

CHILDREN AND ADULTS OVERVIEW AND SCRUTINY COMMITTEE

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MEDWAY ACADEMY PROGRAMMES UPDATE

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Summary

This report updates members on the status of the Academy programmes in Medway. The report includes an update on the establishment of the three Academies opened to date in Medway, including the procurement of a preferred contractor for the Academy building programme. This report also provides an update on the coalition government's invitation for schools to seek academy status and the implications for Medway schools.

1. Budget and Policy Framework

- 1.1 The decision to award a contract to build Strood, Bishop of Rochester and Brompton Academies is a matter for Cabinet approval.
- 1.2 The Academies Act 2010 allows the Secretary of State to make an Academy order which enables a school to be converted into an Academy.

2. Background

- 2.1 This report provides information for members on two different academy programmes, which will affect the school system in Medway.
- 2.2 Academies in all cases are publicly-funded schools which operate outside of local authority control. Essentially, academies have more freedom than other state schools over their finances, the curriculum, and teachers' pay and conditions.
- 2.3 The first type of Academy, are those agreed under the previous government. There are three of these Academies now open in Medway, which are; Strood Academy, Bishop of Rochester Academy and Brompton Academy. A sponsor, or group of sponsors, establishes

these academies and Medway Council is a co-sponsor for all three. The other sponsors in each case are:

- Strood Academy – University for the Creative Arts (lead sponsor)
- Bishop of Rochester Academy – Diocese of Rochester (lead sponsor) and Christ Church Canterbury University (co-sponsor)
- Brompton – University of Kent

2.4 Each of these Academies will receive Capital investment from central government and these academies are referred to in this report as “new build Academies”.

2.5 The second type of academy, are those that will be established under the new coalition government. These academies are referred to in this report as “converter Academies”.

New build Academies

2.6 New build Academies were seen as a way of providing greater support to schools in disadvantaged areas and in many cases to support improvements for poorly performing schools.

2.7 Medway’s new build Academies were established by closing predecessor schools, with the Academy replacing the predecessor school or schools. The decisions to close the predecessor schools and establish a new academy, was taken in each case by Medway Council’s Cabinet.

2.8 In September 2009, the Strood Academy opened in the buildings of the predecessor schools, Temple school and Chapter school. In summer 2010, the Academy was given permission to operate from a single site on Carnation Road in advance of the delivery of new buildings.

2.9 In September 2010, Bishop of Rochester Academy opened in the buildings of the predecessor schools, Medway Community College and Chatham South School.

2.10 In addition, in September 2010, Brompton Academy opened in the buildings of the predecessor school, New Brompton College.

2.11 In summer 2010, the coalition government announced that it was to cancel the previous government’s Building Schools for the Future programme, and that it would review previous commitments to provide funding for Academy building programmes.

2.12 Officers worked with the Academy sponsors to submit a business case for the consideration of ministers to secure funding for Medway’s three new build Academies.

2.13 Following the submission of these business cases, confirmation was received in August 2010 that all three of Medway’s new build Academies would receive their funding to build new schools.

- 2.14 At the Cabinet Meeting on the 15th December the Cabinet “approved the procurement of the Design and Build Contractor via the Partnerships for Schools (PfS) National Framework and agreed for the Council to enter into related preliminary agreements required by PfS as a condition of use of the National Framework.” (Cabinet decision 223/2009)
- 2.15 This Framework identifies 12 Panel Members (sometimes called bidders or contractors) who have been accepted on to the Partnership for Schools framework having competitively proved their ability to carry out work of this nature.
- 2.16 The programme operates by requesting responses to a Preliminary Invitation to Tender (PITT). These responses are evaluated and two preferred bidders are identified. These two preferred bidders develop designs for the first Academy, in this case Strood Academy, in parallel with each other over a 14 week period. This design development is based on the Invitation to Tender (ITT), which is issued to the two preferred panel members and includes the approved Outline Business Case (OBC).
- 2.17 The PITT stage was completed in May 2010 and the two shortlisted panel members were invited to submit proposals in response to the ITT during August 2010. The two schemes have now been evaluated to select a single panel member who will develop their scheme, in conjunction with Medway Council and Strood Academy as the sample scheme, and produce a detailed final business case. Following agreement of the final business case the panel member will be appointed to deliver the scheme.
- 2.18 The final business case will be presented to Cabinet for approval as part of the gateway 3 Contract Award report early in 2011.
- 2.19 The completion of Strood Academy buildings is expected by September 2012 and Bishop of Rochester Academy and Brompton Academy in early to mid 2013.

Converter academies

- 2.20 The Academies Act allows the Secretary of State to make an Academy order which enables a school to be converted into an Academy.
- 2.21 In addition, the Act makes it easier for other groups to set up new schools as Academies. These are often referred to as free schools.
- 2.22 The Secretary of State issued an invitation to all schools to express an interest in applying for Academy status and the following schools in Medway expressed an interest:
- Fort Pitt Grammar School
 - Rochester Grammar School

- Sir Joseph Williamson Mathematical School
- Bradfields
- Cliffe Woods Primary School
- Danecourt
- Napier Primary
- The Thomas Aveling School

