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To: Children, Families & Education - Resources and Infrastructure Policy Overview & Scrutiny Committee

Date: 20 July 2010

Subject: **New Academies and Free Schools proposals and the broader emerging Government agenda for Schools Reform**

Classification: *Unrestricted*

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Summary: This report provides an update on the coalition Government's new academies and free schools proposals together with information on the emerging broader Government agenda for Schools Reform. This report summarises proposals in the Academies Bill and highlights key implications and concerns for Local Authorities and schools. It also provides a preliminary outline of key elements expected to feature in the Government's second education Bill expected around mid-October.

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## **1. Introduction**

- 1.1 This report provides an update on the coalition Government's new academies and free schools proposals together with information on the emerging broader Government agenda for Schools Reform. This report summarises proposals in the Academies Bill and highlights key implications and concerns for Local Authorities and schools arising from the Academies Bill which is expected to receive Royal Assent just before the Summer parliamentary recess at the end of July.
- 1.2 In particular, the report provides a detailed explanation of the financial impact on KCC of schools converting to academy status and the implications for sustaining services in the immediate and longer term and for our role in funding and supporting schools that remain with the LA. Our detailed analysis explains that the Government appears intent on

repeating one of the worst aspects of the previous Grant Maintained system and that academies will, at least initially, receive significant top-up funding beyond the funding received by LA maintained schools, contrary to their publicly stated principles for academy funding that academies should receive broadly comparable funding to schools that choose to remain LA maintained.

- 1.3 The report also briefly touches on some of the implications for the LA and schools arising from the Government's emerging broader agenda for Schools Reform. We know that the new Department for Education (DfE) is currently finalising key proposals for a School Reform White Paper, although it is not expected to be published until early in the Autumn. The White Paper will provide a clear indication of the Government's future agenda for schools and wider education reform and will outline significant changes to the role of local authorities and a new relationship with schools. The Government will seek to implement these changes in a second Education and Children's Bill which can be expected to be introduced as a key measure in the Government's wider reform agenda for public services. That Bill will probably be published around mid-October.

## **2. New Academies**

- 2.1 On 26 May, Michael Gove, the new the Secretary of State for Education, announced details of the Academies Bill which will allow him to approve applications from existing schools that wish to become Academies. This will be through a simplified, streamlined process detailed below. Importantly, this policy is aimed at all schools, rather than schools in challenging circumstances, which were the focus of the academies programme under the previous Government. It is envisaged that the Bill will receive Royal Assent just before the summer recess, currently scheduled for the end of July. Annex A provides a summary of the key provisions and content of the Bill as originally published, together with the details of the Bill's passage through the Lords and likely subsequent parliamentary timetable.
- 2.2 The new academies will, like their predecessors, be publicly funded independent schools, outside of local authority control. They will continue to enjoy the key freedoms and flexibilities of:
- setting their own pay and conditions for staff;
  - freedom from following some of the National Curriculum;
  - the ability to change the lengths of their terms and school days;
  - being their own admissions authority.
- 2.3 There will essentially be two waves for schools seeking to convert to academy status:

**Wave 1** for “outstanding” schools only, where schools applying by the DfE’s 30 June deadline are expected to be fast-tracked through to become academies from as early as September (N.B. DfE suggests that special schools will not convert until September 2011 at the earliest)

**Wave 2** when the DfE opens up the process for all other schools to apply, which is not likely to be announced/start before the Autumn (not least because DfE/YPLA do not have capacity initially to cope with the anticipated volume of schools the Government hope will opt to convert)

**Failing schools** The DfE has also confirmed the intention to convert schools that have been failing for 12 months and not showing significant improvement to academy status

- 2.4 The DfE is also making plans for further freedoms for Academies in the way they engage in local partnerships and deliver 14-19 education, relaxing the requirements currently in the Funding Agreement (the contract between the Secretary of State and the Academy Trust) and freedom from further inspection (at least for previously “outstanding” schools).
- 2.5 Primary, secondary and special schools will be able to apply to become Academies (previously primary and special schools could not be academies). The DfE has confirmed that where a maintained school operates selective arrangements, these can be retained, and therefore the programme is open to grammar schools too.
- 2.6 Where applicable, Governing Bodies will need the support of their Foundation and Trustees to apply to convert. Unlike existing Academies, no additional external sponsor will be required where an “outstanding” school converts to Academy status. For schools with existing Foundations, the Foundation will retain its involvement with the school. “Outstanding” schools are also expected to sign up, in principle, to support another school to raise attainment – no LA brokering role between academies and the ‘weaker’ school is envisaged by the DfE, the academy and DfE/YPLA will decide this.
- 2.7 The Bill gives the Secretary of State the ability to issue an Academies Order to (a) schools which apply to become academies, and (b) schools that are eligible for intervention (i.e. in an Ofsted Category). The issuing of an Academies Order removes all requirements for statutory consultation around the closure of a maintained school. The order will specify the date that the Local Authority ceases to maintain the school, and the date the Academy opens. The Local Authority is not consulted, nor is it the decision maker.

