

CONSULTATION ON PROPOSED BERKHAMSTED EDUCATIONAL TRUST **RESPONSE TO STAFF QUESTIONS**

Introduction

The five schools proposing to establish the Berkhamsted Educational Trust are consulting with staff on the proposal between June 20th and July 14th. This document sets out the questions asked either at the staff meeting on July 3rd or raised via the Ashlyns School NUT representative up to 5pm on July 5th. Each question has been answered to the fullest extent at this stage in the Trust's planning.

<u>Questions asked at the staff consultation meeting on July 3rd</u>
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1. Who owns the Ashlyns site now and who will own it in the future?

Currently, the land and buildings are owned by the Governing Body. On conversion, the freehold would pass to the Trustees of Berkhamsted Educational Trust. The current protections over its use, development and sale would continue to apply.

2. Who are the Trustees and who appointed them?

All existing governors from the five schools involved in the proposal were invited to nominate themselves as Trustees having been provided with information about the role and responsibilities. Nominations were considered by a working group of governors and Headteachers and a list presented for approval by all five governing bodies at a joint meeting on May 15th. Governing Bodies agreed to delegate the final appointment of Trustees to the working group and the final list was agreed at a working group meeting on June 6th. The appointment of Trustees is subject to DfE scrutiny and therefore until their feedback is received it would not be appropriate to publish the list. Every Trustee is, though, drawn from governors within the school's existing governing bodies based on the specific skills required of Trustees. Should any of those Trustees ultimately appointed step down new Trustees will be appointed by those remaining Trustees based upon their skill set. As such, the new Trustees will not necessarily come from within the school's Governing Bodies.

3. Who will be the CEO and who appointed them.

Governing Bodies agreed on May 15th to delegate the appointment of the CEO to the working group who in turn in June 6th agreed that three Trustees Designate would oversee the appointment process. At the working group on July 5th the working group approved the sub-group's recommendation of the CEO appointee. The appointment of the CEO is subject to DfE scrutiny and therefore until their feedback is received it would not be appropriate to confirm who the CEO will be. However, it will be one of the existing Headteachers who will combine the part-time CEO role with their substantive Headteacher role.

4. Who will appoint the Headteachers in the future?

The five Governing Bodies agreed a Scheme of Delegation on May 15th, which set out that the appointment of a school Headteacher would be led by a panel comprising governors from the school that requires a new Headteacher, CEO/Headteachers and Trustees. The panel would have delegated authority to make a recommendation to the Trustees who would have final approval as required by the Trust Articles of Association.

5. How is the Trust held to account?

The Trustees are accountable in four ways. First, to the Secretary of State who has the power to intervene in the Trust and/or terminate the Funding Agreement that allows the Trust to run schools. Second, Ofsted has the same rights of inspection. Third, the Trust is accountable under company law with responsibilities such as publishing audited accounts. Fourth, the Trustees are accountable under charity law.

6. How can we support the proposal without knowing the identity of the Members and Trustees?

The governing bodies recognise the importance of choosing the right Members and Trustees which is why they have adopted a rigorous selection process. Until the DfE have given feedback on

nominations it would not be fair to publish the names in case someone is asked to step down. The Trustees are, though, all existing governors in the town and the Trust Members were all recommended by governors (being members of the local community such as former governors).

7. How is the Trust to be funded?

The incremental costs of running the Trust have been estimated by the working group. In Year 1 schools will be required to make a modest contribution, which represents a very small percentage of their current budget. The plan is that savings and efficiencies achieved through joint commissioning and procurement of services that the schools currently purchase individually will make the Trust self-funding in Year 2 or 3. Each of the schools has budgeted its forecast contribution. Members and Trustees are not paid. There may be additional roles which will need to be funded as a result of the Trust's requirements.

8. Does the consultation survey ask the specific question of whether staff support the proposal?

Yes.

9. What powers will the CEO have?

The CEO will have four specific roles. 1) Ex-officio Trustee representing the leadership group of Headteachers. 2) Chair of the leadership group, ensuring it is an effective forum to develop plans, proposals and policies that will enable school improvement 3) Strategic management of non-academic functions of the Trust such as finance, HR and compliance 4) Lead on intervention in an under-performing school.

