school to school support.
- (v) Potential to improve community cohesion.
- (vi) Building capacity and coherence across LA and Federation.
- (vii) Increased capacity at gifted and talented and SEN levels.
- (viii) Capacity of leadership, teaching and learning and governance increased in lower achieving school.
- (ix) Help to attract high quality staff.
- (x) Positive local role models for staff and students.
- (xi) Cost effective and coherent curriculum increasing opportunity to fulfill individual student need and extending curriculum entitlement.
- (xii) Increased opportunities for pupils to access extra curricular activities.
- (xiii) Increased exposure to specialist teachers and specialisms.
- (xiv) Improved succession planning.
- (xv) Both schools would benefit from the arrangement.

5.3.5 Although there are many advantages of this model, it would need financial support from the LA and rely on:

- (i) Creative, visionary, leadership in both schools.
- (ii) Strong partnership working.
- (iii) Parental support
- (iv) Clear benefits for both schools.
- (v) Governor good-will in both schools.
- (vi) Strong management in both schools.

5.3.6 The decision to start the process to create a Hard Federation is taken by the Governing Bodies/IEB of the schools involved and both have expressed an interest in taking this model further.

5.4 National Challenge Trust Option

- 5.4.1 An alternative to the Academy option proposed by the DCSF is the National Challenge Trust. This involves a radical transformation of the existing school linked to a strong local education or business partnership which helps build capacity based on leadership and governance changes.
- 5.4.2 The purpose of establishing a National Challenge Trust/ Federation is to deliver a rapid improvement in standards in the short term, and to enable transformational change that will be long term and sustainable, resulting in permanently improved outcomes for children.

6. ESTABLISHING A NATIONAL CHALLENGE TRUST/FEDERATION

- 6.1 National Challenge Trusts or Federations must involve a high performing educational establishment as the lead partner. Where the lead education partner is a school it will play a key role in the Trust but is not required to become a Trust school. The Local Authority can be a partner on the Trust but may not have more than 20% of the Trust members or trustees, and may not have more than 20% of the voting rights of trustees. There are benefits to the LA being part of the Trust in terms of what it can add to the governance of the school. Equally there are advantages to the LA remaining outside the Trust in that it can act as a commissioner of the Trust and hold it to account. In either case National Challenge Trust schools are still maintained by the Local Authority which retains all the same powers as for other maintained schools, and is statutorily accountable for standards and monitoring progress against agreed improvement plans.
- 6.2 The decision to start the process to create a National Challenge Trust is taken by the Local Authority and Ministers. The National Challenge team and the Office of Schools Commissioners (OSC) work with the local authority to broker the detail of each Trust and the OSC seeks Ministerial sign-off.
- 6.3 There are four different routes to establishing a National Challenge Trust, each of which involves a different statutory process. The appropriate model depends on the current circumstances and governance arrangements of the school. Officers have explored the options available for the schools where National Challenge Trusts are proposed and are evaluating the suitability of each model with the Headteachers and Governing Bodies/IEB for the individual schools.
- 6.4 There are many advantages of National Challenge Trust status which include:
- (i) A radical opportunity to focus on school improvement with a strong education partner.
 - (ii) Strengthening collaboration to enhance leadership and management substantially.
 - (iii) Enhanced Governance with experienced external partners e.g. high performing school, University/FE College or successful local business.
 - (iv) The make-up of the Governing Body which can be more flexible and allow for relevant expertise.
 - (v) Project management support.
 - (vi) The Trust has responsibility for all staff appointments (as in a foundation school).
 - (vii) More efficient use of resources and funding.