### **Conversion process for outstanding schools**

2.8 Schools wanting to convert to an Academy need to:

- Complete an on-line registration form. The DfE will liaise with the school direct. A named DfE official will be appointed as the school's contact to support the school throughout the process.
- Submit a short application to convert form, including the confirmation of the Governing Body resolution; the agreement of any Foundation and Trustees (if applicable); and, confirmation of the school's outstanding rating from Ofsted. Schools will also discuss with the DfE contact in-principle agreement to support another school to help raise standards. The Secretary of State will confirm whether he is content for the school to proceed to the next stage and, if he is, will make an Academy Order – we are told, ministerial approval can be within about one week.
- DfE will support the Governing Body and Headteacher to ensure that all legal documents are completed relating to governance, land, property and staff transfer and company registration. This stage of the process is completed when the Academy Trust and the Secretary of State sign the Funding Agreement for the Academy. The Funding Agreement will stipulate the date when the Academy will open.
- Pre-opening, the Governing Body will need to finalise matters in preparation for the Academy opening. This will include setting up new contractual arrangements as required and completing registrations for licences etc.

### **Length of time to convert to an Academy**

2.9 The DfE expects the four steps detailed above to take a minimum of three months, although this may be longer if there are complicated issues to resolve. This means that in straightforward cases outstanding schools could become Academies by September 2010. Schools will, however, be able to complete the conversion process more slowly if they wish. It is not essential for schools to open as Academies from the beginning of a term, although many will wish to do so as it will make school planning easier.

### **Academy Funding**

2.10 The DfE is offering outstanding schools a one-off £25k payment in the form an 'Academy Conversion Grant'. New Academies should receive the same level of per-pupil funding as LA maintained schools in the LA area. However, new Academies will also receive a share of the local authority budget that currently provides for central services, and will receive substantial top-up funding to meet their additional responsibilities. Academies will need to consider how they will obtain or provide services previously provided by the local authority using the

additional funding they receive. Schools are free to buy back the services from the local authority or find them elsewhere.

- 2.11 The funding for academies comes in the form of a grant, known as the General Annual Grant (GAG), paid by the Young People's Learning Agency (YPLA). For schools converting in September, the YPLA will issue formal notification of grant funding for each school in August. The GAG is made up of different elements:
- **An amount equivalent to the school's current budget share**- By far the largest element of GAG is the school's core funding, known as its delegated budget share. This will be the same as the school's current budget share received from the local authority.
  - **Local authority central spend equivalent grant (LACSEG)** - This is the additional money to cover those central services that the local authority no longer provides. This figure varies between local authorities and will reflect the amount the local authority already holds back to pay for central services.  
This element of grant is calculated by the Young People's Learning Agency (not the local authority), using a formula, based on an academy's pupil numbers and the amount that the relevant local authority spends on the services and costs. It is not based on the actual costs of the services supplied to the individual school.
  - **Other funding** - Academies also receive grant funding to meet the additional VAT they incur because they cannot use the local authority's VAT reclaim facility and to meet their insurance costs. All other specific grants, including Standards Fund grants and Schools Standards grants will continue to be paid as normal by the local authority up to 31 March 2011. Arrangements for these grants after that date, for all schools, are still under consideration
- 2.12 Local authorities also retain some funding for services that they have to continue to provide, and related costs. These are:
- Home to school transport (including SEN)
  - Education psychology, SEN statementing and assessment
  - Monitoring of SEN provision, parent partnerships, etc
  - Prosecution of parents for non-attendance
  - Individually assigned SEN resources for pupils with rare conditions needing expensive tailored provision (this is usually a top-up to formula funding)
  - Provision of pupil referral units or education otherwise for a pupil who is no longer registered at an academy.
- 2.13 Previously maintained schools, which closed to become academies, left their budget surpluses or deficits with the Local Authority. In respect of

these new academies, the budget surplus or deficit transfers with them. Any school transferring with a deficit budget will be expected to agree a remedial action plan with the YPLA at the earliest opportunity, a plan to repay it from GAG installments. Any that develops a deficit after opening will have to agree a restructuring plan with the YPLA.

- 2.14 Annex B to this report provides a detailed explanation of the financial impact on KCC of schools converting to academy status and assesses the implications for sustaining services in the immediate and longer term and for the LA's role in funding and supporting schools that choose to remain with the LA. Annex C provides a list of the Kent schools who have so far applied to become academies.

### **3. Free Schools**

- 3.1 On 18 June, the Secretary of State unveiled the next step in the Government's school reform programme. He outlined the process for allowing Free Schools to be opened in response to parental demand. Free Schools are all-ability state-funded schools. Charities, universities, business, educational groups, teachers and groups of parents can set up these new schools. The Government is seeking to remove the red tape which can prevent new schools from being set up (e.g. relaxing/removing planning and school premises rules and regulations) – legislation to come in the Autumn, in the second DfE Bill this session: Education and Children's Bill. The Government expects the first Free Schools to be open in September 2011.
- 3.2 The Secretary of State has:
- Set out the process for how groups can start new schools and published a "Proposal Form" for groups to complete.
  - Stated the Government's commitment to making it easier to secure sites for need for 'change of use' consent.
  - Agreed with The Secretary of State for Communities and Local Government to update guidelines to local planning authorities to make it clear there is a presumption in favour of setting up of new schools.
  - Reallocated £50m of funding from the Harnessing Technology Grant to create a Standards and Diversity Fund to provide capital funding for Free Schools up to the 31 March 2011. Future funding for Free Schools will be a top priority for the DfE in the forthcoming Spending Review. This has meant we have lost some £1.35m of this grant that supports our school broadband network.
  - Written to the New Schools Network to establish a formal relationship and to offer £500,000 initial funding to enable groups across the country to receive support they need to start forming new schools.

