



Purpose: For Recommendation

Committee report

Committee	FULL COUNCIL
Date	30 SEPTEMBER 2009
Title	SCHOOL ORGANISATION – DECISION ON THE STATUTORY AND COMPETITION NOTICES
Report of	LEADER AND CABINET MEMBER FOR GOVERNANCE AND SCHOOL IMPROVEMENT AND THE CABINET MEMBER FOR CHILDREN, SOCIAL CARE, HEALTH AND HOUSING

PURPOSE

1. This paper is presented to Full Council to enable it to debate and make recommendations to the Cabinet, in its capacity under the Isle of Wight Council Constitution as the policy body for education. The Cabinet in its meeting of 1 October 2009 will make decision on these recommendations in respect of the school re-organisation and the statutory and competition notices in respect of each school.
2. To determine that there has been appropriate and sufficient consultation on the process of school re-organisation and that the published statutory and statutory competition notices comply with statutory requirements.
3. To determine a view and recommendation to Cabinet in respect of each statutory notice and to determine a view and recommendation to Cabinet of the award in respect of each second statutory competition notice.
4. To recommend to Cabinet the publication of the statutory notices in respect of an expansion with change of age characteristic, from 4-9 to one of 4-11 age range, in respect of Brading CE VC, St. Helen's, Shalfleet CE VC and Yarmouth CE VA Primary Schools.
5. To recommend to Cabinet that the Leader and Cabinet Member for Governance and School Improvement, following closure of the statutory period for representation and consideration of any representation, publishes a delegated decision in respect of the published statutory notices for Brading CE VC, St. Helen's, Shalfleet CE VC and Yarmouth CE VA Primary Schools.
6. To determine a view and make recommendation to Cabinet in respect of an open or closed home to school transport system for the proposed new primary school sector.

7. To recommend to Cabinet that new Local Authority governor appointments are made to all the schools determined in respect of the proposed new primary and secondary school system.

BACKGROUND

8. For a considerable period of time the Council has been examining the effectiveness, efficiency and viability of its current system of school organisation. This debate has taken place within the context of 'Why we need to change', as set out in the booklet 'which way forward for Island education?' published in January 2008. The rationale for change was fully set out in the Cabinet report paper and its associated appendices of the 24 November 2008, which can be accessed at <http://www.iwight.com/council/committees/cabinet/24-11-08/agenda.pdf> .
9. The factors which indicate that the existing school organisation is unable to deliver the standards, opportunities and expectations we would want for our young people now and in the future are:
 - Poor education standards – overall, the attainment of children on the Island has not been in line with national expectations;
 - Changing national requirements – changes at a national level indicate that the school organisation as it currently stands would not meet the expectations set out by central government, particularly in respect of inclusion, the 14-19 curriculum, the proposed increase in the school leaving age to 18 and the development of personalised learning;
 - Declining pupil numbers – there are fewer pupils within the primary and middle schools, which lead to inequalities in the amount of money spent per pupil across the Island and unequal access to opportunities for the Island's young people;
 - Economic regeneration is the key to the Island's future and will require the development of schools and learning to reflect the different community requirements and pace of regeneration across the Island, the skill base needed by potential employers and the provision of high quality learning and opportunity, which will enable young people to secure employment and their future prospects on the Island. The scarcity of the requisite skills is identified in the Island's Sustainable Communities policy;
 - Government guidance – alongside comments made about performance and raising standards within the OFSTED Area Review of 2003, the OFSTED Joint Area Review of 2006 and OFSTED Annual Performance Assessment of 2005, has led officials from the Department for Children, Schools and Families (DCSF) to ask the council to address the level of underperformance and low aspirations, the effectiveness of support and challenge to schools, the strengthening of school leadership and teaching quality, efficiency of the system of school organisation and the unfilled places and to end the uncertainty over the form of school organisation for the Island.

All of these factors point to a clear need for change and the need to ensure that the Island has a school organisation which is fit for the 21st century.

10. From November 2007 until February 2008 the options within the booklet 'which way forward for Island education?' were put to public consultation. The response indicated significant support for option three, which was a move to a primary and secondary system of school organisation.
11. Full Council on 19 March 2008 recommended:
 - that officers prepare proposals to be put to a formal consultation on the change from a primary (4-9 age range), middle (9-13 age range) and high (13-19 age range) system of school organisation to a primary (4-11 age range) and secondary (11-19 age range) system of school organisation.

The recommendation of Full Council was then endorsed on 19 March 2008 by a meeting of the Cabinet in its role as the policy body for the Local Education Authority under the constitution of the Isle of Wight Council.

