

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	CABINET
Report of:	Interim Corporate Director – Children and Young People
Date of Decision:	18th April 2017
SUBJECT:	INTERNATIONAL SCHOOL CONVERSION FROM COMMUNITY SCHOOL TO ACADEMY STATUS
Key Decision: Yes	Relevant Forward Plan Ref: 003513/2017
If not in the Forward Plan: (please "tick" box)	Chief Executive approved <input type="checkbox"/> O&S Chairman approved <input type="checkbox"/>
Relevant Cabinet Member:	Councillor Brigid Jones - Cabinet Member Children, Families & Schools
Relevant O&S Chairman:	Councillor Susan Barnett - Schools, Children & Families O&S Committee
Wards affected:	Shard End

1. Purpose of report:

- 1.1. To provide an update to Cabinet to ensure Members are fully aware of the financial implications associated with the academisation of the International School. Specifically that under current legislation the cumulative projected deficit of £3,500k falls on the Local Authority to fund.
- 1.2. As part of funding the deficit to seek approval to the use of £2,400k of capital receipts with the balance of £1,100k funded from the Capital Maintenance grant.
- 1.3. This report also seeks approval for the execution and completion of the commercial and legal documentation associated with the conversion, substantially in the form required by the Department for Education (DfE).

2. Decisions recommended:

Cabinet is recommended to:

- 2.1. Note that The International School, Gressel Lane, Tile Cross, Birmingham B33 9UF is proposing to convert to Academy status on or after 1st May 2017. The International School will be a Sponsored Academy and will be sponsored by Washwood Heath Multi Academy Trust (WHMAT) and will be known as Tile Cross Academy.
- 2.2. Note that the school has a large deficit balance (£3,500k) which will remain with the Local Authority at the point of conversion as confirmed in the DfE Guidance entitled 'Treatment of surplus and deficit balances when maintained schools become Academies.'
- 2.3. Approve the use of £2,400k of capital receipts to help fund the deficit, with the balance of £1,100k funded from the Capital Maintenance grant.
- 2.4. Authorise the grant and completion of the lease for the International School to the WHMAT for 125 years substantially in the form of the model lease produced by the DfE at a peppercorn rent and also the completion of a Commercial Transfer Agreement (CTA) relating to the transfer of staff under the Transfer of Undertakings (Protection of Employment) Regulations 2006 and assets to the Academy Trust. The school site being transferred is identifiable as shown on the accompanying redline plans (see Appendices 1a, b and c).
- 2.5. Authorise the completion of the appropriate contract variations for The International School in respect of the Building Schools for the Future (BSF) Facilities Management (FM) and ICT contracts and the entering into of the School Agreement relating to the establishment of the Academy Trust as a new legal entity on the site and the consequent ongoing Academy Trust contributions to the costs of the FM and ICT contracts.
- 2.6. Authorise the City Solicitor to negotiate, execute and complete all necessary documents to give effect to the above recommendations.

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3. Consultation

3.1 Internal

The Cabinet Member for Children, Families and Schools and Senior Officers in the People Directorate are aware of the conversion and have been involved in discussions relating to the transfer. Ward Councillors for Shard End and the Executive Member and the Service Integration Head for Hodge Hill and Senior Officers from Legal and Finance have also been consulted and any outcomes have been noted in the report.

3.2 External

The Secretary of State has issued the Academy Order attached as Appendix 2 requiring the conversion of the International School.

4. Compliance Issues:

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

The Academies Conversion Programme is a Central Government Policy.

4.2 Financial Implications.

The recommendations in this report will enable the International School to transfer as required by the DfE. Resourcing for corporate legal costs and potentially external legal costs arising from this conversion and the wider Academy conversion programme will be met from school contributions and earmarked resources within the Education Infrastructure team.

There is a charging policy in place for Academy conversions which means schools pay a contribution towards the legal costs associated with the conversion. Owing to the nature and volume of work anticipated for this conversion the contribution for the International School will be £10,000.

As at 31.03.16 the International School had a deficit balance of £3,500k which is forecast to remain with the Local Authority at the point of conversion as outlined in 2.2.

Although there is a small contingency funded by the Dedicated School Grant to cover the write off of deficit balances, it is insufficient to fully fund the International School deficit. In addition there are already commitments that will need to be funded from the contingency. In view of this, and to avoid adversely impacting on the General Fund, the deficit will be funded by utilising existing and planned Education capital receipts (£2,400k) and capital maintenance grant (£1,100k). The capital receipts and Capital Maintenance grant will be used to resource capital expenditure that would otherwise be funded from revenue contributions. These revenue contributions will then be used to fund the International school deficit.

4.3 Legal Implications

The Secretary of State for Education has issued the Order under the Academies Act 2010 which requires all concerned parties to facilitate the creation of the Academy. The City Council has power under Sections 120 – 123 of the Local Government Act 1972 to hold and dispose of land, including the use of General Disposals Consent 2003.

4.4 Public Sector Equality Duty

The Academies Conversion Programme is a Central Government Policy.

An initial Equality Analysis was undertaken in February 2014 (EA000046) and the outcome indicated that a Full Equality Analysis was not required.

