

TO: EXECUTIVE
DATE: 12 APRIL 2016

ACADEMY PROVIDER: AMEN CORNER NORTH
Director Children, Young People and Learning

1 PURPOSE OF DECISION

- 1.1 To agree the academy trust that is to be proposed to the Regional Schools Commissioner to operate and manage the new school at Amen Corner North.

2 EXECUTIVE SUMMARY

- 2.1 An academy provider needs to be appointed for the new school required as a result of new housing at Amen Corner North.
- 2.2 The process followed is prescribed by the DfE, and the Regional Schools Commissioner will make the final decision of provider taking into account the Council's recommendation. The DfE will ultimately contract with the provider for the education provision at both schools. The land and buildings will be leased by the council to the provider for 125 years.
- 2.3 Robust processes were followed, using the agreed weighted criteria, to identify a preferred provider to recommend to the Regional Schools Commissioner.

3 RECOMMENDATION

- 3.1 **That Proposer E is recommended to the Regional Schools Commissioner to run the new school at Amen Corner North.**

4 REASONS FOR RECOMMENDATION

- 4.1 There is a presumption from Government that Councils will seek academy providers for new schools.
- 4.2 The Council has sought expressions of interest from possible providers and undertaken a robust selection process that has resulted in the recommendation.
- 4.3 The selection process, including the views of the Evaluation Panel and Education Review Group, led to the recommendation.
- 4.4 The DfE were satisfied that we could recommend any of the shortlisted proposers for them to run the academies and had no comments to make on any of them.

5 ALTERNATIVE OPTIONS CONSIDERED

- 5.1 Expressions of interest were received from four academy trusts which is considered to be a strong level of interest.

6 SUPPORTING INFORMATION

Background

- 6.1 As a response to new housing in North Bracknell and the subsequent need for additional school places, a new primary school is planned at Amen Corner North.
- 6.2 The Education Act 2011 changed the arrangements for establishing new schools and introduced Section 6A (the academy/free school presumption) to the Education and Inspections Act 2006. Where a LA thinks there is a need for a new school in its area it must seek proposals to establish an academy school.
- 6.3 It should be noted that the Department for Education now terms all new schools as 'free schools', which may be established through a parental route or academy route. In this paper the term 'academy' is used to describe a free school through the academy route.
- 6.4 The process followed is prescribed by the DfE and the Regional Schools Commissioner will make the final decision of provider taking into account the Council's recommendation. The DfE will ultimately contract with the provider for the education provision at the school. The Council is the DfE's agent in the process.
- 6.5 Guidance on land transfer/leasing from the DfE indicates that the DfE expects a long leasehold interest of 125 years at a peppercorn rent to be entered into in connection with public land held by a local authority, rather than a transfer of the freehold. Although the requirement for a 125 year lease is not contained in statute, a lease of 125 years should be granted to the Academy unless the local authority holds the land on a leasehold basis and the term is less than 125 years - in which case, there could be a shorter sub lease from the local authority to the Academy Trust. A model lease is provided by the DfE. The lease transfer will be dependent upon the Council successfully having the allocated land transferred to it from the private land owner/ developer and constructing the school buildings.

Selection of recommended provider

- 6.6 The process to appoint a provider was agreed in a report to the Executive Member for Children, Young People and Learning (14 August 2015). A further report was approved by the Executive in November 2015, which included:
- the updated terms of reference and membership of the Education Review Group.
 - updated school provider application evaluation criteria.
 - the updated timeline for the appointment of the school provider.

In the updated application evaluation criteria, the 'Ability to achieve high standards of education' criteria was given a high weighting of 30%.

- 6.7 The process to appoint a provider was run separately but concurrently with the process to appoint a provider for the new 'all-through' school at Binfield Learning Village. Expressions of interest were sought for both schools on 9 October 2015. The date for return of proposals was 7 December 2015 (a one week extension on the date originally set to allow proposers sufficient time to complete the necessary proposals).
- 6.8 The Education Review Group (ERG) were involved in the process throughout. Among its purposes the ERG is tasked with:
- Reviewing and making comment on the specification and process for seeking expressions of interest for future school provision;

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- Advising on the Council's assessment of proposals received prior to the Council submitting assessments to the Regional Schools Commissioner.