The Scheme of Delegation agreed by the governing bodies means that Headteachers retain most their current responsibilities.

10. Will the Trust grow if it is successful?

The schools forming the Trust have no plans to grow but recognise that if successful other schools may wish to join. They also recognise that if the Trust grows then the central costs will be shared among a larger pool and there will be greater opportunity to secure efficiencies. It should be noted that it is DfE policy that successful MATs should support under-performing schools, which is a moral purpose that the schools support.

11. Will funds be diverted if a school gets into financial difficulty?

A key principle of Trust financial governance is that each school has a responsibility to set a balanced budget. Each school is funded on a per pupil formula and it is only right that each school receives that funding. The Trustees will not allow schools to run into deficit and if necessary would intervene in any school that was not being financially well-run. However, there may be circumstances where it is appropriate for a school to receive a loan from the Trust, which would be repayable.

12. Currently, the Local Authority has a contingency to support schools in difficulty. What will happen after conversion?

The Local Authority no longer has funds to support schools in difficulty i.e. there is no central contingency fund from which the Local Authority can routinely bail out schools who are in deficit. Any recent loans from the Local Authority are re-payable. As explained in the response to question 11 the Trustees may agree to loan funds in exceptional circumstances

13. How will support staff pay scales be managed?

The current local government pay scales used by the schools will transfer across. The schools have committed that support staff will have pay, terms and conditions at least equal to Local Authority maintained schools and that the Trust will have a union negotiation agreement in place that involves unions in employment matters such as agreement of pay scales.

14 How will the Trust know if it is doing a good job educationally?

The Headteachers have developed a plan for Year 1 with targets and strategies and the Trustees will monitor progress against these goals. Trustees will also agree other key measures to assess the impact of the Trust. It is worth noting that the benefits of close partnership through the Trust will evolve and increase over time.

15. Does Ofsted's inspection regime alter?

Each school will continue to be inspected individually and the judgement for one school will not affect judgements for other schools. If one school has an adverse Ofsted inspection, it is the intention that the Trust would support that school. It is worth noting that Trust-wide inspections have been proposed by Ofsted but so far have not been agreed by the Secretary of State for Education.

If a Local Authority maintained school has an adverse judgement then the DfE Regional Schools Commissioner would have authority to make it a sponsored academy and choose the sponsoring Trust.

Questions raised after the consultation before 5pm on July 5th

16. Will the Trust envisage changing the holiday periods and school day? Will they promise not to do this unless there is consultation, negotiation and agreement with the Union before it is implemented?

The schools forming the Trust do not envisage changing holiday periods or the school day. The schools have committed to the Trust having a union consultation agreement that would set out the role of unions in consultation and negotiation of changes to terms & conditions.

17. Does the Trust envisage using its authority to have 10 per cent of the student admission through selection?

No.

18. Would individual schools have autonomy over behaviour policies and exclusions?

It is likely that there would be a model Trust policy that each school would amend for their circumstances. This would be similar to there being a County model policy that is then amended by each school.

19. A benefit suggested in the presentation was that SEND provision would be improved. How would this be implemented and why is it a benefit of joining a MAT? Why can't these provisions be made anyway?

Across the five schools there is a breadth of expertise in a wide range of pupils needs. Partnership working between staff with SEN responsibilities would broaden the expertise available to each school to meet the needs of their pupils. Additionally, the Trust may in future be in a position to employ Trust-wide SEN staff and commission Trust wide support. This is something that an informal partnership could not do.

20. Another benefit alluded to was the ability to share resources and expertise. We will be the only secondary school so how will this benefit Ashlyns? Will time and money be available for staff to work collaboratively?

There is significant evidence that close collaboration between primary and secondary phases can make a huge difference in attainment and progress between Years 5 and 8. This is one example of how sharing resources and expertise could help staff at Ashlyns. It is worth noting that there are large numbers of non-teaching staff in the five schools where sharing resources and expertise would be a significant benefit.

Coordination and planning of CPD and inset days will enable staff to work collaboratively. Where staff are asked to work on Trust projects workloads will be managed to ensure staff have the time to carry out the work. If staff are asked to take on Trust-wide responsibilities then TLRs and temporary payments would be put in place.

