

Report to:	Cabinet	Date of Meeting:	7 th March 2024
Subject:	Approval of Legal Documentation for Academy Conversions – Sponsored and Voluntary Conversions		
Report of:	Assistant Director of Childrens Services (Education Excellence)	Wards Affected:	All
Cabinet Portfolio:	Education		
Is this a Key Decision?	Yes	Included in Forward Plan:	Yes
Exempt / Confidential Report:	No		

Summary:

To inform Cabinet of the decision by the Governing Bodies to voluntarily convert to Academy Status as follows :

- Waterloo Primary School, Valewood Primary School, Forefield Infant School, Forefield Junior School and Rowan Park School to convert to Mersey View Learning Trust
- Thomas Gray Primary School to become part of the Northern Schools Trust
- Ainsdale St Johns CE Primary School to become part of the Liverpool Diocesan Schools Academy Trust (LDST)

in accordance with statutory requirements to seek authorisation for officers to sign the documentation required by the academy conversion process. The Education Skills Funding Agency (ESFA) has indicated that the date of conversion will be 1st April 2024.

To inform Cabinet of the decision by the Secretary of State for Education:

- to convert IMPACT PUPIL REFERRAL UNIT, to the PEOPLES Learning Multi Academy Trust in accordance with statutory requirements and seek authorisation for officers to sign the documentation required by the academy conversion process. The ESFA has indicated that the date of conversion will be 1st April 2024

Recommendation(s): That the Cabinet is requested to:

1. Note the statutory requirements regarding academy conversions.
2. Note the financial implications to the Council of the academy conversions.
3. Delegate authority to the Executive Director of Corporate Resources and Customer Services in conjunction with the Executive Director of Children's Social Care and Education in consultation with the Cabinet Member for Education to complete the necessary agreements required as part of the academy conversion process as outlined in the report.

Alternative Options Considered and Rejected: (including any Risk Implications)

None – this is a statutory process following the exercise of the educational establishments' discretion to choose to convert to academy status under the Academies Act 2010.

The Secretary of State has the powers to direct that the academy conversion process can continue if the agreements are not signed.

What will it cost and how will it be financed?

(A) Revenue Costs

There will be significant financial implications to the Council from the conversion of the 9 schools to academies. These have been highlighted in more detail later in the report under paragraph 3 and relate to the loss of the capital grant and substantial SLA income and top slice of school funding allocations for Education functions and specific central functions to maintained schools. Any losses in income through reductions in Traded Services would need to be met in departmental budgets and may require service provision to be reduced.

The voluntary conversion of the 8 schools over to the Multi Academy Trust means there is no significant financial liability to the Council because of these conversions. Any school balances, whether positive or negative, will transfer over to the Multi Academy Trust at the point of conversion.

A review of the current school financial statements shows that 7 of the schools will have positive balances at the point of conversion and 1 will have a small deficit. The projected balances for each school are also highlighted in paragraph 3 for information and are based on December 2023 budget spend.

The Council will levy a £8,000 charge for each voluntary academy conversion. This funding is to cover the additional work required by officers to complete the necessary agreements and processes required as part of the academy conversion transfer.

IMPACT PUPIL REFERRAL UNIT -As the Academy Order is being made by the Secretary of State, any financial deficit at the point of conversion remains with the Council and does not transfer to the Multi Academy Trust. IMPACT currently has a positive revenue balance and so there is no financial liability, to pick up any deficit balance, by the Council at the point of conversion. The projected balances for IMPACT PRU are also highlighted in paragraph 3 for information and are based on December 2023 budget spend. As this is would be a sponsored academy conversion the council can decide on the level of balances that transfer on conversion.

(B) Capital Costs N/A

There are no direct capital costs to the Council in relation to this report, but the individual school capital fund balances will also transfer over at the point of conversion. The current school capital balances are also highlighted in paragraph 3 for information.