- (viii) Additional funding over a 2 year period from DCSF.
- (ix) Potentially less challenging to Professional Associations and Unions who will consider this to be a local solution rather than a centrally imposed one.
- (x) The LA retains all its duties of support and challenge and all the plus points for Hard Federation apply

6.5 Although National Challenge Trust Schools remain within the LA family of schools, there are some significant issues which include:

- (i) Governors become employers as Trust Schools become Foundation Schools
- (ii) When a community school acquires a Trust, the schools assets and land transfer to that Trust on trust for the duration of its relationship with the school. The governing body of the school has day-to-day control over the school premises as is the case with other Leicester foundation schools
- (iii) Possible objections from Professional Associations and Unions about a change.
- (iv) The Trust becomes responsible for its own admission policy but must adhere to the local admissions arrangements and the admissions code, (eg selection by ability was abolished after 1997 (ie no MORE schools could do this) and selection by aptitude is now restricted to those schools who are designated as having a specialism. Even then, it applies to a maximum of 10% of the cohort (regardless of how many specialisms are designated,) and does not of course apply if the school is undersubscribed, and only now applies to aptitude in PE, performing arts, visual arts and modern foreign languages.

7. CONCLUSION

7.1 The DCSF have made it quite clear that they consider the Academy option as the preferred solution for Fullhurst Community College and Babington Community Technology College. They also want a National Challenge Trust option to be examined for New College if its upward trajectory of improvement does not continue. However, Schools Minister, Vernon Coaker said “We do not force academies on anyone. All academies proceed after consultation with parents and with the agreement of the local authority and DCSF. We do expect local authorities to provide robust solutions for the most vulnerable schools, and expect them to consider a range of solutions that will secure long lasting improvements, including Academies, National Challenge Trusts and Federations to ensure better outcomes for more young people”.

7.1.1 Key senior officers from the DCSF have been made aware of the significant improvements demonstrated by schools and the Local Authority over the last 18 months. Whilst recognizing some improvements, they are still concerned about three of the National Challenge schools, particularly Fullhurst.

7.2 Since the initial Business Cases were written for the five National Challenge schools, there have been significant improvements within the Local Authority. As permanent appointments have been made within Children’s Services and the relationships between Headteachers and the Department has improved, there is a consensus that the Local Authority is in a much better position to provide the capacity and expertise needed to challenge and support schools. The improvement trajectory across primary schools demonstrates this. Not only have end of Key Stage results improved over the last two

years, but the number of schools removed from an Ofsted category has reduced significantly. Those judged to be good or outstanding have also significantly improved. This, together with secure systems for categorisation of schools and an effective early warning system for those in difficulties, has engendered a confidence in the capacity of Learning Services to sustain improvement.

- 7.3 The Raising Achievement Board which has the remit to challenge the Local Authority and monitor progress in relation to standards, quality of teaching and learning and leadership and management, has played a key role in supporting the Local Authority in its improvement agenda. They will continue to do this over the next two years to ensure that when the Improvement Notice is removed, Leicester City continues to provide an education which supports all young people in achieving their full potential. They will be instrumental in continuing to challenge and support the LA to ensure that any structural solutions result in positive outcomes for young people in the community.

8. FINANCIAL & LEGAL IMPLICATIONS

8.1 Financial Implications

- 8.1.1 The process to achieve changes in the status or structure of schools places significant demands on Children's Services staff and the Council's wider staffing and financial resources.
- 8.1.2 This section of the report goes on to examine the particular financial implications of the various options, ending with reference to a potential clawback of DCSF funding aimed at accelerating and improving outcomes in primary schools.
- 8.1.3 The particular financial implications associated with **Riverside Community College** were set out in the report to Cabinet on 11th May 2009.
- 8.1.4 The particular financial implications of an existing community school becoming an **Academy** have been set out in some detail in previous reports, notably the report to Cabinet on 8th December 2008. The salient points for the Council and the school are summarised below:
- a) Essentially, the implications upon the City Council would be that the Dedicated Schools Grant (DSG) received from the Government would be reduced by the budget that the school would have received had it continued to be maintained by the Council. DSG funding would also be reduced for some of the Council's central services. The Council would cease to be responsible for the school and would therefore not incur the General Fund costs associated with monitoring, challenging and supporting school improvement; nor the costs to DSG of providing direct financial support to enable the school to achieve the required improvements without entering into a deficit budget. There could be implications for the "pooled" approach taken by the City's schools to funding the on-going revenue costs of Building Schools for the Future (BSF)
 - b) The Academy would be eligible for set-up / transitional funding from the Government and for on-going / annual funding. The actual amounts would be negotiated between the Academy and the Government, and would not necessarily replicate the funding

available to other models of school, nor match the reduction in DSG; however the DCSF has said that academies are funded at a comparable level to local schools. An Academy might also expect to receive funding or services / support in kind from sponsors (which could include the local authority).

