

## ANNEX TO AGENDA ITEM 6

### SCHOOL CHANGE OF CATEGORY PROPOSALS, IN PARTICULAR: COMMUNITY TO FOUNDATION OR CONTROLLED TO AIDED

#### CHANGE OF SCHOOL CATEGORY-SOME POSSIBLE “TESTS”

**Direct benefits for pupils as a consequence of change of category:**

The Authority will not be prepared to support such a proposal unless it is clear that there will be educational benefits arising for the pupils of the school as a direct result of the change in status and that such a change will contribute to the Authority's core aim of improving school effectiveness and raising pupil achievement.

**The ownership of assets and land tenure:**

The Authority needs to be satisfied that the nature and stipulations of any trust relating to the ownership of assets and land tenure is such that in the event of any proposed disposals of such assets which have been provided, as it were, from the public purse, that they revert to the public purse ie the LEA or the DfES, whichever is appropriate.

**Contractual position and conditions of service of staff:**

The Authority must be satisfied that there is no diminution or other adverse effect as far as the staff conditions of service or their contractual position is concerned and that there should be no significant changes relating to the criteria for selection of staff and the nature of the duties that they might be required to undertake as the employees of the Governing Body of an Aided School.

**Admissions and priority for local children:**

The Authority needs to be formally reassured that, as far as admissions are concerned, priority for local children will continue and that the over-subscription criteria will not be changed in future so as to have significant effect on the probability of such children gaining admission.

**Composition of the Governing Body:**

With the change in status and with the majority of the Governing Body being Foundation Governors nominated either by the Diocese or PCC, there are issues to do with the representative nature, accessibility and accountability of the Governing Body into the longer term future on which the Authority will be obliged seek assurance.

## **PROCESSES**

### **Initial discussions**

Initial discussions to occur within the governing body in order to:

- Gather information on differences between Foundation/Aided and Community Schools
- Reach agreement/bring clarity about why the change is being considered
- To understand/agree what might be achieved by such a change
- To identify pros and cons of such a change
- To pass a formal resolution to consult on a possible change of category.

### **Initial and Informal Consultation**

To take place with relevant partners/interest groups including staff, the schools and parents of children attending or likely to attend such schools and the Local Education Authority.

To last approximately 1 to 2 months.

### **Formal Publication of Proposals**

Statutory Notice and Statement of Case/Prescribed information to be drawn up by Governing Body.

Statutory Notice to be published in the prescribed manner and displayed in the prescribed places

Copy of Statutory Notice and Statement of Case/Prescribed information to be provided to the LEA and to the Clerk of the School Organisation Committee

Two month objection period in which any Council Tax payer in Buckinghamshire may make an objection

At the end of the objection period, the notice and other relevant information must go to the SOC for determination and cannot simply go to the LEA.

### **Determination of Proposals**

The proposals must be considered and determined by the SOC two months after the end of the objection period.

If unanimity cannot be achieved on the decision, the proposals will then go to the Schools Adjudicator. Typically, the Adjudicator will “turn round” a decision in approximately three months.

## PROS AND CONS

- Feeling of being more in control ie a greater sense of autonomy and self-determination
- Potential for changing/strengthening the particular ethos of the school
- Greater ability to resist change eg change of age range, closure, significant enlargement, significant reduction because only the governing body and not the LEA can publish statutory notices
- Greater ability to respond to local needs/aspirations eg through admissions policy
- Distancing of the school from the LEA - Greater responsibility for governors but also greater accountability eg co-respondent in any industrial tribunal case
- Potential increase in workload

No Community schools in Buckinghamshire have yet to convert into Foundation status. (Note after the passing of the SSFA 98, there was a two year period in which such proposals could not be put forward – it is therefore likely that a number of schools will now be looking at the possibility of such a change).

There are, however, a number of CE Voluntary Controlled schools who have either completed the process or are in the process of consultation:

These schools would appear to have done this firstly to increase control over admission arrangements (largely to do with the nature of the intake and maintaining the ethos of the school) and secondly moving to VA status takes a school into a different funding regime as far as Capital Funding is concerned.(see annex).