The membership of the ERG comprises an independent Chair, and representative members, including the Executive Member CYPL, headteachers, governors and the Director CYPL. These processes are intended to ensure that any providers will be equipped to deliver good and outstanding provision.

6.9 The opportunity was promoted directly by the Council to selected academy trusts, advertised on the Council's website and promoted by the DfE through the channels they use for this purpose.

6.10 Expressions of interest were received from four academy trusts. In the DfE's view this was a strong response. Three expressions of interest were for both Binfield Learning Village (BLV) and Amen Corner North, and one for Amen Corner North alone.

Proposer	BLV	Amen Corner
B	Yes	Yes
E	Yes	Yes
G	Yes	Yes
H		Yes

6.11 The DfE require local authorities to notify them of proposals received so that they can comment on the suitability of proposers. The DfE were satisfied that we could recommend any of the proposers to them to run the academies and had no comments to make on any of them.

6.12 A Panel of officers scored the expressions of interest against the agreed weighted criteria. The ERG also reviewed the expressions of interest and endorsed the Panel's outcomes. Three of the four proposers were shortlisted to present their proposals to the Evaluation Panel and ERG on 13 and 19 January. Views of the Panel and ERG were summarised and some clarifications were made by officers to the scoring after the presentations. The final scoring is shown in Annex 1 (confidential).

6.13 Financial checks on the highest scoring proposer were also undertaken and no issues were identified.

6.14 Proposer E was the highest scoring proposer and is therefore the preferred provider for the new school at Amen Corner North.

6.15 As part of due diligence, some members of the Evaluation Panel and ERG subsequently visited an existing academy of Proposer E to observe practice. The scoring judgement was reinforced by the evidence seen on the visit.

6.16 It was a requirement of the Invitation to submit Expressions of Interest that school providers take a proactive and engaging role in working in partnership with the local community and schools. Provider E fully embraced this expectation.

6.17 The evaluation of Proposer E's offer demonstrates that they will raise the overall standard of education available in the local area, and will provide high quality places to the Borough.

6.18 If the recommendation is agreed, Proposer E will be recommended to the DfE and the Regional Schools Commissioner (RSC). The DfE review the recommendation and seek approval from the RSC of the final recommendation, which would normally take place at a decision-making RSC Headteacher board meeting. This process is expected to be completed in June 2016.

- 6.19 After opening, the DfE/RSC will provide the academy with support and guidance both in the pre-opening and the immediate post-opening phases. OFSTED will monitor and inspect the quality of provision as with all other schools and academies in the country. The RSC has overall oversight of progress of all the schools in their respective regions, but the DfE will also take a keen interest.

Academies - Financial arrangements

- 6.20 An Academy Trust is a charitable company limited by guarantee funded by the Secretary of State to run a school(s) through a 'funding agreement'. It is a fully independent company, employs staff and is financially accountable to the Education Funding Agency (EFA), the executive agency of the Department for Education.
- 6.21 There is a two tier governance structure comprising directors and members. Directors are responsible for the management and control of the company and its strategic direction. Under charity law, they have a fiduciary duty to act in the best interests of the company and under the Companies Act 2006 to act within the powers of the constitution, with good faith and exercise due care, skill and diligence. Members have obligations as nominal guarantors of the company on winding up and powers to change the constitution of the company, remove directors, receive the annual accounts and attend company meetings.
- 6.22 The 'funding agreement' finances the day to day costs of the school and is calculated in the same way as if it were an LA maintained school. In addition, a per pupil top up is paid to provide certain services that LAs provide without charge to their schools, but not academies. It requires academy schools to comply with the independent school standards regulations, provide a broad and balanced curriculum and provide education for pupils of different abilities who are wholly or mainly drawn from the area in which the school is situated.
- 6.23 The 'funding agreement' also places obligations on the academy including:
- Being at the heart of its community, promoting community cohesion and sharing facilities with other schools and the wider community.
 - Assessments of pupils' performance and external qualification.
 - To comply with admissions law and DfE Codes of Practice.
 - To provide teaching of religious education and a daily act of worship.
 - An emphasis on the needs of individual pupils, including those with special educational needs.
 - The provisions of Education Act 2011 for challenging permanent exclusions.
- 6.24 The EFA oversees the arrangements that provide Parliament with assurance that academies operate to high standards of propriety and regularity. It aims to keep a reasonable balance between academy trusts' independence and the need to account for public money, and it has worked with a steering group of academy trusts to achieve a position where the accountability requirements are satisfied while the administrative burden is minimised.
- 6.25 The Academies Financial Handbook sets out the basic financial management, control and reporting requirements that apply to academy trusts. It describes a financial framework for trusts that reflects their accountability to Parliament and the public, and the freedoms that they can exercise in their day-to-day business. Compliance with the handbook is a condition of an academy trust's funding agreement.
- 6.26 The Accountability and Assurance Guidance Flowchart in Annex 2 demonstrates the various points of financial probity in the system.