8.1.5 The particular financial implications of a **National Challenge Hard Federation** between an outstanding school and a less effective school are that:

- a) For the Council, a high level of support for the less effective school is likely to continue for some time, at a cost to the General Fund (for the Council's school improvement responsibilities) and to DSG (for additional staffing or other costs in the school, including the potential additional costs in at least the short term for an Executive Head, additional senior leaders, etc). The Council and both schools would incur costs and time in putting the Hard Federation model into practice.
- b) For the schools, the school in National Challenge would be eligible for up to £750,000 of additional funding from the Government over three years, adjusted for any funding already received under National Challenge. The actual amount would be negotiated with the Government. Additional costs in the short to medium term are anticipated as the schools work to improve standards; however efficiency savings could be achieved in the longer term, for example by bringing together aspects of administrative support, staff training and curriculum delivery across the two schools. Both schools would continue to receive a separate budget allocation driven by the City Council's school funding formula; however over time, the management focus should move to the combined budget and to achieving best value and outcomes across the federated schools.

8.1.6 The particular financial implications of a **National Challenge Trust** are similar to some of those of a National Challenge Hard Federation:

- a) For the Council, a high level of support is likely to continue to be required for some time, at a cost to both the General Fund and DSG. As the Trust would own the school premises, the "pooled" approach taken by the City's schools to funding BSF could be affected and there would be a saving on NNDR ("business rates"), as the Trust would be a charitable body.
- b) The school would be eligible for up to £750,000 of additional funding as described above. The potential efficiencies of a federative model would not be achieved; however the short-term additional costs of bringing together the federation would not be incurred. The Trust would become the owner of the school premises and the employer of the staff, similar to Foundation and Voluntary Aided schools currently.

8.1.7 **DCSF additional funding** – Over the last three years, the DCSF has allocated additional funding to support improving the outcomes in Leicester's schools. This support has included allocations of Targeted Improvement Grant of £0.8m in 2007/08 and £2.820m across 2008/09 and 2009/10 (allocated as £1.692m in 2008/09 and £1.128m in 2009/10). The Council's bid that resulted in the £2.820m allocation essentially fell into two main parts:

- a) Supporting additional capacity across four generic areas of school improvement, with an emphasis on capacity for primary school improvement. These general areas amounted to £1.070 m or 38% of the bid. Areas to be funded included support for Leadership and Management in primary schools; improving quality of teaching in primary schools; and increasing the number of good and outstanding primary schools. The fourth generic area was project management to support the development of new forms of governance, such as federations and academies, at a cost of £200,000 over two years.
- b) Initiatives to accelerate improvements in 20 named primary schools causing concern. These amounted to £1.750m, or 62% of the bid.

8.1.8 In allocating the £2.820m, the DCSF confirmed Ministerial agreement to the funding proposals aimed at providing additional capacity to accelerate and improve outcomes in 20 primary schools. However, the letter went on to say that *“the release of the 2009/10 funding allocation has been made conditional upon the Authority making continued progress towards establishing the proposed new Academies in the city; by the end of this academic year (2008-09) we would expect these to have progressed at least as far as the issuing of Statements of Intent for all of the proposed Academies”*.

8.1.9 If academies are not progressed in Leicester, then this £1.128m of funding in the current year is at risk of clawback; the Council is already incurring costs against the funding and therefore its loss would have to be funded from elsewhere. As noted above, the figure in the bid for developing new forms of governance was £200,000, of which the proposals for an interim senior project officer to support academies and co-ordination of an academies programme with BSF were in turn only a part. Any clawback could therefore substantially exceed the DCSF funding for developing academies in Leicester.