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets):

Upon conversion to an Academy, staff within the school will transfer under Transfer of Undertakings Protection of Employment Regulations 2006 (“TUPE”) to the new Multi Academy Trust and employment will move for those employees to the Multi Academy Trust with protections under that legislation.

It is understood the Northern Schools Trust, Mersey View Trust, the Liverpool Diocesan Schools Academy Trust (LDST) and the Peoples Learning Trust will form their own collective bargaining structures and not continue to utilise Human Resources professional advice. They will continue with the payroll system from Sefton MBC. It is not known if they will continue to subscribe to the Legal Services SLA.

The academy conversion will also see the transfer of all school land over to the Multi-Academy Trust from Sefton Council via a lease agreement for 125 years.

Legal Implications:

The conversion of schools to academies is a statutory process under the Academies Act 2010.

The governing body and the local authority are also under a duty to take all reasonable steps to facilitate the making of academy arrangements with a sponsor, once determined (section 5B of the Academies Act 2010, as amended by the Education and Adoption Act 2016).

In relation to IMPACT as the school is eligible for intervention under sections 61 and 62 of the 2006 Education and Inspections Act, the Secretary of State for Education under Section 4 of the Academies Act 2010 (as amended by the Education and Adoption Act 2016) is required to issue an Academy Order. The Order provides that on the conversion date, the school in question shall become an academy and shall cease to be maintained by the Local Authority.

The governing body and the local authority are also under a duty to take all reasonable steps to facilitate the making of academy arrangements with a sponsor, once determined (section 5B of the Academies Act 2010, as amended by the Education and Adoption Act 2016).

The principal issues in relation to conversion are: transfer of Staff; transfer of Land and transfer of Assets and Contracts. These issues will be addressed in two documents for the conversion- a Commercial Transfer Agreement and a Lease Agreement.

Equality Implications: There are no equality implications.

Climate Emergency Implications:

The recommendations within this report will

Have a positive impact	No
Have a neutral impact	Yes
Have a negative impact	No

The Author has undertaken the Climate Emergency training for report authors	Yes
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Contribution to the Council's Core Purpose:

Protect the most vulnerable: this will ensure that there is provision for the most vulnerable primary and secondary aged pupils in Crosby and the South Sefton area.
Facilitate confident and resilient communities: continue to provide education for primary and secondary age pupils including those who have an Education Health and care Plan in Sefton local area.
Commission, broker and provide core services: Education for primary aged pupils
Place – leadership and influencer: N/A
Drivers of change and reform: N/A
Facilitate sustainable economic prosperity: N/A
Greater income for social investment: N/A
Cleaner Greener: N/A

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director Corporate Resources & Customer Services (FD 7537/24) and Chief Legal and Democratic Officer (LD 5637/24) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

As part of the process the school will consult with staff and trade unions.

Implementation Date for the Decision

Following the expiry of the “call-in” period for the Minutes of the Cabinet Meeting

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Appendices:

There are no appendices to this report.

Background Papers:

Academy Order made further to section 4(A1) of the Academies Act 2010 (22 July 2016)
[Academies Act 2010 \(legislation.gov.uk\)](http://legislation.gov.uk)