There are costs relating to the change of category as such because a consultation has to be undertaken and statutory notices etc have to be published. The length of the consultation process will be approximately four months and the whole process of change from start of consultation to determination of notices could be four to five months.

## **AREAS OF DIFFERENCE BETWEEN COMMUNITY AND FOUNDATION/AIDED SCHOOLS**

Constitution of governing body (F and VA)  
Staff and employment of staff (F and VA)  
Ownership of buildings and land (F and VA-but major differences with respect to capital funding)  
Admissions (F and VA)  
Setting up of a Foundation – (What exactly does this mean? Possibility for a group of schools to form such a foundation and have, for example, co-ordinated admission arrangements?) (F and VA)  
Religious Education (VA)

### **Constitution of the Governing Body**

The foundation governors will constitute the majority of the governors

### **Staffing Issues**

There will be little discernible/perceptible differences as far as staff are concerned, even though the governing body of the Foundation/Aided School is the legal employer. For an Aided school however, in respect of the teaching of religious education..... There would be no changes in pay or conditions as a direct result of the change of category, neither will there be a break in continuous service. There should be no impediment as far as recruiting additional staff is concerned and the foundation status should not put off potential recruits.

It is not possible to pass on the responsibility for employment to anyone else although it is possible through contracting an outside party (for example the LEA) to have HR advice as well as operational and day-to-day support.

As far as staffing is concerned, the governing body will be the co-respondent in any industrial tribunal.

For other more day-to-day matters including issue of appointment letters, terms of contract etc, the governing body is ultimately responsible but can buy in services from third parties including, for example, the LEA.

Employers liability insurance is required and can be obtained in the open market, or via the LEA's scheme or, for VA schools, through the Diocese. Whereas the individual arrangements a school makes may cost more (or less) than it would through the LEA, the amount of delegated funding in the LM Scheme for such insurance is the same no matter what category the school is in

### **Ownership of land and buildings**

The school and owns the school buildings and grounds (albeit on behalf of the "public").

The current LEA/school financial responsibilities for revenue repairs will be unchanged for Foundation Schools.

For Foundation schools, there are no proposals from DfES to change the balance of responsibilities for repairs, maintenance, capital improvements etc but of course there is a possibility that there may be some change in the future.

(See annex for proposed changes which will affect Aided schools)

The oversight of “self-help schemes” will remain with the governing bodies ie just as it is now. Any major capital works funded through the LEA, however, will be managed by the LEA..

Governors are already in a position to organise their own premises insurance and have the same amount of delegated funding for this purpose as any other school.

Governors are not in a position to sell surplus land because there are very tight regulations controlling these matters. If a land disposal is agreed by DfES, the LEA has the right to claim the proceeds of the disposal in whole or in part.

### **Some issues...**

- What are the increased risks of being the employer of staff and the ‘owner’ of land/buildings?
- Do governors of Foundation/Aided schools need additional insurance cover – and if so, is this a call on the budget?
- Are there any differences in the funding available?
- Are there possibilities for schools to develop partnerships with local building contractors – so that the “approved list, county tendering processes etc”, do not have to be gone through each time?

### **Admissions**

The governing body of a Foundation/Aided school is free to set its own admissions policy and criteria subject to the Admissions Code of Practice.

There is, however, a responsibility for all Admissions Authorities (including the governing bodies of Foundation schools) to consult on an annual basis with all other local Admissions Authorities.

It is possible for another Admission Authority to lodge an objection to the proposed admission arrangements for a Foundation/Aided School and, if this cannot be resolved locally, the matter is sent to the Schools Adjudicator for determination.

There are currently proposals set out in the DfES’s Consultation on Admission Arrangements which will extend the power of objection to a Foundation/Aided school’s admission arrangements to all other schools in the area whether the governing body of the school is an Admissions Authority in its own right or not.

On a general but related point, it is possible for the LEA, as part of the School Organisation Committee, either to make a formal objection to a school’s proposals to undergo a change in category from, for example, a Community to Foundation or to oppose such a proposal at the meeting of the School Organisation Committee itself.

Additional delegated funding can be made available to the school where the school itself administers the admissions processes.

