

## Decision Report - Executive Decision

Forward Plan Reference: FP/23/06/04

Decision Date – 02 August 2023

Key Decision – yes

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### Academisation Finance Policy and Procedure

Executive Member(s): Cllr Tessa Munt

Local Member(s) and Division: All

Lead Officer: Claire Winter

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### Summary / Background

1. As a local authority, Somerset Council is seeking to move to a more transparent methodology for planning academisation. This is being shared with the Department for Education and Diocese of Bath and Wells through the Somerset Education System Leadership Group. The Education System Leadership Group is part of the new governance supporting the Education for Life Strategy and informs the work of the overarching Education for Life Board.
2. As of the start of the financial year there were 133 local authority maintained schools in Somerset. Any of these schools could either convert to academy status in their own right or convert with a sponsor when a school is underperforming and the Department for Education decides to implement a trust solution. Currently there are 13 schools in the pipeline to convert to academy status between 1 March 2023 and 1 April 2024. We are aware of four schools that have taken a formal vote to academise but have not been given a date at the South West Advisory Board for decision (see Table 1).

### Recommendations

3. The Executive agrees:
  - a) To approve the approach to managing Core Offer contracts when a school converts to academy status (see para 8-11).
  - b) To approve the Council's academy charge for schools electing to convert to academy status (see para 12-14).
  - c) To approve the proposal to apply Department for Education guidance when dealing with surplus and deficit balances on conversion to academy status (see para 15-19).
  - d) To implement the proposal at (c) in relation to surplus and deficit balances effective from the date of decision (2 August 2023)

## Reasons for recommendations

4. Through the role of the Director of Children's Services, the council has statutory responsibilities to promote educational excellence, specifically:

*Working with headteachers, school governors and academy sponsors and principals, local authorities should promote educational excellence for all children and young people and be ambitious in tackling underperformance.*

[Statutory guidance on the roles and responsibilities of the Director of Children's Services and the Lead Member for Children's Services](#)

5. Somerset's education system as whole (both the academised and maintained sectors) is underperforming and the 2022 assessment outcomes showed a trajectory of decline. While funding and finance issues are significant factors contributing to school performance, they do not determine educational outcomes. However, a weakened support infrastructure around schools has been closely associated with that decline and financial stability is necessary for strong and reliable support services. Ensuring that financial uncertainty does not disrupt the focus on improvement and the benefit of improvement for children is therefore a priority for the local authority.
6. While Somerset Council supports the principle that schools should be able to choose their future, this is better achieved within a planned and transparent framework for decision making and implementation that allows all stakeholders, particularly schools, multi-academy trusts and the local authority to deliver change in a manner which mitigates the inevitable risks associated with change.
7. These proposals are designed to mitigate risks and provide clarity and stability in relation to financial measures associated with a change of status from local authority maintained to academy status.

### Core Offer

8. All local authority schools are now supported through a bundled traded package called the Core Offer. Each Core Offer contract is an annual agreement running from 1 April to 31 March. For 2023/24, all schools in the pipeline will be charged the Core Offer in full. For 2024/25 and all subsequent years, schools will be eligible for a rebate on a quarterly basis should the local authority be notified of conversion by 30 November in the year prior to the financial year in which the school will convert. If a school notifies the local authority in the one of the ways sets out below, they will receive a rebate for the period between conversion and the end of the financial year based on the formula set out in para 10.
9. The rationale for setting a cut off date for schools to be eligible for a rebate is to protect schools who are remaining with the local authority. Every year the local authority will need to agree a Core Offer package and set a level of charges

together with school leaders. These charges need to be agreed before the start of the spring term. In order to give schools the assurance that the support services they will rely on will be affordable and sustainable, the local authority will need to know how many schools are being supported and what income a charging model would attract. The proposed cut-off date will mean that income levels will be able to be accurately forecasted and assurance can be given to schools remaining within the system.