21. The presentation suggested academisation would offer a reduction in teacher workload. How exactly would this be achieved by joining a MAT?

Other MATs have found that teachers working together on curriculum planning, schemes of work or project work has reduced time they have spent and they have felt the quality of work has been enhanced. Another example is where schools have to respond to new policies or guidance from DfE or Ofsted. Working together to prepare Trust wide responses will avoid duplication of effort and save time.

22. It was suggested that the change would lead to greater CPD opportunities and the creation of new roles. What roles or CPD opportunities does the Trust propose to develop over the next two years?

The Trust CPD plan will be based on the needs of the individual schools. The leadership group of Headteachers would oversee the development of Trust CPD plan once the schools have converted.

23. Under the TUPE regulations the transfer of terms and conditions only lasts for one year. After that the Trust could change them. Will the Trust guarantee that it will not do this in a written agreement with the Union?

It is factually wrong to state that TUPE lasts for any specific time period. The protection has no time limit and if an employer makes changes that contravene the TUPE Regulations at any point in the future they can be held to account. Staff should note that terms and conditions change every year with the re-negotiation of STPCD and Local Government support staff pay, terms and conditions.

The schools have committed to terms and conditions that would be at least equal to those in Local Authority maintained schools. The schools have committed to the Trust having a union consultation agreement that would set out the role of unions in consultation and negotiation of changes to terms & conditions.

24. Will policies be published for staff and parents to see prior to any decision being made to form a MAT?

The Trust and member school will have responsibilities to publish certain policies on websites as schools do now. These will not be drafted until close to conversion.

However, the schools expect to present a draft Trust pay policy as part of the TUPE consultation planned for the Autumn 2017 term, which will involve unions, professional associations and staff.

25. Why is it necessary for Ashlyns to be part of a MAT rather than a stand-alone academy that could still work collaboratively with local schools?

The DfE are no longer approving stand-alone, single academies. As part of a MAT, Ashlyns would be able to apply directly to the EFA regarding grants for capital projects and, additionally, enjoy the benefits of closer formal collaboration. These include: enhanced long-term sustainability; enhanced, long-term strategic planning; a formal governance structure in which to operate the collaboration; the ability to commission services as a single entity on a bigger scale and improve cost savings; the opportunity to develop centralised services that reduce the bureaucratic burden on leaders, allowing them to focus more effectively on teaching, learning and improving outcomes for children.

26. Why exactly is it necessary to become an academy at all if the government has rescinded on its legislation to force schools to convert?

The Academies Act 2010 remains on the statute books and it is still government policy for schools to become academies. The change is that the White Paper that proposed that schools be forced to become academies by 2020 was not taken further into legislation.

The schools are proactively choosing to create a multi academy trust for all reasons set out the consultation documentation and presentation: to sustain and improve outcomes for the pupils and students of the five schools.

27. If the primary schools' land is owned by the LA and they are only going to lease it to the Trust, then the only land that will be owned by the Trust will be Ashlyns' land. Is this not a foolish decision by our governors given that they are voluntarily proposing to cease to be the legal entity that owns the land and are passing it out of their control to the Trust?

The Ashlyns Governing Body has carefully considered the risk of ownership passing from them to the Trust and are satisfied that it is not a risk given the protection on the usage, development and sale in place that would continue after conversion.

28. Why can't the proposed Members of the Trust be asked to make themselves known to the staff and stakeholders prior to the decision being made?

The governing bodies recognise the importance of choosing the right Members and Trustees which is why they have adopted a rigorous selection process. Until the DfE have given feedback on nominations it would not be fair to publish the names in case someone is asked to step down. The Trustees are, though, all existing governors in the town and the Trust Members were all recommended by governors (being members of the local community such as former governors).

29. Within the proposed board of Trustees and Members, who would represent the interests of staff? If the Members cannot have an elected member of the staff unions on it, can't provision be made for the trade unions to nominate a non-member of staff who is a

union member to be on the board as a guarantee that their rights will be represented at the highest level?

The schools believe that the Trust union consultation agreement that it has committed to put in place, will give unions an important role in consultation and negotiation on matters relating to the employment of staff.

