



REPORT OF THE CHIEF EXECUTIVE OF EDUCATION LEEDS

EXECUTIVE BOARD: 21 July 2010

SUBJECT: Outcome of statutory notices for proposal to close Primrose High School in 2011, conditional upon establishing an Academy

EXECUTIVE SUMMARY

PURPOSE OF THIS REPORT

- 1 In April 2010 the Executive Board approved the publication of statutory notices on a proposal to close Primrose High School on 31 August 2011, conditional upon the making of an agreement between the Secretary of State for Education “the Secretary of State” and the Co operative Group of Companies “the Co-op” to establish an academy on the same site on 1 September 2011.
- 2 This report details the representations received in response to those notices and recommends closing Primrose High School conditional upon the making of an agreement between the Secretary of State and the Co-op to establish an Academy on the same site on 1 September 2011.

BACKGROUND INFORMATION

- 3 Under the Education and Inspections Act 2006 the Local Authority has until 28 July 2010 to make a final decision on the closure proposal, being two months from the date of expiry of the statutory notice.
- 4 There were 9 responses to the statutory notice. The Executive Board is the decision maker for these proposals. It has chosen to set up the School Organisation Advisory Board (SOAB) to consider school organisation proposals when objections are received. They met on 1st July 2010 and considered the proposal to close Primrose High School with due regard to statutory guidance. The minutes of that meeting are in Appendix 1. Copies of the Statutory notices are in Appendix 2.

RESOURCE IMPLICATIONS

- 5 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. Based on the

latest school staffing budgets there an anticipated budget deficit of £339,160 to write off in order to open the new academy at Primrose. The school has a responsibility to take steps to ensure that the final deficit is minimised. The local authority expects that the school will find significant savings to ensure that this is the case.

RECOMMENDATIONS

6 The Executive Board is asked to:

- i) note the responses to the statutory notices;
- ii) note the views of SOAB in regard to the proposal;
- iii) agree to the discontinuance of Primrose High School on 31 August 2011 conditional upon the making of an agreement between the Secretary of State and the Co-op to establish an Academy on the same site on 1 September 2011.

Agenda Item:

Originator: Pat Toner
George Turnbull

Telephone: 2475613 /
2243239

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SUBJECT: Outcome of statutory notices for proposal to close Primrose High School in 2011, conditional upon establishing an Academy

Electoral Wards Affected:

**Gipton and Harehills
Burmantofts and Richmond Hill**

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality & Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call-in

Not Eligible for call in
(details contained in report)

1 PURPOSE OF THIS REPORT

- 1.1 In April 2010 the Executive Board approved the publication of statutory notices for a proposal to close Primrose High School on 31 August 2011 conditional upon the making of an agreement between the Secretary of State for Education “ the Secretary of State” and the Co-operative Group of Companies “ the Co-op” to establish an Academy on the same site on 1 September 2011 .
- 1.2 This report details the representations received in response to those notices and recommends closing Primrose High School on 31 August 2011 conditional upon the making of an agreement between the Secretary of State and the Co-op to establish an academy on the same site on 1 September 2011.

2 BACKGROUND INFORMATION

- 2.1 In 2008, the Government launched the National Challenge. This means that the minimum standard expected of every secondary school is that 30% of their young people achieve five good GCSEs including English and Maths.

