

# Cabinet

## Dorset County Council



Date of Meeting	7 March 2018
<p><u>Lead Member</u> Deborah Croney - Cabinet Member for Economy, Education, Learning and Skills</p> <p><u>Local Member(s)</u> All County Councillors</p> <p><u>Lead Officer</u> Nick Jarman - Interim Director for Children’s Services</p>	
<b>Subject of Report</b>	<b>The Relationship Between the Council, Schools and Academies</b>
Executive Summary	<p>For the past 30 years there has been a series of changes and reforms to the English schools system. All of them have promoted greater school autonomy and more recently, improvement in school standards.</p> <p>Dorset like most other Councils has a mixed economy of provision which includes maintained schools, academies, free schools and learning centres.</p> <p>There are some significant issues around the need to spell out a more clearly defined relationship between the Council and schools of all types, whichever type of relationship is actually chosen.</p> <p>This relationship in Dorset is significantly affected by the Council’s overall financial position itself and by the number of small rural schools and learning centres which suffer from lack of economies of scale.</p> <p>The report invites Elected Members to consider the type of relationship which the Council wants with schools and goes on to recommend a consultation with schools to establish their needs and wants in terms of a relationship with the Council.</p>
Impact Assessment:	<p>Equalities Impact Assessment:</p> <p>N/A at this time.</p>
	<p>Use of Evidence:</p> <p>Contained within the body of the report.</p>

	<p><b>Budget:</b></p> <p>Creation of better financial viability for small schools. Affordability to the Council.</p> <p>VAT implications may arise for academies or multi academy trusts.</p> <hr/> <p><b>Risk Assessment:</b></p> <p>Having considered the risks associated with this decision using the County Council’s approved risk management methodology, the level of risk has been identified as:</p> <p>Current Risk: MEDIUM Residual Risk: /MEDIUM</p> <p>(Note: Where HIGH risks have been identified, these should be briefly summarised here, identifying the appropriate risk category, i.e. financial / strategic priorities / health and safety / reputation / criticality of service.)</p> <hr/> <p><b>Other Implications:</b></p>
<p><b>Recommendation</b></p>	<p><b>Members are asked to:</b></p> <ol style="list-style-type: none"> <li>1. Decide upon the relationship with schools which best suits the Council, its objectives and the communities which it services and is affordable.</li> <li>2. Authorise officers to conduct a consultation with schools, academies, free schools etc. to establish their needs and wants in terms of a relationship with the Council.</li> <li>3. Assuming that there is a critical mass of schools which can agree upon the kind of relationship wanted, instruct officers to bring a further report which synthesises and defines very clearly the relationship wanted by all parties.</li> <li>4. Authorise officers, working where required with the Regional Schools Commissioner, to encourage smaller rural schools to federate as maintained schools or convert to academies to join/become multi academy trusts (MATs), in order to improve economies of scale and sharing of expertise and resources.</li> <li>5. Wherever a head teacher is leaving or retiring from a small school, instruct officers actively to promote federation or joining a MAT; and that this policy henceforth becomes the default position for the Council.</li> <li>6. Accept the principle that sharing of risk and responsibility between the Council and schools needs to be rebalanced.</li> </ol>
<p><b>Reason for Recommendation</b></p>	<p>At present there is no recent memorandum of understanding or protocol concerning the relationship between the Council, schools, academies, free schools and learning centres.</p>

	For a variety of reasons (financial, OFSTED inspection, balance of risk and responsibility) this relationship needs to be clearly defined and observed.
Appendices	Appendix 1: Relationships- LGA SI Report Appendix 2: Schools & Academies in Dorset County Council
Background Papers	N/A
Officer Contact	Name: Nick Jarman Tel: 01305 224166 Email: nick.w.jarman@dorsetcc.gov.uk

## 1. Background and Context

- 1.1 The Education Reform Act of 1988 began what has turned out to be a 30 year period of school change and reform.
- 1.2 One of the 1988 Act's main provisions was the introduction of Local Management of Schools (LMS). Another was introduction of a National Curriculum.
- 1.3 LMS was intended to give schools greater autonomy from Local Authority control; giving them greater freedom to decide and manage their own affairs and budgets and to decide which services and from whom they bought them.
- 1.4 The 1988 Act also introduced 'opting out', where schools upon a majority vote by parents could opt to become Grant Maintained, leaving Local Authority control altogether and taking with them their share of central expenditure. This provision was the prototype for the present day Academies Programme.
- 1.5 Successive government attempts to promote school autonomy were frustrated. Because:
  - a) Schools in general remained very reluctant to leave and dependent upon Local Authority control.
  - b) Whether by accident or design most Local Authorities delegated budgets to schools in a way that gave them little effective independent purchasing power.
  - c) Grant Maintained status only really took off for a majority of secondary schools in a small number of Local Authorities which promoted or were neutral to opting out. (In practice Kent, Essex, Gloucestershire, Cumbria and a number of outer London boroughs).
- 1.6 Subsequently the 1993 Education Act had anticipated that many more schools would opt out. This did not materialise.
- 1.7 The 1998 School Standards and Framework Act (Diversity and Excellence) extended a number of things:-

