

Decision Maker: Education Portfolio Holder

Date: For Pre-Decision Scrutiny by the Education Policy Development and Scrutiny Committee on 19 March 2013

Decision Type: Non-Urgent Executive Non-Key

Title: **FUTURE ROLE OF THE LA IN EDUCATION SERVICES**

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Chief Officer: Terry Parkin, Executive Director, Education and Care Services

Ward: All Wards

1. Reason for report

- 1.1 On 21st January, 2013, Council agreed a new set of parameters for its work with schools, and this was reflected in the new business plan agreed by the Portfolio Holder for Education at the Education Policy Development and Scrutiny Committee on 23rd January, 2013. The essence of these two decisions is that schools should be encouraged to be independent of the Local Authority with the Council adopting the role of community champion on behalf of parents and their children, holding schools to account and ensuring an adequate supply of high quality school places. This implies a significant change in relationship between the Council and its schools. This paper describes what that relationship might be and how it might be developed.
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2. **RECOMMENDATION(S)**

- 2.1 That the Portfolio Holder should endorse the new role of the Council as champions of the community and continue to expect only the highest standards from all our schools.
- 2.2 That the Compact given at Appendix 1 should be used to establish this new relationship with schools and that all governing bodies should be asked to sign it following an appropriate period of consultation.
- 2.3 That a final review of services to schools should be undertaken with a view to our offering only services of the highest quality and which represent good value for money for the council tax payer, with a report coming back to member in Autumn 2013.
- 2.4 That, as these recommendations taken together reflect a significant policy change for the Council described in the Covenant, the decision should pass to Executive for ratification as given in paragraph 6.

Corporate Policy

1. Policy Status: Existing Policy: Further Details
 2. BBB Priority: Children and Young People: Further Details
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Financial

1. Cost of proposal: Not Applicable:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Education Portfolio Budgets
 4. Total current budget for this head: £20,665k
 5. Source of funding: RSG, DSG, Council Tax and other grants
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Staff

1. Number of staff (current and additional):
 2. If from existing staff resources, number of staff hours:
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Legal

1. Legal Requirement: None: But relates directly to duties that the Local Authority has under the current Education and Children Acts.
 2. Call-in: Applicable:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

Background

- 3.1 Historically, Bromley has had a commissioner/provider relationship with its secondary schools. The vast majority of secondary mainstream schools were grant maintained which then converted to academy status when this was made possible under legislation brought-in by the coalition government. Effective professional relationships have been maintained throughout this period between the Council and its secondary headteachers and governors, and our secondary schools are recognised as being among the best in London, itself the highest performing major city in international comparisons.
- 3.2 Our relationship with primary and special schools has been more traditional, with significant services provided by the Council, and across many departments, often at or below cost. As a consequence, at times it has appeared that schools were being run from the centre, giving too little accountability to headteachers themselves, blurring responsibilities for standards, for example, and, as a consequence, seeing too little sustainable progress in many of our schools. This has led to confusion about responsibilities, perhaps unsurprisingly, as the legislation relating to schools and the responsibilities of the so-called 'middle tier' – ie the top tier of local government but one that sits between Whitehall and schools, remains somewhat unclear.
- 3.3 A comprehensive paper on sold services to schools was considered as part of a 'Select Committee' review on 12 July 2012 which identified the broad range of services on offer to schools. This review found that whilst some services were valued by schools, and on occasions provided useful information and intelligence back into the centre, there was no overwhelming case to continue to offer sold services, and little or no case made to continue other than for a narrow range of high quality services with full cost recovery.
- 3.4 Local Authorities retain a number of powers from the Children Act 2004 which required the creation of Children Services departments and gave authority to 'Every Child Matters: Change for Children, 2004'. This established the outcome framework for children which remains in Law and is a statutory duty on local authorities to secure. The five outcomes are:
- Be healthy
 - Stay Safe
 - Enjoy and Achieve
 - Make a positive contribution
 - Achieve economic wellbeing.
- 3.5 In addition to these, there are several hundred outcome measures used by the Department for Education against which we are held to account, but there remains some considerable lack of clarity as funding passes to academies. It is Council policy that all of its schools shall become academies, and at the time of writing just over half of our schools are either academies, in the process of converting or have given notice of their intention to convert. It is important that we do all we can to ensure clarity in responsibilities so that accountabilities are clear, but also democratic accountability. We need, then, a new form of relationship with our schools, but one which must reflect not just the needs of the child but also the democratic responsibilities placed on the Council and which have to be discharged by Ward Councillors and the respective Portfolio Holders.
- 3.6 A key issue for the Council is then, with all of its schools within the academy programme, how do we identify, discharge and then secure the responsibilities that come with these duties? We propose at the heart of this new relationship should be a covenant with Bromley parents, carers and children that requires that we will, at all times, demand the very best from our

schools and academies for our young people. This is expressed in the draft Compact given as Appendix 1 which we would ask all governing bodies to endorse, following its agreement by the Portfolio Holder. This places very few additional burdens on schools, as it focuses on seeing children and young people as individuals and planning their learning programmes accordingly, that which all good schools do as a matter of course.