- 2.2 The Council received an Improvement Notice from the DCSF, now the Department for Education (DfE), following meetings with the Secretary of State for Children, Schools and Families and his ministers. In these meetings the Authority was urged to take radical action, including structural change, in each of the National Challenge schools. The Improvement Notice states that we must demonstrate clear evidence of improvement in outcomes evidenced by a reduction in the number of schools where fewer than 30% of pupils achieve 5 or more A*-C grades at GCSE and equivalent including GCSEs in English and Maths. Education Leeds working with DfE and National Strategies colleagues have produced, as required by the DfE, a National Challenge Plan to secure the necessary improvements. This plan, which includes the necessary structural changes, is being monitored by a strategic board and the independent Children's Services Improvement Board
- 2.3 At its meeting on 14th October 2009, Executive Board considered the latest of a series of reports on the local authority's response to the National Challenge. This report emphasised the need to identify deliverable solutions as a matter of urgency if this complex and challenging agenda is to be taken forward successfully. The **Board agreed to consult formally on the proposed** closure of Primrose High School on 31st August 2011, to be replaced an Academy sponsored by the Co-op on the same site on 1 September 2011.
- 2.4 The public consultation period ran from 7th January to 5th March 2010. At their meeting on 7th April 2010 the Executive Board received a report summarising the consultation during which the following issues emerged:
- a) the level of change already experienced by the school, including the move to a new PFI building and the establishment of the Federation – issue of **stability**;
 - b) concern about the experience, expertise and resource that the sponsor/partner will bring – the **sponsor**;
 - c) concern about Academies in general, the more radical behaviour associated with some academies and their contribution to local communities – **academy issues**;
 - d) **staffing issues**
- 2.5 At that meeting the Executive Board approved the publication of a statutory notice to close Primrose High School on 31st August 2011 conditional upon the making of an agreement between the Secretary of State and the Co-op to establish an Academy on the same site on 1 September 2011
- 2.6 A statutory notice was published on 16th April 2010 which expired on 28th May 2010. Under the Education and Inspections Act 2006 the Local Authority has until 28 July 2010 to make a final decision on the closure proposal, being two months from the date of expiry of the statutory notice.
- 2.7 There were 9 responses to the statutory notice, including two from members of staff, two from the local community, with responses from the governing body, Leeds Metropolitan University, the Leeds Colleges Group and a Union. In addition there was a petition comprising 423 names of students and staff at Primrose School opposing to the closure and the establishment of an Academy. Copies of all of the statutory representations can be found at www.educationleeds.co.uk/schoolorganisation

- 2.8 The Executive Board is the decision maker for these proposals. It has set up the School Organisation Advisory Board (SOAB) to consider school organisation proposals when objections are received. Statutory guidance requires the decision maker to consider four key issues:
- Is there any information missing?
 - Does the published notice comply with statutory requirements?
 - Has the public consultation been carried out prior to the publication of the statutory notice?
 - Are the proposals 'related' to other published proposals and should therefore be considered together?

2.9 The SOAB met on 1st July 2010 and minutes of that meeting are in Appendix 1. Copies of the statutory notices are in Appendix 2.

2.10 The decision on the proposals is the responsibility of the Local Authority. The Authority must have regard to the Guidance issued by the DfE. A full copy of the Guidance has been given to members of Executive Board. The Executive Board may:-

- Approve the proposals
- Reject the proposals
- Approve the proposals with a modification (e.g school closure implementation date) but not so as to in effect substitute new proposals.
- Approve the proposals subject to them meeting limited specific conditions as set out in the statutory regulations by a specified date

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. 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 28 July 2010 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.

3 THE MAIN ISSUES

3.1 No significant new issues were raised by objectors that had not arisen during the earlier consultation. Concern has been expressed about the expertise, experience and resource brought by the proposed sponsors and about academies in general, their unproven track record and the associated perceived loss of local accountability.

3.2 The proposed sponsors

The Co-operative Group has a strong presence in Leeds and will aim to use its co-operative structure, ethos, values and principles to drive improvements and engage the local communities that Primrose High School serves. The Group would bring strong governance, expertise in community engagement and leadership support based on its work in formally supporting schools since 2003, and its cultural change programme being used successfully in partner schools and academies. Leeds City College, formed by the merger of three local colleges, provides a breadth of experience and knowledge that will allow scope for specialist curriculum provision and increase the opportunities available to students at the school.

