

# HAMPSHIRE COUNTY COUNCIL

## Decision Report

<b>Decision Maker:</b>	Executive Lead Member for Children's Services
<b>Date:</b>	31 January 2011
<b>Title:</b>	The Priory Primary School's Conversion to an Academy
<b>Reference:</b>	
<b>Report From:</b>	John Coughlan, Deputy Chief Executive and Director of Children's Services

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### 1. Executive Summary

1.1. The purpose of this paper is to obtain authority for the completion of the necessary documentation to facilitate the conversion of The Priory Primary School, Tadley, to an academy. A decision is also required for the County Council to cease to maintain the school.

### 2. Contextual information

2.1. On 16 November 2010, the Secretary of State for Education made an academy order (pursuant to section 4 of the Academies Act 2010) for the purpose of enabling The Priory School to be converted to an academy. The anticipated conversion date is the 1 February 2011.

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. The Executive Lead Member is therefore requested to make the decision to cease to maintain The Priory School on the date on which the school opens as an academy.

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. The County Council is not statutorily obliged to enter into the asset transfer agreement but if it decided not to do so, 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 school is currently a foundation school and therefore employs the school staff and holds the freehold title of the school premises. The County Council has been informed that the Governing Body has sought the Secretary of State's approval for the freehold title to transfer directly to the academy trust, without any involvement of the County Council. Therefore, the asset transfer agreement relates to the staff, any remaining school assets and contractual rights and liabilities to be transferred to the academy trust.
- 2.6. On 17 January 2011, solicitors representing the Governing Body contacted the County Council and provided a draft asset transfer agreement. The terms of the agreement have been negotiated and amended to restrict the County Council's liability. The agreement contains two indemnities given by the County Council to the academy trust which relate to any Hampshire County Council employed staff transferring to the academy trust (employed before the dissolution of the Governing Body) and to any contracts procured by the County Council for and on behalf of the school. In fact, there are currently no staff employed at the school by the County Council. In addition, none of the school's contracts involving the County Council have been novated or assigned to the academy trust. The County Council does not own any of the assets at the school. The effect of the two indemnity clauses is therefore limited for the reasons given.
- 2.7. If the 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 only financial implications are those associated with the indemnities detailed in paragraph 2.6. However, for the reasons referred to in that paragraph, the County Council's liability is limited.

### **4. Recommendations**

- 4.1. That the Executive Lead Member for Children's Services agrees:

- 4.1.1 that the County Council shall cease to maintain The Priory Primary School, Tadley, on the date on which the school opens as an academy; and
- 4.1.2 that authorisation is given for the completion of the asset transfer agreement, and any other documentation necessary to achieve the conversion of The Priory Primary School to an academy.

**CORPORATE OR LEGAL INFORMATION:**

**Links to the Corporate Strategy**

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

**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>
The asset transfer agreement	Legal Services

**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.