

Cabinet: 9 February 2016

Implications of School Category Changes for Land and Premises - An Extension of Delegation to Senior Officers to Dispose of Council Assets

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. This report will have an impact on more than two wards.
Is it in the Council's Forward Plan?	Yes
Is it eligible for "call in" by Scrutiny?	Yes
Date signed off by <u>Director</u> & name	Jacqui Gedman – 29 January 2016
Is it signed off by the Director of Resources?	David Smith – 28 January 2016
Is it signed off by the Assistant Director - Legal & Governance?	Julie Muscroft – 29 January 2016
Cabinet member portfolio	Resources

Electoral [wards](#) affected: Potentially all

Ward councillors consulted: No

Public or private: Public

1. Purpose of report

1.1 This report seeks delegation of powers for the Assistant Directors Place and Assistant Director Legal and Governance to deal with the disposal of council assets when a school changes category or in order to regularise the position that has arisen as a result of historical or new extensions to certain types of schools.

2. Key Points

2.1 There are a range of categories of state funded and other types of schools. The ownership of land and buildings of these different categories are as follows:

- Community School (LA maintained) - generally Council owned or leased from a private landowner

- Voluntary Controlled School-(LA maintained) - buildings owned by trustees, generally a religious Diocese, playing fields owned by Council
- Voluntary Aided School(LA maintained)- buildings owned by trustees, generally a religious Diocese, playing fields owned by Council
- Foundation School (LA maintained)- generally owned by the Governing Body
- Trust School (Foundation with a Foundation) (LA maintained)-generally owned by trustees
- Academy Schools- generally owned on a 125 year lease to the Academy Trust
- Free School – can depend but generally owned or on lease from the Academy Trust

2.2 Cabinet, on 14 August 2012, previously delegated authority to the Assistant Director Physical Resources and Procurement, in consultation with the Assistant Director for Learning and the Acting Assistant (or Assistant) Director – Legal, Governance, to negotiate and agree the terms of the grant of the long leasehold interest to the appropriate Academy Trust, along with other relevant delegations, so this report is not intended to address conversions to academies as this already has the relevant authorities.

2.3 In each of the other categories of school the ownership of the land and buildings is different, but importantly the ownership arrangements are prescribed by relevant legislation. Where schools undergo a change of category, the legislation places requirements on the Council where appropriate to make arrangements for the transfer of title and are therefore statutory conversions which normally occur on a legislatively prescribed vesting date, although the formalities of completing the paperwork often occurs after the vesting date.

2.4 The two principle pieces of legislation which set out the ownership arrangements are:

- Schools Standards Framework Act 1998
- Academies Act 2010

2.5 Currently when school arrangements change e.g. a Maintained Community school converts to a Voluntary school, a cabinet decision is required to authorise the Assistant Director Physical Resources Procurement and Assistant Director Legal and Governance to dispose of the Council's ownership. However, within the place directorate there is interchangeability between the Assistant Directors. The means of disposal is prescribed by legislation and so it would be pertinent to consider delegating the relevant authority to Assistant Director of Legal and Governance and Assistant Directors for Place to enable these processes to proceed in order to give effect to the statutory vesting as the Council has no say in the interpretation of the effect of the statutory vesting

- 2.6 Schools are increasingly exploring new ways of working for example as academies or as part of trust arrangements and there are changes required where school re-organisation takes place as well as where structural solutions are required whether because of underperformance or the need for expansion due to increased population of children of educational age in the relevant catchment area.
- 2.7 Apart from Academies (Cabinet 14 August 2012 resolution 96), other conversions to Foundation Trusts that have received an appropriate authority from Cabinet and the Cabinet authority granted on 28 August 2012 giving authority to regularise some of the Diocesan transfers, the existing scheme of delegation does not capture other school disposals, simply because in almost all cases the asset value exceeds the current £500,000 ceiling.

3. Implications for the Council

- 3.1 Where a maintained community school changes category or a Diocesan school extends on to land which is vested in the Council (for example on to the playing field) the Council is required to transfer the ownership of the buildings and/or land to the relevant body as prescribed by either the Schools Standards Framework Act 1998 or the Academies Act 2010 whichever is applicable. This is for nil consideration, and the Council is expected to carry out the relevant administration e.g. legal costs of both parties, to facilitate, regulate and enable the transfer.
- 3.2 Where these changes may cut across other arrangements e.g. a school in a PFI arrangement, these arrangements have to be accommodated in the asset transfer.

4. Consultees and Their Opinions

- 4.1 The Assistant Director Physical Resources and Procurement, Assistant Director Legal and Governance and Assistant Director for Learning and Skills support the recommendations contained within this report.

5. Next Steps

Officers continue to move forward with both regularising anomalies that have arisen as a result of school expansions and changes of category, and to complete all necessary legal documentation in order to regularise these and continue to provide support to and complete all necessary legal documentation in order to give effect to changes of school categories.

6. Officer Recommendation and reasons

Members are requested to note the information contained within this report and to delegate powers to the Assistant Directors Place and Assistant Director Legal and Governance to deal with the disposal of Council assets either as a result of school expansions, historic or otherwise, and also when a school changes category.

7. Cabinet Portfolio Holders Recommendation

Portfolio Holders note the information contained within this report and support its recommendations; to delegate powers to the Assistant Directors Place and Assistant Director Legal and Governance to deal with the disposal of Council assets either as a result of school expansions, historic or otherwise, and also when a school changes category and authorise the AD Legal Governance and Monitoring to make the necessary amendments to the scheme of delegations.

8. Contact Officer and Relevant Papers

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9. Assistant Director Responsible

Joanne Bartholomew – Assistant Director (Place).