

Birmingham City Council

Report to Cabinet Member for Children Young People and Families

2nd September 2022



Subject: CHANGE THE CATEGORY OF AL-FURQAN PRIMARY SCHOOL FROM VOLUNTARY AIDED TO VOLUNTARY CONTROLLED

Report of: Sue Harrison, Strategic Director for Children and Families

Relevant Cabinet Member: Cllr Karen McCarthy: Children Young People and Families

Relevant O &S Chair(s): Cllr Kerry Jenkins: Education and Children's Social Care

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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): Hall Green North is mainly affected. | | |
| 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, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential: | | |

1 Executive Summary

- 1.1 To seek the determination of a statutory proposal by The Interim Executive Board (IEB) of Al-Furqan Primary School (the School) to
- Change the category of the School from Voluntary Aided (VA) to Voluntary Controlled (VC).

2 Recommendations

- 2.1 That the Cabinet Member for Children, Young People and Families, having considered the statutory guidance, approves the statutory proposal to change the category of the School from Voluntary Aided (VA) to Voluntary Controlled (VC).

3 Background

- 3.1 Al-Furqan Primary School (the School) is a Voluntary Aided school situated on Reddings Lane, Birmingham, B11 3EY, which is within Hall Green North ward and the Hall Green constituency of Birmingham.
- 3.2 The School was rated 'Good' by Ofsted in June 2017.
- 3.3 The School currently offers 630 pupil places for pupils.
- 3.4 In November 2012, Ofsted judged the School to be 'Inadequate'. In February 2013 Ofsted deemed the improvement plan put forward by the school to be "not fit for purpose". As a result of this the Council, with the consent of the Secretary of State for Education, appointed an Interim Executive Board (IEB). The IEB has been in place at the School since April 2013.
- 3.5 The following concerns were identified following the inspection by Ofsted in 2012:
- Leadership and Management, Quality of teaching and Achievement were all judged 'Inadequate'
- Behavior and Safety of Pupils was judged as 'Requires Improvement'
- 3.6 Regular Ofsted monitoring inspections took place from November 2012 and two subsequent full inspections have been carried out: one in November 2014, when the School was judged as 'Requires Improvement' and the second in June 2017 when the School was judged to be 'Good'.
- 3.7 Since the IEB has been overseeing the strategic direction of the School it has improved in all the areas listed in 3.5 to become good, and has also made further improvements in the following areas:
- Safeguarding practice
- Financial management and control
- 3.8 At the time of the Inadequate judgement, the Head teacher was one of the trustees of the Al Furqan Education Trust (AFET), the School's foundation. Other AFET trustees also had significant involvement in the day to day management of the school and the use of the school premises. Since the IEB has been in place,

AFET representatives have visited the School on a half-termly basis to ensure that the school's religious ethos is being maintained, (see also FAQ p7). If the change of category were approved, the Council would support the School with the process of constituting a normally constituted VC Governing Board, which would replace the IEB. AFET would appoint two members of the Governing Board as foundation governors, whose role would include ensuring that the ethos of the School is maintained.

- 3.9 The funding for the change of category is described in section 9 of this report.
- 3.10 In compliance with the DfE guidance, a statutory notice and complete proposal were published on 9th June for the prescribed four-week consultation, referred to as the "representation period". The representation period commenced with the publication of a statutory notice in the Birmingham Post newspaper, a notice on the School's website, on the Council's Birmingham BeHeard consultation website and notices published on all the school entrances. In addition, there was notice to stakeholders and groups by letter and email (see also section 5 - Consultation).
- 3.11 During the representation period, comments on the IEB's proposal could be submitted in writing to Education Infrastructure via the BeHeard website online-survey, by email or letter. A copy of the public notice can be found in **Appendix 1** of this report.

Responses received by the close of the representation period, on 21st July 2022, are summarised as follows:

A total of 95 responses were received - 21 in favour, 69 opposed, 5 neither/don't know.