10. A school will be eligible for a rebate if a notification is received in one of the following ways by the deadline of 30 November each year:
  - a) A letter from the Department of Education indicating an intention to pursue a directive academy order in relation to a school with two published Requires Improvement Ofsted inspection judgements
  - b) An Ofsted inspection that concludes with an inadequate judgement
  - c) A written notification from the governing body advising of a positive resolution to join a multi-academy trust
11. Where the eligibility criteria has been met, rebates will be provided according to the date of conversion as follows:

2 April to 1 July	9/12 of annual charge
2 July to 1 October	6/12 of annual charge
2 October to 1 January	3/12 of annual charge
2 January to 1 April	No rebate

### *Charges*

12. Local authorities and Dioceses (for church schools) are expected to levy full cost recovery in relation to academisation activities for voluntary conversions. The Diocese of Bath and Wells does charge for academisation activities but does not currently operate full cost recovery. Local authorities are unable to levy any charge for a school in receipt of a direct academy order as a result of poor performance. These costs must be met by the local authority.
13. Schools are awarded a grant of £25,000 to help meet these costs. Officers have finalised the full cost recovery calculation and the charge for schools electing to convert during 2023/24 will be £10,675. This has been calculated on the average number of hours devoted to academisation activities by the following functions: Project management, Finance, HR Advisory, Business Management, Estates Valuation, HR Admin and Payroll. This charge is in addition to the legal costs associated with conversion which are met by the converting school/trust.
14. The full cost recovery calculation will be reviewed annually and will be updated in line with the inflationary uplift applied to traded services.

### *Surplus and Deficit Balances*

15. In 2019 the county council took a decision to treat surplus balances in the case of directive academy orders such that schools would retain the first £20,000, any sum between £20,001 and £100,000 would be split with 50% retained by the council, and any sum over £100,000 to be retaining in full by the council. This has the effect that a greater sum was retained by schools in the case of directive orders than is anticipated in national guidance. In all other respects the council followed national guidance.
16. It is now proposed that the Council now follows the guidance set out by the Department for Education Academy conversion: [Academy conversion: surplus and deficit balance transfer process - GOV.UK \(www.gov.uk\)](http://www.gov.uk).
17. In the case of a directive academy order by the Secretary of State:
  - a) The deficit is retained by the local authority
  - b) The surplus is retained by the local authority
18. In the case of a voluntary conversion:
  - a) The deficit is transferred to the trust
  - b) The surplus is transferred to the trust
19. The local authority would potentially retain some balances under the current policy. On the basis of latest financial reporting the estimate is that this would return £565,000. Under the proposed new policy the estimate is that this would return £776,000.

### **Other options considered**

20. The treatment of surpluses and deficits and the setting of cost recovery charges bring Somerset into line with standard practice nationally and therefore no other options were considered.
21. The option to establish a pipeline of conversions with clear notification deadlines for contracts is based on the council's experience that academisation proposals can emerge at short notice which does not align with financial or operational planning timescales. The option to establish a fund to offset the cost of contracts ceasing in-year was considered. However, it became apparent that this would result in either unaffordable cost or longer timescales for academisation than are being proposed in the pipeline set out below, neither of which were acceptable, so this option was rejected.

### **Links to Council Plan and Medium-Term Financial Plan**

22. As part of the Education for Life Strategy, Somerset Council is investing in relationships with stakeholders at all levels in the education system so that we can collectively deliver a step change in educational outcomes for the children of the area. Transparency about plans and intentions is helpful for strong and collaborative relationships. Being open and transparent, particularly about

finance, supports the local authority’s intention, as set out in the Council Plan, to be:

- A responsible council that acts with integrity
- A council with evidence-based and open decision-making
- A collaborative council

**Financial and Risk Implications**

23. For the financial year 2023/2024, the financial pressures due to inflation mean that in relation to academisation (and all other statutory duties) the council is able to meet statutory duties only. The local authority is committed to meeting its statutory duties to facilitate academisation. However, where the local authority may have been in a position to go above and beyond those duties in previous years, financial pressure means this is no longer achievable.
24. For many years local authority maintained schools have sustained a high level of combined surplus when the position across all schools is taken into account, even though individual schools have very different levels of surplus and deficit. Due to inflationary pressures this is now likely to decrease and in the context of the position of the high needs block of the Dedicated Schools Grant (currently in deficit in the region of £20 million) there is an increasing level of risk to the local authority’s overall financial position.
25. In order to maintain transparency of finances as schools move to academisation, the service will produce a financial statement at the point of the decision to academise which will capture the surplus or deficit position for all relevant stakeholders, including the school and trust. The expectation will be that this will reflect the level of surplus retained at the point of conversion, and any planned or unplanned variation to that figure will necessitate a written agreement between the school and/or trust and/or council. This will put the onus on the school and/or trust to maintain open and transparent accounting and dialogue through the period. In relation to deficits, schools in deficit will already have an agreed deficit reduction plan which will continue though the period.