3.3 **How will becoming an Academy improve teaching and learning?**

There are four key reasons why Education Leeds believes this is the right proposal for the community served by the school:

- The need to accelerate improvement. It is recognised that there has been improvement, but we need to see this impact faster on the achievements of young people.
- At Primrose High School not enough young people are succeeding and reaching their potential at the present time. The school has consistently struggled to support enough young people to achieve good grades.
- An academy will bring extra capacity (both professional expertise and other resources) to sustain improvement in to the medium term.
- The Co-operative Group has a strong presence in Leeds and will aim to use its co-operative structure, ethos, values and principles to drive improvements and engage the local communities that Primrose High School serves.

3.4 Insufficient or flawed consultation/ insufficient information about what the proposed academy will bring and how it will be run

The petition from pupils and staff asserts that the consultation was flawed because insufficient consultation booklets were provided for all students or staff, and it was only printed in English, when 67 languages are spoken at the school.

The consultation was conducted and advertised in a manner consistent with previous school organisation changes made by Education Leeds, and with DCSF guidance. Letters were sent to current pupils, to local primary pupils and other local secondary schools and other local stakeholders. Posters and documents were placed in libraries and post offices. In addition, the consultation document was available online throughout the consultation period. The document carried an entry in a number of languages which indicated that where a consultee did not speak English and needed help in understanding the document the service of an interpreter would be available free of charge.

It is acknowledged that there was some difficulty in gaining access to the public meeting after the meeting had started. Urgent arrangements were put in place to ensure that attendees could gain access to the main entrance and signposted the route through to the lecture theatre. The school's leadership undertook to ensure that the main entrance was staffed until 7.30 p.m. Where it was known that any individual had been unable to gain access contact was made with them to explain the situation and offer advice.

The Co op and City College are not yet fully engaged about key issues. They will not attend the Transition Board meetings until the Expression of Interest is accepted and the legal framework is drawn up.

3.5 Prefer option to allow the school to continue to grow and evolve with partnerships which could include Co-op, Leeds City College and LMU and local business

Within the context of the National Challenge, the local authority is obliged to consider structural and governance changes, including academy status, to accelerate improvements at the school. The government has raised its expectations of the minimum standards schools must achieve, and the timescale to achieve them. There is the need to accelerate improvement. It is recognised that there has been improvement, but we need to see this impact faster on the achievements of young people. Not enough young people are succeeding and

reaching their potential at the present time. Academy status will bring further resources and partners that will help to build the capacity to sustain the necessary improvements into the medium and long term.

3.6 The current schools budget deficit will be written off to the detriment of all other schools

See 5.2 below

4 IMPLICATIONS FOR COUNCIL POLICY AND GOVERNANCE

4.1 Proposals identified in this report would 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.

4.2 This proposal would address the requirements of the Council to respond to the National Challenge in respect of this school

5 LEGAL AND RESOURCE IMPLICATIONS

5.1 Legal Implications

5.1.1 The Local Authority is the decision-maker on the proposal to close Primrose High School. Since representations have been received during the statutory notice period the proposal has been referred to the School Organisation Advisory Board (SOAB) to consider and to make a recommendation to the Executive Board (appendix 1). A final decision must be made by the Executive Board within 2 months of the expiry of the statutory notices.

5.1.2 There is a separate parallel process of consultation regarding the opening of a new academy. The final decision maker with responsibility for approving the opening of the specific new academy is the DfE. The DfE is presently reviewing its Academies policy and associate practices and a draft Academies Bill has been laid before parliament. Given that the recommendation before Executive Board is linked to the opening of an academy, then should any aspect of the proposed academy change significantly this will require further consideration by Executive Board.

5.2 Resource Implications

5.2.1 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. Based on the latest school staffing budgets there is an anticipated budget deficit of £339,160 to write off in order to open the new academy at Primrose. The school has a responsibility to take steps to ensure that the final deficit is minimised. The local authority expects that the school will find further significant savings to ensure this is the case.

