
REPORT OF THE CHIEF EXECUTIVE OF EDUCATION LEEDS

EXECUTIVE BOARD: 4 March 2009

SUBJECT: Proposal to close Intake High School Arts College on 31 August 2009

EXECUTIVE SUMMARY

PURPOSE OF THIS REPORT

- 1 This report informs the Executive Board of the responses to the statutory notice for the proposal to close Intake High School Arts College on 31 August 2009.
- 2 The Executive Board is the decision maker with regard to the school closure. The DCSF are separately completing a feasibility study about the proposed academy to be situated on the Intake High School site from 1 September 2009, which if successful will lead to the approval of the academy by the Secretary of State.
- 3 This report recommends the Executive Board approve the closure of Intake High School Arts College on 31 August 2009.

BACKGROUND INFORMATION

- 4 The Executive Board approved the publication of a statutory notice in December 2008 following a public consultation on the proposal in September / October 2008. The statutory notice period ran from 12th December 2008 to 23rd January 2009.
- 5 Under the Education and Inspections Act 2006 the local authority has until 23 March 2009 to make a final decision on the closure proposal failing which the proposal must be referred to the Schools Adjudicator within one week for a decision. The Executive Board has chosen to set up the School Organisation Advisory Board (SOAB) to consider school organisation proposals in the event of any objections. In the absence of any objections it has not been convened and the Executive Board are required to make a decision on the proposal.

RESOURCE IMPLICATIONS

- 6 There would be an anticipated budget deficit of £250k to write off in order to open the new academy. Leeds City Council has been unable to secure additional funding for this purpose and, in these circumstances, would therefore expect to have to draw on the Dedicated Schools Grant to meet this deficit.

- 7 In addition, there would be an ongoing impact on the Dedicated Schools Grant. In addition to the funding adjustment through replication of the local formula, ongoing funding would also be removed based on the level of central expenditure on certain central activity within the schools budget. This funding adjustment would require the Local Authority to cut central expenditure in line with the reduction of funding. Due to the level of fixed costs, economies of scale and varying support provided for individual schools the budget reduction is unlikely to match the cost reductions through no longer providing services to the closing school.
- 8 The DCSF guidance states that information will be provided to local authorities by February each year in order that an initial calculation can be included within the budget for the following year. Under the proposed model the actual adjustment will not be finalised until October, and could lead to an in year adjustment to the central schools budget.

RECOMMENDATIONS

- 9 The Executive Board is asked to;
- (i) Note there were no responses to the statutory notice
 - (ii) Approve the unconditional closure of Intake High School Arts College on 31st August 2009.

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<p>Electoral Wards Affected:</p> <p>Bramley and Stanningley, Armley, Kirkstall</p> <p><input checked="" type="checkbox"/> Ward Members consulted (referred to in report)</p>	<p>Specific Implications For:</p> <p>Equality & Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input checked="" type="checkbox"/></p>
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Eligible for Call-in

Not Eligible for Call-in (Details contained in the Report)

1.0 PURPOSE OF THIS REPORT

- 1.1 This report informs the Executive Board of the responses to the statutory notice for the proposal to close Intake High School Arts College on 31st August 2009.
- 1.2 The Executive Board is the decision maker with regard to the school closure. The DCSF are separately completing a feasibility study about the proposed academy, to be situated on the Intake High School site from 1 September 2009, which if successful will lead to the approval of the academy by the Secretary of State.
- 1.3 This report recommends the Executive Board approve the closure of Intake High School Arts College on 31st August 2009.

2.0 BACKGROUND INFORMATION

- 2.1 The Executive Board approved the publication of a statutory notice in December 2008 following a public consultation on the proposal in September / October 2008. The statutory notice period ran from 12th December 2008 to 23rd January 2009. A

copy of the statutory notice is in Appendix 1.

