

BIRMINGHAM CITY COUNCIL**PUBLIC REPORT**

Report to:	CABINET
Report of: Date of Decision:	Strategic Director for People 20th SEPTEMBER 2016
SUBJECT:	BROADWAY ACADEMY BUILDING SCHOOLS FOR THE FUTURE SAVINGS REVIEW
Key Decision: Yes	Relevant Forward Plan Ref: 001893/2016
Relevant Cabinet Member(s) or Executive Member	Cllr Brigid Jones, Children, Families & Schools Cllr Majid Mahmood, Value for Money & Efficiency
Relevant O&S Chairman:	Cllr Susan Barnett, Schools, Children & Families Cllr Mohammed Aikhlaq, Corporate Resources & Governance
Wards affected:	Aston

1. Purpose of report:
1.1 To seek authority to vary aspects of the contractual and commercial arrangements in place with Birmingham Lend Lease Partnership (BLLP), the City Council's appointed Local Education Partnership (LEP). In particular to vary the Broadway Academy Hard FM contract to remove all lifecycle obligations.
1.2 The report on the private agenda contains confidential information in relation to the proposals.

2. Decision(s) recommended:
That Cabinet:-
2.1 Notes this report.

Lead Contact Officer(s):	Mike Jones Head of Contracts Management (Education and Infrastructure)
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3. Consultation

Consultation should include those that have an interest in the decisions recommended

3.1 Internal

The Leader and Corporate Procurement and Contract Management have been consulted and are in agreement that the proposals go forward for an executive decision. The Strategic Director Finance and Legal, the Strategic Director for People, Ward Councillors, Executive Members and Service Integration Heads have also been consulted and any outcomes have been noted in this report. Officers from City Finance and Legal Services have been involved in the preparation of this report.

3.2 External

Broadway Academy, BLLP, Lend Lease and ENGIE Buildings Limited have all been consulted on all relevant matters and have been informed of the proposals.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

The proposals contribute towards the City Council's Business Plan and Budget 2016+ which sets out the annual budget and long term financial strategy of the City Council and plans for assets, capital investment and other resource issues to deliver the Council's priorities.

4.2 Financial Implications (Will decisions be carried out within existing finance and Resources?)

The financial implications for varying the Broadway Academy Hard FM contract are detailed in the Private Report.

The savings arising from this proposal will contribute to the achievement of the agreed savings target of £700,000 included in the City Council's Business Plan and Budget 2016+, with the balance being used to offset the ongoing PFI pressures and the Education Services Grant base budget shortfall.

4.3 Legal Implications

Sections 13, 14 & 16 of the Education Act 1996 which provides the powers under which PFI and the BSF Programme were established. The proposals will assist the Council to meet its statutory obligation to make arrangements and secure continuous improvement in the delivery of its functions (Best Value) under S.3 Local Government Act 1999.

4.4 Public Sector Equality Duty

An Initial Equality Analysis was undertaken in June 2014 (EA000233) and the outcome indicated that a Full Equality Analysis was not required.

5. Relevant background/chronology of key events:

5.1 In the financial year 2009/10 the City Council was awarded £13.952m of Capital Grant from Central Government (DfE) to invest into Broadway School (now Academy) as part of the Building Schools for the Future (BSF) programme. The project which was further supported by prudential borrowing was developed as part of the Council's first phase of BSF. Effectively the Broadway specific Design and Build solution (which was a combination of new build and refurbishment) became recognised as a sample scheme at a total cost of £18.1m.

5.2 As a sample school, the model progressed by the Council in conjunction with its Local Education Partnership (BLLP) was developed in such a way that the eventual solution had "PFI type" features. Essentially this meant that Broadway Academy received a full lifecycle replacement arrangement (cyclical works undertaken to ensure the integrity of the building structure throughout the contract term) as well as a full Facility Management (FM) operation extending over a 25 year concession period through to 2036.

The FM services in place provide Broadway Academy with caretaking, cleaning, grounds and planned preventative maintenance support to its building. The agreements supporting these arrangements are known as Soft and Hard Facility Management contracts and the respective contracting parties are the City Council and BLLP. Notwithstanding the proposal to vary the Hard FM to remove the lifecycle obligations all other aspects of the contract will remain in place.

