



Leicester
City Council

WARDS AFFECTED
Type in Ward

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

**Children & Young People Scrutiny Committee
Cabinet**

**13th April 2010
19th April 2010**

Update on 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 progress of the consultation on National Challenge Co-operative Trust status for the following three colleges:

- (i) Fullhurst Community College;
- (ii) Babington Community Technology College; and
- (iii) New College Leicester.

2. RECOMMENDATIONS

2.1 Children and Young People Scrutiny Committee is recommended to consider the report and advise Cabinet of its views on the consultation process and the proposed recommendations.

2.2 Cabinet is recommended to:

- (i) Note the current position with regard to the three National Challenge Schools seeking National Challenge Co-operative Trust status;
- (ii) Request a further report on the outcome of the Consultation process
- (iii) Request a further report on the process involved in Land Transfer, if any, or all of the Colleges gain National Challenge Co-operative Trust status.

3. SUMMARY

3.1 This report outlines the consultation process and possible outcomes.

- 3.2 The report concludes with the implications for the Local Authority and recommendations for the next steps.
- 3.3 In discussions with the DCSF, they have made it clear that they support the National Challenge Co-operative Trust solution for each of the three schools. They feel that pupils, parent/carers, staff and the wider community will gain from the additional capacity, skills, expertise and experience that partners will bring to support the positive trajectory the schools are currently on.

4. REPORT

- 4.1 The outcome of the Cabinet Report of 5th October 2009 'Structural Solutions for National Challenge Schools' was that Officers were authorised to do the following:
- (i) Work with Headteachers and Chairs of Governors/IEB to implement the necessary actions to form a National Challenge Hard Federation between Rushey Mead School and Fullhurst Community College.
 - (ii) Support the establishment of a National Challenge Trust for Babington Community Technology College and New College Leicester.
 - (iii) Consider National Challenge Trust status for Riverside Business & Enterprise College, if the outcome of consultation for closure resulted in it remaining open.
- 4.2 The outcome of the consultation on the proposed closure of Riverside Business & Enterprise College was that it should be closed. Preparations for its closure have been made and a plan implemented which means that a phased programme will be completed with full closure in July 2011.
- 4.3 Rushey Mead School and Fullhurst Community College have been in a 'Soft Federation' over the last year. This has involved the headteacher and a number of staff from Rushey Mead School working with the leadership team at Fullhurst Community College to add capacity. This is supporting the school as it works towards raising standards and exiting from its Osted category of 'Special Measures'. This arrangement has proved to be very effective with both schools benefitting.
- 4.4 In order to build on this good collaboration, a decision was taken by the Governing Body of Rushey Mead School, the IEB at Fullhurst Community College and Local Authority Officers, that the best way forward for both schools was a National Challenge Co-operative Trust without a Hard Federation. Rushey Mead School agreed to be the Lead Education Partner within the Trust and Carolyn Robson, its Principal, agreed to be the Executive Principal across both schools.
- 4.5 The three National Challenge Co-operative Trusts each have the LA, the Co-operative College and a member nominated from the Stakeholder Forum as trustees. New College has CFBT as the Lead Education Partner and Wyggeston & Queen Elizabeth I College as a supporting partner. In addition to Rushey Mead School as a Lead Education Partner, Fullhurst will also have The Becket School from Nottinghamshire as

a supporting partner. Babington Community Technology College will have Leicester College as their Lead Education Partner. Rushey Mead, the Becket School and Wyggeston & Queen Elizabeth I College have all been categorised as Outstanding by Ofsted.

- 4.6 The consultation process for Fullhurst Community College and Babington Community Technology College started at noon on 24th February 2010 and will run until noon on 24th March 2010. New College started a little later at noon on 1st March 2010 and will run until noon on 12th April 2010. This process has involved extensive opportunities for staff, unions/professional associations, students, parents and members of the public to express their views on the proposal. At the end of this initial period of consultation, a report will be submitted to each of the Governing Bodies/IEBs illustrating the feedback provided by all stakeholders. Meetings to receive the reports will be held on 13th and 14th April 2010. Governors will make a decision to either go ahead with the proposal or to call a halt to the process.
- 4.7 If the outcome of this phase of consultation indicates support for a National Challenge Co-operative Trust, then Formal Notices will be published and there will be a four week statutory representation period from noon on 19th April 2010 to noon on 17th May 2010. Governors will then meet during the week commencing 24th May 2010 to consider any representations and make a final decision on the proposal. If the IEB and Governors make a final decision to progress and the process runs smoothly, the Trust Implementation Day will be 1st June 2010. This will become fully operational at the beginning of the new school year in September.
- 4.8 National Challenge Co-operative Trust schools also become Foundation Schools. As part of the change of status the Governing Body will become the employer of all staff and land and assets will be transferred from the Local Authority to the trustees. This has to take place within six months of the implementation of the Trust. In order to do this, negotiations within a prescribed legal framework will need to take place.
- 4.9 When a school's proposal to change category has been approved, all land held and used by the transferor immediately before the implementation date for the purposes of the school will transfer to and vest in the transferee to be held for the purposes of the school. Normally this will include the school's buildings, hard and soft play areas, all weather sports areas, games courts, playing fields, habitat areas, roads, paths and car parks. Where a shared school community facility (eg, leisure centre or sports hall) is transferred to the school, it will have to honour any existing contracts or agreements. If they make any reference to maintenance or other requirements, then the school is bound to honour them.
- 4.10 There is presumption that all land held by the school immediately before it publishes proposals to change category will transfer. It is exceptions to this that will be agreed between transferor and transferee or, failing agreement, determined by the adjudicator. Once the procedure for changing category has been initiated, the transferor is prohibited from disposing or changing the use of any land held or used for the school without the prior consent of the transferee. Generally, the Governing Body will manage the facility in a way that produces income which would cover any maintenance or other costs. Further work will continue in relation to the New College Leicester site and details will be outlined in the future report on Land Transfer.