- 2.2 There were no responses to the statutory notice. The Education and Inspections Act 2006 (“the EIA”) determines under which paragraph the closure proposals should be considered by the local authority . If objections have been received the closure proposals are considered under paragraph 8 of Schedule 2 of the EIA and a subsection to that paragraph allows for conditions to apply. These conditions are set out in Regulations. One permitted condition allows closure proposals to be conditional upon the making of a funding agreement by the Secretary of State to establish an Academy. However where no objections have been received the closure proposals are considered under paragraph 19 of Schedule 2 to the EIA. This paragraph does not make provision for a condition to apply. Any decision to close Intake High school will therefore have to be unconditional. This is an unintended consequence of the legislation as drafted and will require a change to primary legislation to allow conditional approvals to be given where no objections have been received. Should there be any problem with the approval of the academy, Leeds City Council would then need to revoke any closure decision. This would require a statutory notice in early May 2009. Information is not available at the present time regarding when the Funding Agreement will be signed by the Secretary of State. The feasibility phase for the Academy is due to end on 31 March 2009. The Secretary of State then decides whether to enter into a legally binding Funding Agreement to establish an Academy although there is no specified time limit. There is a very limited time to start the process for obtaining Executive Board approval to revoke any closure decision. To ensure that a decision to revoke the closure proposal is taken before the scheduled closure of the Intake High School on 31 August 2009 the following time table would need to be met:
- 13 May 2009** – latest date for approval of Executive Board to publish statutory notice revoking closure;
 - 29 June 2009** – end of statutory notice period (Executive Board then has 2 months to decide on proposal. If objections are received to the proposal the proposal will fall to be considered by SOAB before going to Executive Board for a decision;
 - 22 July 2009 or 26 August 2009** – last Executive Board meetings before Intake High School closes at which decision on revocation proposal can be taken.

- 2.3 Under the Education and Inspections Act 2006 the local authority has until 23 March 2009 to make a final decision on the closure proposal, otherwise the issue must be referred to the schools adjudicator within one week. The Executive Board meeting in October 2007 set up the School Organisation Advisory Board (SOAB) to consider and make recommendations upon school organisation proposals :-
- where objections have been submitted
 - as otherwise required by the Authority.
- In the absence of any objections, and in accordance with its terms of reference, the SOAB has not been convened and the Executive Board are required to make a decision on the proposal. The decision maker is required to consider 4 key issues:
- Is there any information missing?
The information is referred to or attached to this report.
 - Does the published notice comply with statutory requirements?
The published notice complies with statutory requirements.
 - Has the public consultation been carried out prior to the publication of the notice?
Details of the issues raised during the public consultation period were submitted in the Executive Board report of 3 December 2008. An extract of that report summarising the themes of the representations can be found in Appendix 2.

- Are the proposals ‘related’ to other published proposals and should therefore be considered together?
No the EIA outlines what can be considered related proposals for this purpose and does not include Academies.

3.0 THE MAIN ISSUES

3.1 There are 4 key reasons why Education Leeds believe this is the right proposal for Intake:

- The need to accelerate improvement. Whilst there has been improvement, there is a need to see this impact faster on the achievements of young people.
- An academy would bring extra capacity (both professional expertise and other resources) to sustain improvement into the medium term.
- Edutrust is an organisation that is geared up to maximise what Intake can learn from the family of schools in Leeds and that can supplement this with support from their network of academies.
- Edutrust’s commitment to developing local communities means that there is an exciting opportunity, with a new state of the art school, to see learning becoming inspiring and accessible to everyone in Bramley, Stanningley, Armley and Kirkstall.

3.2 Since the public consultation some issues have been raised with the DCSF about financial management at Edutrust, which have received some media coverage. Education Leeds have been advised that the Department is looking into the issues, but cannot comment on them in detail as the matter is subject to a Tribunal case. In the meantime they expect projects to continue as normal. If their investigations lead to them needing to ask Edutrust to strengthen its arrangements in any way, they will make sure those changes are made.

4.0 IMPLICATIONS FOR COUNCIL POLICY AND GOVERNANCE

4.1 The issues addressed in this report will impact on the ‘Narrowing the Gap’ and ‘Going up a League’ agendas. Academies in Leeds have the potential to contribute to the ambitious targets to meet key priorities within the Children and Young People’s Plan and the work on the Local Area Agreement.

