

HAMPSHIRE COUNTY COUNCIL**Decision Report**

Decision Maker:	Executive Lead Member for Children's Services
Date:	9 March 2011
Title:	Maintained Schools Converting to Academies
Reference:	2692
Report From:	Director of Children's Services

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1. Executive Summary

- 1.1. The purpose of this paper is to seek delegated authority for the completion of all necessary legal documentation required to be completed by the County Council in order to achieve the conversion of maintained schools to academies.

2. Contextual information

- 2.1. The academy conversion process commences with the Secretary of State for Education making an academy order (pursuant to section 4 of the Academies Act 2010) for the purpose of enabling a local authority maintained school to be converted to an academy.
- 2.2. By virtue of section 6(2) of the 2010 Act, the County Council must cease to maintain the school on the date on which the school opens as an academy. In accordance with section 6(9) of the 2010 Act, the statutory provisions requiring the County Council to publish a notice to discontinue the school and to comply with a statutory procedure for the discontinuance, do not apply.
- 2.3. When the County Council ceases to maintain the school, the Governing Body is dissolved (by virtue of paragraph 5(2)(a)(iv) of Schedule 1 of the Education Act 2002). All property of the Governing Body which is used or held for the purposes of the school and all rights and liabilities (including rights and liabilities in relation to staff) of the Governing Body subsisting immediately before the date of dissolution which were acquired or incurred for the purposes of the school, shall on the date of the Governing Body's dissolution be transferred to the County Council (in accordance with paragraph 7, Part II, Schedule 22 of the School Standards and Framework Act 1998).

- 2.4. Prior to the conversion, the Governing Body of the school must enter into an asset transfer agreement with the academy trust and the County Council in order to transfer the staff, assets and liabilities to the academy trust. Although the County Council is not statutorily required to enter into the asset transfer agreement, the Secretary of State has the power to make a property transfer scheme in relation to the school's property, rights and liabilities and, in so doing, can impose the transfer upon the County Council.
- 2.5. The DfE model asset transfer agreement contains indemnities to be granted by the Local Authority to the academy trust and the scope of these indemnities must be negotiated by the County Council in each case. The financial implications of any indemnities proposed will require oversight by the County Treasurer.
- 2.6. The County Council's experience of a recent academy conversion has demonstrated that it must complete the required legal documentation within a matter of weeks in order to facilitate the conversion process.
- 2.7. In light of the time pressures involved in this process, the Executive Lead Member for Children's Services is requested to delegate authority to the Director of Children's Services, in consultation with the Executive Lead Member for Children's Services and the County Treasurer, to enter into the asset transfer agreement and other associated legal documentation required to achieve the conversion of the school concerned to an academy.
- 2.8. In respect of any land transfers involved in an academy conversion, the Director of Children's Services will ensure that any necessary approval has been granted by the Executive Member for Policy and Resources, or an officer with delegated authority, before the asset transfer agreement is completed.
- 2.9. Where a decision is made for the County Council to enter into the asset transfer agreement, in line with the County Council's Constitution, the agreement will be signed by the Head of Legal Services, or any person authorised by him.

3. Finance

- 3.1. The financial implications are primarily those associated with the indemnities contained in the asset transfer agreement and will be discussed with the Executive Lead Member for Children's Services and the County Treasurer in respect of each converting school.

4. Recommendation

- 4.1. That delegated authority is given to the Director of Children's Services, in consultation with the Executive Lead Member for Children's Services and the County Treasurer, to enter into the asset transfer agreement and other associated legal documentation required to achieve the conversion of a Hampshire County Council maintained school to an academy.

CORPORATE OR LEGAL INFORMATION:

Links to the Corporate Strategy

Hampshire safer and more secure for all:	NO
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	YES
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	NO
Corporate Improvement plan link number (if appropriate):	

Other Significant Links

Links to previous Member decisions:		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
Direct links to specific legislation or Government Directives		
<u>Title</u>	<u>Date</u>	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

1.1. No adverse impact has been identified.

2. Impact on Crime and Disorder:

2.1. No adverse impact has been identified.

3. Climate Change:

a) How does what is being proposed impact on our carbon footprint / energy consumption?

No impact has been identified.

b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

As above.