

Cabinet Report

 Date: Cabinet 25th October 2011

Report on the implications of the conversion to Academy Status for Salendine Nook High School on or about 1st December 2011

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes
Is it in the Council's Forward Plan?	Yes
Is it eligible for call in by Scrutiny?	Yes
Date signed off by Director & name	Alison O'Sullivan 17 Oct 2011
Is it signed off by the Director of Resources?	David Smith 17 Oct 2011
Is it signed off by the Acting Assistant Director - Legal & Governance?	Vanessa Redfern 14 Oct 2011
Cabinet member portfolio	Cllr Cath Harris and Cllr Peter O'Neill – Children's Services

 Electoral [wards](#) affected and Ward councillors consulted: Lindley

Public or private: Public

1. Purpose of report

To outline the conversion to Academy status of Salendine Nook High School and to authorise Officers to take the necessary steps in order to fulfil the LA obligations as required by the Academies Act 2010.

To seek delegated authority to complete any requisite land transactions and enter into a transfer agreement and other associated agreements with Salendine Nook Academy Trust.

2. Key points
2.1. Background and rationale

The Academies Act came into force on 27 July 2010. Academies are publicly funded independent schools which have a number of freedoms and flexibilities including:

- The ability to set pay and conditions for all staff.
- The freedom from following the National Curriculum.
- The ability to change the lengths of terms and school days.
- Greater control over the school budget.
- Freedom to spend money the LA currently spends on behalf of schools.
- Responsibility for all capital assets and their management.

2.2. The Governing Body of Salendine Nook High School applied to the Secretary of State to convert from a Community School and has subsequently been granted an Academy order (see Appendix) to convert with a preferred date of 1st December 2011.

3. The role of the council

The role of the council when a school converts from a Community School to become an Academy is prescribed by statute. The Academies Act (and related guidance) requires the Local Authority, the transferring school and the new Academy Trust to enter a transfer agreement. The Department for Education (DfE) has provided a model document which covers issues such as transfer of non-land assets, contracts, staff and information as well as issues around warranties and indemnities expected in the transfer of a sizeable going concern. In essence the council has to “facilitate” and “enable” the implementation of the Academy Order. To that end the council must:

- enter into an agreement with Salendine Nook Academy Trust. to provide for the transfer of the school site to the Academy Trust; and
- carry out any consequential changes that may be needed including those required because of any third party involvement. (This latter point is particularly important in the case of Salendine Nook High School as the school is one of the schools that formed part of the Public Private Partnership Agreement with Jarvis in 2001 and is therefore subject to a long term PPP contract).

4. Implications for the Council

The conversion process itself and the changed status of the school have a wide range of potential implications for the LA and the future relationships between the Academy, the LA and the local family of schools. Specific implications are outlined below. Further consideration of the potential wider implications will be brought before members in due course.

4.1. Human Resources implications

When Salendine Nook High School becomes an Academy there will be staffing and pension implications.

The Council will cease to be the employer of staff at the school from the preferred implementation date of 1st December 2011. The staff would transfer to the Academy and be employed by the Academy Trust.

Teaching staff will continue to have access to the Teachers Pension Scheme as the Academy Trust is an “employer” for the purposes of the Teacher’s Pension Scheme Regulations 1997.

Support Staff will continue to have access to the Local Government Pension Scheme (LGPS) as a “scheduled body” under the Local Government Pension Scheme (LGPS) (Administration) Regulations 2008. The LGPS is a funded scheme which may, at any time, have a surplus or deficit. In the current climate, the potential impact of pension deficits has become a key issue for Councils and Academies. The DfE, in their model commercial transfer agreement require an Academy Trust to be responsible for any pension deficit relating to the transferring support staff membership of the LGPS for service up to and including the preferred transfer date of 1st December 2011.

Colleagues in HR will support the TUPE transfer of staff by fulfilling the necessary obligations as required.

4.2. Contractual and Financial Implications

Academies are funded directly from the Department for Education via the YPLA although their budget shares are calculated with reference to the *Scheme of Financing Schools* operated in their home Authority. The Authority's Dedicated Schools Grant is reduced accordingly for the number of pupils attending Academies.

On conversion to becoming an Academy, the converting school will receive their school budget, in accordance with the Kirklees Council's funding formula for Schools. In addition to this funding they will receive a Local Authority Central Spend Equivalent Grant (LACSEG). This is paid to academies in recognition of the fact that as independent schools they no longer receive a number of services from local authorities (LAs), and must make appropriate provision for themselves, which could include purchasing the services back from the Local Authority. The Local Authority's retained Dedicated Schools Grant is reduced in line with the LACSEG.

The Secretary of State has also made a deduction from the total formula grant for all local authorities for 2011/12 and 2012/13 to reflect the fact that some services provided by academies are not funded through the dedicated schools grant but from revenue support grant and council tax. Following a challenge from a group of 20 local authorities (not including Kirklees), he has consulted on revised proposals for this national top slice. The consultation has just closed. This is likely to lead to a reduction in the Kirklees revenue support grant for 2012/13 based on the number of pupils in converting academies in addition to the deduction from dedicated schools grant.

The Salendine Nook Academy Trust remains bound by all the contractual obligations contained in the Schools Agreement it has entered into with the Council relating to the PPP Project including the requirement to continue to make payments to the Council for the services the school receives as part of the PPP Project.