30. What will be the role of the LGBs? What powers will they be delegated? How will they be chosen? Will there be parent governors? Can there be a place on these boards for a trade union representative?

The Local Governing Bodies will continue to have an important role in the governance of their school. A Scheme of Delegation agreed by the five Governing Bodies sets out their responsibilities and accountabilities. The composition of Local Governing Bodies will be a matter for each Local Governing Body within agreed parameters such as a minimum of two parent governors, one staff governor and a balancing number of Trust governors. The Trust would not impose the requirement for trade union representatives but if individual LGBs felt it would be helpful they would be free to do so.

31. Could there be a place for an elected staff and/or trade union member from school to be on the Trust Board rather than the Members'?

No. The DfE policy is that staff members should not be Trustees due to a conflict of interest.

32. How frequently will each of the different boards meet?

The final governance planner is to be determined but it is anticipated that the Board of Trustees and Local Governing Bodies will meet at least four times a year.

33. Which decisions by LGBs will need to be ratified by the Trust Board before they can be implemented?

The Scheme of Delegation agreed by the five governing bodies sets out very clearly which decisions can be made by LGBs. The governing bodies are satisfied they have the appropriate level of autonomy balanced against the legal and regulatory responsibilities that Trustees must retain.

34. What changes are envisaged to the way pupils learn in the next two years?

None are planned specifically at this point; however, it is likely that the way in which ICT and digital learning develops over the next two years may change the way in which some teaching, learning and assessment take place. Likewise, teacher led development and research will continue to inform pedagogy and practice in the classroom. Successful strategies or pilots that take place in one establishment may, at the discretion of individual schools, be extended elsewhere in the MAT.

35. What will the costs be? How much will Ashlyns be asked to surrender to the Trust as a top slice? Will this be different from the other schools?

The incremental costs of running the Trust have been estimated by the working group. In Year 1 schools will be required to make a modest contribution, which represents a very small percentage of their current budget. The plan is that savings and efficiencies, achieved through joint commissioning and procurement of services that the schools currently purchase individually, will make the Trust self-funding in Year 2 or 3. Each of the schools has budgeted its forecast contribution. All schools will pay the same per pupil amount.

36. What is the financial status of all the individual schools? Can the budgets, accounts and five year projections of the schools be made available to us in advance of the decision being made?

Financial due diligence has been carried out and the five governing bodies are satisfied that no school represents a financial risk. However, all schools are facing the same financial pressures and the Trust will improve the ability of individual schools to respond to these pressures.

37. If the Head honours pay portability at Ashlyns now, will he be able to continue to do so after the Trust is formed, if the Trust will not guarantee it across the whole MAT?

Pay portability will not be a Trust-wide policy. However, individual Headteachers will retain the autonomy to agree a salary within the Trust pay scales if it can be justified in terms of job evaluation, would not put the Trust at risk of being an unfair employer and is affordable.

38. Some people may be personally morally opposed to academisation. What happens to any staff who may not want to work in an academy? Under TUPE, in the case of the LA schools, transfers can be arranged for staff who cannot tolerate working in an academy. What happens in the case of Ashlyns? Where will the Foundation find an alternative place of employment? If this cannot be arranged will there be a severance package offered?

If staff choose not to agree to the transfer of their employment, under TUPE regulations they would in effect make themselves redundant and would not be eligible for redundancy. The schools forming the Trust recognise and respect that some staff may be ideologically opposed to working in an academy. The schools would be willing to support those staff members employed by Hertfordshire County Council in exploring re-deployment. It should be noted that Ashlyns staff are employed by the governing body not by Hertfordshire County Council.

39. Have the governors considered joining the Cooperative Schools' Network? If so why have they not opted for this solution?

The governing bodies each carefully considered a number of models for formal partnership including Cooperative Academy Trusts. Collectively they have agreed that a model which the multi academy trust is the best option.

40. Why weren't the governors answering questions at the consultation if they are the people making the decision?

The working group of governors and Headteachers agreed it was appropriate for Headteachers and the project manager to respond to questions at the staff consultation, given the likely nature of those questions. However, governors did answer many of the questions from parents during the parent consultation meeting.