5.0 LEGAL AND RESOURCE IMPLICATIONS

Statutory implications

5.1 The decision on the closure of Intake High School Arts College is the responsibility of the Local Authority. The Authority must have regard to the Guidance issued by the DCSF. A full copy of the Guidance has been given to members of Executive Board. In particular when taking its decision on proposals in relation to school closures it should consider the following.

- Effects on Standards and School Improvement
- Academies provision
- Diversity
- Every Child Matters
- Need for Places
- Impact on Community and Travel

It should be noted that paragraph 4.27 of the Guidance is misleading in stating that where a school “proposed for closure is dependent on the establishment of an Academy, any approval of closure proposals should be conditional on the

Secretary of State making an agreement for an Academy but there should be a general presumption in favour of approval". This conflicts with paragraph 4.64 of the same Guidance which states that conditional approval cannot be granted where proposals are decided where there are no objections as in the present case. The DCSF is aware of this "issue" and has indicated it will be taking steps to resolve it at some time in the future.

5.2 The Executive Board may:-

- Approve the proposals
- Reject the proposals
- Approve the proposals with a modification (e.g school closure date) but not so as to in effect substitute new proposals.

The Executive Board must give reasons for the decision irrespective of whether the proposals are rejected or approved indicating the main factors/criteria for the decision. There is no right of appeal against the decision in this case. If the Executive Board does not make a decision on the proposals within 2 months of the end of the statutory notice that is by 23 March 2009 the Authority must within one week refer the proposals to the Schools Adjudicator for a decision.. The Schools Adjudicator has no time limit within which to decide the proposals but has indicated a general target of 6 weeks although in complex closure cases where further consultation may be required it will take longer.

5.3 There is a separate process of consultation regarding the opening of the new academy with Edutrust as a sponsor. The final decision maker with responsibility for approving the opening of the specific new academy is the DCSF. In making this final decision they will consider the feasibility plan drawn up using input from informal consultation between the sponsor, and all key stakeholders, including the Principal designate, the staff, pupils, local residents and Leeds City Council.

5.4 Under current legislation, deficit budget balances at existing schools have to be written off by the Local Authority on closure. Legislation does not provide for a deficit budget balance to carry forward to a successor academy. There would be an anticipated budget deficit of £250k to write off in order to open the new academy at Intake. Leeds City Council has been unable to secure additional funding for this purpose, and in these circumstances would therefore expect to have to draw on the Dedicated Schools Grant to meet this deficit. This would impact on the budget available to the remaining schools.

5.5 In addition, there would be an ongoing impact on the Dedicated Schools Grant. For any new Academies from 2008/09 the budget adjustment will be based on a 'recoupment' method. This involves the removal of the level of funding that would have been provided to the academy had it still have been funded through the local formula. In addition to the funding adjustment through replication of the local formula, funding would also be removed based on the level of central expenditure on certain central activity within the schools budget known as the Local Authority Central Spend Equivalent Grant (LACSEG). This is based on one figure per pupil on roll at the Academy (£99.79 2008/09) and a further amount per pupil at school action or school action plus on the SEN register (£120.81 in 2008/09). Based on pupil numbers at PLASC 2008 this would result in a LACSEG of £83,150 being removed from the Dedicated Schools Grant.

5.6 This funding adjustment will require the Local Authority to cut central expenditure in line with the reduction of funding. Due to the level of fixed costs, economies of scale and varying support provided for individual schools, the budget reduction is unlikely to match the cost reductions through no longer providing services to the

closing school.