7 CONSULTATION

Principal Groups Consulted

7.1 Consultation was not appropriate for this stage of the process.

Method of Consultation

7.2 Not applicable.

Representations Received

7.3 Not applicable.

8 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

8.1 The Council has, by seeking expressions of interest from academy providers, complied with the statutory duties imposed on it by the Education and Inspections Act 2006. The Council may recommend its preferred proposer to the Secretary of State, who will provide DfE evidence about each of the providers to the Council. A DfE official can provide written feedback on each provider prior to the Council and after receiving DfE views the Council may recommend its preferred provider to the Secretary of State. In making her decision on with whom she wishes to enter into a funding agreement, the Secretary of State will take the Council's assessment into account, along with any additional factors she is aware of. The decision is delegated to the Regional Schools Commissioner, but the Secretary of State reserves the right to agree a provider of her own choice on the basis she may have further evidence about a proposer which means none of those put forward is suitable.

Borough Treasurer

8.2 The Borough Treasurer is satisfied that no significant financial implications arise from the recommendations in this report.

Equalities Impact Assessment (EIA)

8.3 An EIA was attached to the background paper detailed below.

Strategic Risk Management Issues

8.4

ISSUE		RISK	COMMENT
1	Cost Risk	Gap in revenue funding in the initial years following the school's opening. Meeting this cost will result in less funding available for allocation to all schools.	Scenario modelling can raise awareness and minimise risk. A funding paper has been taken to the school's forum.
2	Cost Risk	Extra costs could emerge as the DfE may require additional support outside expectations.	Need to maintain effective liaison with DfE
3	Changes to the School Funding Framework	Changes are anticipated from the DfE from April 2017 relating to school funding.	Need to respond to the consultation proposals.

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		This puts at risk the ability to allocate additional resources to new schools as originally intended.	
4	Provider & Supply risk	DfE not appointing the provider recommended by the Council.	DfE guidance has been followed for the appointment of the provider. Need effective liaison with DfE.
5	Provider & Supply risk	The provider not engaging with the Council will jeopardise the implementation.	Need to establish good relationships and effective communications with the provider appointed.
6	Provider & Supply risk	Provider not engaging with community will lead to poor community cohesion and support for the school	Work with provider immediately after appointment to develop relationships with the local community.
7	Demand Risk	Insufficient pupils may make the school financially unviable which could significantly increase costs of operation in the early years.	Clarify housing completion trajectory from builders. Collect information from new residents on their children requiring education. Pupil forecasts reflect position. In partnership with the provider, be prepared to delay school opening until sufficient pupils are present in area.
8	Capital Cost Risk	Risk that the provider will seek additional capital costs to be incurred by the Council over and above the provisions of the S106 agreement.	A clear commitment from the provider is required that they will work with the building designs and associated planning conditions.
9	Provider & Supply risk	Provider sourcing insufficient or poor quality staff	Monitor transition and implementation plans. Early and continuous engagement at start up phase on resourcing model and partnership work to address any issues arising.
10	Provider & Supply risk	School provider sourcing majority of staff from existing Bracknell Forest schools	Monitor transition and implementation plans. Early and continuous engagement at start up phase on resourcing model and partnership work to address any issues arising.

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11	Provider & Supply risk	Provider fails to deliver quality education	BFC to stay informed of performance and standards and will engage with school provider and DfE in the event of deteriorating performance. DfE may appoint a different school provider.
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Background Papers

- a. Paper to the Executive Member for Children, Young People and Learning, 14 August 2015, 'Proposed Amen Corner North School: Appointment of sponsor'
- b. Executive report, 11 June 2013, 'Procedures for assessing applications for the establishment of a new school in Bracknell Forest'
- c. Department for Education, 'The free school presumption; Departmental advice for local authorities and new school proposers', July 2015 and February 2016.