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8.2 Legal Implications

8.2.1 The proposals for the creation of National Challenge Federations and National Challenge Trusts are subject to:

- Law (Part 4 Education Inspections Act 2006 and Education Act 2002)
- Regulations (School Governance (Federations)(England) Regs 2007, School Organisation (Prescribed Alternations to Maintained Schools)(England) Regs 2007)
- a host of statutory and non-statutory Guidance (on Schools causing Concern; on National Challenge Trusts and Federation structural proposals; on processes for Closing Schools; on processes for creating IEBs; and on the detailed separate processes for creating Federations and Trusts)

8.2.2 There are different structural models for Federations and Trusts which are either more or less complicated in form. All processes require the publishing of proposals and consultation, with time allowed for representations and objections. These will be fully adhered to in any proposed solution. Because these are National Challenge schools, additional considerations apply with regard to Ministerial sign-off etc. The Guidance

suggests that the minimum time frame within which a Federation can be implemented is 6 months, and for a Trust 7-9 months.

- 8.2.3 Depending on the model chosen for the creation of either the Trusts or the Federation (Closure and re-opening, replacement of Governing body in weaker school with an IEB, or the 'Modified IEB' route) different legal considerations apply. The more coercive powers afforded to the Secretary of State or the Local Authority under Part 4 EIA 2006 depend upon a school being in an OFSTED category. However, it must also be remembered that the Local Authority is itself under an Improvement Notice issued in June 2008 and the Secretary of State has extremely wide powers to impose an almost unlimited range of solutions under the provisions of s.497 Education Act 1996 which could take decision-making out of local hands altogether.
- 8.2.4 Under the Trusts model there are key legal implications in relation to Property (the Trust owns the land and buildings), Employment (the Governing Body become the employers) and Admissions (The Governing Body become the Admissions Authority) issues. These will require detailed legal advice in the near future.
- 8.2.5 Schools within a Federation model retain their maintained status and their identity as separate schools in respect of admissions and performance issues.

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Key Decision	Yes
Reason	Is significant in terms of its effect on communities living or working in an area comprising more than one ward
Appeared in Forward Plan	Yes
Executive or Council Decision	Executive (Cabinet)

Appendix 1

Timeframe for Hard Governance Federation between Fullhurst Community College and Rushey Mead School.

Action	Timing
Schools agree informally to investigate the option of Federation	July 2009
Governing Body of Rushey Mead and Interim Executive Board (IEB) of Fullhurst Community College meet separately to discuss a Federation	Mid September 2009
Formal proposal prepared to be used in consultation	End of September 2009
Formal proposal circulated to all relevant consultees including staff, parents, Local Authority and local schools	October/November 2009
Joint meeting of (IEB) and Governing Body to consider responses	Early December 2009
Individual meetings by IEB and Governing Body to make final decision on whether they wish to proceed.	Early December 2009
Notification of Local Authority and appointment/election of new Governing Body of the Federation	January 2010
Appointment of Selection Committee to manage recruitment and appointment of new headteacher for Fullhurst Community College	January 2010
Agreement on appointment of Executive Headteacher over the Federated School	January 2010
Managed transitions to Hard Federation	January to July 2010

Timeframe to establish National Challenge Trust for Babbington Community College

Action	Timing
Schools agree informally to investigate the option of a National Challenge Trust	July 2009
Governing Body of Babbington meet to agree to seek approval from the OSC (Office of Schools Commission) and DCSF with plans for a National Challenge Trust for Babbington	Mid September 2009
Statement of Intent is prepared and submitted to the DCSF for approval. This will include identification of a lead education sponsor. The National Challenge Trust model to be adopted and the rationale for the project.	Early October 2009
Trust Partners commence draft School Improvement Plan	Late October 2009
Consultation by Governing Body to acquire a Trust School	November – early December 2009
Publication of Statutory Notice	Late December – end January 2010
Representation period	January – early February 2010
If no objections lodged during representation period, Governing Body will meet to consider responses and agree to become a National Challenge Trust.	Late February – early March 2010
Establishment of Trust	April –May 2010
Implementation Date	May- June 2010
Appointment of New Governing Body	May – June 2010
Admission arrangements established and published.	June 2010
Full implementation ready for September time.	