The New Schools Network will act as the first point of contact for all groups who wish to start new schools and will provide them with information as they prepare their proposals.

- 3.3 Free schools will have the same freedoms as Academies, and will be set up as academies - independent schools funded directly by the DfE/YPLA, outside of Local Authority control. All applicants for New Schools will be checked for their suitability to run a school as part of the approval process. Groups who wish to set up schools will have to comply with all aspects of suitability and vetting tests including due diligence and CRB checks.
- 3.4. When drafting proposals groups will have to set out:
- the aims and objectives of the new school;
  - the main people and organisations involved in the project;
  - evidence of parental demand (e.g. a petition);
  - an outline of the curriculum and their teaching methods;
  - possible premises that have been considered.
- 3.5 At a later date, successful groups will have to complete a full business plan including setting out the school's financial viability. The Local Authority will not need to approve proposals for a free school and cannot veto a new school. The Secretary of State will authorise the establishment of a free school by signing a funding agreement between the providers of new schools and the Department for Education (in the same way as an academy).
- 3.6 Free Schools will be inspected regularly by Ofsted.
- 3.7 Free Schools will get their revenue funding from three sources:
- The amount the Local Authority spends per pupil on state funded schools. When a parent takes their child out of a state school now, and moves them to another state school, money 'follows the pupil' to the new school. The same would be true for new Free Schools.
  - The Local Authority 'hold back' - Local Authorities keep a percentage of school spending for 'central services' – although the amount each Local Authority keeps varies massively. Free Schools, like Academies, will get a large percentage of this 'holdback' so they can procure services elsewhere if they wish.
  - The Pupil Premium - All schools will get more funding for children who are from deprived backgrounds. The Department has not yet announced how this will be defined or how much money this will mean.

#### **4. Commentary and context of the emerging Schools Reform agenda**

- 4.1 DfE Ministers' vision is for there to be a vibrant market in school and 16-19 provision, with parental choice and competition driving up standards and hopefully delivering improved efficiency and value for money in the education system as a whole. Academies and Free Schools are part of a package of measures with which DfE intend to empower schools and break the perceived LA bureaucratic monopoly over school provision. A Schools White paper is expected early in the Autumn, which will set out fuller details of the Government's Schools Reform programme.
- 4.2 The LA's role is likely to be changed quite significantly, with more emphasis on a new strategic role for LAs – as the champions of parents and pupils, rather than as exclusive direct providers of school provision, except perhaps as the provider of last resort where the market cannot deliver any new provision. School Organisation and place planning will change, as DfE Ministers have already signalled more surplus places will be allowed - indeed, will be necessary - for the new market system to operate effectively. LAs will be expected to support parents seeking new provision and to work with new providers.
- 4.3 The LA's future role can probably be broadly summarised as follows:
- Strategic commissioner rather than provider of services and school places
  - A Market Regulator/QA champion for children, information and advice for parents
  - provider of last resort for children and families: excluded pupils, PRUs, special schools – local enterprise/delegation to groups of schools?
  - Facilitator of partnerships to ensure collaboration, constructive competition and value for money
- 4.4 Other significant changes that can be expected probably include:
- a simplification of the Admissions and Admissions Appeal Codes
  - a fresh look at and possible simplification of the SEN Code and associated legal framework to deliver more choice for parents opting for specialist provision
  - a major review of school/academy funding, with the possible introduction of a national funding formula, and a major review of how LAs are funded for their residual responsibilities, which DfE could seek to initiate sooner rather than later and from as early as April 2011, but significant elements of which would probably not be able to be introduced until 2012 at the earliest.



- The White Paper being finalised this term on role of LA and reform of schools' system will include further details on the proposal for the introduction of "the pupil premium"

4.5 Other areas of uncertainty and potential concern for LAs and schools include:

- The future wider Children's services agenda & the connection with schools/academies? How long will current commitment and partnership hold? Need to see benefits
- The viability of services to schools in the future – can LA provide School Improvement / back office services on traded basis?

## 5. Recommendations

### **Recommendations:**

Members of the Resources and Infrastructure Policy Overview & Scrutiny Committee are asked to note the report for information.