12. During March to May 2008 officers carried out further work on the outcomes for each school in respect of the proposal to move to a primary and secondary system of school organisation. The proposals were matched to the requirements of the Education and Inspections Act 2006. Further detailed consultation was held with the Church of England and Roman Catholic Diocesan Authorities, the Hampshire and Isle of Wight Learning and Skills Council and the appropriate Professional Associations and Unions. Area meetings were also held with the headteachers and representative governors of all the schools. The outcome of this additional work and consultation was put to the Cabinet in a meeting of 3 June 2008; the papers for this meeting can be accessed at <http://www.iwight.com/council/committees/cabinet/3-6-08/agenda.pdf>.
13. In the Cabinet meeting of 3 June 2008 the Cabinet approved the formal statutory consultation on the move from a primary, middle and high system of school organisation to that of a primary and secondary system of school organisation. The establishing of a minimum one form entry and maximum two form entry primary schools and the associated proposals for each school within the proposed primary and secondary system of school organisation. The primary schools will be established, wherever possible, by the enlargement or amalgamation of existing primary schools. The secondary schools will be established as new schools and let by competition under the Education and Inspections Act 2006. The consultation period ran from 23 June to 10 October 2008.
14. The Cabinet meeting of the 24 November 2008, for which the papers can be accessed at <http://www.iwight.com/council/committees/cabinet/24-11-08/agenda.pdf>, determined the decision and proposed future position for each school, with the exception of Brading CE VC Primary School, St. Helen's Community Primary School, Nettlestone Community Primary School, Shalfleet CE VC Primary School and Yarmouth CE VA Primary School. In respect of these schools a final decision was to be made following an Independent Panel report to the Council. The Cabinet decision of 31 March 2009, for which the papers can be accessed at <http://www.iwight.com/council/committees/cabinet/31-3-09/agenda.pdf>,

made a final determination in respect of these schools. At this point a proposal for the future provision in respect of all schools and communities was in place.

15. On the 20 February 2009 the first statutory competition notice in respect of the five new secondary schools and two new primary schools to be let by competition was published. This was followed on the 10 March 2009 by a seminar for potential proposers. The four month period for proposers to respond to the competition closed on 20 June 2009. The Local Authority has received sixteen proposals all of which have met the initial validation checks and can be classified as approved proposers. There are thirteen proposals for the new secondary schools and three proposals for the new primary schools. The proposers offer a good mix of on Island and off Island groups. Details of each proposal can be accessed at <http://eduwight.iow.gov.uk/schools/reorganisation/2competit.asp>.
16. On the 10 July 2009 statutory notices were published by the Local Authority, the Church of England Diocesan Authority of Portsmouth and Winchester, the Roman Catholic Diocesan Authority of Portsmouth and where relevant the governing bodies of schools. These notices were published in respect of the closure, establishment and expansion of mainstream schools of a community, foundation/trust, voluntary controlled and voluntary aided status. The notices fully complied with the statutory requirements and the proposals in respect of each school, as determined at the Cabinet meeting of the 24 November 2008.
17. The Local Authority also published on the 10 July 2009 the second statutory competition notice for each of the five secondary schools and the two primary schools in the competition. The notices fully complied with the statutory requirements and set out details of the proposals received, the providers and set up support to establish the new schools. The notices also contained details of the public meetings to enable proposers to present their proposals, which ran from the 13 July 2009 to 21 July 2009.
18. Publication of the statutory notices and the second statutory competition notices provided for the closure, establishment and expansion for all mainstream schools as proposed by the decisions of the 24 November 2008 and the 31 March 2009. The only exceptions were the Local Authority's primary and secondary complex learning difficulty special schools which are outside of the proposed re-organisation. Copy of each statutory notice and the second statutory competition notices can be accessed at <http://eduwight.iow.gov.uk/schools/reorganisation/statutor.asp> and <http://eduwight.iow.gov.uk/schools/reorganisation/2competit.asp>.
19. From the 10 July 2009 to the 21 August 2009 there was a statutory period for representation to the statutory notices and the second statutory competition notices. Analysis and the Local Authority response to the representation received on the statutory notices is attached to this report in Appendix A. Analysis of the representations in relation to the second statutory competition notices is given in Appendix B.
20. The Local Authority is the decision-maker for all the proposals to close, establish or expand a school, with the exception of the proposed new rural primary school to be established in the Godshill area. In respect of the proposed new rural primary school, the Local Authority became a proposer, to the competition in order to

ensure a competition. As a result the decision-maker, in respect to this school, becomes the Schools Adjudicator. All the appropriate papers for this decision have been sent to the Schools Adjudicator for decision.

21. As the decision-maker the Local Authority must pay due regard to the statutory guidance and regulations of the Education and Inspections Act 2006 in arriving at the decision for each school. It must within two months of the end of the representation period make its decision or the process of decision falls to the Schools Adjudicator. This point in the process has now been reached and recommendation to Cabinet must be made in respect of each school at the Full Council meeting of the 30 September 2009. The Cabinet in its meeting of 1 October 2009 will then make the decision in respect of each statutory notice. If decision is not made on all or any school, the statutory notices within the two month period, which expires on the 6 October 2009, must be withdrawn or the decision must be passed to the Schools Adjudicator.
22. In making its decisions the Local Authority must be cognisant of the right of appeal that the following bodies have in respect of the proposals:
 - the local Church of England Diocese;
 - the bishop of the local Roman Catholic Diocese;
 - where the school provides education for pupils aged 14 and over, the Learning and Skills Council;
and
 - the governors and trustees of any foundation or voluntary school.

Where an appeal is received by the Local Authority, within the prescribed timescale it must be passed to the Schools Adjudicator for decision.