The responses were from - 2 pupils, 58 parents, 2 governors, 13 staff members, 10 local residents and 10 others.

The outcome of the consultation is set out in **Appendix 3** to this report.

The main objections to the proposal were regarding:

- Concern that the school would lose its religious character / ethos (* responded to in FAQ document);
- Opinion that there has been a lack of engagement / communication between parents and AFET – (this was raised by parents during the stakeholder meeting – Council officers explained that members of AFET had been invited to the meeting but had declined to attend);
- Suggestion that the IEB continue to explore options to remain VA (* responded to in FAQ document);
- Concern about communication with stakeholders that have English as second language - (mitigated by drop in sessions – one set of parents came with a translator so they could ask questions)
- Concern that there should be parent membership on IEB / VC board (*responded to in FAQ document);
- Concern that the ethos of the school should be reflected in the VC Instrument of Government - (a draft IoG was shared with all stakeholders

during consultation to illustrate that a change of category from VA to VC would not change the school's ethos)

- Concern that the school will change its Religious Education curriculum or lose its IQA (Islamic, Quranic and Arabic) curriculum (* responded to in FAQ document);

A frequently asked question document (Appendix 5) was developed and published following the pre-publication period (informal consultation) which addressed the common concerns, opinions and suggestions, including those marked with a * above.

Officers are aware of a petition that was opened online from February 2022 in opposition to a then speculated change of category. This petition was not submitted by way of a formal representation during the consultation process and has never been formally submitted to the Council. The petition is opposed to the proposed change of category and has been signed by approximately 800 people.

- 3.12 The Education and Inspections Act 2006 and Regulation 7 of The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (the Prescribed Alterations Regulations) state the Council must have regard to any guidance issued by the Secretary of State when making a decision on such proposals. The relevant statutory guidance is: Making Significant Changes ('prescribed alterations') to Maintained Schools – statutory guidance for proposers and decision-makers - October 2018, published by the Department for Education. The Education and Inspections Act 2006, and Paragraph 5 of Schedule 3 to the Prescribed Alterations Regulations allows for the proposals to be:

- approved;
- approved with modification;
- approved subject to meeting a prescribed condition; or
- rejected.

- 3.13 If the proposal for Al-Furqan Primary School is approved, it is planned that the School category will change from voluntary aided (VA) to voluntary controlled (VC) on 1st January 2023.

4 Options considered and Recommended Proposal

- 4.1 It is recommended that the proposal to change the category of the School from voluntary aided (VA) to voluntary controlled (VC), from 1st January 2023, is approved.

- 4.2 Various options have been taken into consideration and examined by the IEB including:

4.2.1 remaining VA;

4.2.2 changing category to VC; and

4.2.3 conversion to an Academy.

- 4.3 Having evaluated the options, the IEB believes that a change of the category of the School to VC is the preferred option for the School as it continues its improvement journey.

During the period since the School achieved 'Good', there has been no evidence that a governing board with a majority of members appointed by the Al-Furqan Education Trust (AFET) would be able to replace the IEB or maintain and continue the improvement journey of the School.

- 4.4 If this proposal is rejected, the IEB and the LA will need to consider alternatives for the School. This would include the possibility of the conversion of AFPS to an Academy.

5 Consultation

- 5.1 The statutory proposal was consulted upon in line with the requirements set out in the relevant guidance from the Secretary of State (as noted in 3.11 of this report). The outcome of the consultation is set out in Appendix 3 to this report.

5.2 Internal:

Information on the proposal was shared with all Birmingham Ward Councillors (see appendix 4) with additional correspondence sent to councillors in the wards where most Al-Furqan pupils live, namely, Acocks Green, Billesley, Bordesley Green, Hall Green North, Hall Green South, Moseley, Small Heath, Sparkbrook and Balsall Heath, Sparkhill and Tyseley & Hay Mills wards. Officers from services across the Council which includes Admissions, Finance, School and Governor Support, Human Resources, Legal, Planning, Research and Statistics Officers and colleagues in Education Infrastructure were also consulted.