41. How will staff recruitment be handled? Will Heads and individual schools have complete control over the recruitment process or will there be representation on selection boards from Trust Board members? Exactly how does the Trust envisage Head Teachers being recruited? Will this be by the boards of governors of the individual schools or will this also include non-School Trust Board members?

The Scheme of Delegation agreed by the five governing bodies delegates authority to Headteachers for the vast majority of recruitment in their schools as now. Some posts may involve governors in appointment. The appointment of a school Headteacher would be led by a panel comprising school governors, CEO/Headteachers and Trustees. The panel would have delegated authority to make a recommendation to the Trustees who would have final approval as required by the Trust Articles of Association.

42. According to the information we have been given from the Union, the consultation ought to have been made early in the process. It seems that what we were presented with is very far advanced in its intention to covert but also very vague in terms of the details about how the MAT will work. Is there a reason for this? Why weren't we told of this plan earlier? How can we be satisfied that our futures are secure? What would be the consequences exactly of doing nothing for the time being?

The Academies Act 2010 states that:

"Before a maintained school in England is converted into an Academy, the school's governing body must consult such persons as they think appropriate.

The consultation must be on the question of whether the school should be converted into an Academy.

The consultation may take place before or after an Academy order, or an application for an Academy order, has been made in respect of the school."

The five governing bodies believe that the planned consultation is robust and comprehensive. It includes publication of the proposals, stakeholder meetings, publication of meeting Q&As and an online survey accessible by all staff and parents. The consultation period of 4 academic weeks is standard practice for academy conversions.

The consultation could not start until all five governing bodies had agreed to commence consultation, which was completed at a joint meeting on May 15th. At this meeting, these governing bodies also agreed to the proposals for the Trust's governance, leadership, financial management

and employment of staff, developed by a working group of governors and Headteachers from the five schools. These proposals had been in development since February 4th by the working group of governors and Headteachers from the five schools. It was essential that these proposals had been agreed so that they could be included in the consultation information.

It is worth noting that there will be a further consultation with staff on the transfer of their employment under TUPE Regulations. This will include publication of a formal letter setting the specific implications of the transfer and any proposed Measures that the Trust is planning to implement. There will be a formal meeting with relevant teaching and support staff unions such as National Education Union (merger of NUT and ATL), NASUWT, NAHT, Unison and GMB. Staff will also be issued with an individual statement of employment so they can check the key details of their employment before the conversion and associated transfer takes place.

43. How much has the process cost so far? Obviously, the Consultant is being paid. How much? How are his fees being met? Is Ashlyns paying more because it is a larger school with a larger budget? How much will the process cost to fulfil?

The consultant's fees for the support from the start of their commission (February 4th 2017) until now are £5,500. The five schools have each made a contribution to meet the costs of the process so far. Once academy applications are submitted and approved the schools will each receive a £25,000 conversion grant, which will more than cover the costs of the conversion process, including the investment to date. Each school will contribute the same amount to the conversion process.

44. Is there a project plan/timeline? Can it be made available to us? What are the tolerances within the budget? Is there a tolerance to allow for more time to consult if that is what the stakeholders want?

The working group of governors and Headteachers have an agreed project timeline towards the target date of November 1st 2017, which they are using to monitor progress. This timeline is subject to DfE approval of the academy applications and the completion of a range of legal and operational tasks.

The working group is not currently planning to extend the consultation.

45. Was the parents' meeting minuted? How many parents turned up? Can the staff have a report on what the mood of the parents was? Does the plan envisage making the results of the survey public? If the survey shows that there is no appetite for this change will the governors think again? Were the parents given any indication of the disadvantages of converting to an academy?

The Q&A from the parents meeting will be published by each school on its website as will this staff Q&A. Approximately 170 parents attended and asked a wide range of insightful and challenging questions, specifically including the risks and disadvantages of converting to academy status.

The survey data will be an important part of the consultation report to be considered by each governing body. If there is evidence of significant objection from their parents and staff then clearly each governing body will carefully consider this alongside the reasons and benefits of the proposal.

Once agreed the consultation report including survey data will be published by the schools, ideally before the end of term i.e. July 21st.