

Birmingham City Council

Report to Cabinet Member for Education Skills and Culture jointly with the Director of Education & Skills

16 May 2019



Subject: PROPOSAL OF THE GOVERNING BODY OF ST MARY'S CE PRIMARY SCHOOL TO CHANGE CATEGORY FROM VOLUNTARY CONTROLLED TO VOLUNTARY AIDED

Report of: Interim Assistant Director, Education

Relevant Cabinet Member: Councillor Jayne Francis, Cabinet Member Education Skills and Culture

Relevant O &S Chair(s): Councillor Mariam Khan, Learning Culture and Physical Activity

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s): Weoley and Selly Oak		
Is this a key decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, add Forward Plan Reference:		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential :		

1 Executive Summary

- 1.1 To seek determination of the statutory proposal by the Governing Body of St Mary's Church of England Primary School to change their status from Voluntary Controlled to Voluntary Aided with effect from 1st September 2019

2 Recommendations

- 2.1 That the Cabinet Member for Education, Skills and Culture jointly with the Director for Education & Skills;
- 2.2 Approve, having taken into account the statutory guidance, the statutory proposal of the Governing Body to change the category of St Mary's CE Primary School from Voluntary Controlled (VC) to Voluntary Aided (VA)

3 Background

- 3.1 St Mary's C of E Primary School is a Voluntary Controlled primary school in the Weoley and Selly Oak Ward in the Selly Oak district of the City.
- 3.2 Following an Ofsted inspection in February 2017 the school was judged as "Good" and a subsequent Standard Inspection of Anglican and Methodist School (SIAMS) inspection in February 2017 judged St Mary's CE to be an "Outstanding" school.
- 3.3 The key differences for VA schools are as follows:

Difference between VC and VA		
	Voluntary Controlled (VC)	Voluntary Aided (VA)
Employer	Local Authority	Governing Body
Admissions	Local Authority controls the admission policy	VA schools can set the admission policy
Religious Education RE Syllabus	The school follows the Birmingham Agreed Syllabus	VA schools can set their own RE syllabus
Finance	The Local Authority receive condition funding for VC schools	VA schools can apply for additional funding for building projects by making a bid to LCVAP

- 3.4 The Governing Body and Senior Leaders of the school feel that converting to Voluntary Aided status will allow them more flexibility with their curriculum, admission and finance and enable them to maintain the effectiveness of the school in years to come.
- 3.5 The Local Authority received a letter from Head teacher and Chair of Governors on 19th November 2018 advising that they would be seeking a change to Voluntary Aided status. The Local Authority is in support of the proposal and provided the school with a copy of the DfE guidance (see Appendix 4 for an extract).
- 3.6 The school carried out a pre-statutory consultation between the 21st January and 15th February 2019. All parents/carers and staff received a Voluntary Aided Information Document at the start of the consultation and were invited to attend one of two consultation meetings held on 30th January 2019. The total number of attendees at the meetings was nine. Details of the questions raised and answers

are included in the formal consultation information document which can be found in Appendix 1.

- 3.7 The Governing Body constitution will change should the school become Voluntary Aided and the Governing Body will become the employer of staff. The Governing Body have stated that all current terms and conditions will remain the same. Employee Relations have been advised of the proposal and should approval be given will commence the TUPE process to enable the changes to take place from 1st September 2019.
- 3.8 All requirements of the National Curriculum will still apply. The school currently follow the Birmingham Agreed Syllabus for religious education which is majority Christian led. The school have stated that they have a very strong desire to create a Religious Curriculum that deepens understanding of world faiths and does not focus only on Christianity. If the proposals were approved the school plan to make these changes to their religious curriculum to ensure a wide and rich religious education for their pupils. This target was also given to the school at their last Church School inspection.
- 3.9 The Governing Body will become responsible for the admissions at the school but the current admission criteria will not change.
- 3.10 The Governing Body have stated that the land and buildings of the school are in a good condition. As a Voluntary Aided school the Governors will be able to bid for additional revenue to the Diocese via the Local Education Authority Co-ordinated Voluntary Aided Programme (LCVAP) on an annual basis. As a VA school the Governing Body would need to fund 10% of any building application approved by LCVAP. The School's Financial Consultants have provided a letter of financial assurance, this can be found in Appendix 2.
- 3.11 The Governing Body commenced their statutory consultation on 28th February 2019; a notice was published in the Birmingham Post on 28th February 2019. The notice was published on the school website. A copy of the notice was posted at all the entrances to the school. Comments were invited and collated on a BeHeard website or by writing to Education Infrastructure. A copy of the notice is included in the formal consultation information document which can be found in Appendix 1.
- 3.12 A four week representation period followed in which one response was received opposed to the proposal. An anonymised copy of this response and the school's response can be found in Appendix 3. The respondent was also sent a copy of the school's response by email on 14th March 2019.
- 3.13 Regulation 7 of the Prescribed Alterations Regulations provides that the Local Authority must have regard to guidance issued by the Secretary of State when taking a decision on such proposals. The relevant statutory guidance is attached as Appendix 4. The Local Authority has no particular concerns in regards to this proposal; appropriate support will be provided to formalise any land ownership and any current leasing arrangements that apply.