<b>Likelihood</b>	<b>3</b>	<b>Impact</b>	<b>4</b>	<b>Risk Score</b>	<b>9</b>
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**Legal Implications**

26. The Academies Act 2010 enables maintained schools to convert to academy status. The Council has a duty under Section 5b of the Act to take all reasonable steps to facilitate the conversion of a school into an academy.
27. The Secretary of State may also make a directive academy order where she considers a school to be underperforming. Current guidance defines underperformance as being an inadequate judgement by Ofsted or two consecutive Requires Improvement judgements in schools classed by the Department for Education as ‘Education Investment Areas’ due to low

educational standards compared to other areas nationally. Somerset is an Education Investment Area.

### **HR Implications**

28. The local authority employs approximately 220 staff within the Education, Partnerships and Skills team. The continued employment of a significant proportion of this staff group, as well as other council employees in teams serving schools, depends on income that arises from supporting local authority maintained schools. The government has expressed its intention to see more local authority maintained schools convert to academy status over the coming years. While this may result in a growth in trading with multi-academy trusts, it is likely that overall there will be a need to reduce the size of the overall function over time.
29. These proposals are intended to provide greater clarity for all stakeholders to be able to plan resources more effectively. To date, academisation has not taken into account effectively enough the need to evolve operational structures in both the local authority and trusts in light of the changing school landscape. While there may sometimes be an imperative to academise schools on shorter timescales, a longer planning horizon for staffing in non-urgent circumstances will allow the council to maximise the potential for natural wastage, thereby avoiding the need for redundancy, and for multi-academy trusts to plan their support structures with greater assurance.

### **Equalities Implications**

30. There is an interdependency between all elements of education finance, and therefore any lack of financial discipline carries a risk to provision in the area for Special Educational Needs and Disabilities, which may put provision for children with disabilities at risk in future.

### **Community Safety Implications**

31. There are no community safety implications.

### **Climate Change and Sustainability Implications**

32. There is an interdependency between all elements of education finance, and therefore any lack of financial discipline carries a risk to the sustainability of local authority maintained schools, particularly those in rural areas which are highly susceptible to financial shocks and whose loss can be devastating for isolated rural communities.

### **Health and Safety Implications**

33. Recent investigations have revealed that the funding arrangements that support local authority maintained schools have not supported good practice in relation to health and safety within education. Work on the Core Offer has focused on

rectifying this, but good financial discipline is essential to ensure this work is sustained over time.

### **Health and Wellbeing Implications**

34. Education is one of the most significant determinants of health and wellbeing. Low and declining educational progress and attainment represents a risk to future population health.

### **Social Value**

35. There are no social value implications.

### **Scrutiny comments / recommendations:**

36. This paper is on the agenda for Children and Families Scrutiny Committee and will be considered on 12 July.

### **Background**

30. Somerset has academised 132 schools over 13 years with continuity of expertise in the staff team responsible. The shortest timeline to date between the Regions Team South West Advisory Board decision and conversion has been 4 months. Comparisons with other local authorities in the South West suggest a common timescale is 5-6 months. However, timescales can be significantly longer. Chilton Trinity in Bridgwater took 30 months due to the complexities of the Private Finance Initiative contract.
37. The pipeline below represents target timescales and is subject to review. The Council will endeavour to recirculate this timetable on a regular basis to council members and officers, local trusts and schools so that there is a shared understanding of changes where these may arise. This pipeline has been devised taking into account the following considerations:
  - a) Priority given to schools with a direct academy order
  - b) Groups of schools that are planning to join the same trust to academise at the same time, where that is achievable
  - c) Known procedural complexities (eg exceptional land or legal issues)
  - d) Capacity within the local authority to manage the relevant activity
38. This pipeline will serve as the Council's guide for activity and Officers are committed to these dates all other things being equal. However past experience tells us that there are a range of circumstances that can arise which can result in a change to target timescales. In particular, should any other schools receive directive academy orders, these would take priority and may displace other schools.