23. Representation to the statutory notices, has not given the Council any reason to believe that any of the bodies listed above are intending to appeal. Throughout the Local Authority proposals have been supported by the Church of England Diocesan Authority of Portsmouth and Winchester, the Roman Catholic Diocesan Authority of Portsmouth and the Hampshire and Isle of Wight Learning and Skills Council. Where governors and trustees of a school are eligible to appeal, there has only been representation against the proposals, in the statutory notices, from Chale CE VC Primary School and Sandown High School, as a foundation status school.
24. It is the view of the Local Authority officers that the published statutory notices fully comply with the statutory requirements. It is, therefore, the view of officers that there is nothing in relation to the content of the statutory notices which would stop the decision-maker from making a decision.
25. A further test for the decision-maker is to determine that there has been sufficient and appropriate consultation at all stages of the process. Details of the consultation throughout the process are given in paragraphs 40 to 49 and in the attached Appendix C. Some representation has been received that consultation has not been sufficient, detail is given in Appendix A.
26. It is the view of the Local Authority's officers, that there has been appropriate and sufficient consultation. For example officers have on a number of occasions met

directly with the staff, governors and parents of Chale CE VC Primary School and Parish Councillors of Chale. A number of these meetings have included Diocesan officers and during the final representation period the Chief Executive of the Council met with representatives of the school and community. There is nothing in the objections to the sufficiency of consultation, which should stop the Council from determining that this test has been met. It can, therefore, subject to Elected Members recommendation, proceed to making decisions in respect of the statutory notices for each school.

27. In its proposals for the new school system the Local Authority has listened extensively to the views of young people and parents. At a number of points it has adjusted its proposals, as with the use of the Independent Panel in determining the outcome for a number of primary schools; the adjustment of the proposed size of secondary and primary schools to meet the concern of parents that schools should not become too large; the development of a coherent range of specialisms for the new secondary schools to ensure increased choice for parents and opportunity for all young people. The expansion of primary schools, the highest performing sector of the current system, has ensured the continuation of quality provision whilst enabling more children to be educated nearer to their home community for longer. It is the Local Authority's view that it has striven hard and succeeded in meeting the test of the Education and Inspections Act 2006 to provide a school system shaped by, and meeting the needs of parents.
28. The raising of standards and the provision of increased opportunity is a key objective of the proposals for school re-organisation. Overall standards, despite some improvement in provisional performance for 2009 still remain, particularly for eleven and fifteen year olds, too low. Primary schools remain the best performing sector with outcome performance for the fifth year running in the top ten percent of all Local Authorities. The full rationale for improvement in standards through school re-organisation was given in Appendix J of the Cabinet paper of the 24 November 2008, which can be accessed at <http://www.iwight.com/council/committees/cabinet/24-11-08/agenda.pdf>. It must be recognised that where other Authorities have undertaken a change from a primary, middle and high school organisation to one of primary and secondary; standards, particularly at the two key points at the end of Key Stage 2 (eleven year olds) and the end of Key Stage 4 (GCSE), have risen. Young people, in their response, recognise the constraints a system which is not matched to the key stages and which has two transitions imposes upon their progress and achievement. The proposals remove both of these significant disadvantages.
29. The 'Island's Education Vision' document, attached as Appendix D, has set out the expectation of all schools in respect of the five outcomes of Every Child Matters (ECM). The Local Authority is seen as a national exemplar in respect of its extended schools services and the community engagement of its schools. All proposers to the competition, as detailed in Appendix E have met the specification in respect of the ECM outcomes. The proposals in the statutory notices meet the ECM expectations of the Education and Inspections Act 2006.
30. The proposed changes effectively reduce surplus places within the current primary, middle and high school system. This will release significant funds within the Direct Schools Grant (DSG) which can be applied to the wider benefit of all schools and the improvement of outcomes for all young people. The school system, as now

proposed, has sufficient places to ensure the expression of parental preference, whilst meeting the request of parents, during consultation, that the schools at both primary and secondary ages should not become too large. By the enlargement of the more successful primary schools the proposals meet the expectation that successful and popular schools are largely retained.

31. Throughout the consultation the arrangements for home to school transport and accessibility to schools were a significant issue for many respondents. Whilst some response to the statutory notices has raised this issue it has mostly been in connection with access to the school site and safe parking. The Council plans to address these points through the new travel plans to be put in place by each school during the transition period of any approved school changes. Overall a change to a primary and secondary school system will allow most young people to attend schools nearer to their home for two years longer than in the current primary, middle and high school system. As a result the distance travelled by many young people will be reduced. This together with the recognised high quality of the Local Authority's support for the development of school travel plans, supports the Local Authority's duty to promote sustainable travel.
32. The detail of travel provision was given in Appendix H of the Cabinet report of 24 November 2009. The Cabinet approved a closed home to school transport system (school lift) with escorts for the proposed primary sector and an open school lift for the secondary sector in their meeting of the 31 March 2009, details of this paper and decision can be accessed at <http://www.iwight.com/council/committees/cabinet/31-3-09/agenda.pdf>. At the time of this decision it was indicated that the cost of the new school lift could be contained within the current funding, however, subsequent development of the school lift's potential procurement has shown that achieving the closed primary lift will require £400,000 of additional funding each year. This funding can be released from the re-structuring of services within the Directorate of Children and Young People to meet the needs of a primary and secondary system of schools.
33. All of the secondary provision will have 16-19 provision. The specification for the secondary schools competition and the Island's Education Vision document sets out the clear expectation for collaboration and co-operation between providers, including the Isle of Wight FE College and the work based learning providers in 16-19 provision. The provision, as proposed, has been consulted upon with the Hampshire and Isle of Wight Learning and Schools Council. All proposers to the secondary school competition have made clear their commitment to collaboration and co-operation with all providers.
34. The capital funding to achieve the system transformation is secure and in place. The land boundaries have been clearly defined in the competition notices and where additional site provision is needed it is made clear that this will be provided on a lease basis. Where new sites are required, as with the new Rural Primary School the Local Authority has identified the potential land and is undertaking the necessary steps to secure it. Subject to the decision to implement the statutory notices the Local Authority will confirm the leasing of land as required with the two Diocesan Authorities. The proposals within the statutory notices do not reduce playing field provision and overall the access to quality playing field areas and sports provision will be increased if the proposals are implemented.

