

DERBYSHIRE COUNTY COUNCIL**CABINET****26 July 2016****Report of the Strategic Director for Children's Services****Cost Recovery of Work Associated With Academy Conversions –
(Children's Services)****1. Purpose of the Report**

To seek Cabinet approval to introduce a charge to enable the Authority to recover the costs of work associated with academy conversions.

2. Information and Analysis**2.1 Background**

The Academies Act 2010 gives all maintained schools the opportunity to become academies. More latterly, the recently-published White Paper: *Educational Excellence Everywhere*, confirmed the Government's intention that all schools will either have become an academy, or be in the process of converting to academy status, by 2020. Although the Government has reaffirmed its determination to see all schools as academies by 2022 at the latest, it has agreed that there will be no legislation implemented to bring about a blanket conversion of all schools.

At the end of May 2016, the school/academy position in Derbyshire was as follows:

Sector	Academies	LA Maintained	Total	% academies
Primary	15	335	350	4.3%
Secondary	19	26	45	42.2%
Special	0	10	10	0.0%
Total	34	371	405	8.4%

The workload on Local Authorities (LAs) associated with a conversion can be significant as the process involves a number of key tasks, including:

- Legal work associated with the Commercial Transfer Agreement; the document which sets out the basis on which the school will convert, including the treatment of employment issues, assets, liabilities and existing contracts, and work associated with any required land transfers.

- Employment and HR procedures including carrying out consultation under the TUPE regulations and transferring contracts of employment to the new academy;
- Updating of LA records including asset registers, payroll, pupil databases etc.
- Closure of the school's financial records and ensuring suppliers are paid for goods and services ordered as an LA school;

2.2 Current Position

Recent pronouncements by the Secretary of State have removed some elements of compulsion on schools to convert. However, schools which have been judged as underperforming can still be required to convert, as can schools in local authorities where there are so few maintained schools remaining that there is insufficient capacity to support them.

Under the Education and Adoption Act 2016, local authorities have a new duty to facilitate the process of conversion for schools where the Secretary of State has issued an Academy Order due to the school requiring significant improvements or special measures and to schools that are eligible for intervention, including coasting schools. Clearly, therefore, LAs are likely to be faced with significant increases in workloads as they meet this requirement; the cost pressures in Derbyshire are likely to be more acute given our current level of academisation which is relatively low compared with national averages.

Derbyshire will have to devote significant resources to ensure that the work is undertaken in a reasonable timescale whilst ensuring that liabilities are transferred appropriately to the new academies.

The DfE has confirmed that it expects LAs to support schools to convert and are not supportive of councils charging and would support schools where a council sought to impose an unreasonable charge. However, the DfE have also stated that "where charges are imposed these should be reasonable".

Several authorities already make a charge to recover the costs of conversion (see below) and it is understood that other LAs are looking at their cost recovery policy also.

Local Authority	Charge
Staffordshire	£6,000
Norfolk	£5,550
Portsmouth	£5,000
Leicester City	£5,000
Coventry	£4,250 - £6,750
West Sussex	£15,694 - £19,644
Birmingham	£3,500 - £10,000

The DfE's current funding framework provides each school going through the conversion process with a £25,000 one-off grant to help meet the additional costs of conversion, such as legal costs. Schools should therefore have resources to meet any reasonable charge.

2.3 Proposed basis for cost recovery

An assessment of the officer time associated with a conversion indicates a cost of around £8,000 per school. However, some of the functions undertaken are designed to protect the long-term interests of the Authority and it is therefore proposed that a slightly lower figure of £6,000 be levied to reflect this.

The time, and thus cost, associated with the conversion of the schools subject to a Private Finance Initiative contract can be substantially higher due to the contractual complexities involved. There are also external legal costs for these conversions that the Authority would seek to recover. An additional charge over and above the £6,000 would be levied on the basis of an assessment of the extra work involved. These would be determined on a case-by-case basis.

It is recognised that some schools are already part-way through the conversion process and it could be regarded as unreasonable for the Authority to levy a charge on these schools at short notice. It is therefore proposed that the charge be applied to schools which are not yet subject to an academy order.

It is proposed that the cost recovery arrangements will take effect from 1st September 2016. Schools will be informed of the proposed change in the interim and any objections will need to be considered.

3. Financial Considerations

Assuming that all of the remaining maintained schools in Derbyshire were to convert to academy status by 2020 in line with the Government's plans, the introduction of a cost recovery model would potentially generate around £2.2 million over the next four years. This will provide partial mitigation against the budget pressure that would otherwise fall to the Local Authority and which would have an impact on the delivery of other essential services.

4. Legal Considerations

There is a new statutory duty on the Council to facilitate conversions under Section 10 of the Education and Adoption Act 2016; the extent of this duty is not defined. However, it is considered that this does not preclude charging on the basis set out above.

The Council must be able to demonstrate that the charge is reasonable and that it is not benefitting i.e. making a profit from it. In order to reduce the risk of challenge, any charge should only be introduced for schools for which an academy order has yet to be issued. In addition, schools are to be consulted before the proposed charge takes effect.

5. Other Considerations

In preparing this report, the relevance of the following factors has been considered: prevention of crime & disorder, equality of opportunity, human resources, environmental, financial, health, property and transport considerations.

6. Background Papers

Department for Education White Paper – Educational Excellence Everywhere;

7. Officer's Recommendations

That Cabinet agrees:

- 7.1 To advise schools on the intention to levy a charge of £6,000 to any school converting to academy status;
- 7.2 That an additional charge be levied for schools covered by a PFI agreement where this is justified on the basis of the work involved; and
- 7.3 That, subject to considering any objections, the above levies be applied to any school which becomes subject to an academy order on or after 1st September 2016.

JANE PARFREMENT

**Strategic Director for
Children's Services**