- 5.7 Given the nature of academies serving deprived communities it is very likely that the recoupment model would remove more funding than the pupil numbers generate within the dedicated schools grant calculation. The DCSF guidance states that information will be provided to local authorities by February each year in order that an initial calculation can be included within the budget for the following year. Under the proposed model the actual adjustment will not be finalised until October, and could lead to an in year adjustment to the central schools budget. This methodology will lead to additional finance time being spent on discussing/ calculating/ agreeing annual budget adjustment figures with the DCSF Academies Unit, and possibly the management of in-year budget reductions within the schools budget.
- 5.8 Part of the funding that would go directly to the academy, rather than via the local authority, is the allocation for extended services. It is unclear what the potential academy may decide regarding this contribution, and therefore what the impact on the local extended services clusters in the Bramley area may be. It should be noted that the local authority power to 'direct' community use is removed when a school becomes an academy. Out of hours use of the premises will be fully under the control of the governing body.
- 5.9 The Expression of Interest proposed a sixth form of 300. Current numbers are around 100. Nationally, funding for 16-19 assumes no growth in numbers in sixth forms and colleges. Under current funding arrangements for academies the DCSF top slice post 16 funding available to the LSC based on forecast numbers from academies. The LSC then has to manage any growth in this academy top slice through reductions in funding to maintained sixth forms and colleges. It is unclear as to whether this management would take place ring-fenced to the Leeds allocation or would be managed regionally. If any increase in academy numbers had to be managed form within the Leeds allocation it could have a significant effect on the funding of other provision.

6.0 RECOMMENDATIONS

- 6.1 The Executive Board is asked to;
- (i) Note there were no responses to the statutory notice
 - (ii) Approve the unconditional closure of Intake High School Arts College on 31 August 2009.

7.0 BACKGROUND REPORTS

Exec Board December 2008. Future secondary provision proposal for Intake High School.

Schools Forum Report 18th September 2008. Future secondary school provision proposals for Intake High School and South Leeds High School.

Exec Board April 08. Consideration of an Expression of Interest to establish an academy to serve the Bramley area.

Exec Board October 07. Consultation Draft on the future of Academies in Leeds

Exec Board October 2007. Arrangements post the abolition of the Leeds School Organisation Committee.

Appendix 1 Copy of the Statutory Notice – Full Proposal

MATTERS TO BE SPECIFIED IN SECTION 15 PROPOSALS TO DISCONTINUE A SCHOOL

Insert the information asked for in the expandable box below each section.

Contact details

1. The name of the local education authority or governing body publishing the proposals, and a contact address, and the name of the school it is proposed that should be discontinued.

Leeds City Council, C/O Chief Executive, Education Leeds, FAO School Organisation Team, 9th Floor West, Merrion House, Merrion Centre, Leeds LS2 8DT is proposing the closure of Intake High School Arts College. The closure is conditional upon the making of an Agreement between the Secretary of State for Children Families and Schools and the British Edutrust Foundation to open an Academy on the same site.

Implementation

2. The date when it is planned that the proposals will be implemented, or where the proposals are to be implemented in stages, information about each stage and the date on which each stage is planned to be implemented.

Intake High School Arts College would close on 31/08/09. The new British Edutrust Foundation Academy would open on 1 September 2009.

Consultation

3. A statement to the effect that all applicable statutory requirements to consult in relation to the proposals were complied with.

In accordance with current statutory requirements and guidance a 6 week consultation period on the proposed closure of Intake High School Arts College was held from 8 Sept to 17 Oct 2008. Responses were duly recorded and considered by Leeds City Council Executive Board, which has decided to proceed with the consultation.

4. Evidence of the consultation before the proposals were published including—

- (a) a list of persons and/or parties who were consulted;
- (b) minutes of all public consultation meetings;
- (c) the views of the persons consulted; and
- (d) copies of all consultation documents and a statement of how these were made available.

Details of who was consulted and how, how the consultation document was distributed, and the responses to the consultation can all be found in the report to Leeds City Council Executive Board “Future Secondary Provision Proposal for Intake High School Arts College”. The report, alongside the consultation document, and the minutes of the meetings can all be found at www.educationleeds.co.uk/schoolorganisation. - Alternatively copies can be obtained from School Organisation Team, Education Leeds, 9th Floor West, Merrion House, Merrion Centre, Leeds, LS2 8DT

Objectives

5. The objectives of the proposal.

The objective of the proposal is to improve educational outcomes for children and young people in west Leeds. The proposal aims to accelerate improvements in outcomes for children and expects the establishment of a new Academy following the proposed closure to maximise learnings from the Leeds family of schools, as well as the sponsor’s network of academies, and to provide a state of the art new school to make learning inspiring and accessible to everyone in the local community.