35. Improvement in the provision for children with special educational needs (SEN) and/or those with Learning Difficulties and/or Disabilities (LDD) is a key expectation of the proposed changes. The proposed move from a system of primary, middle and high school organisation to one of primary and secondary will enhance the overall provision for pupils with SEN/LDD needs. In particular the following areas will see improved provision as a result of the proposed change in school organisation:
- progression and continuity of learning;
 - curriculum breadth and opportunity;
 - specialist staffing and support;
 - accommodation compliance;
 - equality of funding.

Full detail in respect to SEN/LDD requirements was given in Appendix M of the Cabinet report of the 24 November 2008. In meeting the needs of young people that have specific SEN/LLD needs the Authority will have three specialist units as of now, but with one unit in the primary sector and two units in the secondary sector. Overall specialist place provision in mainstream schools will be increased if the proposals are implemented. SEN/LDD provision is a key part of the Island's Educational Vision, the Children's and Young Peoples Plan and the specification for the competition. The Local Authority is satisfied that although as now, that the support of pupils with SEN/LDD needs will remain a key function of each school's leadership and governance, that the proposals offer overall improvement in SEN/LDD provision and access for parents.

36. At all stages in the consultation process and in representation to the statutory notices, many respondents have been highly supportive of the proposals. The school community, both governors, staff and many parents expressed the view that if staff morale and performance is to be protected, a clear and final decision must be made. It is the view of the Local Authority that the statutory notices meet the requirements of the Education and Inspections Act 2006 and that all guidance has been appropriately followed in arriving at a point where the decision-maker can make the necessary decisions.
37. In respect of the decision for Brading CE VC Primary School and St. Helen's Community Primary School, who have now formed a hard federation, Elected Members need to recommend to Cabinet the publication of a statutory notice to expand and change the age characteristic of each school to one of 4 to 11 from the current 4 to 9 age range. Similarly in Shalfleet CE VC Primary School and Yarmouth CE VA Primary School, who have now formed a hard federation, Elected Members need to recommend to Cabinet the publication of a statutory notice to expand and change the age characteristic of each school to one of 4 to 11 from the current 4 to 9 age range. Publication of these statutory notices, will allow for representation on the change of age range, which is the responsibility of the Local Authority as the decision-maker. If Elected Members recommend to Cabinet that the subsequent decision on the statutory notice, following due consideration of any representation, can be made by delegated decision then decision can be made by the end of December 2009. This will bring these four schools back into line with the overall school re-organisation timescale and allow their expansion, by the addition of Year 5 in September 2010.

38. The improvement of school governance has also been another key objective of the proposed school re-organisation. To support this objective it is proposed that Elected Members recommend to Cabinet the appointment, as new, of all Local Authority governors, in primary schools, whether in new or expanding schools, as part of the re-organisation process. Subject to the decision to implement the statutory notices the timescale for this review and appointment would be from October 2009 until January 2010, when all interim and full governing bodies would be operational for the new schools. Appointment of Local Authority governors to the new secondary schools would be the direct responsibility of the Academy sponsors or Foundation/Trust sponsor, dependent upon the competition awards determined by Cabinet.

STRATEGIC CONTEXT

39. As set out in the previous report to Cabinet for the meeting on 24 November 2008 the current school re-organisation is a key objective of the Council. The aims of the school re-organisation are to raise the educational standards and the provision of wider opportunity for all young people of the Island. The achievement of these goals is not only essential in enabling them to secure their future and economic well-being but is integral to the economic regeneration of the Island. The overall impact of the proposed school organisation will contribute to the achievement of the Eco-Island themes of providing a thriving and inspiring Island, in which young people achieve their full potential.

CONSULTATION

40. The outcomes of the formal consultation process, as part of the statutory process under section 9 (in relation to proposals to open schools) and section 16 (in relation to proposals for closing schools) of the Education and Inspection Act 2006, for the proposals for school re-organisation were fully set out in the Cabinet report and the associated Appendix C of the 24 November 2008. Further detail in respect of consultation where the Independent Panel reviewed the decision in respect of Brading CE VC Primary School, St. Helen's Community Primary School, Nettlestone Community Primary School, Shalfleet CE VC Primary School and Yarmouth CE VA Primary School were fully set out in the Cabinet report and associated Appendix A of the 31 March 2009.
41. Extensive consultation has taken place in respect of the final proposals in this report. The consultation has been at three points. Initially in the period November 2007 to February 2008 and then from 23 June 2008 to 10 October 2008. This element of formal consultation is part of the statutory process following the Cabinet decision to consult upon school by school proposals from its meeting of 3 June 2008. Full details of the consultation process and the representation received are contained in Cabinet report of the 24 November 2008 and its associated Appendix C. These two periods of consultation were then followed by the statutory period for written public representation to the statutory notices and second statutory competition notices, which ran from their publication on the 10 July 2009 to the 21 August 2009.