- d) It put school standards at the heart of the schools' agenda.
  - e) It ended opting out, but at the same time mandated maximum delegation by Local Authorities of budgets to all schools.
  - f) It attempted to define more clearly the relative roles and responsibilities of Local Authorities and schools.
- 1.8 The Academies Programme was introduced in the 2000s. Initially it was intended for schools, mainly inner city schools, where there had been many years of failure and where specifically, Local Authority control (and inactivity) were part of the problem, not the solution.
- 1.9 At the outset academies were paired with a sponsor (normally a business or charity) which took on the running of the school as an academy. A number of these sponsors took on a number of schools; becoming academies chains.
- 1.10 There is absolutely no dispute that the Academies Programme has succeeded in areas where there had been generations of poor school standards and failure.
- 1.11 The position in Dorset specifically is that about 40% of schools have academised. (Appendix 2 shows the pattern of school organisation in Dorset and reasons why schools have become academies).
- 1.12 Whilst academies have been successful in circumstances where there has been a long legacy of failure, there is less evidence that academies automatically lead to higher school standards. The key factors in the case of each school appear to be: leadership and the quality of teaching and learning.
- 1.13 This means that other arguments for or against academisation need to be considered. Specifically in Dorset these are:
- (i) If significantly more schools were academies, the scale of Council school duties would be reduced and this would lead to reduced expenditure upon school services.
- However, the Council would fully retain its duties, e.g. to ensure all learners have a school place, for SEND, for LAC, for excluded learners etc.
- (ii) If significant schools are not prepared to enter a relationship with the Council which better balances risk and responsibility as proposed by this report, then it is preferable for the Council for more or all schools to academise.
  - (iii) In a situation where significantly more schools were academies, the schools functions of the County Council would be more clearly defined, leading to greater clarity of focus.
  - (iv) Within the requirements of continuing statutory responsibilities, the relationship with schools needs to be affordable to the Council.
- 1.14 From 2010 the Academies Programme was opened up more widely, initially to successful schools. More recently still, Academy status has been open to all schools.
- 1.15 Some have become part of academy chains, others have become single 'converter' academies, others still have joined together to form a multi academy trust (MAT).

- 1.16 At the same time provisions were introduced to enable the opening of free schools. They like Academies are autonomous or self-determining schools.
- 1.17 Since 2010 there have been successive attempts by government to limit functions and powers of Local Authorities with regard to schools. This was designed to mean that Local Authorities were responsible for:-
- Planning school places (Note: A Local Authority can no longer establish a school)
  - Ensuring sufficiency
  - Ensuring all learners have a school place
  - Ensuring that the needs of vulnerable learners are met (e.g. SEND, LAC)
  - A residual duty and powers with regard to school standards duties emanating from the 2006 Education Act
- 1.18 More recently still, in 2016 in the White Paper “Educational Excellence Everywhere” government declared its intention to academise all schools, leaving Local Authorities minus the school standards duty, with very residual school duties, as described above.
- 1.19 In response to representations from a number of Local Authorities with reputations for good school standards, more recently government has returned to a position of academisation being a matter of choice. (NB. Where schools and settlings are judged Inadequate by OFSTED, they are automatically academised or closed.)
- 1.20 Accountability for academies is through the Office of The Schools Commissioner (Regional Schools Commissioners). All state schools are funded by the Education and Skills Funding Agency through the local Schools Forum, as England moves towards a National Funding Formula. To some extent with regard to school places and standards at academies, there is shared responsibility between Local Authorities and Regional Commissioners.
- 1.21 Summary and Conclusions
- There have been 30 years of school change and reform.
  - Virtually all of these changes have promoted greater school autonomy.
  - The maximum amount of school funding is now delegated directly to schools and academies. They choose how and upon what/with whom to spend budgets.
  - The scope of Local Authority powers and responsibilities is now fairly clear.
  - There is a spectrum of options for relationships between Local Authorities, schools and academies.
  - On account of maximum delegation and reductions in public expenditure, the number of Local Authority schools’ staff has been very greatly reduced. In very many instances where services are provided to schools (e.g. HR, Finance, school improvement) schools are required to pay for them.