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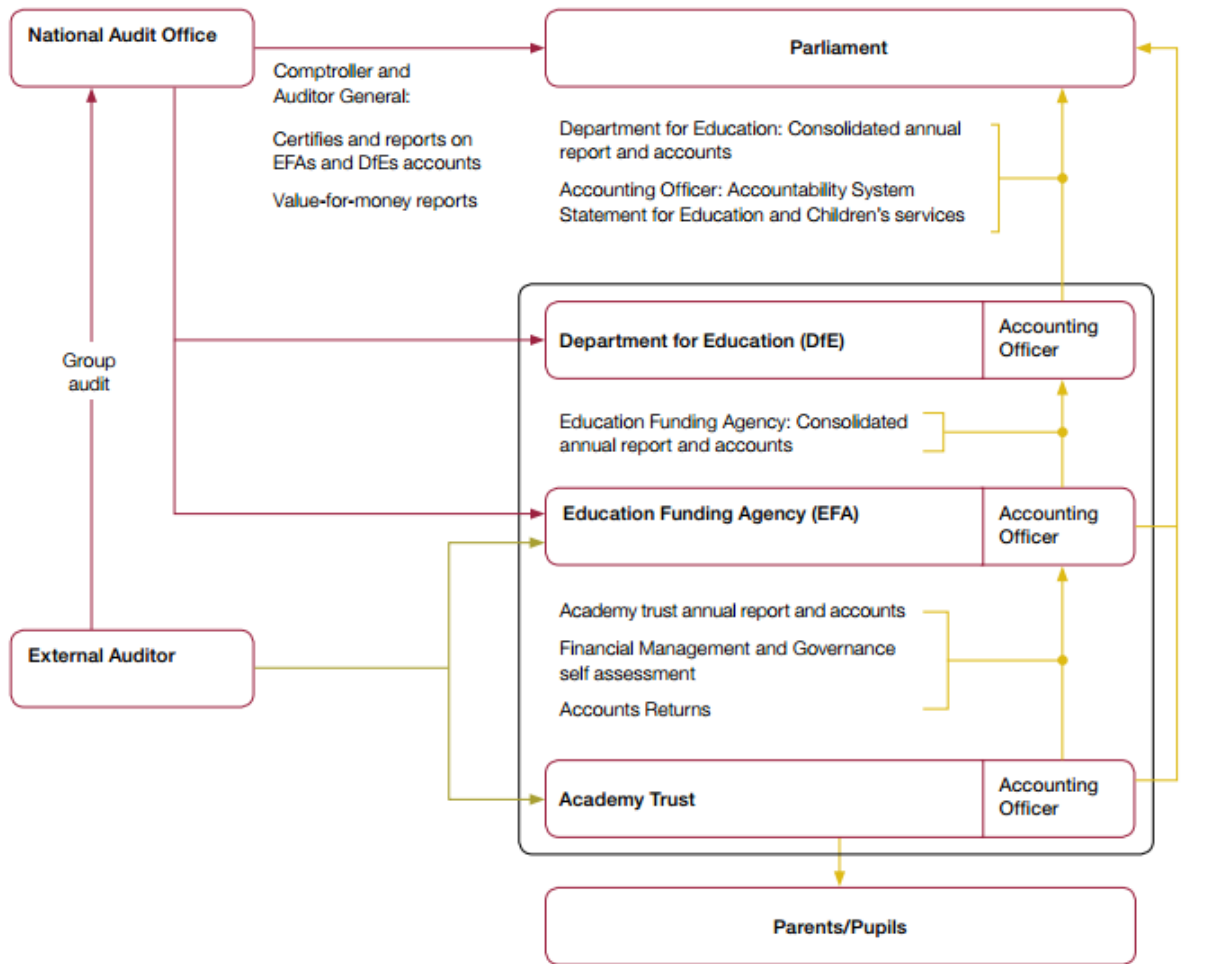
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Annex 2

Accountability and assurance in the academy sector



- Assurance
- Accountability
- Tripartite agreement between academy trust, EFA and external auditor
- Consolidated boundary

Source: NAO Communication with component auditors 2014