1. **Introduction/Background**

- 1.1 Except where the academy conversion is mandatory (see 1.5), conversion to academy status is ultimately the decision of the governing body, in consultation with school staff, parents and the local community. When converting to an academy there are two routes:
- Joining an existing academy trust
 - Establishing a new academy trust in collaboration with other schools
- 1.2 When making any decision about the future direction of the school, governors should always evaluate:
- What is in the best interests of the children and young people and the wider community?
 - What is in the best interests of the staff and leadership team of the schools to develop and sustain great teaching and leadership?
 - What the school can bring to the academy trust, and share with other schools, which would help them all to develop further
 - What the school can gain from an academy trust, including what it needs to be able to sustain and improve educational outcomes and financial sustainability
- 1.3 Any maintained school can join an existing academy trust. In doing so, the school chooses to be accountable to the academy trust board, which can help build improvement capacity and ultimately improve the overall quality of education. Many good schools also make the decision to join existing academy trusts, bringing their skills, expertise and resource to the wider academy trust. In most cases, the prospective school and the academy trust make a joint decision as to whether the school should join the academy trust.
- 1.4 The governing body and senior leaders must consider carefully what the academy trust presents for the needs of its community, children in the school and staff, as well as what it can bring to the academy trust. Leaders should evaluate the academy trust options available locally and talk to leaders of other schools about their plans and vision for the local area.
- 1.5 IMPACT PUPIL REFERRAL UNIT was judged inadequate at its last inspection. As the school is eligible for intervention under sections 61 and 62 of the 2006 Education and Inspections Act, the Secretary of State for Education, under Section 4 of the Academies Act 2010 (as amended by the Education and Adoption Act 2016), is required to issue an Academy Order. The Order provides that on the conversion date, the school in question shall become an academy

and shall cease to be maintained by the Local Authority.

- 1.6 Since IMPACT was judged inadequate the Local Authority has exercised its statutory duty to intervene and develop an action plan to support improvement in the school.

2. Academy Conversion Process

- 2.1 The process for schools converting to academies is legislated for under the Academies Act 2010 (as amended) The Governing Bodies of the schools and the local authority both have a statutory duty to facilitate the academy conversion.
- 2.2 In relation to IMPACT the process to convert to academy is legislated for under the Academies Act 2010 (as amended) which states that the Secretary of State is required to make an Academy order in respect of a maintained school in England if the school is eligible for intervention (within the meaning of Part 4 of EIA 2006). IMPACT PUPIL REFERRAL UNIT by virtue of the inspection outcome falls within this category. As part of the process the Regional Director for Schools has chosen a sponsor for the school.
- 2.3 The Academies Act 2010 contains specific powers for the Secretary of State in respect of the land of the schools when they were maintained schools. It is intended that the transfer of publicly funded land owned by the local authority to the Academy will usually be by way of a 125-year lease.
- 2.4 The lease will be drawn up to comply with the above requirements and to ensure there are no undue risks to the authority and that any usage rights etc are preserved. The lease transfers the responsibility for the operation and management of the land and buildings to the Southport Learning Trust sponsoring the schools.

Commercial Transfer Agreement

- 2.5 This document is designed to ensure that all information on the staff who are transferring to the academy is recorded and transferred to the Academy Trust, so that the appropriate arrangements for payment of salaries, pension contributions, etc. can be made. It also includes details of any assets or contracts that will transfer to the Academy Trust and of those that will not.
- 2.6 A Commercial Transfer Agreement, which is an agreement between the school governing body, the local authority and the academy trust, will be drawn up. Officers will ensure that all appropriate responsibilities and liabilities are transferred to the Academy Trusts to ensure there are no undue risks to the authority.

Assignment or novation of contracts

- 2.7 This forms part of the Commercial Transfer Agreement and covers agreements and contractual arrangements which will need to transfer to the Academy Trust.

2.8 Specific contracts and arrangements in respect of the converting school have been identified.

TUPE Process

2.9 The Employees within all of Maintained Schools are employed by the Local Authority who is responsible for the movement of employees from the schools which is converting to the new Multi Academy Trust.

2.10 TUPE consultation will need to be undertaken as part of the process. The Local Authority, with support from the Governing Bodies, as the Employer of the employees within the schools is responsible for this along with the Multi Academy Trust. Consultation with the Council's trade unions will also be necessary in respect of any effects of the TUPE transfer to Council employees.

2.11 By virtue of TUPE, there is a legal obligation to provide written information about the transfer to employee representatives. The information which the current employer must give in writing to employee representatives (which will be trade union representatives):

- The fact that the transfer is to take place, when and why.
- The "legal, economic and social implications" of the transfer for the affected employees;
- The "measures" which the employer envisages it will take in connection with the transfer or, if no measures are envisaged, that fact; and
- Any measures which the employer envisages the Academy Trust taking in connection with the transfer in respect of the transferring employees or, if no measures are envisaged, that fact.