## **2. What Does This Mean?**

2.1 A helpful way to think of this is to think of the Local Authority in terms of:

- a) Its duties to secure the wellbeing of all young people in its area including educational outcomes, whether at a school or an academy.

- b) Promoting social mobility and enabling all young people to participate in society, socially and economically.
- c) That the Local Authority's main school duties are to learners and their parents/carers (e.g. school places, attendance, SEND etc.) rather than to schools themselves.
- d) That the Local Authority is an advocate or champion on behalf of learners, parents/carers.
- e) That the Local Authority is a Commissioner of provision, not a provider (e.g. places sufficiency, SEND duties etc.)
- f) That the school standards duties are exercised on behalf of learners, parents/carers as advocate and champion.
- g) That there is a spectrum of options for the type and extent of relationships between a Local Authority and maintained schools and academies/Free Schools.
- h) That the context and geography of the Local Authority area (e.g. rural, urban) may be a key determinant of that relationship.

2.2 A very helpful document from the LGA on this subject is attached as Appendix 1.

### **3. The Situation in Dorset**

3.1 The current relationship between the Local Authority and schools requires clearer definition. Because:-

- There is no recent memorandum of understanding or protocol stating an agreed relationship or terms of engagement
- The Local Authority some time ago sought to allow a schools-led arrangement to develop
- School standards in Dorset which six years ago would have been regarded as good, are now lagging behind other much more challenged Local Authorities, which have "leap-frogged" them
- Approximately 40% of schools are now academies (please see Appendix 2)
- The Local Authority performs its statutory remit, e.g. planning, places, admissions, SEND, finance etc.
- Schools and academies buy services and support from the Council as they choose
- The School Improvement duties seem less than clearly defined.
- Few opportunities appear to have been taken over the recent past to spell out key strategic messages (the predicament over the High Needs Block is an example of this)
- In addition in Dorset there is a significant number of small rural primary schools. On account of size and lack of economies of scale, many of these schools are struggling to be viable financially.

No one wants to see rural communities deprived of their school. Equally, schools need to be viable financially. This is something which must be addressed in the context of the Council/schools relationship.

3.2 Nevertheless, there is evidence that in the last resort or when things go wrong, schools look to the Local Authority for support and/or to lay blame.

3.3 The Council is not and has not for some time been in any position to afford expenditure upon schools beyond its prescribed statutory duties. However, the Council is currently acting as de facto guarantor to a large deficit in the High Needs Block and some traded services to schools are either trading at a loss or are under-priced.

3.4 This means three things:-

- a) The Council itself needs to examine and decide what relationship it wants and can afford to have with schools and academies. This could for instance, include handing over many or most of the current central functions to an entity controlled by schools themselves.
- b) Once decided, schools and academies need to be consulted to explore what kind of relationship they want and whether there is sufficient commonality between schools and academies to make this viable and realistic.
- c) Depending upon the outcomes, an attempt will need to be made to synthesise the needs and wants of the Council with the needs and wants of schools and academies, in order to formulate a defined, agreed relationship.

#### **4. Options**

4.1 There is a range of options open to the Council which can be summarised as:-

(i) Minimal- A wholly school-led self-determined system where remaining maintained schools are encouraged to federate or seek academy status. The majority of centrally run services are handed over to a schools or jointly controlled entity. Schools provide or commission support for themselves or from other providers. The Council's expenditure upon schools is confined to the irreducible statutory minimum.

(Please note a separate consideration of the pros and cons of encouraging schools to academise is set out at the end of this section of the report).

The attractions of this approach are:

- Clarity, simplicity and eradication of financial commitment and risk
- Schools facing responsibility for themselves and for the consequences of maximum financial delegation
- Central services, especially SEND where schools and academies themselves would have greater influence and responsibility for the responsiveness of those arrangements themselves
- The Council would be better able to concentrate upon its clearly defined and extensive children's services duties, though it would retain legal accountability for all its statutory educational responsibilities and remain subject to OFSTED inspection.
- The Council has a clear role as enabler, advocate and commissioner.