5.3 The Broadway model at the time was envisaged to become the template for all Design and Build projects within the BSF programme. Before the Council progressed the second stage of BSF however the "stopping" (by Central Government) of the BSF programme and the very high costs associated with replicating the Broadway model meant that other Design and Build school projects progressed without the 25 year full lifecycle replacement component. This particular facility was incorporated as a schedule to the Broadway Hard FM contract.

5.4 In light of the recognised financial pressures associated with BSF and in particular Schools PFI arrangements, the Council agreed in January 2015 to support a "pilot study" being undertaken by Local Partnerships (a body established and funded by HM Treasury and the Local Government Association). The study sought to explore the potential for savings from PFI and BSF contracts and had the buy-in of, DfE and Education Funding Agency (EFA). Following the publication of a report in April 2015 Council officers have continued to work to implement a number of savings initiatives and further, provide a far more robust challenge to PFI and FM Providers. A further report outlining initiatives and in particular the outcomes of recent benchmarking exercises on 3 of the Council's 4 grouped Schools PFI contracts is planned to be presented to Cabinet before the end of the current calendar year.

5.5 One of the more immediate opportunities identified by officers was the potential to remove the Broadway Academy lifecycle replacement obligations from the Hard FM contract. Unlike PFI where there is an expectation that lifecycle replacement arrangements support the building for a protracted period, no such requirements apply to the Broadway contract, under which a cash life cycle fund is built up to help fund future lifecycle property costs. Whilst the lifecycle replacement fund for Broadway provides a

level of comfort to the Academy that its building is supported by a lifecycle strategy, there is no guarantee that the Academy will receive best value from the lifecycle fund, which is held and managed by BLLP in conjunction with the FM Provider. As a contracting party, the Council is obligated to pay an agreed annual sum of money to support the arrangement where, as the client, it has no real control over its investment until the end of the contract term when a sharing mechanism would return any unspent balances to the respective contracting parties.

- 5.6 For a period of time Council officers have been engaging with the Academy's leadership and Trust with a view to varying contractual provisions to remove the lifecycle facility. Clearly however for the Academy to agree to the variation assurances have been requested by the managing Trust to ensure that the Academy is not placed in an unduly unfavourable position. In light of this a condition survey of the school estate was commissioned by the Council in early 2016. The outcomes of this survey and remedies for dealing with any issues presented are addressed in the private report.
- 5.7 An early review of contractual terms confirms from the City Council's understanding that the Hard FM contract is capable of being varied and initial discussions have taken place with both BLLP and ENGIE (FM Contractor). Immediately following approval of this report the Council will initiate a variation to BLLP through the available mechanisms within the contract, and work associated with the proposal will commence in October with a targeted completion date of December 2016.

6. Evaluation of alternative option(s):

- 6.1 PFI and BSF Schools benefit from a new/substantially refurbished building which is supported by operational arrangements for a specified period. In continuing to meet obligations associated with these arrangements the Council (as client) continues to fund £5.750m per annum of PFI/BSF costs from General Fund. Without introducing mitigations of this nature which seek to lever savings from associated contracts, whilst giving control back to the Academy, the financial position for the Council will become increasingly untenable.

7. Reasons for Decision(s):

- 7.1 Notwithstanding the clear benefits of removing a long-term revenue obligation from the Council's accounts the decision is based on two fundamental principles, notably:
- Broadway School converted to an Academy in July 2013. As a consequence of this change in status the Council no longer receives central government funding for the Academy with the Academy Trust having a direct funding agreement with the Education Funding Authority (EFA). The Academy Trust therefore has the opportunity and is willing to draw down any future investment for lifecycle replacement for its building from the EFA directly through a national Capital Maintenance allocation;
 - Further by removing the lifecycle component from the existing Hard FM contract the Academy will be free to address any future Hard FM requirements for its building outside of the existing contract that limits any flexibility around how money is spent.

Signatures	Date
Cabinet Member for Children, Families & Schools
Cabinet Member for Value for Money & Efficiency
Strategic Director for People Directorate

List of Background Documents used to compile this Report:
Report to Cabinet 07/11/11 - BSF and Academies Programme Update 2011/2012 and Local Education Partnership (BLLP) Delivery Arrangements.

List of Appendices accompanying this Report (if any):

Report Version	<u>9</u>	Dated	<u>07.09.2016</u>
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