42. The consultation meetings were to a consistent pattern with an initial presentation by officers, followed by an opportunity for questions or representation of views from those present in each meeting. Appropriate recordings and/or notes were taken of the process and audience comments. All meetings focused on the school by school proposals approved for consultation at the Cabinet meeting of 3 June 2008, however, all meetings reminded respondents that they could still make representation in respect of the policy move from a primary, middle and high system to that of a primary and secondary system and the establishing of minimum one form and maximum two form entry primary schools.
43. The main groups consulted were:
- the parents, governing body and staff of all schools where closure or closure and amalgamation was proposed;
 - the parents, governing body and staff of all schools, by area where enlargement or federation was proposed;
 - the wider public through open public meetings;
 - Town and Parish Councils;
 - Early Years providers;
 - the Diocesan Authorities for both the Church of England and Roman Catholic faiths;
 - the Hampshire and Isle of Wight Learning and Skills Council;
 - Professional Association and Union representatives.
 - Focus groups of young people.
44. The formal consultation generated a considerable response representing the views of over 1,600 stakeholders. 52% of school governing bodies responded with 55% of their responses supporting the proposals as published and with a further 15% supporting the proposals with some conditions such as changes to proposed site location. The 25% of governing body representations opposing the proposals all relate to school closure either outright or by amalgamation. Seven Town and Parish Councils responded, with four supporting the proposals or parts of the proposals and three, where there was direct involvement with potential school closures opposing.
45. Representation to the statutory notices has generated a more limited response, the full detail of each representation and the Local Authority response is given in Appendix A and B. One parent respondent has responded to each statutory notice and there have been more detailed responses in respect of the decisions for All Saints CE VC Primary School, Chale CE VC Primary School, Holy Cross RC VA Primary School, the amalgamation of St. John's CE VC and Sandown CE VC Primary Schools and the amalgamation of St. Boniface CE VC, St. Margaret's CE VC and St. Wilfrid's RC VA Primary Schools in the Ventnor area.
46. The key themes of respondents are in relation to home to school transport, which was addressed in the Cabinet report and initial decision of the 31 March 2009. The subsequent decision on detailed cost is addressed in paragraphs 31 and 55 of this report and recommended decision. A further consistent theme from governing bodies, particularly in those primary schools where there is only a change of age characteristic, has been the need for a detailed individual school transition and build plan. The Local Authority will determine these detailed plans for each school once a

final decision is made on the published statutory notice. To enter into this level of planning prior to the decision would potentially pre-empt the decision of Elected Members and cause the school re-organisation process to fail.

47. Other respondents have raised the question of the availability of sufficient funding to successfully deliver the required transition. This is set out in paragraphs 50 to 57 of this report. The degree to which the council has the capacity and resources to successfully deliver the implementation phase of re-organisation is also a concern to respondents. The council has put in place a dedicated project team and process of project management and governance to ensure the success and completion of this project. School re-organisation is the current top priority of the council.
48. In addition a range of consultation has also occurred with the recognised professional associations and unions in respect of the transition of the school workforce. By the end of July 2009 individual meetings had taken place with the staff of all schools where closure or amalgamation is proposed. Wider consultation with those primary schools which are enlarging will occur in the early autumn period following these decisions.
49. Consultation has been thorough and fully followed statutory requirements and guidance. Legal advice has supported the Local Authority's view, where challenge to the process has been raised.

FINANCIAL / BUDGET IMPLICATIONS

50. Funding is secure and in place to achieve the transition from a system of primary, middle and high schools to one of primary and secondary schools. The capital funding profile to achieve this transition is secure and in place from existing resources. The transition can be achieved within the 2010 to 2011 period without the use of Building Schools for the Future (BSF) funding.
51. The Cabinet paper of the 24 November 2008 confirmed that the DCSF had approved the Council's Primary Capital Programme (PCP) submission. Further work by officers, particularly in relation to special educational needs provision in any new school build has led to DCSF confirmation of funding availability from April 2009.
52. In respect of BSF funding the Local Authority made its re-submission, as with all Local Authorities, to the DCSF in November 2008. The result of that submission is that the Local Authority is now twenty seventh on the priority list for first tranche funding and sixth on the priority list for second tranche funding. However, it must be recognised that the successful transition from a primary, middle and high school system to one of primary and secondary schools is not dependent upon the achievement of BSF funding.
53. The financial implications in the recommendation for award of the competition are fully set out in Appendix E. In any award of Academy status, set up funding grants must be negotiated between the provider and DCSF. At this stage there is no indication from the Office of the School's Commissioner (OSC) of agreement in principle to negotiate with any provider on any Academy award. In this situation, if the Council desires to award schools with Academy status it should do so on the

understanding that the financial risk is with the provider. Failure of the provider in this position to achieve financial viability from the DCSF would lead to the provider withdrawing from the award and a re-run of the competition with the potential for subsequent delay to the secondary aspect of school re-organisation.