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*Background Documents:*

*Other Useful Information*

## Academies Bill 2010 [HL Bill 1]

- **Bill + Explanatory Notes published after First Reading in House of Lords on 26 May**
- **Very short Bill – just 16 clauses and 2 Schedules**
- **2<sup>nd</sup> Reading: 7 June**
- **Committee stage: 21, 23 & 28 June**
- **Report stage: 6 & 7 July**
- **3<sup>rd</sup> Reading: 13 July**

### Subsequent likely parliamentary timetable:

**Commons 1<sup>st</sup> Reading** probably end of same week in July

**2<sup>nd</sup> Reading** week of 19 July

**Committee** probably same week as 2<sup>nd</sup> reading (1 day max.?)

**Report & 3<sup>rd</sup> Reading** same day later in week of 19 July

**Lords Consideration of Commons Amendments, Ping-Pong** (if any)

**& then Royal Assent** during final week of July before the recess

### Key provisions:

- The Bill replaces existing legislative framework for academies set out in S.482 Education Act 1996 & S.65 & Schedule 7 Education Act 2002
- It enables all maintained schools to become academies, by a simple Governing Body resolution i.e. extends academies programme to include primary and special schools in their own right
- The Bill explicitly varies previous legislative requirement that academies had to be all ability schools and provides a new exception for existing grammar schools (no enlargement permitted, but not stated in the Bill)
- Converting “outstanding” schools will not be required to have sponsors, nor will they be required to consult their LA, neighbouring schools, parents or pupils. But they (or the LA where LA is employer) will have to conduct a formal TUPE consultation with staff on transferring their employment to the new academy trust.
- Also any existing foundation body, trust or church body (for foundation, VA or VC schools) would need to consent before a school could apply to convert to an academy
- Converting “outstanding” and any other secondary schools will still be required to have a subject specialism (on face of the Bill)
- The Bill allows academies to be funded through either individually negotiated funding agreements (as now) or through a new grant funding arrangement, which DfE could vary at will in future (without parliamentary scrutiny)
- Converting “outstanding” schools will be expected to sign up in principle to work with another school to raise attainment, but this will not be required

before acquisition of academy status, nor is it included on the face of the Bill

- All new academies automatically become “exempt charities”
- **1st wave:** Fast Track pre-approval conversion for all “outstanding” schools (c.2,600 nationally), unless they have a significant deficit or other exceptional circumstances apply
- New converters could possibly open in time for September 2010, but could choose to open later in 2010 or 2011 (probably at start of Spring term or wait until Sep. 2011)
- Provides for SoS to issue new Academy Orders, requiring LA to cease to maintain a school when it converts to academy status
- Removes the requirement to consult the LA before an Academy can open (consent of any foundation body, trust or church body still required)
- Converting schools retain any surplus balances, guaranteed on face of the Bill
- Although the Bill is (currently and predictably) silent on the question of converting schools with budget deficits, DfE will not approve a school converting until it has reduced any deficit to c. £100k (not absolute figure, but just a working guideline). DfE will reimburse the LA for any deficit outstanding at the point of conversion and would expect to recover the balance from the new academy by clawing it back from the academy’s direct grant funding from YPLA.
- **2<sup>nd</sup> wave** to open the programme up to all other maintained schools likely from Autumn 2010 (no detailed announcement yet from DfE)
- DfE don’t anticipate any special schools converting until Sep.2011 at the earliest

### **Key Government amendments to the Bill during Lords consideration**

The Government was expected to move four significant amendments to the Bill during Report stage (6 & July) to attempt to address significant concerns raised by peers of all parties at Second Reading and during the Committee stage about deficiencies in the Bill as originally drafted.

These were expected to include:

- A new requirement for a minimum amount of consultation with stakeholders before any funding agreement is signed off
- The extension of the Freedom of Information Act requirements on public bodies to include all academies from an indeterminate point sometime this Autumn
- The extension of the rest of the SEN legal framework (Part IV of the Education Act 1996) that applies to maintained schools to academies on an equivalent basis

- To close some unintended land transfer loopholes in the original draft of the Bill to prevent the loss of the interest in public land should an academy close

**Bill Contents:**

*Academy arrangements*

- 1 Academy arrangements
- 2 Payments under Academy agreements

*Academy Orders*

- 3 Application for Academy order
- 4 Academy orders
- 5 Effect of Academy order
- 6 Transfer of school surpluses
- 7 Transfer of other property

*Academies: other provisions*

- 8 Charitable status of Academy proprietors etc
- 9 Academies: land
- 10 Academies: amendments

*General*

- 11 Transitional provisions
- 12 Pre-commencement applications etc
- 13 Interpretation of the Act
- 14 Extent
- 15 Commencement
- 16 Short title

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Schedule 1 – Academies: land  
Schedule 2 – Academies: amendments

## The financial impact of the new proposals for schools to convert to Academy status – initial concerns/issues

This analysis identifies the financial impact of schools converting to academy status under the existing methodology. If the proposals being considered go ahead without any changes, even within the current funding framework, there will be a number of unintended consequences. The paragraphs below highlight key areas of concern based upon the latest information available and our experience of Academies so far – and to a lesser extent what happened under the GM arrangements.

