

# **ACADEMIES BRIEFING FOR SCRUTINY COMMITTEE**

**5 January 2012**

**Cllr Stephen Castle, Cabinet Member for Education & 2012 Games**  
**Terry Reynolds, Director for Learning**

## **Types of Academies**

An academy is a publically funded independent school in the maintained sector. As such the number of academies impacts upon the overall funding situation for the authority and remaining maintained schools.

There are a number of different types of academy:

- Pre - 2010 Academies Act sponsor led academies. These were under performing schools that were closed and replaced by a new academy under private sponsorship;
- Converter academies under the 2010 Academies Act - generally good or outstanding schools, including more recently special schools, that have converted to academy status;
- Free Schools – additional schools generally promoted by a sponsor group of parents, teachers or an approved academy sponsor;
- Studio Schools – offering 14-19 lower level vocational and applied learning opportunities;
- University Technical Colleges - offering higher level vocational and applied learning opportunities.

The recently passed Education Act 2011 will now allow alternative provision academies and 16-19 academies.

## **An Academy Trust**

As an independent 'school' every academy is required to have an Academy Trust, which operates as a charitable company limited by guarantee. It has members (or directors) who run the company and in the case of a converting school, these members will generally be appointed from the previous governing body in discussion with the Secretary of State. The Trust will have a Memorandum and Articles of Association which govern the composition of the Academy Trust and define the responsibilities of the members and governors.

The Academy Trust has a strategic role in running the Academy and is responsible for appointing the governors (also known as directors or trustees) to the governing body of the Academy. Members and governors are not exclusive roles. The same individual can be a member of the Academy Trust and a governor.

The governing body is responsible for the day to day operation of the academy on behalf of the members of the Academy Trust.

In some cases, (usually pre-Academies Act sponsor led academies) the Academy Trust will be the overarching sponsor body such as the Academies Enterprise Trust or Ormiston Education Trust.

Individual academy trusts may also be part of an Umbrella Trust which is a form of collaborative arrangement intended to share good practice, training and development and maybe achieve economies of scale with commissioning goods and services. The Umbrella Trust generally has no responsibility for any of the individual academies 'under the umbrella' unless a satisfactory or underperforming academy is included and has agreed to the Umbrella Trust being the Academy Trust for that academy.

The Authority's first point of contact with any academy will be the governing body. However, in some cases there may be an escalation to the Academy Trust or the Secretary of State.

## Current Academies in Essex

There are currently 95 Essex schools that are either Academies or in the process of transitioning to an Academy. There 57 Secondary, 36 Primary and 2 Special Schools in this category.

From Jan 2012, Academies are expected to make up 75% of our 76 Secondary schools, 8% of our 460 Primary schools and 12% of our Special Schools. But this could change before then, as there has been a 7% increase (8% Secondary and 6% primary increase, with no change to Special Schools) between November and December 2011.

Below is summary information, and a list of schools by type. A list of Academies and Academy applications is also included.

	As of November 2011			As of December 2011		
	Secondary	Primary	Special	Secondary	Primary	Special
<b>Existing or Expected Academies</b>	<b>52</b>	<b>34</b>	<b>2</b>	<b>54</b>	<b>35</b>	<b>2</b>
<i>Sponsored Academies</i>	8	0	0	8	0	0
<i>Converted Academies</i>	29	28	1	32	30	1
<i>Unknown Conversion Date</i>	9	6	1	14	5	1
<b>Considering, but not applied</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>1</b>	<b>0</b>
<b>Grand Total</b>	<b>53</b>	<b>34</b>	<b>2</b>	<b>57</b>	<b>36</b>	<b>2</b>
	<b>89</b>			<b>95</b>		

<b>Sponsored Academies</b>	<b>Sponsor</b>	<b>Conversion Date</b>
Basildon Lower (Chalvedon)	Martin Feingold	Sept 2009
Basildon Upper (Barstable)	Martin Feingold	Sept 2009
Clacton Coastal (Colbayns / Bishops Park)	AET	Sept 2009
Colchester Academy (Sir Charles Lucas)	Colchester Inst / PCT / Essex University	Sept 2010