5.2.2 Members of Schools Forum have in the past expressed concern about the level of projected deficit budget balances on closure of the schools. They were particularly concerned at the prospect of being asked to agree to a “blank cheque” (particularly as further future academies remain a possibility) without assurance that the budgets were being monitored rigorously in the lead up to closure. It was noted that if the schools were to remain as LA maintained they

would be expected to arrive at a balanced budget over time.

5.2.3 In addition, there would be an ongoing impact on the Dedicated Schools Grant which 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. 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 an Academy.

5.2.4 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 inner East Leeds may be.

5.3 **PFI Implications**

5.3.1 Primrose High School was constructed as part of the Leeds Combined Secondary Schools Project and there are a number of site specific issues which add to the complexity of the development of an Academy on the site, due to Primrose being physically adjoined to Shakespeare Primary School and Children's Centre. These issues include the shared use of facilities such as kitchen preparation, external pitch and multi-use games areas, consequently this will require further work by the Council and the development of a shared use agreement.

5.3.2 Through the creation of an Academy, the operation, use and control of Primrose High School would transfer from the Governing Body to the Academy Trust, although Leeds City Council would continue to be a counter-party to the PFI contract as a result of the model contract documents from Partnership for Schools. Therefore the Council would still retain responsibility for ongoing contract management, including payment of the ongoing Unitary Charge bill, variation and relationship management, including ensuring that the Academy Trust does not impede access for the PFI contractor. The Academy would take on the responsibility to pay contributions to the Council including recovery of any costs relating to pupil vandalism, and will be required to continue to work within the terms of the PFI arrangements, including the continued provision of Services by the PFI Contractor. Given the ongoing financial commitment by the City Council, there will be a continuing resource implication for the Local Authority to continue with the high level of contract management over the life of the PFI contract, essential to ensuring value for money (VFM) for Leeds City Council.

5.3.3 Council Officers are currently working to address a number of financial and contractual issues, including discussions with the DfE, seeking to ensure that the terms of the indemnity offered by the DfE to Local Authorities in the model documentation, is wide enough to cover not only default by the Academy Trust but also increases in the Primrose element of the Unitary Charge and any other additional Primrose related payments to the PFI Contractor that have been incurred by the Academy Trust. It is anticipated that the main principles of this will be agreed and completed prior to the Academy opening and it is also understood that no additional budget allocation will be available to the Council.

5.3.4 In the establishment of an academy, the Council and the Academy Trust are required to sign up to a lease of the land to the Academy Trust for a period of 125 years. As Primrose High School was established through PFI, care needs to be taken to ensure this does not impact on the PFI arrangements and the Academy Trust must accept that it is buying into the existing PFI service arrangements as previously discussed. Again, Council Officers are currently working to address this issue through discussion with DfE and PfS. To implement the contractual arrangements noted above, the City Council will have to incur a number of costs relating to legal, financial and project management aspects of the transaction. A provisional estimate of between £100k and £200k has been provided for this work and it should be noted that these costs would be chargeable to revenue and there is no DfE funding support available for these costs.

6 RECOMMENDATIONS

6.1 The Executive Board is asked to:

- iv) note the responses to the statutory notices;
- v) note the views of SOAB in regard to the proposal;
- vi) agree to the discontinuance of Primrose High School on 31 August 2011 conditional upon the making of an agreement between the Secretary of State and the Co-op to establish an Academy on the same site on 1 September 2011..

7 BACKGROUND REPORTS

Executive Board, 5 December 2008 – Building School for the Future: Expression of interest for follow-on projects

Executive Board January 2009 – The National Challenge and structural change to secondary provision in Leeds Progress Report

Executive Board March 2009 – The National Challenge and Structural Change to Secondary Provision in Leeds

Executive Board October 2009 - The National Challenge and Structural Change to Secondary Provision in Leeds

Executive Board January 2010 - The future of Primrose, City of Leeds, Parklands Girls' High Schools, and of girls only secondary education in Leeds

Executive Board April 2010 - Outcome of consultation on the future of Primrose High School