### LA and schools services currently funded centrally from Dedicated Schools Grant (DSG), Base Budget or Grants (known as the Local Authority Central Services Expenditure Grant or LACSEG adjustment)

As well as the obvious reduction in DSG reflecting the individual budgets of each school moving to the new status, academies will receive an addition to reflect their additional responsibilities and costs. This additional grant, referred to as LACSEG, is made up as follows:-

Table1

		Secondary		Primary	
		Grant per SEN pupil	Grant per pupil (all pupils)	Grant per SEN pupil	Grant per pupil (all pupils)
DSG funded services – the amount recouped from KCC	SEN support	£31		£28	
	Other specific services		£67		£38
Base budget/ABG and other grant funded services*		£7	£255	£8	£304
<b>TOTAL LACSEG</b>		<b>£38</b>	<b>£322</b>	<b>£36</b>	<b>£342</b>

It had previously been assumed that the amount deducted from Kent's budget equated to the additional grant paid to the academy – a cost-neutral transfer. This is not the case. ***There is therefore an additional cost to the public purse (currently met from central government funds) for each converting school.*** On average the total paid to an academy is over 6 times the amount deducted from KCC. Appendix A quantifies this for Kent schools. The government's own

impact assessment quotes an average figure of £275,000 per secondary school nationally.

As the number of academies increases this additional cost will become unsustainable and the government has stated its intention to open discussions on how that cost can be recovered from local authorities. Appendix A highlights the potential escalating impact on KCC as growing numbers convert.

The amount of additional LACSEG grant is based on each individual LA's budget decisions, as reported in the annual statutory Section 251 return. DfE have recently published a table showing the rate of additional grant per pupil for each local authority. There is an enormous range reflecting decisions on relative levels of delegation that have been made over many years, jointly with schools and the Schools Funding Forum, and reflecting annual decisions on budgets for central services. If this method of calculation continues, as LAs make efficiency savings/cuts to meet other budget restrictions and loss of grants, then each school's level of LACSEG will automatically reduce. ***This methodology provides an absolute link between the LA's funding and the additional funding to be paid to the new academies – budget pressures mean this will result in the issues of reduced funding that some of the existing academies are already having to manage in the current year.***

The final DSG figures for 2010-11 were published on the 1 July and the budget breakdown for Kent is as follows:

Table 2

		£'000	%
1	Schools	707,273	87.4%
2	Early Years PVI providers	31,160	3.9%
3	Centrally Retained Services	70,467	8.7%
	<b>Total</b>	<b>808,900</b>	<b>100%</b>

The current LACSEG adjustment to Kent's budget is based on specific elements of the funding in Table 2, Line 3 above. Of this the LACSEG calculation only applies to £10.403m of that total. See Appendices B & C. If all outstanding mainstream schools became academies in September 2010 they would take with them £1.9m of the £10.403m in a full year. For those schools that would represent an increase of just 1.7% on their existing delegated budgets and obviously they would also incur additional costs which could easily exceed the 1.7%.

The current budget deduction applied to KCC under the LACSEG arrangements affects the services listed below:

- 14-24 Unit
- Education Welfare Officers

- Specialist Teachers
- Attendance & Behaviour
- PESE
- Admissions & Transport (but not the Home To School Transport budget)
- Specific funding for schools for items such as Maternity Leave, Public Duties, Staff suspended from school, all Collective Licences (Performing Rights, Photocopying, Data Protection etc)
- Kitchen equipment maintenance
- Finance
- Personnel
- Area Education Officers
- A range of services within CED and Communities that are funded by DSG through the corporate overhead recharge process – so this is not an issue entirely confined to CFE.

A much wider range of services will be affected if the basis is changed in future in order to recover from KCC the full amounts that are paid to the academies. The list of non-DSG central budgets that DfE has just published on which the non-recoupable additional LACSEG grant is based is reproduced below:

Table 3

**Services and costs funded from other local authority sources**

- Costs of a local authority's statutory/regulatory duties
- Asset management costs
- School improvement services
- Monitoring national curriculum assessment
- Education welfare service
- Pupils support (e.g. clothing grants)
- Music services
- Visual and performing arts services
- Outdoor education services
- Certain redundancy and early retirement costs.

The general problem with all of the above is that the schools moving to academy status would take a pro-rata share of budgets that, as the attached shows, ranges from £1.9m (if it is just all Outstanding schools) through to £10.4m (if it is all schools); or if the government seek to recoup the entire grant, from £12m to £67m. This pro-rata per pupil salami slicing of these budgets is fundamentally flawed. The budgets retained centrally represent a mixture of funding held to deliver statutory services and budgets that schools have agreed should be

managed centrally as that provides better value for money and a more sensible way of managing funding for items such as maternity leave. None of these budgets are constructed on that simplistic per pupil basis so there will be a disproportionate impact on those services (that will in turn impact upon those schools remaining with the authority). Although the LACSEG adjustment currently only applies to specific number of headings within our DSG retained budgets the consequences will be felt by other statutory services we fund from retained DSG with the consequent impact felt by pupils and schools.