Standards and Diversity

6. A statement and supporting evidence indicating how the proposals will impact on the standards, diversity and quality of education in the area.

The proposal to close Intake High School Arts College is driven in large part by a response to the National Challenge to improve standards. A purpose built state of the art new building, provided as part of the establishment of the new Academy, will facilitate better teaching and learning. The additional resources provided by an Academy should enable standards to be improved ongoing. This would be the only Academy in the west of the city and is expected to, increase choice and diversity for students in that area.

Provision for 16 -19 year olds

7. Where the school proposed to be discontinued provides sixth form education, how the proposals will impact on—

- (a) the educational or training achievements;
 - (b) participation in education or training; and
 - (c) the range of educational or training opportunities,
- for 16-19 year olds in the area.

The proposed Academy is expected to continue to operate a sixth form, details of which are to be agreed between the Secretary of State and the British Edutrust Foundation. The broader 14-19 needs across the city are currently under review, and the new Academy would be expected to participate fully in these plans.

Need for places

8. A statement and supporting evidence about the need for places in the area including whether there is sufficient capacity to accommodate displaced pupils.

The current school will be replaced by an academy with an expected admission limit of 240. Projections suggest there will be up to 9% surplus year 7 to year 11 places in the area, and up to 11% surplus year 7 places. It is expected that the new Academy would have the same admissions limit as the current school, ie 240. It is intended that pupils will transfer to the new Academy in accordance with pupil admission arrangements of the new Academy or seek admission to other schools that have places available

9. Where the school has a religious character, a statement about the impact of the proposed closure on the balance of denominational provision in the area and the impact on parental choice.

Not applicable

Current School Information

10. Information as to the numbers, age range, sex and special educational needs of pupils (distinguishing between boarding and day pupils) for whom provision is made at the school.

Intake High School Arts College is a co-educational 11-19 school. The current school has an admissions limit for 2009 of 240, providing an 11-16 capacity of 1200. The overall net capacity is 1424. At PLASC 08 it had 926 11-16 year olds on roll, and 105 post 16. It had and 14 children (1%) with statemented SEN and a further 420 on school action or school action plus (41%).

Displaced Pupils

11. Details of the schools or further education colleges which pupils at the school for whom provision is to be discontinued will be offered places, including—

- (a) any interim arrangements;
- (b) where the school included provision that is recognised by the local education authority as reserved for children with special educational needs, the alternative provision to be made for pupils in the school's reserved provision; and
- (c) in the case of special schools, alternative provision made by local education authorities other than the authority which maintains the school.

It is intended that pupils will transfer to the new Academy in accordance with pupil admission arrangements of the new Academy or seek admission to other schools that have places available.

12. Details of any other measures proposed to be taken to increase the number of school or further education college places available in consequence of the proposed discontinuance.

It is expected that the new academy will offer the same admissions limit of 240

Impact on the Community

13. A statement and supporting evidence about the impact on the community and any measures proposed to mitigate any adverse impact.

The new Academy is expected to draw from the same community, and any adverse impact is not anticipated.

14. Details of extended services the school offered and what it is proposed for these services once the school has discontinued.

The school is currently part of the Bramley extended services cluster. It would be for the new Academy to consider whether to remain a part of the cluster or provide access to extended services through alternative partnerships.

Travel

15. Details of length and journeys to alternative provision.

The new Academy will be on the same site and will not alter journeys to/from school

16. The proposed arrangements for travel of displaced pupils to other schools including how they will help to work against increased car use.

The Education Leeds Policy for the Provision of Home to School or College Transport for Children and Students Prior to their nineteenth birthday current at the time of transfer will apply as appropriate to pupils attending other schools.

Related Proposals.

17. A statement as to whether in the opinion of the local education authority or governing body, the proposals are related to any other proposals which may have been, are, or are about to be published.