No premium will be payable to the Council for the transfers of the Council's proprietary interests in Salendine Nook High School.

4.3. Land Transfer

Legislation provides that Academies be granted a long leasehold interest in the premises that the school occupies.

The Department for Education have published a long term lease model which is to be used to grant schools an interest in the land and premises that they use and occupy immediately prior to the date of conversion.

On the date of conversion the Council will grant the new Academy a lease in the model form for a term of 125 years from the date of conversion.

4.4. Admissions

Salendine Nook High School will become its own Admissions Authority and will be able to set its own admissions arrangements. The Academy will continue to be bound by the Schools Admissions Code which means that Fair Access protocols must be followed and the school will not be able to introduce any selection by ability.

- The Academy sets its own admission arrangements. Like all other admission authorities, it must act in accordance with the School Admissions Code.
- All maintained schools will be entitled to be represented on local admission forums, which consider how to handle difficult issues and advise admission authorities on ways

to improve their arrangements. The school will have to have regard to any advice it receives from the local forum about its arrangements.

- As an Academy, Salendine Nook High School will have to comply with local arrangements and with the statutory timetable for admissions – this means that the school must have completed consultation on its proposed arrangements by 1 March if it wants them to come into force the following Autumn. The Academy cannot change its Admission arrangements for two years following conversion.
- Where a school changes category, and as a result changes admissions authority, the new admissions authority must honour any decisions taken by the original admissions authority for the existing admissions round (both in respect of policy and offers of places).

5. Consultees and their opinions

The Governing Body of Salendine Nook High School has been the subject of a broad statutory consultation undertaken by the governors in which the views of parents, staff, ward Councillors, students, the community, Trade Unions, the LA and other key stakeholders have been sought and taken into consideration.

6. Next steps

Officers would work with the school and the DfE to fulfil the Council's obligation to facilitate the conversion to Academy status as required by legislation.

7. Officer recommendations and reasons

The Commercial Transfer Agreement between the Council, the Governing Body of Salendine Nook High School and the Lease between the Council and the Academy Trust must be agreed, signed and completed by the parties before 1 December 2011, which is the preferred date of the conversion to and opening of the Academy.

Officers request that Members, in order to carry out the obligations of the council:

- authorise the Assistant Director of Physical Resources and Procurement in consultation with the Director for Children and Young People to negotiate and agree the terms of the transfer of the council's proprietary interests in land and buildings used by Salendine Nook High School to the Academy Trust.
- authorise the Acting Assistant Director – Legal & Governance in consultation with the Director for Children and Young People Service and the Assistant Director of Physical Resources as appropriate to complete all necessary documentation and obtain consents from any Government department ancillary to implementation of the above recommendations including, but not limited to signing documents and making any new instrument of government and any consequential changes to the PPP project agreement and Schools Agreement.

8. Cabinet portfolio holder recommendation

To approve the Officer recommendations

9. Contact officer and relevant papers

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9. Assistant directors responsible

John Edwards, Assistant Director for Learning
Directorate for Children and Young People

Joanne Bartholomew, Assistant Director – Physical Resources and Procurement
Directorate for Resources

Vanessa Redfern, Acting Assistant Director – Legal & Governance
Directorate for Resources



Rt Hon Michael Gove MP
Secretary of State

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Ms Alison O'Sullivan
Director for Children & Young People
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10th August 2011

To: Ms Alison O'Sullivan, Director for Children & Young People

Following the recent application of the governing body of Salendine Nook High School to become an Academy, I am delighted to confirm that I am agreeable to the conversion of this school to an Academy.

I enclose a copy of an Academy Order, which will enable the school to convert to an academy. For conversion to take place, I will need to agree, with the Academy Trust that will run the Academy, a Funding Agreement and the Articles of Association of the Academy Trust. The Funding Agreement will record the date on which the school will convert into an Academy.

Formal TUPE consultations with staff, unions, and the employer should start as soon as possible. For schools where the governing body is the employer of staff, the governors will lead on the TUPE process but they may require your support to do so. In all cases, you should ensure that any personnel files which you hold for the schools are fully up-to-date and that you have an accurate record of the staff employed at the schools and the terms and conditions of their employment.

It will be necessary for the land and buildings occupied by the school to be transferred to the Academy Trust so that they are available for use by the Academy from the conversion date. The exact arrangements for achieving this will depend on whether the school is a community, foundation or trust school, or a voluntary school and whether the land used by the school is public land, private land or a combination of the two.

In cases where you own the land and buildings currently occupied by the schools, I am asking you to agree to lease these to the Academy Trust through a 125-year lease similar to that used for existing academies. As a first step, you should start to gather land ownership and land

Department for
Education

registration documentation and information if you have not already done so. My officials will also discuss with you the implications of any schools proposing to convert to academies that are involved in an existing PFI contract or BSF scheme. Model lease documents for Academy Trusts and local authorities to use as the basis for negotiations are available on the Department's website at www.education.gov.uk/academies.

I am writing to the Chair of Governors, copied to the Head teacher to give my agreement to the conversion.

A handwritten signature in black ink, appearing to read "Michael Gove". The signature is written in a cursive style with a prominent loop at the end of the name.

MICHAEL GOVE