- 3.7 The Compact is simple. We believe the community has a right to expect that their children are taught by well qualified and highly able teachers guided by outstanding leaders: we believe that our schools should be among the best in London and by extension, the best in the Country. We suggest, then, that the Compact contains a very small number of key outcome measures such as quality of teaching, and performance when compared to schools taking children with similar characteristics. This would be supported by the greatest possible transparency, with all publically available school data freely available on our website to help parents and carers to also hold schools better to account.
- 3.8 However, we do not need ourselves to provide services to schools to allow them to achieve these improved outcomes. Indeed, many of our schools are already active consumers in the commercial marketplace and doing extraordinarily well. Where we can offer high quality services at a cost that is not otherwise subsidised by the council tax payer, and schools want those services, we would most likely continue to offer them. However, for many of these services, schools can find them at better value in the marketplace and as the internal market expands it is unlikely that the council will be able to compete with our competitors. This was reflected in the evidence from the HR director of Bishop Justus School to the Select Committee in July 2012. In her evidence she stated that although the quality of HR service received from the Council was comparable in quality to that available from the private sector; it could not compete on cost, in her view. This was disputed by LA officers but nevertheless, does reflect a view held by many.
- 3.9 This paper then seeks authority to further review services to schools on an individual basis, giving notice that from April 2014, we will offer only those sold services to schools that recover cost fully and are of a sufficient high quality to otherwise further our aims of providing the highest quality schools to the community we serve. Other provision is most likely to be secured through a commissioning model, by individual schools, groups of schools or even the local authority on the behalf of schools, consistent with the general direction of travel of the Council across a wide range of services.
- 3.10 There remains a group of services for which we have statutory responsibilities. As more and more schools become academies, the nature of many of these services may need to change, for example, governor support, finance, education welfare and our school intervention capabilities; others may remain largely unaltered, such as our SEN work on statementing, for example, and our responsibilities for the provision of adequate places for children and young people. We also cease to be the employer of the last resort and so our HR central support to schools will be minimal.

What might these services look like in practice?

- 3.11 **School improvement:** in spite of our working closely with central government, this remains something of a grey area. We retain a responsibility to intervene in maintained schools in inverse proportion to success. We also have a statutory duty to ensure children and young people 'enjoy and achieve' wherever they study, and so have powers to require an academy to improve, as well as our clear powers of intervention in maintained schools. This requires oversight by an experienced and well qualified education lead, ideally with headship experience, but could easily be discharged as a commissioned function.