The closure of Intake High School Arts College is conditional upon the making of an agreement between the Secretary of State for Children, School and Families and the British Edutrust Foundation to open an Academy on the same site on 1 September 2009 and to which pupils will transfer in accordance with pupil admission arrangements of the new Academy or seek admission to other schools that have places available

Rural Primary Schools

18. Where proposals relate to a rural primary school designated as such by an order made for the purposes of section 15 of the EIA 2006, a statement that the local education authority or the governing body (as the case may be) considered—

- (a) the likely effect of discontinuance of the school on the local community;
 - (b) the availability, and likely cost to the local education authority, of transport to other schools;
 - (c) any increase in the use of motor vehicles which is likely to result from the discontinuance of the school, and the likely effects of any such increase; and
 - (d) any alternatives to the discontinuance of the school,
- as required by section 15(4) of the EIA 2006.

Not applicable

Maintained nursery schools

19. Where proposals relate to the discontinuance of a maintained nursery school, a statement setting out—

- (a) the consideration that has been given to developing the school into a children's centre and the grounds for not doing so;
- (b) the local education authority's assessment of the quality and quantity of the alternative provision compared to the school proposed to be discontinued and the proposed arrangements to ensure the expertise and specialism continues to be available; and
- (c) the accessibility and convenience of replacement provision for local parents.

Not applicable

Special educational provision

20. Where existing provision for pupils with special educational needs is being discontinued, a statement as to how the local education authority or the governing body believes the proposal is likely to lead to improvements in the standard, quality and/or range of the educational provision for these children.

Not applicable

Appendix 2 Extract of the Executive Board Report December 2009
'Future secondary provision proposal for Intake High School'
Main Report, Section 3 Main Issues.

- 3.5 **Theme 1. Staffing issues; employment rights and protection, staffing structure, pay and conditions, union recognition**
The Transfer of Undertakings (protection of Employment) Regulations 2006 (TUPE) applies to staff. This ensures that staff would have a job at the new academy and that their terms and conditions, including pension entitlements, would be protected. A new staffing structure would be the prerogative of the Governing body. Should any new staffing structure be agreed, this would require consultation under TUPE. Education Leeds would offer support in seeking redeployment to those choosing to resign their post in principle as an alternative to working in an academy.
- 3.6 **Theme 2. Details of the proposed academy; curriculum and specialism, admissions policy, exclusions policy, transition arrangements, 6th form, uniform, name, specific facilities and rules. Why and how it would be better and improve outcomes for young people and the community, and how quickly.**
Edutrust have outlined their intention to consult fully on all aspects of the new academy to ensure the views of all stakeholders are taken into account. Specific reassurances have been given regarding the admissions policy and exclusion arrangements, in line with the memorandum of understanding currently under consideration. Details of some aspects of the curriculum are dependent on the wider 14-19 review currently underway, however Edutrust have a firm commitment to individualised learning, and to both academic and vocational pathways. They have indicated their intent to retain the performing arts specialism, and add a second complementary specialism of English.
- 3.7 **Theme 3. The need for new buildings, and the arrangements for design, construction and transition.**
Education Leeds, Edutrust, and the existing governing body of Intake High School all believe the current buildings are largely unsuitable, having been added to on an ad hoc basis for many years. The new building offers the opportunity for a state of the art, secure building, offering a better learning and teaching environment, which is more accessible to the wider community. There would be full consultation on the design and construction of the new building with all stakeholders, should the proposal proceed. Education Leeds has considerable experience of managing new build projects, and would offer full supporting this process.
- 3.8 **Theme 4. Edutrust as an organisation, their plans and background, comparisons to other academy sponsors, their funding arrangements.**
Edutrust is a charitable trust formed by otherwise unconnected people with a common concern for the poor quality of education available in some parts of the country. They have a wealth of experience in public service and education. They are planning to open a total of nine academies by 2009 offering a nationwide network to develop and share best practice to complement the support offered by the local family of schools. They have no religious affiliations.
- 3.9 **Theme 5. Governance and process issues, local accountability.**
The constitution of the academy's governing body must include the sponsor, the local authority, the principal and parent representatives. Edutrust have indicated that they will ensure that their articles of association will also ensure representation from teaching and support staff. 51% of the governing body of any academy must be appointed by the sponsor. Edutrust intend to use local people to fill these roles.
- 3.10 **Theme 6. Miscellaneous.**
These issues are addressed individually in the summary of consultation responses in appendix 3