2.12 By virtue of TUPE terms and conditions of employment should be protected in accordance with the legislation. The Multi Academy Trust will be required to provide full details of proposed measures to the Local Authority and the Governing body to allow meaningful consultation.

2.13 No specific timescale is provided for consultation, but it must be meaningful with significant legal penalties and remedies if it does not take place as required.

2.14 By virtue of TUPE terms and conditions should be protected. Pension issues should also be addressed accordingly in the process between the Local Authority and Multi Academy Trust.

3.0 **Financial Implications**

3.1 The potential revenue implications to the Council because of the Academy conversions are listed below:

3.2 Maintained schools pay a contribution from their delegated budget each year

to the Local Authority towards the costs of meeting its statutory education functions and central support functions for maintained schools. Academies can purchase certain school support services from whoever they choose. The amount of funding each school pays for this support is as follows:

ESG Functions charge for Maintained Schools 2024/25		
Ainsdale St John's		£4,836
Thomas Gray		£4,765
Waterloo		£8,610
Valewood		£4,954
Forefield Jnr		£8,469
Forefield Inf		£6,369
IMPACT – PRU		£5,123
Rowan Park Spec		£12,220
Loss of income 2024/25		£55,346

This budget pressure will need to be met from the Education Excellence Budget.

- 3.3 All the schools also buy into several traded services with the Council. On conversion the schools have already indicated that they will no longer require Finance, HR and transactional services as these services will be supported and procured through the new Trust. The total buy back of traded services for each school is highlighted in the table below along with the costs of corporate services that will cease on conversion:

School	SLA Buy Back 2023/24	Loss of income 2024/25 - Finance, Insurance, Accounts Payable, Personnel, HR
Ainsdale St John's CE	£160,999	-£25,411
Thomas Gray Primary	£178,755	-£28,700
Forefield Inf Sch	£160,985	-£27,215
Forefield Jnr Sch	£154,224	-£28,598
Valewood Primary	£193,599	-£24,082
Waterloo Primary	£222,051	-£41,243
Rowan Park Special Sch	£191,756	-£57,135
IMPACT PRU	£52,965	-£19,341
Total SLA Buy Back	£1,315,334	-£251,725

This loss of income will need to be met from Corporate Resources and Customer Services budget in the first instance. a review of service provision will be required, and changes made to the services to balance the budget with any residual balance being included in future Medium Term Financial Plan

- 3.4 The current school balances (as December 2023) that will transfer on conversion are as follows:

School Balances		
Ainsdale St John's		£128,896
Thomas Gray		-£14,914
Waterloo		£119,447
Valewood		£71,328
Forefield Jnr		£209,982
Forefield Inf		£228,787
IMPACT – PRU **		£440,097
Rowan Park Spec		£303,932
Accumulative School Balances 2023/24		£1,487,555

** IMPACT is a sponsored academy transfer and so the Council can decide and agree the level of balances that it will transfer on the conversion of the school.

- 3.5 Sefton Council has 90 days following the schools transfer to charge any outstanding liabilities against the closing school's accounts and agree the level of school balances to be transferred over the Trust.
- 3.6 The current school devolved formula capital balances (as December 2023) that will also transfer on conversion are as follows:

School Capital Balances (All the figures include the Energy Efficiency allocations).		
Ainsdale St John's – handled by Liverpool Diocese		N/A
Thomas Gray		£19,908
Waterloo		£7,020
Valewood		£37,506
Forefield Jnr		£29,129
Forefield Inf		£28,969
IMPACT - PRU		£36,760
Rowan Park Spec		£66,909
Accumulative Capital Balances 2023/24		£226,201

4. Timetable

The proposed date of conversions is 1st April 2024 although there might be significant challenges in achieving this date.