**Table 1**

<b>Target date (1<sup>st</sup> of month)</b>	<b>School</b>	<b>Directive Academy Order</b>	<b>South West Advisory Board Decision Date</b>	<b>Trust</b>
August 2023	Berrow	YES	20 February 2023	The Priory Learning Trust
September 2023	Heathfield	YES	22 May 2023	Cabot Learning Federation
November 2023	West Chinnock Norton Sub Hamdon	YES NO	24 April 2023	Bath and Wells MAT
November 2023	Castle Cary	YES	3 July 2023	The Academies for Character and Excellence
November 2023	Stoke St Gregory	YES	19 June 2023	The Oak Partnership Trust
January 2024	Merriott Haselbury Plucknett Ashlands St Bartholomew's	NO NO NO NO	22 May 2023	Quantock Education Trust
January 2024	Abbas and Templecombe St Aldhelm's	NO NO	24 April 2023	Bath and Wells MAT
April 2024	St Louis	NO	22 May 2023	The Dunstan Catholic Educational Trust

<b>Local authority maintained schools who have notified of a formal vote by the governing body</b>
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Hindhayes Infant School Stoberry Park Primary School Frome College Ash Church of England Primary School
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**Background Papers**

[Schools Causing Concern Guidance \(October 2022\)](#)

[Treatment of surplus and deficit balances when maintained schools become academies \(March 2018\)](#)

**Appendices**

- Somerset Schools by phase and status
- School Ofsted Outcomes as of April 2023



## Appendix 1: Somerset Schools by phase and status

Phase/Type	Total Number	No of Academies	%
State-funded Schools			
All Through	1	1	100.00%
Middle Deemed Primary School	1	1	100.00%
Middle	6	6	100.00%
Infant**	12	2	44.23%
First	30	17	
Primary	165	74	
Junior	10	3	
Secondary	25	22	85.71%
Upper	3	2	
Special	8	4	50.00%
PRU	4	0	0.00%
SUB TOTAL	265	132	49.81%
Other			
Colleges	4		N/A
Special Post 16	3		N/A
Independent	17		N/A
Independent Special	16		N/A
SUB TOTAL	40		N/A
<b>GRAND TOTAL</b>	<b>307</b>		

## Appendix 2: Ofsted Judgements in Somerset schools 2022 – 2023

Since September 2021 **44%** of Somerset schools have been inspected under new framework

**56%** are overdue or waiting for Ofsted

Total of **113** schools inspected (plus 15 where reports not yet published)

2021 – 2022 **46** (plus 2 monitoring visits)

2022 – 2023 to date **67** (plus 5 monitoring visits and 6 academies inspected where judgement not yet known)

Please note that schools who convert to academy status have their Ofsted judgement wiped from their record and therefore all judgements listed for academy schools are judgements that were given to them after academisation.

### Direction of Travel

**20%** have improved their grade for overall effectiveness (17% Jan 2023)

**19%** have received a lower judgement than previously (25% Jan 2023)

**61%** have retained the same judgement (58% Jan 2023)

2021-2022	LA	Academies	All
↑		4	4
↔	18	13	31
↓	6	4	10
(1st inspection)		(1)	(1)
	24	21	45

2022-2023	LA	Academies	All
↑	1	11	12
↔	31	6	37
↓	7	5	12
No outcome yet	0	6	6
	40	27	67

## Outcomes for Schools Inspected 2022 – 2023 to date

3.3% are Outstanding (0% Jan 2023)

75.4% are good (71% Jan 2023)

13.1% are Requires Improvement (21% Jan 2023)

8.2% are inadequate (8% Jan 2023)

78.7% of schools inspected since September 2022 have judgement of good or better for quality of education (71% Jan 2023)

2021 - 2022	LA	Academies	Total
Outstanding	0	0	0
Good	13	13	26
Good but	3	3	6
Requires Improvement	6	5	11
Inadequate	2	1	3
Monitoring visit	1	1	2
	25	23	48

  

2022 - 2023	LA	Academies	Total
Outstanding	0	2	2
Good	23	11	34
Good but	10	2	12
Requires Improvement	3	5	8
Inadequate	3	2	5
Monitoring visit	3	2	5
No report yet	0	6	6
	42	30	72

## Comparison to National Figures

Data April 2023 (Ofsted - Schools commentary: the emerging picture from 2022/23 inspections)

	National	Somerset (Apr 23)	Somerset (Dec 22)
Outstanding	17%	10%	11%
Good	71%	72.5%	71%
Good or better	88%	82.5%	82%
Requires Improvement	8%	12.4%	11%
Inadequate	3%	5.2%	7%