APPENDIX 1
Minutes of meeting of School Organisation Advisory Board (SOAB) held 1st July 2010 to consider proposal to close Primrose High School

SCHOOL ORGANISATION ADVISORY BOARD

THURSDAY, 1ST JULY, 2010

PRESENT: Councillor in the Chair
Mr I Garforth in the Chair
Mr C Sedgewick and Mrs T Hagerty

7 Chair's Opening Remarks

The Chair welcomed everyone in attendance

8 Election of Vice Chair

The Clerk to the Board sought nominations for the position of Vice Chair to the School Organisation Advisory Board

Reverend C Sedgewick nominated Mrs T Hagerty, the Chair seconded the proposal

RESOLVED – That Mrs T Hagerty be elected Vice Chair of the School Organisation Advisory Board for a one year period

9 Apologies

Apologies for absence were received for Mr D Kenny and Mr J Sutton

10 Declarations of Interest

Mr C Sedgewick declared a personnel interest in the proposals to close Parklands Girls High School, the Diocese of the Church of England having put forward a bid to establish an Academy on the Parklands site

11 Outcome of Statutory Notices for Changes to School Organisation

The Board considered a report by the Legal Adviser to the Board explaining the role of the Board in considering objections to the following proposals and to make recommendations to the Executive Board in reaching a decision in relation to the following proposals:

Statutory proposals to seek the closure of City of Leeds High School, the Closure of Parklands Girls High School, the Closure of Primrose High School and Changes to Primary Provision in Horsforth

Changes Provision in Horsforth

The Board were advised that in January 2010 the Executive Board approved a formal consultation on proposals for changes to Featherbank Infant School and Newlaithes Junior School in Horsforth. Statutory Notices were published to decrease the lower age range of Newlaithes Junior School from 7-11 to 4-11, with an admission limit of 60 and with an overall capacity of 420 children and increase the age range of Featherbank Infant School from 4-7 to 4-11 and decrease the admissions number from 60 to 30, with an overall capacity of 210 children. These proposals were formally linked.

There was one response to the statutory notices, which opposed the change.

Officers reported that the objections received raised no new significant issues

Members discussed the proposal, concentrating on the following issues:

- Use of site availability
- Concern over transition arrangements
- Risk of negative disruption to education
- A desire for further consultation on the Early years Service in the Horsforth area
- Concern over funding of a new key stage

The Board noted the objections and expressed sympathy to the concerns raised

Closure of Primrose High School

The Board were advised that in October 2009 the Executive Board approved a formal consultation on the proposed closure of Primrose High School on 31st August 2011 to be replaced by an Academy sponsored by the Co-operative Society.

There were nine responses to the statutory notice, which opposed the change.

Officers reported that the objections received raised no new significant issues

Members discussed the proposal, concentrating on the following issues:

- The ability of the sponsor(s) to deliver Secondary Education provision at Primrose
- Insufficient clarity about the links with City of Leeds College
- Early years provision

The Board noted the objections

Closure of Parklands Girls High School

The Board were advised that in October 2009 the Executive Board approved a formal consultation on the proposed closure of Parklands Girls High School on 31st August 2011 to be replaced by an Academy sponsored by the Edutrust Academies Charitable Trust (EACT). A parallel consultation was conducted on the provision of single sex girl's education.

There were seven responses to the statutory notice, which opposed the change.

Officers reported that the objections received raised no new significant issues

Members discussed the proposal, concentrating on the following issues:

- Budgetary implications for the Academy
- The ability of the proposed sponsor to deliver school improvement
- Concern about administration costs for the Academy
- The move away from single sex schools
- The location for the provision of an additional High School to serve the east Leeds community

The Board noted the objections and expressed sympathy to the concerns raised

Closure of City of Leeds High School

The Board were advised that in October 2009 the Executive Board approved a formal consultation on the proposed closure of City of Leeds High School on 31st August 2011.

There were one hundred and seventy five responses to the statutory notice, which opposed the change.