5. Relevant background / chronology of key events:

- 5.1 The International School opened in September 2002 replacing two schools that shared the same site, the former Sir Wilfred Martineau School and Byng Kenrick Central School. The International School was set up as a 10 form entry school with a staffing structure based on an intake of 300 pupils each year. This proved to be too ambitious and the expected pupil numbers have not materialised in the subsequent years. Failure to address declining pupil numbers at an early stage through reducing the expenditure at the school and implementing an affordable curriculum model has been a major contributing factor to the escalation of the deficit.

From the outset regular meetings between the School and Local Authority officers have taken place and advice and support has been given in respect of the school managing its financial challenges. That support was further supplemented by:

- The use of external consultants
- Peer support from Ninestiles School
- Incentivising the School by offering to fund a 50% contribution from the Scheme to Support Schools in Financial difficulty on the basis that the school demonstrated an equal reduction

In addition, consideration was given by BCC to converting the deficit to a loan. However advice from legal services was that the liability would not transfer when the school became an Academy and the proposal was not pursued.

- 5.2 Ultimately none of the above support and initiatives proved successful and, in July 2010, the Local Authority Structural Solutions Group discussed the possibility of removing financial delegation and how this could be managed and the matter was referred onto the then Cabinet Member.

Despite the consistent reduction in pupil numbers the school did not manage and implement a staffing review that properly reflected the number of pupils in order to deliver an affordable curriculum offer. A staffing restructure discussed with the school in October 2010 eventually led to the school reporting a significant reduction in non-teaching staff but costs continued to rise as a result of further recruitment. This was challenged by BCC's HR team. Ongoing concerns were raised with two Head Teachers over several years by BCC's Finance team regarding the ability of the School to manage and monitor the budget but no action was taken by the School.

- 5.3 The School went into Special Measures in November 2014 and the Governing Body was replaced by an Interim Executive Board (IEB) in March 2015. An Audit of the School, undertaken in September 2015, confirmed significant weaknesses in the financial management practices and controls which have subsequently been addressed by the new school leadership team and the IEB.

For the first time since opening, the school has been able to set a balanced in year budget for 2016 / 17 as a result of the IEB taking highly effective, appropriate rapid action, supported by BCC, to restructure and implement an affordable curriculum model. This has also been supported by effective school place planning, reducing overheads of the school by co-location of Brays Special School and reducing the Published Admission Number at International School to reflect a more realistic pupil intake.. The deficit at the point of conversion to an Academy is forecast at £3,500k.

- 5.4 The Academies Act 2010 empowered the Secretary of State for Education to create Academies through Academy Orders. A Directive Academy Order for International School was issued in April 2016; the Directive Academy Order requires the school to be sponsored by a Multi Academy Trust.

- 5.5 In February 2017 a letter was sent to the Chair of the IEB and the Executive Head Teacher of the Washwood Heath MAT asking for a contribution towards the current deficit position. A response was received from the Trust outlining their position which was that they were unable to support the solution of contributing to the deficit budget. The DfE also agreed with this in line with the guidance available.
- 5.6 The current controls and processes within the directorate to monitor and act where a school is in deficit or in danger of going into one includes clearly set out cross working between services and the Birmingham Education Partnership so that information and intelligence is shared and targeted support can be offered at an early stage. Where a school does not take action there is an escalation process which could result in a formal Notice of Concern being issued to the Governing Body and ultimately delegation being withdrawn from the school. The aim is to ensure that problems are identified early and actions undertaken within a shorter time frame than was the case with the International School.
- 5.7 The land and assets occupied and used by the school will transfer under the arrangements prescribed by the DfE and as outline in 2.3 and 2.4 above. The transfer will be subject to the land being used for the provision of educational services and any community and recreational use ancillary to the school's educational use. The staff will also transfer under the Transfer of Undertakings (Protection of Employment) Regulations 2006 to the Academy Trust. The consultations for the International School took place with Staff and Unions on 02.11.16.
- 5.8 In the case of some Academy conversions scheduled capital works, funded from the DfE grant may take place after the school has converted. At the International School there are works scheduled between April 2017 and September 2019 to enable the development of Brays School on the site – the details of which are captured in a schedule of the CTA. There will be a separate report and business case with details of the works following completion of the full feasibility. Funding will be from the Capital Basic Need Grant. There will be a fixed cap on the capital cost and any additional works to those specified will be at the cost and responsibility of the two schools. The works on site will be managed by Acivico and EdSI. There will be no revenue support or reimbursements to the two schools arising from the capital works.

6. Evaluation of alternative option(s):

- 6.1 A do nothing option is not available, as the Secretary of State has reserved powers in the Academies Act 2010 which enables them to make directions to override any ability of the Local Authority to make executive decisions with regard to land.

7. Reasons for Decision(s):

- 7.1 To allow the completion of the transfer of the International School in accordance with the Academy Order granted by the Secretary of State.

Signatures (or relevant Cabinet Member approval to adopt the Decisions recommended):	
Cabinet Member Children, Families and Schools:	
Councillor Brigid Jones
Dated:
Interim Corporate Director – Children and Young People:	
Colin Diamond
Dated:

List of Background Documents used to compile this Report:
Relevant Officer(s) files

List of Appendices accompanying this Report (if any):
Appendix 1a - Redline Plan of International School – April 17 Appendix 1b - Redline Plan of International School – Sept 17 Appendix 1c - Redline Plan of International School – Sept 19 Appendix 2 – Academy Order for International School