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Meeting	Cabinet
Date	20 June 2012
<b>Subject</b>	<b>Arrangements for commissioning new schools</b>
Report of	Cabinet Member for Education, Children and Families
Summary	This report sets out the implications of new legislation for commissioning new schools. It seeks Members' approval for a Barnet approach to commissioning new schools as set out in the body of this report.

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Status (public or exempt)	Public
Wards Affected	All
Key Decision	Yes
Reason for urgency / exemption from call-in	n/a
Function of	Executive
Enclosures	None
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## **1. RECOMMENDATIONS**

- 1.1 That Members note the change in legislation regarding the commissioning of new schools and its implications for the borough.
- 1.2 That Members agree the approach to commissioning new schools as set out in paragraphs 9.5 to 9.10.

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Cabinet Report, 3 November 2011, 'Proposed phasing of primary school expansions and investment strategy to meet demand for secondary school places' set out the new schools proposed as part of regeneration, namely a primary school at Mill Hill East and two new schools at Colindale.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 Barnet schools are among the best in the country; 91% are rated good or outstanding by Ofsted and are highly valued by residents. 'Ensuring every school is a good school for every child and targeting support at young people at risk of not fulfilling their potential' is a strategic objective in the Corporate Plan 2012 - 2013, under the corporate priority 'sharing opportunities, sharing responsibilities'. This is also a key priority in the partnership Barnet Children and Young People Plan 2010-2013. It is important that the educational vision for new schools supports high standards and that new schools help to meet the educational needs of their local communities.
- 3.2 Supporting regeneration through the commissioning of new educational provision contributes towards the strategic objective 'sustain Barnet as a successful place through regeneration, and promoting enterprise and employment' in the Corporate Plan 2012-2013.
- 3.3 Government is enabling schools to become more autonomous, especially if they choose to become academies or set up as free schools. Barnet is supportive of schools that wish to convert to academy status, and of the establishment of free schools to meet local requirements where there is evidence of demand, a robust business case and available property.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 The local process has been designed as far as possible, to be in line with the anticipated statutory guidance that is due to be issued by the Department for Education. Therefore, it may require amending once statutory guidance is issued. If significant amendments are required to the local process there will be a further report to Cabinet.
- 4.2 The Department for Education, rather than the Council, will take the final decision about which proposal for a new school should be implemented. As such, there is a risk that a new school could fail to meet local need. In relation

to regeneration there is a risk that a new school could fail to deliver key requirements as set out in Area Action Plans or other strategic plans. To help ensure that new schools meet local need and deliver on strategic plans, it is proposed to implement a local process to identify a Council-preferred proposer. The preferred option, along with details of any strategic planning requirements, would be made clear to the Department for Education when submitting proposals.

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 Where the Council is funding a new school to meet demand, including from regeneration, it will take into account each proposer's ability to meet local need when choosing a preferred option. The type of educational provision required may differ, for example, depending on whether it is to meet the needs of existing residents or new housing developments. Proposers will also need to demonstrate how they will ensure inclusive practices and provision for pupils with differing needs, for example children with special educational needs. 2% of children in Barnet schools have statements of Special Educational Need.

## **6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)**

### Procurement and Value for Money

- 6.2 Where new schools are proposed using funds held by the Council, the Council may decide to procure a contractor to ensure that value for money principles are applied. This will be assessed on a case by case basis.

### Finance

- 6.3 There are no financial implications from the proposed process set out in this report for commissioning new schools. Any additional administrative cost will be met from within existing Children's Service budgets.

### Property

- 6.4 As any new school must now, in the first instance, be a free school or academy the Council will need to grant a long lease to the sponsor chosen by the Department for Education. As such, all land and assets would transfer to the school. This would normally take place via a long lease, with the freehold retained by the Council.
- 6.5 Subject to timescales, the chosen new school proposer would be involved in the design of the building to help ensure that it supports their educational vision. The Council would have the final say on the design to ensure that it is in budget and facilitates community use.