Greensward Academy	AET	Sept 2008
Maltings (John Bramston)	AET	Sept 2008
New Rickstones (Rickstones)	AET	Sept 2008
St Peter's High, Burnham (Ormiston Rivers Academy)	Ormiston Trust	Sept 2011
<b>Converted / Applied to Convert</b>	<b>Sponsor</b>	<b>Conversion Date</b>
Anglo European, Ingatestone	N/A	Dec-11
Appleton, Benfleet	Academy Chain	Apr-11
Ashingdon	N/A	Sep-11
Billericay, The	N/A	Jul-11
Burnt Mill Comp, Harlow	N/A	Dec-11
Buttsbury Junior (Billericay)	N/A	May-11
Chelmer Valley High	N/A	Aug-11
Chelmsford County High	N/A	Jan-11
Colchester Co High For	N/A	Oct-11
Colchester Royal Grammar	N/A	Not Yet Known
Colne Community, Brightlingsea	N/A	Aug-11
Columbus School and College, Chelmsford	N/A	Not Yet Known
Davenant Foundation, Loughton	N/A	Apr-11
Debden Park High, Loughton	Kemnal Trust	Apr-11
Flitch Green Primary (The Flitch Green Academy)	N/A	Feb-11
Gt Baddow High, Chelmsford	N/A	Jul-11
Gt Berry Primary, Langdon Hills Basildon	N/A	Aug-11
Gt Chesterford CE (V/A) Primary	N/A	Oct-11
Hadleigh Infant & Nursery	N/A	Aug-11
Hadleigh Junior	N/A	Sep-11
Hamford Primary, Frinton	AET	Not Yet Known
Helena Romanes, Dunmow	N/A	Not Yet Known
Hilltop Junior, Wickford	N/A	Aug-11
Holy Cross Cath Primary, Harlow	N/A	Aug-11
Honywood Community, Coggeshall	N/A	May-11
Hutton All Saints' CE Primary	N/A	Dec-11
Hylands, Chelmsford	N/A	Aug-11
Jotmans Hall Primary, Benfleet	N/A	Aug-11
King Edward VI Grammar School	N/A	Apr-11
Kents Hill Infant, Benfleet	N/A	Sep-11
Kents Hill Junior Benfleet	N/A	Nov-11
King Edmund, Rochford	N/A	Jul-11
King Harold, Waltham Abbey	Kemnal Trust	Nov-10
King John, Thundersley	Academy Chain	Apr-11
Kingston School, Thundersley	N/A	Aug-11
Lee Chapel Primary, Basildon	N/A	Aug-11
Lyons Hall, Braintree	N/A	Not Yet Known
Mayflower High, Billericay	N/A	Aug-11
Moulsham High, Chelmsford	N/A	Jul-11

Moulsham Infant, Chelmsford	N/A	Jul-11
Moulsham Junior, Chelmsford	N/A	Not Yet Known
Newport Free Grammar	N/A	Not Yet Known
Notley High School and Braintree Sixth From	N/A	Aug-11
Our Lady Immaculate Cath Primary, Chelmsford	N/A	Not Yet Known
Passmores School, Harlow	N/A	Sep-11
Philip Morant, The, Colchester	N/A	Nov-11
Plumberow Primary, Hockley	N/A	Sep-11
R.A. Butler Infant, Saffron Walden	N/A	Nov-10
R.A. Butler Junior, Saffron Walden	N/A	Nov-10
Robert Drake Primary, Thundersley	N/A	Aug-11
Runwell Community Primary	N/A	Aug-11
Saffron Walden County High	N/A	Jun-11
Sandon, Chelmsford	N/A	Aug-11
Shenfield High, Brentwood	N/A	Not Yet Known
South Benfleet Fdn Primary	N/A	Aug-11
St Alban's Cath Primary, Harlow	N/A	Aug-11
St Helen's Cath Junior, Brentwood	N/A	Aug-11
St Mark's west Essex Cath, Harlow	N/A	Aug-11
St Martin's, Brentwood	N/A	Jul-11
St Mary's CE V/A Primary, Shenfield	N/A	Possibly Jan 2012
St Thomas More Cath Primary, Saffron Walden	N/A	Aug-11
Stewards, Harlow	N/A	Oct-11
Stisted CE (V/A) Primary	N/A	Oct-11
Tendring Tech College	N/A	Sep-11
Thurstable School Sports College	N/A	Aug-11
Thriftwood, The, Chelmsford	N/A	Oct-11
Tyrrells Primary, Chelmsford	N/A	Nov-11
West Hatch High, Chigwell	N/A	Jun-11
Westerings Primary, The, Hawkwell	N/A	Sep-11
Westwood Primary, Hadleigh	N/A	Aug-11
Wickford CE (V/C) I	N/A	Dec-11
William de Ferrers	N/A	Apr-11
<b>Considering Converting</b>	<b>Sponsor</b>	<b>Conversion Date</b>
Boswells, The, Chelmsford	N/A	Possibly Jan 2011
Clacton County High	N/A	Not Yet Known
Gilberd, The	N/A	Not Yet Known
Harwich and Dovercourt high	N/A	Not Yet Known
Manningtree High	N/A	Not Yet Known
Stanway, The	N/A	Not Yet Known
St Helena	N/A	Not Yet Known
Thomas, Lord Audley	N/A	Not Yet Known
Plume, Maldon	N/A	Not Yet Known
Mark Hall Specialist Sports College	N/A	Not Yet Known