Of even greater concern is the basis on which the other LACSEG elements (currently not recouped from KCC) are calculated, as they appear to be on a gross, rather than net basis. Some of the income KCC currently receives will be passed directly to an academy, resulting in the academy being double-funded, and the LA suffering a “double whammy”.

Furthermore, many centrally-managed functions provide support for whole service issues like strategic planning and support for children’s services (not schools) and it is inappropriate to assume that a pro-rata share of these costs based on pupil numbers ‘belongs’ to schools.

The very recent emergence for the first time of this new information on additional top-up grants for central services, above the level taken from local authorities, has explained the disparity between the average 1.5% addition that Kent had been quoting to schools, and the much higher figures of around 8-9% which is what has been talked about nationally by Ministers and does explain how the figures we have calculated are so different from those DfE are quoting to schools that contact them.

### **Other Additional Grants**

Additional grants are paid for insurance and VAT. VAT grant is paid based on a percentage of school budgets. ***This is largely at no cost to the public purse, but if schools incur less VAT than the grant there is no clawback, in which case that represents an additional cost to the treasury. The insurance grant is paid as a direct reimbursement of costs is also an additional cost to the public purse;*** grants are quoted as averaging between £60k and £100k for secondary schools, up to three times the cost to a local authority school.

### **Central Costs Conclusion:**

**The former lack of transparency over Academies funding is improving, but the high levels of LACSEG top-up for services that do not either fully or in part have to be paid for by schools leads to the inescapable conclusion that we are not dealing with a level playing field. There also appears to be a serious risk of double counting grants by basing LACSEG calculations on LA gross budgets, not net.**



Further reading has identified that The Academies Bill clearly provides for two routes for funding academies in future:

- via the established funding agreement mechanism which is individually negotiated with the new academy proprietor (& therefore very cumbersome for DfE to changes in future); or
- via a new grant arrangement which is described in Clause 1 (2)(b) of the Bill as "arrangements for Academy financial assistance". This basically means the Secretary of State will be able to vary the funding arrangements at will, so even if there is a significant premium to persuade outstanding schools in the first wave to convert, the Secretary of State could immediately scale this back in the light of the October CSR announcement and once converted, new academies would have absolutely no guarantees for preferential funding continuing. This is the position that happened with the GM regime as the Treasury woke up to the scale of costs the GM funding methodology was giving rise to and that was in a period of more robust public finances.

### **Deficits**

Under previous academy rules, schools that move to academy status left any accumulated deficit or outstanding loan balance with the LA. New academy rules state that surpluses and deficits will transfer. There is a four month period allowed to close the converting school's accounts.

### **Loans**

We have a very successful loan scheme that utilises the totality of school reserves to enable schools to borrow at 0.5% above base rate in order to carry out capital work on buildings or ICT. Two issues arise from academy conversions:

- Previously because academies became a different legal entity and balances did not transfer, they did not have to repay the loans that their predecessor school may have taken out, leaving the LA and remaining schools to bear the loss. Previously forcing early repayment would have achieved nothing, but under the new rules, the resultant deficit should logically be covered by the deficit transfer rules. The potential cost of not being able to recover existing loans ranges from £3.7m to £11.6m. In addition we have pre-approved loans totalling some £4.9m that schools could yet draw down - if we allow those to continue our potential risk will therefore increase. If we hold back the loans then we will have some new and very significant revenue and capital deficits. There is also the very real issue that projects may not proceed with all the attendant adverse publicity that would generate. It is proposed to require schools to sign new loan agreements requiring either repayment prior to conversion, or to provide a signed agreement from the new academy trust to repay the loan. We are

still pushing DfE to include something within the regulations that would resolve this issue more easily.

- Loans are funded from all schools' collective balances. As the number of LA schools diminishes, so will the pool of available surplus funds to lend. It is unlikely that the LA will be allowed legally to lend to Academies and even if we could we would not have access to the reserves of Academies to support the scheme.

### **Income from schools**

Both CFE and CED earn significant income from schools on a traded basis. Past experience is that as secondary schools become academies that income dries up. It is hard to be precise about this but the attached analysis shows the current scale of income across the groups of schools rises from £1.0m to over £9.5m. Some of this will certainly be at risk. New, extended or adapted services can be developed to offer to academies and these may be of interest, particularly to smaller and primary academies, and if there is any prospect of the additional LACSEG grants reducing over time.

### **PFI**

A major issue for us. We have funded the PFI shortfall from DSG with full agreement of the Forum in order to gain the benefits of BSF. We have contractual commitments for 14 PFI schools. This has to be funded and accounts for about £12.5m of DSG a year. All of this funding is delegated to schools as per school finance regulations and fully reclaimed by the LA and used to part fund the monthly service charge invoices from the PFI companies.

If we have a significant reduction in DSG as schools become academies then we face a real squeeze on the remaining DSG. The concerns we raised with DCSF over two years ago about the long term problems of trying to manage PFI/BSF, school pressures and funding the MFG, the centrally retained services and Early Years all from the same DSG pot will really come home to roost. The PFI costs and funding MFG for schools will become a first call on the DSG so the pressures on Early Years funding and central services will become quite serious.