54. The Local Authority through the Schools' Forum will agree the manner in which the Direct School's Grant (DSG) can be used flexibly to support schools through the transition period in the financial year 2009/2010 and the financial year 2010/2011. In addition the Local Authority will develop a new formula for the distribution of the Direct School's Grant and submit it to the Secretary of State for approval in 2010 for operation from September 2011. The development of a new formula for the proposed new school organisation has the potential to eventually release some £1M of funding within the DSG. The School's Forum can then apply this funding to specific purposes, such as support of pupils with Learning Difficulties and Disabilities, the gifted and talented and development of support systems for preventive activity with young people and their families.
55. In meeting the approved requirement for a closed, with escorts, primary home to school lift the Council will incur additional costs of £400,000 per annum. These costs can be contained within the current budget of the Directorate of Children and Young People, through the re-structuring of services, which will automatically occur if a decision is made to fully implement the statutory notices.
56. Subject to Cabinet approval to proceed, the Council will need to appoint a dedicated project team to ensure the successful implementation of the project. This commitment is also a requirement of the BSF capital submission. Initial costs of this project team will be £1.2million but can be contained within existing council resources and once BSF funding has been allocated to the Council the costs become part of the BSF programme. Initially the project team will consist of a Project Director, BSF Director, two project managers, a dedicated procurement officer, communications officer and school improvement officer. The key areas of asset management, human resources and legal support are already in place.
57. In any decision to proceed, the development of the current teaching and support staff will be a key factor in the transition and successful implementation of a new system of school organisation. Training costs will be a significant element of the implementation budget and will require agreement between schools and the Local Authority in both the detail of such a training programme and the commitment of both school and central training budgets in the financial years 2009/10 and 2010/2011. The required resource will be £300,000 over the two years from the Direct Schools Grant (DSG) and other grant funding. A provisional training programme is in place subject to any decision to implement the statutory notices.

LEGAL IMPLICATIONS

58. The Education and Inspections Act 2006 and The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007, together with both statutory and non-statutory guidance on the process for making changes to school provision provide the legal basis for the Council's decision making process. The formal consultation (23 June to 10 October 2008) formed part of this statutory process together with the publication of the statutory and second competition

statutory notices. This was followed by the statutory period for representation from the 10 July to the 21 August 2009.

59. To proceed further the Elected Members need to consider the representation received, as in Appendices B and C, and to take the outcomes of the respondents' representation and the Local Authority's response into account in making recommendation to the Cabinet, according to the proposals to the Full Council as referenced within this report.
60. If Cabinet on 1 October 2009 determines to proceed, the next stages will be the appointment, where required, of Interim Governing Bodies and the undertaking by the Local Authority of the due diligence transfer discussions with any new school providers.
61. The legal implications in the recommendation for award of the competition are fully set out in Appendix E. However, Elected Members must be cognisant of the Local Authority's duty to all children and young people in its area aged 0 to 19 and the achievement of the five 'Every Child Matters' (ECM) outcomes. The commissioning of schools, whether with a single provider or with a single status, such as Academy, does not reduce this over-riding duty upon the Local Authority.
62. In respect of the employment transfer of staff the Local Authority has established a clear legal position, as set out in Appendix F, in respect of a Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). It has also put in place a specific re-deployment policy for the re-deployment of staff during the system transition. All proposers to the competition have accepted the Local Authority's view of TUPE as a starting point for due diligence discussions.

EQUALITY AND DIVERSITY

63. There are sufficient options within the proposals to meet the diversity and access tests of the Education and Inspections Act 2006. The development of a coherent range of specialism across the secondary schools provides increased access and opportunity for young people. Similarly a possible mixture of secondary school status from Academy through Foundation/Trust and denominational offers parents a wide range of preference.
64. At primary the proposals offer access to a range of school size and type, including Foundation/Trust and denominational status. The proposals have been shaped by parental views, particularly in school size and the need to provide access nearest to the child's community, as with the established federations.
65. The proposals for SEN/LDD will increase the specialist unit provision and access for young people. The increased range of secondary specialism and improved opportunity for differing accreditation and vocational provision also provides diversity and improved access for young people.
66. Detail in respect to equality and diversity in relation to the schools competition is given in Appendix E. However, an award to a single provider with a single school status, as with the One Island proposal is unlikely to fully satisfy the diversity and access tests of the Education and Inspections Act 2006.