## **The requirement from the DfE on the LA to assist in the process of certain categories of schools becoming Academies.**

Under the Academies Act 2010 The Secretary of State may make an Academy order in respect of a maintained school in England if:

- (a) the governing body of the school make an application to convert to an academy, or;
- (b) the school is eligible for intervention (within the meaning of Part 4 of EIA 2006).

An Academy order is an order for the purpose of enabling the school to be converted into an Academy.

Under the Education and Inspection Act 2006 a maintained school is eligible for intervention if the local education authority has given the governing body a warning notice or the school has been placed in an Ofsted category.

The Education Act 2011 which has just been passed by Parliament contains measures that will allow the Secretary of State to direct a local authority to issue a warning notice which may affect 'forced academies'.

The Secretary of State intends to 'force' a school to become an academy where it has been below the current floor standards for 5 or more years and shows no sign of improvement. There are some circumstances which could be cited which could militate against such a move to academy status. These include:

- results being shown to be on an upward trajectory, even though still under floor standards;
- a new/recently appointed head teacher being in place;
- plans already in place with high-performing partners to address the issue of performance in the original school.

The local authority will be expected to contact the school to discuss the Academy conversion process and identify a local or national sponsor.

Partnerships with successful local schools and federations are accepted as good solutions and could be initiated by the schools concerned. Essex has 6 schools in this category.

The Office of the Schools Commissioner brokers sponsored academy arrangements between those schools 'that would benefit most from being a sponsored academy', and a range of approved and established sponsors with a good track record of performance improvement.

## **Financial Impact of Academies**

ECC's 2011-12 budget takes into account the 18 schools that had academy status as of 1 April 2011. The change in status of schools in 2010/11 has resulted in a reduction of £54.59m in the 2011-12 Dedicated Schools Grant budget, and have had an overall impact of reducing centrally retained budgets by approximately £841,000 for 2011/12.

Two additional schools converted in May 2011, and a further 18 schools converted by Sept 2011. The Schools Forum has said it does not want to breach the Central Expenditure Limit (CEL) again for 2012/13, which means we need to take account of the projected impact of academies on the central expenditure limit when recommending and justifying to the Schools Forum which centrally retained budgets should be continued or funds devolved to schools.

Schools Forum has a model of how much centrally retained budgets will need to be reduced for 2012/13 in order to ensure the central expenditure limit is not breached.

The CEL is breached if the increase expressed as a % in centrally retained budgets is greater than the year on year increase in the total schools budget. Under these circumstances, the schools forum will have executive powers to approve or not approve the breach.

If such a breach is not approved by the Forum the LA may appeal to the Secretary of State to agree the breach.

As there will be no more money coming through next year (2012-13) unless pupil numbers grow, then an increase in this year's central expenditure budgets will result in a breach of the CEL.

#### Example:

If the total schools budget in 2012-13 were proposed at £1,000,000,000 and the centrally retained budget £100,000,000 and the equivalent budgets in 2011-12 were 900,000,000 with centrally retained budgets of £80,000,000 then the CEL would be breached –  $1,000,000,000/900,000,000 = 11.1\%$  increase overall whereas  $100,000,000/80,000,000 = 25\%$  increase in centrally retained budgets.

**The Central Expenditure Limit will be affected by schools opting for academy status.**

#### Another example:

Schools budget 2011-12 £900,000,000 central spend £90,000,000; 2012-13 no changes except a school with a £5 million budget becomes an academy at 1 April 2012 and takes with it centrally retained budgets via LACSEG of £70,000 (resulting in a schools budget of £894,930,000 and centrally retained budgets of £89,930,000) :

The percentage change in schools budget is  $894,930,000/900,000,000 =$  reduction of 0.56%, whereas the centrally retained budget has reduced by  $£89,930,000/£90,000,000$  a reduction of 0.08% and therefore the CEL is breached. The Forum has been happy to support a breach of this nature as it is outside the control of the LA.

The future role of the LAs in the funding of schools is currently the subject of a DfE consultation.