## **Religious Education**

For Aided schools the Religious Education Syllabus is the responsibility of the Governing Body. Schools in Buckinghamshire have generally accepted the Diocesan recommendation of using the locally Agreed Syllabus augmented by core Christian material. The requirements for collective worship are unchanged.

**ANNEX**

## **DFES CONSULTATION (AUTUMN 2000)**

### **V A SCHOOLS**

### **GOVERNING BODY AND LEA FINANCIAL LIABILITIES FOR PREMISES**

#### **THE CURRENT ARRANGEMENTS**

1. The respective responsibilities of governing bodies and LEAs under current arrangements are set out below. These responsibilities have been in place since 1944
2. Responsibility for meeting certain costs can vary across differing types of building project. For example, VA school governing bodies are required to meet the cost of certain items if the building work is part of a project to implement approved statutory proposals, but the cost of the same items must be met by the LEA in all other circumstances.
3. Further complications arise in assigning responsibility for costs based on involved definitions of what constitutes 'school premises', 'school buildings', and 'site', and in differentiating between 'internal' and 'external' repairs to buildings. Another difficulty is that governing bodies are responsible for the provision of 'equipment', but equipment is not defined in the Education Acts.
4. The basis on which the respective responsibilities of governing bodies and LEAs must be applied in differing types of building projects, together with vague or absent definitions of precisely where responsibilities begin and end, have led to various and often differing interpretations by advisers to the Churches and the DFES's lawyers on who should pay for what. These differences of opinion continue to be a constant source of irritation for all stakeholders in the VA sector and divert large amounts of time and attention away from work to raise standards.
5. The current division of liabilities imposes enormous bureaucratic burdens on schools, Dioceses, LEAs and the Department. It complicates every stage of the building approval and grant payment systems and prolongs significantly the time needed to process casework.

#### **PROPOSALS FOR A NEW SYSTEM**

##### **THE KEY PRINCIPLE**

The key principle underpinning the proposals in the DFES Consultation is that governing bodies should be responsible for the construction, alteration and repair of all VA school buildings, including excepted buildings such as caretaker's houses, kitchens and dining halls, whilst LEAs should provide all the necessary furniture, fittings and equipment to enable those buildings to function as a school. This approach is broadly in keeping with the original intentions of the 1944 settlement, and would remove many of the distortions and complications that have crept into the system over the years.

## **RESPONSIBILITIES FOR MEETING COSTS UNDER THE CURRENT ARRANGEMENTS**

### **Governing bodies are responsible for:**

- Provision of premises or equipment
- Alteration of premises required by LEA to secure compliance with prescribed standards (School Premises Regulations)
- Repairs to exterior of school buildings
- Schools buildings on new site following non-statutory transfer
- Implementation of approved statutory proposals (new school, significant enlargement, significant change of character and transfer to new site) - provision of site and buildings

### **LEAs are responsible for:**

- Repairs to the interior of school buildings and any other expenses not assigned specifically to the governing body
- Provision of new site needed in addition to, or instead of, school's existing site - non-statutory transfers and non-significant enlargements
- 'Excepted buildings' ie caretaker's house, buildings used in connection with playing fields, medical/dental inspection room and dining facilities
- Playing fields

## **RESPONSIBILITIES FOR MEETING COSTS UNDER THE PROPOSED NEW SYSTEM**

### **Governing Bodies would be responsible for:**

- capital expenditure (provision of buildings, excluding furniture, fittings and equipment) to implement statutory proposals
- capital expenditure (provision of site) to implement statutory proposals where responsibility assigned to the governing body
- capital expenditure on all alteration work (excluding furniture, fittings and equipment)
- provision of buildings for non-statutory transfers and non-significant enlargements
- In all cases, excepted buildings (apart from buildings situated on playing fields)
- all internal and external revenue repairs and maintenance (subject to 100% grant)

NOTE: All capital expenditure, for which the governing body would be responsible, would continue to attract grant aid at up to a maximum of 85%

### **LEAs would be responsible for:**

- capital expenditure other than expenditure assigned specifically to governing bodies ie
- in all cases, playing fields and buildings, such as sports pavilions, situated on such land
- sites for non-statutory transfers, non-significant enlargements and to implement statutory proposals where responsibility assigned to LEA
- in all cases, provision of furniture, fittings and equipment