The constraints are:

- The willingness ultimately of a significant majority of schools and academies to accept the transfer of risk, responsibility (and benefit)
- The Council will retain residual responsibility for statutory duties in the event of failure
- Existing and future reductions in public expenditure may make this an inescapable course of action

(ii) The status quo with modifications- We continue as we are with the Council undertaking statutory duties, schools buying services and a general 'mixed economy'. However relationships, roles and responsibilities are clearly and explicitly spelt out. Which means that, unless schools want to run central services for themselves, there must be shared risk and responsibility (i.e. not automatically blaming the Council for anything that goes wrong). No services will be provided at anything less than full cost recovery. Schools accept that standards in Dorset have failed to keep up with improvements elsewhere and work with the Council and one another to bring about rapid improvement. Schools and academies make a commitment to greater inclusivity in order to reduce the financial burden on the High Needs Budget of out-of-county placements.

The attractions of this approach are:-

- It requires the least disruption and reorganisation
- It clarifies and rebalances the relationship
- Risk, responsibility and benefit are more evenly shared
- There are potential strategic financial economies

The constraints are:-

- It will only work if there are clear commitments to quid pro quos over sharing risk, responsibility and benefit
- The Council needs to take care not to stifle the development of a schools-led system
- Schools' and Academies' "appetite" for being more inclusive

Irrespective of the option chosen, action must be taken to improve the financial viability of small rural schools. This means two things:-

(a) Working by itself or with the Regional Schools Commissioner, the Council must make every effort to encourage smaller schools to federate or to form multi academy trusts (MATs)

(b) Whenever a head teacher is retiring or leaving, every effort must be made to federate the school with one or more other schools or to encourage the joining of or formation of a MAT.

This will help to develop better economies of scale, promote sharing of expertise and resources and improve use of funding.

These considerations need to be extended to the Learning Centres. These too are small settings where economies of scale and sharing of expertise and resources are very important. There are currently five learning centres. One is already due to become an academy; another is in Christchurch. Potentially the three remaining learning centres will suffer from further depletion of economy of scale.

The main arguments in favour of or against academisation of schools rest on: what effect will it have upon school standards?

If we consider whether Dorset children are taught in good or better schools and ready for the next stage of education we would conclude that Dorset has fallen behind other Local Authorities in the last five years.



The evidence for this can be seen firstly in the Ofsted inspection judgements. In 2013 Dorset was a top quintile Local Authority for the percentage of primary school who are judged as good or better. After a steady decline Dorset is now in the bottom quintile. (130<sup>th</sup> Local Authority). It is a similar picture for secondary schools. In 2013 Dorset was in the second quintile and improved to the first quintile by 2015, however has now declined to be in the fourth quintile. (94<sup>th</sup> Local Authority).

Secondly, if we consider the attainment of secondary\* children and how they compare to other children nationally we can see that although the Local Authority started in the bottom quintile in 2013 and improved between 2014 and 2016 to be in the second quintile, in 2017 Dorset fell to the fourth quintile. (92<sup>nd</sup> Local Authority). The picture for primary children shows that Dorset is consistently in either the fourth or fifth quintile for attainment at Key Stage 2.

\*attainment measured as:

- Attainment 8 (GCSE or equivalent 5+ A\*-C including English and Maths pre 2016-2017)
- Meeting the expected standard in reading, writing and mathematics at Key Stage 2. (level 4 pre 2015-2016)

This all shows that over the last five years whereas then school standards in Dorset would have been regarded as generally good; Dorset schools have been “leapfrogged” by schools and other Authorities with higher levels of socio-economic challenge, whose performance has been better.

The appetite in Dorset for schools to become academies or join MATs appears to have reached a plateau.

Two possible explanations are that the financial incentives have disappeared and/or when schools join a MAT or an academy chain, head teachers lose much of their autonomy.

It is inescapable that this situation has come about at a time which coincides with the relative decline in school standards in Dorset. So, it can safely be said that a drive to encourage schools to become academies (for reasons in addition to school standards alone, e.g. affordability to the Council) would not be likely to be detrimental to school standards.

## **5. Summary and Conclusions**

- There needs to be a clearly defined, well understood relationship between the Council, schools and academies. This is also a requirement of the OFSTED Framework for Local Authority School Improvement Inspections.
- Unless there is a willingness to share risk, responsibility and benefit, from the Council’s standpoint especially financially, a minimal relationship is to be preferred.
- The status quo with modifications is desirable and affordable, provided that the relationship itself and sharing of responsibility are clearly spelt out and observed in practice.
- Developing better financial viability for smaller rural schools must become an automatic consideration.

**Nick Jarman**  
**Director for Children’s Services**  
March 2018