- 2.23 This expression of interest does not represent a formal application to convert to academy status, and many of the schools in the list above have subsequently indicated that they expressed an interest to receive further information, not necessarily, because they intend to apply.
- 2.24 Schools that have not yet expressed an interest may also express an interest at a later stage.
- 2.25 The first phase of converter Academies has been limited to those judged as outstanding by Ofsted. Special Schools are also not eligible to apply at this stage, although they are likely to be eligible to apply from September 2011.
- 2.26 Medway Council has received confirmation from the Department for Education that two outstanding Medway schools have formally applied for converter Academy status. Those schools are Fort Pitt Grammar School and Rochester Grammar School, which are expected to have completed their conversion before Christmas 2010.
- 2.27 Unlike new build Academies, converter Academies will not receive any capital investment for new school facilities.
- 2.28 Converter Academies do not involve the closure of predecessor schools, and therefore the Council is not directly involved in the decision making process to create a new Academy.
- 2.29 Unlike new build Academies, converter Academies do not have sponsors. The existing governing body, will become the governing body of the new Academy.
- 2.30 The DfE website says that there is *no requirement to consult* the local authority or parents, although it is suggested that students and parents should understand the changes proposed. Staff rights under TUPE are acknowledged but DfE suggests that consultation can commence once the Secretary of State has given approval.
- 2.31 Under the conversion arrangements, land is either transferred to the new Academy on a freehold basis, or leased to the Academy from the local authority, depending on the status of the predecessor school.

3 Advice and analysis

- 3.1 Both new build academies and converter academies, have greater freedoms than other schools. These freedoms broadly consist of;

freedom from local authority control, which means that they have autonomy over the decisions they make and the education they deliver to their pupils, freedom to set staff pay and conditions, freedom from National Curriculum and freedom to change the length of school day and school year.

- 3.2 Academies receive their funding directly from central government, and a proportion of the local authority's Dedicated Schools Grant, is taken from the LA and provided directly to each Academy. In addition, Academies are expected to receive an additional top up in funding from central government funds.
- 3.3 As more schools transfer to Academy status, the Dedicated Schools Grant received by the local authority to fund the provision of school services will reduce.
- 3.4 Further information about Academies, including answers to frequently asked questions can be found on the Department for Education website:
<http://www.education.gov.uk/schools/leadership/typesofschools/academies>
- 3.5 These changes will have significant implications for local authorities, which will be described in more detail to members at the Overview and Scrutiny meeting.

4 Risk Management

- 4.1 The conversion of schools to Academy status will result in a reduction in the local authority's Dedicated Schools Grant allocation. This risk will need to be managed by the local authority, in close consultation with Medway schools.

5 Financial and legal implications

Financial

- 5.1 The first three Medway academies were established under the arrangements put in place by the previous government, which involved the closure of the predecessor schools. These closures resulted on some one-off revenue costs, estimated as follows:
 - £1.8 million to write-off the deficit balances of the closing schools
 - £0.3 million relating to the cancellation of equipment leases
 - £0.3 million of early retirement and redundancy costs
- 5.2 The 'new build' academies will involve significant capital investment, which will come from the Department of Education, via Partnerships for Schools. Medway has secured over £75million to build the three academies, in addition to which the Council will invest over £4million to create additional SEN provision at each site and a further £2million to

create a vocational centre at the Strood Academy. These costs are reflected in the current capital programme. The ongoing revenue costs of the SEN provision will be met from a reduction in expenditure on expensive, out of borough, independent sector placements. The vocational centre is expected to be self-funding, by charging schools to use its state of the art facilities.

- 5.3 As co-sponsor, Medway Council also granted each academy an endowment of £500,000.
- 5.4 Academies that are established under the new government's arrangements take their deficit or surplus with them and do not require the closure of predecessor schools. Consequently the sorts of costs listed above do not arise with new academy conversions.
- 5.5 All academies receive additional funding each year relating to the part of the Dedicated Schools Grant (DSG) that is used to fund the local authority's services to schools. The three original academies and the two schools that will convert to academy status shortly will receive between £21,000 and £75,000 per school per year depending on their pupil rolls and the number of pupils with special educational needs. The funds that the academies receive are taken from the Council's DSG allocation and the five schools, in total, will result in a reduction in funding to the Council of approximately £225,000 in a full year.
- 5.6 Academies also receive funding to meet statutory responsibilities that used to be undertaken by the LA on their behalf. Each academy is funded according to its pupil numbers but the average allocation is £250,000 per year. This funding is provided by the DfE and is not recouped from the local authority. However the DfE has stated that the funding arrangements for academies are to be reviewed for 2011/12 onwards.

Legal

- 5.7 The Academies Act 2010 enables the Secretary of State to make arrangements for schools to become academies without any requirement to consult with the local education authority in relation to such arrangements. The Act only requires the maintained school's governing body to consult "such persons as they think appropriate" on the question of whether the school should be converted into an academy. There is no specific requirement to consult the local authority, or any neighbouring local authority affected by conversion of a school to academy status. The only necessary consultation must be in relation to staff transferring from the school to the academy under TUPE regulations. It is likely that parents and pupils may be consulted.

Selective schools which become academies are able to retain their selection criteria. Schools with a religious character may retain that character after conversion. Academies will continue to meet the

statutory obligations to provide suitable education to pupils with special educational needs.

The Act is likely to be met with considerable litigation, in which the fairness of the exercise of the Secretary of State's discretion in the absence of a duty to consult more widely will be questioned. The common law may be relied upon to impose a duty to consult where fairness requires it.

6 Recommendations

6.1 Members are requested to note the report.

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Background papers

None