To illustrate this point further, the table below shows the current breakdown of DSG and also if all schools in Kent become an academy in the future – assuming no change to the current recoupment methodology for an academies share of central services. The position would be even more untenable if the DfE looked to recoup the entire “top-up” currently on offer from the LA.

Table 4

	2010-11 Budget		If all schools became academy	
	£'000	%	£'000	%
Schools	694,765	83.7	0	0.0
Schools PFI	12,508	1.5	12,508	12.0

Early Years	31,160	3.9	31,160	30.0
Centrally Retained	70,467	8.7	60,236	58.0
<b>Total</b>	<b>808,900</b>	<b>100.0</b>	<b>103,904</b>	<b>100.0</b>

### **Other issues**

*Conversion costs* – converting schools receive a one-off grant to cover legal and other costs of conversion. There is a significant cost to the LA in both legal and other finance and administrative processes, and there should be provision for these to be chargeable against the school's grant.

*Free Schools* – we have no real idea how these would be funded but it is hard to believe there will be new money if we have Kent pupils moving into Free Schools so we may see a further DSG reduction in respect of that. We have already seen an in-year 20% reduction in our Harnessing Technology grant so that the DfE can make available £50m nationally for Free Schools. The fact that this funding is all tied up in a contract supporting the entire Broadband network for all Kent schools means we have a significant funding issue as a result of this cavalier approach to funding by the DfE.

*KCC Formula Grant* - if there is a significant push to remove secondary schools will we see a reduction in this with consequent impact on statutory services?

*Home To School Transport* – assuming we remained responsible we could see extra costs should academies opt for differing term dates, opening/closing times etc. This particular issue is one of the freedoms specifically highlighted by the Secretary of State in his letter to Headteachers. Equally would we have to pick up Transport costs for Free Schools ? We have one Foundation school which changed term dates when it was GM and the additional cost to the Transport bill of that one school is around £30k. The costs would have to be passed on to Academies.

*Further Education (FE)* – the impact of an increase in the number of academies will raise issues in relation to 14-19 strategic planning and the developing relationship with the FE sector. If all secondary schools were moved out then we have an issue about all the LSC staff etc just transferred to us – but how this ties into the Government plans to free colleges from “direct state control” as per the Coalition document is not clear.

### **Immediate Concerns**

- The need to confirm new legal agreements with schools to cover outstanding and new loans. Whether we can continue to run the loans scheme is a question we will need to address quite quickly.

- Whilst resourcing would be a major issue we may need to think about how we protect the financial position of KCC and all schools that remain with the LA.
- Schools need to make an informed decision and right now this is still quite difficult. Whilst the immediate financial arrangements for funding have been published, there is likely to be a major consultation in the autumn that could change the arrangements, particularly for the LA, from as early as April 2011.
- Schools are also looking to us for help and guidance and we cannot properly provide that without help from the Academies Unit.
- There will be a significant demand placed on certain groups of LA staff to manage the conversion process, at a time of significant structural change, new appointments, vacancies and summer holidays. 14 schools in Kent have applied to convert – including some who are not outstanding but in a hard federation with a school that is.

## ANNEX C

### **“Outstanding” Kent Schools which have applied to DfE to convert to academy status**

#### **Primary**

Chiddingstone C of E (VC) Primary School  
The Canterbury Primary School (Federation with The Canterbury High School)  
Woodgrove Primary School (Federation with The Westlands School)

#### **Secondary**

Castle Community College  
Dartford Grammar School (boys)  
Fulston Manor  
Highsted Grammar School  
Sandwich Technology School  
The Canterbury High School (Federation with The Canterbury Primary School)  
The Chatham House Grammar School (Federation with The Clarendon House Grammar School)  
The Clarendon House Grammar School (Federation with The Chatham House Grammar School)  
The Hayesbrook School  
The Westlands School (Federation with Woodgrove Primary School)