4 Options considered and Recommended Proposal

- 4.1 The recommendation of this report is for the proposal to be approved, alternatively, in line with the statutory guidance, the proposal may be approved with modification or approved subject to meeting a prescribed condition or rejected.
- 4.2 Should the proposal be rejected, St Mary's Church of England Primary School will remain a VC school for the time being. The Local Authority will remain the employer of the staff and responsible for admissions, land and buildings. The school will not be able to bid for LCVAP funding which will mean that they will be reliant on the school's balances to maintain the building and to tackle any ongoing suitability issues; this is due to the current constraints on the capital spend grant. The school currently has no plans to alter its admission arrangements. However, should the statutory proposal to become VA not be approved the school will not have the autonomy to create its own RE syllabus or admissions criteria.

5 Consultation

5.1 Internal

- 5.1.1 During the statutory consultation period, information about the proposal was sent to:

- Ward Councillors for Weoley & Selly Oak Ward
- Officers from services across Birmingham City Council including Admissions, Finance, School & Governor Support, Human Resources, Legal, Planning, Research & Statistics, Officers for Education & Skills

- 5.1.2 Details of the response received and outcome of the statutory consultation is set out in Appendix 3. The Ward Councillors consulted and the date and the method of the consultation are set out in Appendix 5.

5.2 External

- 5.2.1 The Governing Body of St Mary's CE Primary School have carried out the consultations. The proposal has been fully consulted upon in line with the requirements set out in both the statutory guidance "Making significant changes ('prescribed alterations') to maintained schools" (October 2018) published by the Department for Education (DfE). A copy of the guidance for decision makers can be found in Appendix 4.

- 5.2.2 During the pre-statutory consultation period, information about the proposal was publicised to the parents, teaching staff and non-teaching staff.

During the statutory consultation period, information about the proposal was publicised to all stakeholders consulted during the pre-statutory period and the following additional consultees:

- Birmingham Schools;
- Neighbouring Local Authorities;
- The Archdiocesan and The Anglican Diocese of Birmingham;
- Professional Associations and Trade unions;

- Councillors for Weoley and Selly Oak Ward;
- Member of Parliament for Selly Oak.

5.2.3 The information was publicised in the following ways:

- Public notice in Birmingham Post newspaper;
- On Birmingham City Council BeHeard webpage;
- On the schools' webpages;
- On the Birmingham City Council School Notice Board.
- A copy of the notice was posted at all the entrances to the school.

5.2.4 A copy of the formal consultation information document which also includes a copy of the public notice can be found in Appendix 1. The outcome of the external consultation is set out in Section 3 of this report and in Appendix 3.

6 Risk Management

6.1 No risks have been identified.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

7.1.1 This proposal would result in St Mary's Church of England Primary School becoming a VA primary school which will give it more flexibility and autonomy when making decisions on areas of the curriculum (notably Religious Education), governance and finance.

7.2 Legal Implications

7.2.1 The Governing Body of a VC school has the power under section 19 of the Education and Inspections Act 2006 (the "2006 Act") and regulation 4 of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (the "Prescribed Alterations Regulations") to propose that prescribed alterations be made to the School, including (pursuant to paragraph 16(a) of Schedule 2 to the Prescribed Alterations Regulations change of category from a VC to a VA school. Pursuant to section 21(2)(f) of the 2006 Act and paragraph 3 of Schedule 3 to the Prescribed Alterations Regulations, the final decision on such matters is for the Local Authority to make.

7.3 Financial Implications

7.3.1 The change of status from VC to VA would result in the School becoming responsible for the employment of staff, its admission arrangements and pupil numbers, with full responsibility for the land and buildings including the maintenance thereof. The Local Authority would no longer fund any capital expenditure works at the School, instead the Governing Body will be able to apply to the Diocese for Locally Co-ordinated Voluntary Aided Programme (LCVAP) funding for capital projects on an annual basis. The Governing Body would need to meet 10% of any capital project costs. The School's Financial Consultants have provided a letter of financial assurance; this can be found in Appendix 2. Revenue expenditure would not differ to current arrangements, the

School will continue to receive revenue funding through the Dedicated Schools Grant (DSG).

7.4 Procurement Implications (if required)

Not applicable.

7.5 Human Resources Implications (if required)

7.5.1 The Governing Body constitution will change should the school become VA and the Governing Body will become the employer of staff. The Governing Body have stated that all current terms and conditions will remain the same. Employee Relations have been advised of the proposal and should approval be given will commence the TUPE process to enable the changes to take place from 1st September 2019.

7.6 Public Sector Equality Duty

7.6.1 An updated Equality Assessment initial screening was carried out in October 2018 (EQUA221) against the School Organisation Change process, which identified that a full impact assessment was not required. No events have occurred since then which would require the preparation of a fresh screening in respect of these recommendations.

8 Background Documents

8.1 Documents

- Education and Inspections Act 2006
- Making significant changes ('prescribed alterations') to maintained schools: "Statutory guidance for proposers and decision makers" published by the Department for Education (DfE) October 2018.

8.2 List of Appendices accompanying this Report(if any):

- 1. Formal consultation information document including the public notice.
- 2. Statement of Financial Assurance
- 3. Statutory Consultation Results
- 4. Excerpt of Guidance for Decision Makers
- 5. Ward Councillors Consulted.