### Staffing

- 6.6 New school proposers would be responsible for staffing the school.

## **7. LEGAL ISSUES**

- 7.1 Schedule 11 of the Education Act 2011, Establishment of New Schools, which came into force on 1 February 2012, stipulates that 'if a Council in England think a new school needs to be established in their area, they must seek proposals for the establishment of an Academy'. The Council must stipulate a date for receipt of submission of proposals.
- 7.2 Barnet Council has a statutory duty under section 14 of the Education Act 1996 to ensure that sufficient schools for providing primary and secondary education are available in the area.
- 7.3 Section 14(3A) of the Education Act 1996 provides that a Council shall exercise their functions under section 14 "with a view to (a) securing diversity in the provision of schools; and (b) increasing opportunities for parental choice.

## **8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)**

- 8.1 Part 3, responsibility for Functions, 3.2 Cabinet Members.
- To lead on budget and policy formulation and implementation in relation to regeneration including economic and strategic development is delegated to the Leader of the Council.
  - To lead on budget and policy formulation and implementation in relation to investment in educational infrastructure in schools and libraries is delegated to the Cabinet Member for Education, Children and Families.
- 8.2 Commissioning new schools is a key decision in terms of its likely effect on communities living or working in an area comprising two or more wards in the borough.

## **9. BACKGROUND INFORMATION**

- 9.1 As of 1 February 2012 Schedule 11 of the Education Act 2011 came into force followed by non-statutory guidance, published on 29 May 2012, on establishing a new school. Where a Local Authority proposes that a new school is needed, the Local Authority must first invite proposals for the establishment of an Academy or free school. The Local Authorities should be clear about the type of academy/Free School they wish to see established and should take steps to ensure that the Department for Education and groups or organisations that might be interested in establishing the new school are aware of the opportunity.
- 9.2 Local Authorities should assess the proposals they receive and may state a preference, which the Secretary of State will take into consideration when deciding whether or not to enter into a Funding Agreement with any of the proposers.

- 9.3 The Council has a statutory duty to ensure that sufficient schools for providing primary and secondary education are available in the area. As such, it may prove necessary to commission new schools to meet additional demand, for example from births, migration or new housing development.
- 9.4 Barnet has a number of regeneration and development schemes that will require new educational provision over the coming years, including Mill Hill East, Brent Cross Cricklewood and Colindale.

#### Proposed local process

- 9.5 In line with non statutory guidance, it is proposed to operate a local process for commissioning new schools as follows.
- 9.6 For each new school commissioned by the Council, a report to Cabinet Resources Committee will set out:
- i) the requirements in relation to the size and type of school;
  - ii) the factors that will be taken into account when choosing a preferred proposer.
- 9.7 The type of educational provision required will differ, for example, depending on whether a new school is needed to meet the needs of existing residents or new residents. However, the requirements are likely to include the size and type of school, proposed opening date, and need for community facilities. The requirements will be informed by Area Action Plans and other strategic documents as appropriate.
- 9.8 Some common factors to be considered are likely to include: ability to deliver the stated requirements specifically in relation to size and type of school; strength of educational vision; track record of success; inclusive practices and provision for pupils with differing abilities; commitment to community provision; and educational and financial capability.
- 9.9 Following approval, expressions of interest will be sought and proposers will be given a minimum of six weeks to respond.
- 9.10 A stakeholder group will be convened by the Children's Trust Board to consider responses and, together with the Cabinet Member for Education, Children and Families, make a recommendation on the preferred proposal to Cabinet Resources Committee. The preferred proposal would then be put forward to the Department for Education for final approval.

## **10. LIST OF BACKGROUND PAPERS**

- 10.1 None

<b>Cleared by Finance (Officer's initials)</b>	<b>MC</b>
<b>Cleared by Legal (Officer's initials)</b>	<b>HP</b>