## **Small Schools**

Whilst many secondary schools are converting to academy status, it is clear that primary schools and in particular smaller primary schools are not. It is likely that many smaller schools will consider they do not have the management or administrative capacity or expertise to become an academy.

The Local Authority, in conjunction with the Anglican Diocese (as many small primary schools are C of E schools) is developing a strategy that seeks to promote greater collaboration and federation of groups of small schools to support their ongoing viability and success. Federations of school or 'chains' of schools working more closely together can convert to become academies providing the LA and the Secretary of State are satisfied that some or all of the schools involved offer strength and success that could be shared and spread across all the schools concerned. Alternatively, schools can work together under an Umbrella Trust which generally does not have a direct majority influence in the governing body over the running of the school but which could act as the procurer of goods and services and could employ or commission financial or HR staff to operate on behalf of the individual academy trusts

## **Admissions**

Academies are required to conform to the Local Authority Scheme for Co-ordinating School Admissions so the process of admission into the normal year of entry (Yr R, YR3 for junior schools and Yr7) will continue as 'business as usual'. This means that the Local Authority will make the offer of places and will be able to confirm the application of admissions policy by individual academies. For the last year the law has required the Local Authority to co-ordinate all mid year admissions (although Essex has been doing this for about 3 years) to help ensure all children who need a place during the course of a school year, usually because the parents move home, are placed as quickly as possible and have fair access to all schools. This also enables the Local Authority to 'police' the system, support more vulnerable parents with the process and challenge academies or other admission authorities from unlawfully refusing places.

The government, in recently released new admission code, has removed this statutory requirement to co-ordinate all mid year applications. The local authority will now consider whether to try to broker voluntary ongoing co-ordination with all admission authorities in the interests of more vulnerable children and families.

## **Standards and Performance**

The governing body and the academy trust are responsible for standards at an academy – the local authority has no direct responsibility. The Secretary of State for Education is ultimately responsible for standards and performance at an academy. However, the local authority, in its role as champion of parents and children and a commissioner of good school places has a moral and practical responsibility to ensure that pupils in academies are receiving at least a satisfactory education and preferably a good or outstanding education. In this respect the authority will monitor the performance of academies through available data and will challenge governing bodies or sponsors where necessary and will ultimately seek remedial action from the Secretary of State.

## **Safeguarding and Academies**

There is no explicit statutory guidance on the expectations for Academies. However, with Independent Schools the expectation remains that staff are trained and aware of their roles and responsibilities with regards to safeguarding children. This would imply that they have access to safeguarding training for staff and that there are Designated Child Protection (CP) leads who are trained every 2 years.

They are also expected to follow statutory guidance and procedure in respect of CP matters – such as Working Together for Children and Southend, Essex and Thurrock Child Protection Procedures – especially in response to managing allegations against staff. The most applicable guidance is that of Safeguarding Children and Safer Recruitment in Education (DSCF – 2006).

## **Education Welfare Service**

The LA retains the statutory responsibility for legal proceedings in respect of Academies, but in all other respects funding for the Education Welfare Service is part of Academies' budgets. The Education Welfare Service does, however, provide a traded service to Academies.

Depending on which Service is provided, the relevant charging structure will apply, subject to revision from time to time due to changes in core allocation, funding availability and inflationary increases.

### **Option 1**

***The Council to provide services of an EWO to carry out casework and full range of EWO duties***

### **Option 2**

***Academy employs School Attendance Officer to undertake pre statutory casework***

### **Table 1 – Option 1**



Hourly rate for EWO	£25
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**Table 2 – Training/Support Package available for SAO Option 2**

SAO Basic Induction	£800 (4 x ½ days)
Follow up training/Support to SAO	£60 per hour
Work shadowing (for SAO to work shadow the EWO/SP)	£25 per hour
Legal Intervention Checklist completion	£60 per hour
Casework supervision	£60 per hour

**Table 3 – Option 1 and 2**

ESO casework	£10 per hour
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**Table 4 – Training/Packages available to whole school**

Attendance Matters	£400
Whole School Approach	£200
Pupil Voice Audit	£500
Register Sweeps	£25 per hour per EWO
Consultative School Attendance Advice including RAG	£60 per hour
Bespoke Packages	Price on request
Local LA EWS training (AAL to inform Academy of program)	Price on request

The following will be free of charge

Issuing of penalty notices	Free of charge
Monitoring payment of penalty notices	Free of charge
Casework to proceed to legal intervention if penalty notice is not paid	Free of charge
Convening and chairing legal meetings which will include a PACE caution	Free of charge

Section 9 witness statement	Free of charge
Application to family court for an ESO	Free of charge
Responsible officer for parenting order	Free of charge
Section 9 training	Free of charge
Register reviews	Free of charge
School Attendance and Exclusion Sweeps	Free of charge

## **LA Governors and Academies**

In practice governing an academy does not differ greatly from governing a maintained school. However there are differences in the constitution of academy governing bodies which affect their powers and responsibilities.