RISK MANAGEMENT

67. There is a strategic risk identified in the Council's Strategic Risk Register relating to school organisation. The project has clear terms of governance with a monthly meeting of a Director's Strategic Board and a Members oversight Board. Risk is a standing agenda item and currently the risk register shows no risks at red.
68. Recommendation to implement the statutory notices and move to the implementation stage of school re-organisation will require the establishment of a new risk register and updated project plan.
69. At this stage with a lack of clarity of the support position for Academies from the OSC and DCSF any award of an Academy must be made subject to the agreement of the OSC and DCSF. All financial risk in the achievement of the Academy's grant funding and viability must be borne by the provider. Further detail in respect to the risks associated with the award of the competition is given in Appendix E.
70. There is also risk in not proceeding with the decision-making process. If this is recommended to Cabinet then all the statutory notices must be withdrawn or the decision-making process will default to the Schools Adjudicator. Not to proceed also carries significant reputational risk in that there is now a strong community expectation of change. Similarly not to proceed will provide further uncertainty to pupils, parents and staff.
71. In making recommendation Elected Members must be cognisant of the limitations they have in modifying a statutory notice. Proposals may be approved with a modification for example the school opening date or subject to a specific condition. In particular Elected Members may need to consider the following conditions in relation to any recommendation for award of the competition or implementation of statutory notices:
- the entering into an agreement for any necessary building project supported by the DCSF in connection with the BSF programme;
 - the formation of any federation (within the meaning of section 24(2) of the 2002 Act) of which it is intended that the proposed school should form part, or the fulfilling of any other condition relating to the proposed school forming part of a federation.
 - the Secretary of State making a declaration under regulation 5(4) of the Education (Foundation Body) (England) Regulations 2000 that a foundation body should be established and that the school should form part of a group for which a foundation body should act;
 - the Secretary of State making a declaration under regulation 22(3) of the Education (Foundation Body) (England) Regulations 2000 that the school should form part of a group for which a foundation body acts;
 - the establishment of any foundation meeting the requirements of section 23A of the School Standards and Framework Act 1998;

- the making of any agreement under section 482(1) of the Education Act 1996 for the establishment of an Academy.

OPTIONS

72. Option A
To form the view that there has been insufficient or appropriate consultation and/or that the statutory notices do not comply with statutory requirements.
73. Option B
To form the view that there has been sufficient and appropriate consultation and that the statutory notices comply with statutory requirements. The Local Authority as decision-maker can proceed to determine the approval, modification or withdrawal of the statutory notices.
74. Option C
To make recommendation to Cabinet on each statutory notice, in respect of the closure, establishment and expansion of schools, as set out in Appendix G.
75. Option D
To make recommendation to Cabinet on the award of the schools competition, in relation to the options and recommendations as set out in Appendix E.
76. Option E
Subject to the award of any school with Academy status to make a recommendation to Cabinet that the statutory notices to establish all the new secondary schools are modified to show an opening date of each school to be the 1 September 2011 rather than the published date of 1 September 2010.
77. Option F
To make recommendation to Cabinet not to proceed with the publication of statutory notices for expansion from a 4-9 age range to one of 4-11 in respect of Brading CE VC Primary School, St. Helen's Primary School, Shalfleet CE VC Primary School and Yarmouth CE VA Primary School.
78. Option G
To make recommendation to Cabinet to proceed with the publication of statutory notices for expansion from a 4-9 age range to one of 4-11 in respect of Brading CE VC Primary School, St. Helen's Primary School, Shalfleet CE VC Primary School and Yarmouth CE VA Primary School. To make recommendation to Cabinet, that subject to the full consideration of representation, that the Leader and Cabinet Member for Governance and School Improvement makes a delegated decision in respect of the approval, modification or withdrawal of these statutory notices on the close of the prescribed period of representation.
79. Option H
To make recommendation to Cabinet not to approve the £400,000 additional funding for a closed primary home to school lift for the proposed new school system.

80. Option I
To make recommendation to Cabinet to approve the £400,000 additional funding for a closed primary home to school lift for the proposed new school system.
81. Option J
To make recommendation to Cabinet that as part of the process of school re-organisation that all Local Authority governors in primary schools are made as new appointments.

EVALUATION

82. Option A
It is the clear view of the Local Authority that the consultation has been sufficient and appropriate. Where there has been challenge the legal advice taken has indicated that the challenge is incorrect or is not material to the decision. To decide not to proceed at this stage would provide further uncertainty to pupils, parents and staff. This would have a potential negative impact upon standards, staff morale and the recruitment and retention of staff. Not to proceed also contains a significant reputational risk to the Council, given that there is now a clear community desire to implement the proposed changes.
83. If a decision is made not to proceed, all of the statutory notices must be withdrawn, in writing, or the decision-making process will default to the Schools Adjudicator.
84. Option B
The Local Authority is satisfied that the consultation has been sufficient and appropriate. Throughout it has followed the DCSF guidance and where there has been challenge the legal advice taken has indicated that the challenge is incorrect or is not material to the decision. There is now a clear community desire to implement the proposed changes. The Local Authority as decision-maker can proceed to determine the approval, modification or withdrawal of the statutory notices.
85. Option C
If the Local Authority as decision-maker has accepted that the consultation has been sufficient and appropriate it must proceed to make recommendation to Cabinet in respect of the approval, modification or withdrawal of each statutory notice, as set out in Appendix G. Not to proceed to now make these recommendations will ensure that the decision-making process in respect of the statutory notices to close, establish or expand a school, will default to the Schools Adjudicator.
86. Option D
If the Local Authority as decision-maker has accepted that the consultation has been sufficient and appropriate it must proceed to make recommendation to Cabinet in respect of the award of each school competition as set out in Appendix E. Not to proceed to now make these recommendations will ensure that the decision-making process in respect of the award in each school competition, will default to the Schools Adjudicator.
87. Option E
In the establishment of a school with an Academy status there is normally a period of some twelve months negotiation from the OSC's decision in principle to the DCSF's

final funding decision. If any decision in respect to the award of the schools competition, as set out in Appendix E, leads to the establishment of an Academy or Academies then the relevant statutory notices for all the proposed secondary schools, should be modified to show the opening date of each school to be the 1 September 2011 rather than the published date of 1 September 2010. This has the advantage of ensuring that the change in provider occurs in all secondary schools at the same, thus reducing disruption in transition for pupils, parents and staff.