5.3 External:

Information on the proposal was shared with: pupils, parents/carers of pupils, staff and members of the IEB of Al-Furqan Primary School, Birmingham Schools, AFET, The Association of Muslim Schools, Professional Associations and Trade Unions, Neighbouring Local Authorities, The local Member of Parliament and Ward Councillors, Local NHS partners, The Department for Education – School Organisation and the Office of The Schools Adjudicator and by public notice in a newspaper (as described in section 3.12 of this report).

6 Risk Management

- 6.1 As also described in section 4.4 of this report: if the proposal is rejected, the School will remain a Voluntary Aided school.
- 6.2 If this proposal is rejected the IEB would then have to consider all options again before proposing a solution for the continued improvement of the School. The options would include: to do nothing; conversion to an Academy; or to remain VA. However, it is important to note that the option of doing nothing is untenable as

the IEB cannot continue to remain in place (see Appendix 2 p2 for details). As described in 4.3, the IEB do not believe that remaining VA is in the best interest of the School as there is no evidence that a governing board with a majority of members appointed by the Al-Furqan Education Trust (AFET) would be able to replace the IEB or maintain and continue the improvement journey of the School.

7 Compliance Issues:

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

7.1.1 The proposal to change category of Al-Furqan Primary School from VA to VC would meet the following aims of the Council:

- Give all children from every background and community the best start in life with a clear pathway to achieve success and realise their potential;
- To fulfil landlord responsibilities to ensure that schools are Health and Safety compliant and fit for purpose;
- To meet the aims set out in the Council's Education Services Delivery and Improvement Plan.

8 Legal Implications

8.1 This report relates to the powers in sections 18 and 19 of the Education and Inspections Act 2006 and Regulation 4(3) and paragraph 16(b) of Schedule 2 of The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (the "Prescribed Alterations Regulations"), whereby the governing body of a voluntary school can propose a change of category from VA to VC. Under section 21(2)(f) of the Education and Inspections Act 2006 and paragraph 3 of Schedule 3 of the Prescribed Alterations Regulations, the Council is the decision maker for this statutory proposal.

8.2 The recommendations in this report facilitate the discharge of functions contained within section 13A of the Education Act 1996 whereby the Council has a duty to ensure that their education functions are exercised with a view to promoting high standards, ensuring fair access to educational opportunity and promoting the fulfilment by every child concerned of their educational potential.

9 Financial Implications

9.1 There are no direct costs related to a change of category (the school branding and uniform would remain the same).

9.2 The change in category would result in the School not being able to apply for the Condition Improvement Funding directly from Department of Education (DFE) for Capital works. If the proposal is approved, the Local Authority will receive

additional Schools Condition Allocation funding to fund any Capital works required at the school.

- 9.3 There is no change to the Devolved Capital allocation. This will still be paid directly to the school by the Dfe.

10 Procurement Implications (if required)

- 10.1 Not Applicable

11 Human Resources Implications (if required)

- 11.1 If the proposal to change the category of the School from VA to VC is approved, Birmingham City Council will become the employer of the staff at the school, rather than the Governing Board/IEB. The transfer of undertakings (protection of employment) process (TUPE) will be undertaken.

- 11.2 Any changes to existing terms and conditions resulting from the transfer would be in full consultation with the trade unions and teaching associations.

12 Public Sector Equality Duty

- 12.1 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 The School organisation process. This proposal relates to citizens of school age and of Muslim faith; however, this proposal does not change the age range nor designated religious character of the School. The recommendations in this report are likely to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it and it has been decided that a full equality analysis is not required.

13 Appendices

- Appendix 1:** Public Notice
- Appendix 2:** Full Proposal document
- Appendix 3a:** Consultation results - Summary
- Appendix 3b:** Consultation results - All Comments
- Appendix 4:** Councillors Consulted
- Appendix 5:** Frequently Asked Question

14 Background 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.