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To: SCHOOL ORGANISATION ADVISORY BOARD – 14th JULY 2010

Subject: UPDATE ON PROPOSED CHANGES TO SCHOOL ORGANISATION

Classification: UNRESTRICTED

Summary: This report is to inform Members of the latest position relating to
Government announcements on Academies and Free Schools

Academies Announcement

1. (1) In May 2010 the Secretary of State for Education announced legislation (the Academies Bill) which will allow him to approve applications from 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 this Bill will become an Act by the summer recess 2010.

(2) These 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.

(3) The Department for Education (DfE) are 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.

(4) The proposed legislation will allow primary, secondary and special schools to apply to become Academies (previously primary and special schools could not be academies). The DfE have stated that where a maintained school operates selective arrangements, these can be retained, and therefore the programme is open to grammar schools too.

(5) In the first instance, Governing Bodies of schools that have been rated outstanding by Ofsted in their most recent inspection can apply to become Academies. Where applicable, the Governing Body will need the support of their Foundation and Trustees to apply. 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.

(6) Schools will be expected to sign up, in principle, to support another school to raise attainment.

(7) The Academies Bill proposes to give 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 (ie 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. (1) Schools rated outstanding by Ofsted in their last inspection that want to convert to an Academy will need to:

- (a) Complete an on-line registration form. The DfE will liaise with the school direct. A DfE official will be appointed as the school's named contact to support the school throughout the process.
- (b) 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.
- (c) The 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.
- (d) The Local Authority's role in this process will vary – transfer staff under TUPE (Transfer of Undertakings Protection of Employment) procedures in cases where the LA is the employer; land transfers from governing bodies/trustees to the LA (e.g. for foundation schools where the land transferred from the LA to governors or trustees as a consequence of the schools category); agreeing long lease arrangements for land and buildings with the Academy's Trust; closing down school accounts; termination of contracts.
- (e) 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.

Length of time to convert to an Academy

3. (1) The DfE expect 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

4. (1) The DfE is offering outstanding schools a one off £25k payment in the form an 'Academy Conversion Grant'. New Academies will be funded at a comparable level to maintained schools. New Academies will also receive a share of the local authority budget that currently provides for central services. Academies 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) 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, know 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

(3) The local authority also retains some funding for services that it has 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.

(4) 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.

(5) The Key questions/concerns still in discussion with DfE are:

- What is the basis for the calculation of the funding which new academies will receive from the centrally retained LA budgets?
- What responsibilities will transfer to the new academies with this additional funding?
- How will the DfE negotiate and agree which schools the new academies will support? The LA is keen to be involved in this given our knowledge of which schools will benefit most from these arrangements.
- We are very pleased that the DfE is now guaranteeing that the LA will be reimbursed for any outstanding deficit which is not transferred with the new academy. We are taking action to protect the LA in relation to any loans which have been taken out by converting schools using our generous, and popular, loan scheme against school balances, to ensure that these are paid off at the point of transfer.
- We are concerned about the impact of a reducing totality of DSG on our PFI/BSF arrangements. We have negotiated agreements with our schools funding forum (currently £12m, rising to £17m pa) which underpin these considerable investment programmes in Kent and the transformation of our education system which has benefited many of our schools.
- The LA has expressed a desire to work with Central Government to help clarify the future direction and role and function of local authorities in relation to schools and education generally. The Administration strongly supports the principles behind the Coalition government's agenda, but also believe in the vital importance of a supportive, enabling local authority, as a champion for children, young people and their families.

Free Schools Announcements

5. (1) On 18 June 2010 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 are 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 Autumn, Education and Children's Bill. The Government expects the first Free Schools to be open in September 2011.

(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.

- Re-allocated £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.
- 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) Free schools will have the same freedoms as Academies, and will similarly be publicly funded independent schools, 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.

(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.

(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).

(6) Free Schools will be inspected regularly by Ofsted.

(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.

Recommendation

5. Members are asked to note the report.

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