## Appendix A

### SUMMARY OF CENTRAL SERVICES GRANT (LACSEG) & IMPACT ON KCC

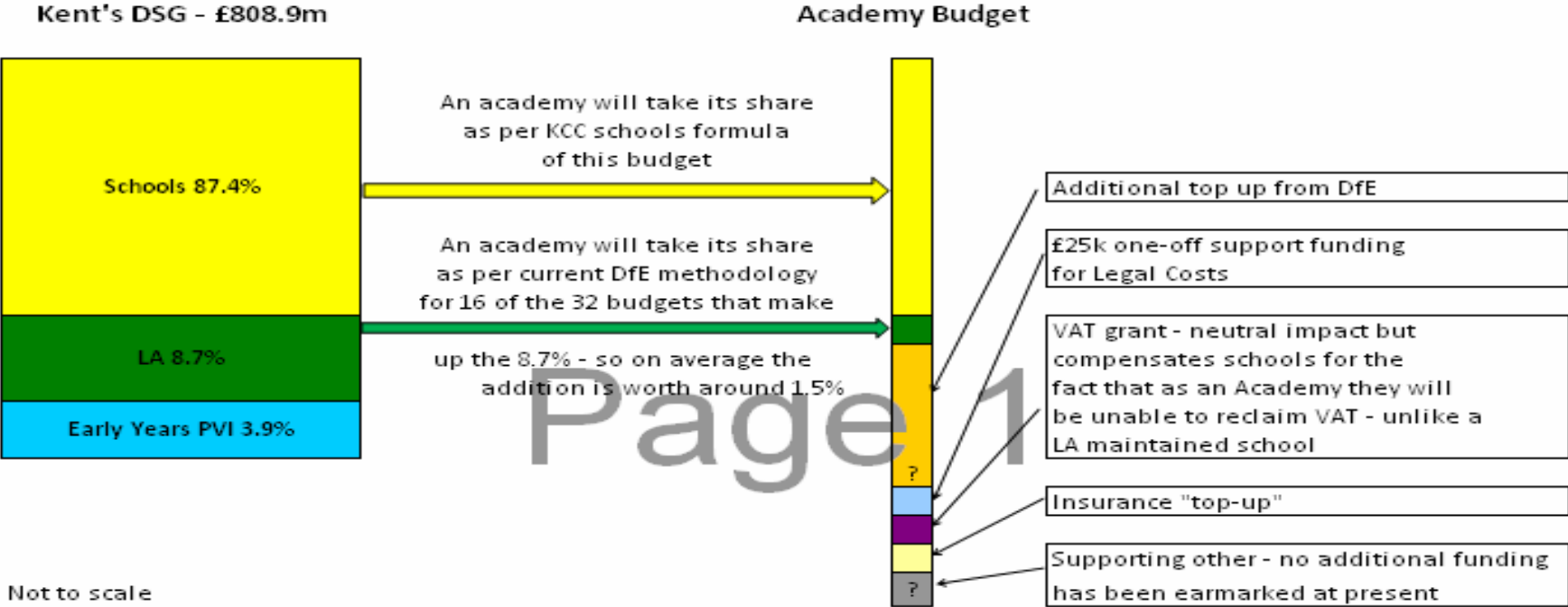
	Primary £'000	Secondary £'000	Total £'000
<b><u>What will the schools receive from the DfE?</u></b>			
Confirmed Schools (12 outstanding + 3 that are federated)	371	3,878	<b>4,249</b>
Remaining Outstanding who have expressed an interest	1,501	3,426	<b>4,927</b>
Remaining Outstanding	2,290	1,043	<b>3,333</b>
Not outstanding but have expressed an interest	2,435	6,707	<b>9,143</b>
Remaining Schools	30,492	14,740	<b>45,233</b>
<b>TOTAL</b>	<b>37,090</b>	<b>29,795</b>	<b>66,884</b>

### **What DSG will be recouped from the LA?**

Confirmed Schools (12 outstanding + 3 that are federated)	48	688	<b>736</b>
Remaining Outstanding who have expressed an interest	187	587	<b>775</b>
Remaining Outstanding	280	168	<b>448</b>
Not outstanding but have expressed an interest	307	1,251	<b>1,558</b>
Remaining Schools	3,915	2,798	<b>6,714</b>
<b>TOTAL</b>	<b>4,738</b>	<b>5,493</b>	<b>10,231</b>

### **What is the additional "top up" funded from government?**

Confirmed Schools (12 outstanding + 3 that are federated)	323	3,190	<b>3,512</b>
Remaining Outstanding who have expressed an interest	1,314	2,838	<b>4,152</b>
Remaining Outstanding	2,010	875	<b>2,886</b>
Not outstanding but have expressed an interest	2,128	5,456	<b>7,584</b>
Remaining Schools	26,577	11,942	<b>38,519</b>
<b>TOTAL</b>	<b>32,352</b>	<b>24,302</b>	<b>56,653</b>



DSG - The LA 8.71%		Academy - 1.5%	
1.1.2	School-specific contingencies		
1.1.3	Early Years Contingency		
1.2.1	Provision for pupils with SEN (including assigned resources)		
1.2.2	Provision for pupils with SEN, provision not included in line 1.2.1		
1.2.3	Support for inclusion		
1.2.4	Fees for pupils at independent special schools & abroad		
1.2.5	SEN transport		
1.2.6	Fees to independent schools for pupils without SEN		
1.2.7	Inter-authority recoupment		
1.2.8	Contribution to combined budgets		
1.3.1	Pupil Referral Units		
1.3.2	Behaviour Support Services		
1.3.3	Education out of school		
1.3.4	14 - 16 More practical learning options		
1.4.1	School meals - nursery, primary and special schools		
1.4.2	Free school meals - eligibility		
1.4.3	Milk		
1.4.4	School kitchens - repair and maintenance		
1.5.1	Insurance		
1.5.2	Museum and Library Services		
1.5.3	School admissions		
1.5.4	Licences/subscriptions		
1.5.5	Miscellaneous (not more than 0.1% total of net SB)		
1.5.6	Servicing of schools forums		
1.5.7	Staff costs - supply cover (not sickness)		

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Under DfE Methodology the Academy only takes a per pupil pro-rata share of the specified budgets

Based on current DfE methodology for a secondary school