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

5.1 Financial Implications

- 5.1.1 The report to Cabinet on 5th October 2009 contained detailed financial implications for the various potential future arrangements for these schools. With regard to National Challenge Co-operative Trusts, the Council would continue to fund the schools as at present through the local school funding formula and would retain responsibility for intervention in the case of future difficulties or budget deficits. The report to the October Cabinet also noted that a high level of support is likely to continue to be required for some time, at a cost to both the General Fund and the Schools Budget, to continue to improve standards in the schools and to embed any new Trust arrangements.
- 5.1.2 As the Trusts would own the school premises, the “pooled” approach taken by the City’s schools to funding BSF could be affected, and this would be a key discussion point around the transfer of premises to the Trusts. A saving on the NNDR (“business rates”) funding made available to the schools through the local school funding formula was noted, as the Trusts would be charitable bodies and entitled to rate relief.
- 5.1.3 The schools would be eligible for up to £750,000 of additional funding from the DCSF, less National Challenge funding already received, to support improvement initiatives and the transition to Trust status.

Colin Sharpe, Head of Finance and Efficiency, CYPS, ext. 29 7750

5.2 Legal Implications

- 5.2.1 Under the Trusts model there are key legal implications in relation to Governance (decision-making and accountability as between the range of collaborative partners); Property (the Trust owns the land and buildings); Employment (the Governing Body become the employers) and Admissions (The Governing Body become the Admissions Authority).
- 5.2.2 The Trust will be a charitable, not for profit trust, meeting the legal and other requirements as set out by the DCSF.
- 5.2.3 In terms of Governance, there are a number of options available for determining how decision-making will occur as between the Governing Body and the Trust Partners, including how the Trust (and others) will appoint to the Governing Body.
- 5.2.4 Trust schools, like any other schools, have to comply with the Admissions Code. Selection by ability was abolished after 1997 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), 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.

5.2.5 Schools will continue to teach the National Curriculum and will be inspected by Ofsted at appropriate times.

5.2.6 To set up the Trust, the school is required to change its current category and become a Foundation School. In acquiring Foundation Category, the Governing Body and not the Trust, will assume new responsibilities, including responsibility for the employment of staff and the admission of students to the school. In addition, the Trust will hold the land and assets in trust for the school. The Governing Body will retain day to day responsibility for managing the assets.

5.2.7 The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 provide for all the rights, powers, duties and liabilities to transfer existing staff from the Local Authority to the Governing Body. Existing and new teaching staff will continue to work under the terms of the School Teachers Pay and Conditions Document (STPCD). The School's Governing Body will set out the terms and conditions for new support staff which will be no less favourable than those applying to existing staff. The Governing Body will set terms and conditions for its own support staff. However, terms and conditions will be safeguarded as per the prescribed regulations for existing staff and they will maintain the same employment rights as Local Authority employees.

5.2.8 After the consultation The Governing Body may decide to:

- (i) issue Statutory Notices about a change to Foundation Category and the adoption of a Trust;
- (ii) modify the proposal in the light of suggestions made during consultation and, if the changes are significant, re-consult on the changes; or
- (iii) decide to remain as a community school without any changes.

5.2.9 If the school Governing Body decides to proceed and issues Statutory Notices there will be another chance to comment on the formal proposals before a final decision is taken by the school Governing Body.

5.2.10 There are complex legal issues involved in drafting the appropriate governance frameworks for the Trust Schools, and specialist legal advice is being received in this regard.

Kamal Adatia, Barrister, ext 7044

6. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph Within Supporting information	References
Equal Opportunities			
Policy			
Sustainable and Environmental			
Crime and Disorder			

Human Rights Act		
Elderly/People on Low Income		

7. Background Papers – Local Government Act 1972

7.1 None

8. Consultations

8.1 As set out in the report

9. Report Author

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Key Decision	No
Reason	N/A
Appeared in Forward Plan	N/A
Executive or Council Decision	Executive (Cabinet)