The academy trust appoints governors, is responsible for setting the strategic direction of the school, determining the ethos and general oversight. All other strategic decisions are the responsibility of the governing body.

The arrangements for governor appointments for each academy are set out in the articles of association agreed between the academy trust and the Secretary of State. There is no maximum size for the governing body. However, when negotiating the size of a governing body the Department for Education (DfE) advises that large numbers can make governing bodies unwieldy and difficult to manage. The DfE also advises that membership of the governing body should include at least two parent governors and the principal, but academy trusts are free to choose whether to have a local authority governor, staff governor or co-opted governor.

This differs from the requirement for maintained schools to have a staff governor and an authority governor under the Education Act 2011. The governing body can request that the local authority selects an alternative nomination if they feel the current nomination does not have the skills required. In practice, this will mean there should be a dialogue between the school and local authority, prior to appointment, as to the skills and experience being sought and ensure a suitable candidate or pool of candidates.

## **Role of the Local Authority**

According to The Schools White Paper Equalities Impact Assessment, (the government) will “empower local authorities to have a strong, strategic role in championing the needs of parents and pupils - particularly the most vulnerable - and in school improvement. We should expect them to draw on the strengths of outstanding schools to support others, and to act to draw in new providers of schools

so that every parent and pupil can choose a good school that meets their needs.” The local authority (Governor Services) could have a useful role in finding and developing potential governors to appoint as local authority governors, perhaps setting up a pool of persons trained and approved for such a role. Governing bodies should discuss with their local authority where they have skills gaps and the LA should identify for appointment as governors persons who can bring particular skills, experience or expertise to the governing body.

Expectations of LA governors who serve on Academy Governing Bodies:

- Exchange of information about developing policies, whether of the council or of the school, can be hugely helpful to both sides and should be good practice for academies as well as for maintained schools.
- All governors are expected to commit to the principles set out in the Second Report of the Committee on Standards in Public Life chaired by Lord Nolan. These ‘Seven Principles’ are set out below.
- There should be an expectation that appointed Local Authority governors, will – as a minimum - undertake governor induction training.
- Depending on schemes of delegation within their governing bodies, they should be encouraged to attend other appropriate training for their role.
- Local Authority governors would be expected to draw to the attention of the Director for Learning any serious concerns about matters likely to impact adversely on the standards of achievement of the pupils; or the safety and well-being of pupils and staff.

**It should be noted that the above expectations could be applied to all LA governors – not just those who serve on Academy Governing Bodies. There is a danger that if the LA singles out Academy governors, it may be perceived as being prescriptive. To date, whereas most Academies have kept all their governors, only a handful have retained them as LA governors.**

### ***The Seven Principles of Public Life***

#### ***Selflessness***

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.

#### ***Integrity***

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

#### ***Objectivity***

In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

### ***Accountability***

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

### ***Openness***

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands this.

### ***Honesty***

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

### ***Leadership***

Holders of public office should promote and support these principles by leadership and example.

## **Commissioning Places and Provision**

It is clear that in the future education landscape the local Authority will be responsible for commissioning a sufficiency and diversity of good school places and this is being reflected in the new Operating Model for Schools Services. The Local Authority will, as now, be responsible for monitoring the demography of the area, predicting future patterns of demand for places taking account of planned housing development and securing financial contributions and land from housing developers where necessary for new provision and places. The solutions to the supply of additional or a more diverse range of places will, much as now, involve the authority in developing options and brokering support from schools, academies and/or sponsors or the addition of new Free Schools or technical academies. However, where support cannot be secured from Academies or sponsors the local Authority will, in the final analysis, need to engage the Secretary of State in the process in order to be able to deliver its statutory obligation to make sure there is a school place for every child within a reasonable distance of their home. The Local Authority does not have the power to publish proposals to expand or change the nature of provision in respect of academies.

### **Other issues**

The Local Authority remains responsible for the provision of home to school transport for pupils attending academies in accordance with normal policy.

School crossing patrol are unaffected by schools becoming academies. Terms dates and opening hours etc are matters for the governing body of an academy as they are for foundation schools.

The County Council is offering a range of services to academies as it has generally to schools for many years (e.g. HR, payroll, H &S, school improvement etc). These services are available for academies to consider alongside other market competitors.