- 3.12 One of the indicators used by central government to assess the impact of education policy locally is a measure of those **not engaged in education, employment or training** (the so-called NEET figure). Central government also requires that all school leavers are offered a place either in further education or employment - *the autumn guarantee*. We have a statutory responsibility to maximise this number again reflecting the duties on us from Every Child Matters - in this case, achieve economic wellbeing.
- 3.13 Local authorities are required to have the capability and capacity to summon to Court parents who do not secure the **attendance** of their child at school. Traditionally we have also supported attendance through the use of educational welfare officers, and this service has provided a useful early warning of a child at risk. However, this is a dual responsibility, and schools are also required to undertake this type of intervention. We hold them to account for so doing through our Every Child Matters powers, and there is no particular responsibility for local authorities to offer an extended service.
- 3.14 This is part of our wider support for **safeguarding responsibilities** - 'stay safe'. These are also described in '**Working Together to Safeguard Children**'. This requires all schools in a local authority area to have regard to the work of the Local Safeguarding Children Board (LSCB) and to contribute annually a report to that Board on its safeguarding activity, a so-called section 11 report (of the Children Act, 2004). This is facilitated by the local authority through the appointment of a designated officer to investigate safeguarding matters in schools and to support their work in this area. This legal duty is placed on all schools, whether state or independent. We would continue to support the local safeguarding board in the discharge of its responsibilities in this area.
- 3.15 We are required to provide a **support function to governors** of maintained schools, but not academies. However, we also have a significant cadre of local authority governors that need support and briefing on the expectation of the Council. As more schools become academies our automatic right to nominate governors is less clear. However, it would be a reasonable expectation that we would work with academies to ensure appropriate democratic representation on their governing bodies although we have no powers of enforcement.
- 3.16 There are clear statutory reporting roles for education finance and we are required to establish and support a **schools' forum** to advise on school expenditure. The forum includes representation from the academies as its decisions impact on the per pupil funding arrangements for all state funded schools. In addition, we also offer a finance support function to schools which is very popular. For maintained schools, we are the ultimate budget holder and expected to intervene should a school find itself unable to manage its finances. We have no responsibilities in this area with regard to academies.
- 3.17 As a pathfinder for the **SEN** Green Paper, we have been fortunate to be at the forefront of developments in this area. It remains unclear what our ultimate responsibilities in this area will be, but this is likely to remain a significant proportion of the 'local educational authority' workload in the future. At present, however, it is very hard to quantify. As well as producing statements, or whatever ultimately replaces them, importantly we have a duty to monitor the provision for this most vulnerable group of children and young people.
- 3.18 Finally, we hold a duty to ensure that there is a **suitable school place for all children** and young people. We need therefore to maintain accurate and up to date records of local capacity, and to have sufficient expertise to commission as required by government new places. This includes specialist provision for SEN pupils but also a pupil referral unit for those excluded from school. This could, of course, be commissioned from one or more academies, or itself be a standalone academy. There is no particular duty on a local authority to provide behaviour support.

- 3.19 And so in this new relationship, who is responsible for performance of schools? Clearly, governors hold that responsibility with headteachers accountable to them and, if in a chain, through to the academy sponsors and trustees. Our role is to ensure schools hold high expectations for their children and young people and where they are not met, ensure that they are challenged and that any underperformance is made clear. This allows a more honest relationship with academies and their sponsors, and an annual report to the Portfolio Holder brought to the PDS will help ensure that all schools are challenged in this way.

4. POLICY IMPLICATIONS

Much of the policy detail is covered in the body text. We have a clear mandate from both Council and the Portfolio Holder for this new relationship with schools. We must, however, retain sufficient capacity to discharge our statutory duties.

5. FINANCIAL IMPLICATIONS

As schools convert to academies, significant responsibilities transfer with them. In financial terms this is reflected in reductions in the Education Support Grant (ESG) that the Authority receives to support the remaining duties. Unlike in previous years when LACSEG funding was adjusted in the following year, from 2013/14 as schools convert to Academies ESG funding will be withdrawn in the following quarter, which will have a direct impact on the 2013/14 budget. For this reason finance have been working with senior officers within ECS, and officials from the DfE, to model what the service will look like assuming that all schools become academies by the end of March 2014 and the level of funding required to provide the statutory duties. Once all schools convert to Academies the council will receive approximately £720k in ESG to cover statutory responsibilities across the Council. For this reason it is very important that officers within the Education division are clear about what these statutory services are and also how quickly they believe the schools will move to become academies.

Services provided to schools were put on a 'sold service' footing from 2012/13. This has shown where particular services cover/exceed their costs or if they run at a deficit.

As more schools convert to Academies the market will develop and the risk to the council increases around the income it generates from sold services to schools. Schools will be able to exercise choice from a range of providers. Schools already have a large degree of autonomy over their budgets. Recent government announcements will mean that this is likely to increase with the introduction of the National Funding Formula in 2015 and the move towards funding Pupil Referral Units much like schools (in 2013/14 they will have their own delegated budgets and will be set up like a school rather than a centrally controlled service). As the Government continues to progress in reducing the longer term role of local authorities a market will mature consisting of private sector providers entering into the market as well as consortiums of schools selling services to other schools. This further questions whether local authorities should continue to remain providers of any sold services in the longer term.

6. LEGAL IMPLICATIONS

The Local Authority in meeting any statutory duty has to have due regard to any legal enactments or published statutory guidance, to ensure the appropriate meeting of such.

In this case the publishing and adoption by the Local Authority of an Education Covenant would put in place a policy document that is subject to due administrative process and law.

7. PERSONNEL IMPLICATIONS

These cannot be quantified at this time. Schools, as academies, have great freedom to buy services from whomsoever they wish. We expect that by working alongside schools in the new relationship this paper describes, we will be able to manage change in a manner consistent with our obligations to employees in both schools and at the centre.

Non-Applicable Sections:	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	[Title of document and date]