88. Option F

Not to make recommendation to proceed with the publication of the statutory notices in respect of Brading CE VC Primary School, St. Helen's Primary School, Shalfleet CE VC Primary School and Yarmouth CE VA Primary School would have a significant impact upon all four schools future and viability. It would also negate the previous policy decision from Cabinet, in response to the Independent Panel report and recommendations, from the meeting of the 31 March 2009. Brading and St. Helen's and Shalfleet and Yarmouth have achieved the hard federations, as required in the set policy. Therefore, not to support the position achieved by these schools would have significant reputational impact for the Council within these communities and also leave the validity of the re-organisation process open to challenge.

89. Option G

The four schools of Brading CE VC Primary School, St. Helen's Primary School, Shalfleet CE VC Primary School and Yarmouth CE VA Primary School and their communities have worked hard to meet the policy for hard federation, as set from the Cabinet meeting of the 31 March 2009. There is no valid reason not to now recommend the publication of the statutory notices for the expansion of these four schools from an age range of 4-9 to one of 4-11. In respect of the decision on these statutory notices, following the due consideration of representation and the closing of the statutory period for representation, a recommendation of decision by delegated decision will enable these four schools to be brought back into line with the re-organisation timescale by December 2009.

90. Option H

A recommendation not to fund a closed home to school lift for the proposed new primary sector will have a significant reputational impact upon how parents view the Council's application of their duty in respect to providing safe home to school transport and travel. Throughout the consultation one of the key themes of concern for parents and the wider community was home to school transport for primary age children. The provision of a closed and escorted primary home to school lift, as set out in the Cabinet report of 31 March 2009, satisfied these concerns for most parents.

91. Option I

Recommendation to support the additional £400,000 per annum to achieve a closed primary home to school lift will enable the in principle decision from the Cabinet meeting of 31 March 2009. The required £400,000 of funding can be found through the restructuring of services within the Directorate of Children and Young People, which will automatically occur in response to any decision to implement the proposed changes to the school system. Supporting this funding will also reassure parents, who throughout the consultation have expressed concern over home to school travel for primary age children.

92. Option J
Improving the quality and appropriate challenge of governance has been a key objective in the school re-organisation proposals. Therefore, recommendation to appoint all primary school Local Authority governors as new, on the implementation of the proposals, provides a unique opportunity for the Local Authority to play a key part in achieving its overall objective of improvement in the school system. In respect of the secondary sector the new school providers, whether of Academy or Foundation/Trust status will have the direct responsibility for governor appointments.

RECOMMENDATION

93. That recommendation is made to Cabinet that there has been sufficient and appropriate consultation in respect of school re-organisation and that the Local Authority, as decision-maker should proceed to determine the approval, modification or withdrawal of the statutory notices in respect of each school and award the competition in respect of each second statutory competition notice.
94. That recommendation is made to Cabinet in respect of the approval, modification or withdrawal for each statutory notice for the closure, establishment or expansion of a school as set out in Appendix G.
95. That recommendation is made to Cabinet in respect of the award of each school competition as set out in Appendix E.
96. On the award of any secondary school with Academy status that recommendation is made to Cabinet that the statutory notices to establish the new secondary schools are modified to show the opening date of each school to be the 1 September 2011 rather than the published date of 1 September 2010. If this recommendation is made the statutory notices to close each High School must also be modified to show a date for closure of 31 August 2011 from one of the 31 August 2010.
97. That recommendation is made to Cabinet to proceed with the publication of the statutory notices for the expansion from a 4-9 age range to one of 4-11 for Brading CE VC Primary School, St. Helen's Primary School, Shalfleet CE VC Primary School and Yarmouth CE VA Primary School. Following the closing of the statutory period for representation and due consideration of any representation received it is also recommended to Cabinet that the decision to approve, modify or withdraw these four statutory notices is made by delegated decision.
98. It is recommended to Cabinet that the additional £400,000 of funding to meet the annual costs of a closed primary home to school lift is provided. The funding to be achieved by the re-direction of budget resources released within the Directorate of Children and Young People by service re-structuring to meet the needs of the new school system.
99. It is recommended to Cabinet that all Local Authority governors in primary schools are made as new appointments on the decision to implement the new school system.

APPENDICES

100. [Appendix A](#) Representation to the Statutory notices and response.
[Appendix B](#) Representation to the second statutory competition notices and response.
[Appendix C](#) Detail of the consultation meetings.
[Appendix D](#) The Island's Education Vision.
[Appendix E](#) Evaluation and recommendation on the award of the schools competition.
[Appendix F](#) Employment position
[Appendix G](#) The school by school recommendations.

BACKGROUND PAPERS

101. The following background papers have been used in the preparation of this paper.

- 23 November 2007 Cabinet papers.
- 19 March 2008 Full Council and Cabinet papers
- 3 June 2008 Cabinet papers.
- 24 November 2008 Cabinet papers and minutes
- Education and Inspections Act 2006.
- The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007.
- The Independent Panel Report Of March 2008
- OPM Seminar report of March 2009
- OPM Competition report of August 2009
- Representation to the Competition Notices August 2009

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