Members discussed the proposal, concentrating on the following issues:

- The viability of the school
- The location of the school was in an area compounded by challenges
- The desirability of maintaining secondary school provision in the City Centre
- A desire for availability of high quality secondary provision for that community
- Acknowledged the commitment of the staff
- To further look at the demographics of the area

The Board noted the objections and expressed sympathy to the concerns raised

Additional comments - Overall Members considered that that proposals lacked a cohesive approach to the needs of the inter-related communities involved and had now been overtaken by the new opportunities for school improvement, in conjunction with the local authority, provided by the change in central government.

In particular, Members were concerned that the location of Parklands Academy was not on the correct site for a new, large school to serve the communities of inner East Leeds.

The Board therefore recommended that an urgent review of all the three secondary proposals should take place with a view to establishing integrated, viable, high quality educational provision for the communities involved at the centre of those communities, as is inherent in the Leeds Schools Admissions Policy

RESOLVED – It was the view of the School Organisation Advisory Board that the Executive Board be recommended to:

- (i) Support the proposed changes to Primary provision in the Horsforth area

- (ii) Support the proposals to close Primrose High School and replace with an Academy
- (iii) Support the proposal to close Parklands Girls High School and replace with an Academy
- (iv) Support the proposal to close City of Leeds High School

12 Future Business

There were no issues raised under future business

13 Date and Time of Next Meeting

Arrangements for a future meeting of the Schools Organisation Advisory Board to be notified to Members in due course

APPENDIX 2

Copy of the statutory notice for all proposals

Note: This is the published notice. Full detail can be obtained from www.educationleeds.co.uk/schoolorganisation as indicated in these extracts.

PROPOSAL TO DISCONTINUE PRIMROSE HIGH SCHOOL CONDITIONAL UPON THE MAKING OF AN AGREEMENT BETWEEN THE SECRETARY OF STATE AND THE CO-OPERATIVE SOCIETY FOR THE ESTABLISHMENT OF AN ACADEMY ON THE PRIMROSE HIGH SCHOOL SITE

Notice is given in accordance with section 15 (1) of the Education and Inspections Act 2006 that Leeds City Council, c/o The Chief Executive, Education Leeds, Merrion House, 110 Merrion Centre, Leeds LS2 8DT intends to discontinue Primrose High School, Stoney Rock Lane, Leeds, LS9 7HD on 31 August 2011.

The discontinuance is conditional upon the making of an agreement between the Secretary of State for Children, School and Families and the Co-operative Society to establish an Academy on the same site on 1 September 2011.

All applicable statutory requirements to consult in relation to the proposal to discontinue have been complied with.

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.

Existing transport arrangements will continue for pupils transferring to the new Academy, as the academy will be on the same site. 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 and pupils attending schools other than the new Academy.

Making Representations

This Notice is an extract from the complete proposal. Copies of the complete proposal can be obtained from: www.educationleeds.co.uk/schoolorganisation, or by post from Education Leeds, School Organisation Team, 9th floor west, Merrion House, 110 Merrion Centre, Leeds, LS2 8DT, or telephone 0113 2243867.

Within six weeks from the date of publication of this proposal to discontinue, ie by 4pm Friday 28th May 2010, any person may object to or make comments on the proposal by sending them to The Chief Executive, Education Leeds, FAO School Organisation Team, 9th floor west, Merrion House, 110 Merrion Centre, Leeds, LS2 8DT.

Signed:



Eleanor Brazil

Interim Director of Children's Services

Leeds City Council

Publication Date: Friday 16th April 2010

Explanatory Notes

Academies are publicly funded independent schools with sponsors from the private and voluntary sectors. The establishment of an Academy is subject to the agreement of the Secretary of State. It is proposed that the closure of Primrose High School should be approved to take effect only if by the date of closure an agreement has been made under section 482(1) of the Education Act 1996 for the establishment of an Academy to replace Primrose High School

Appendix 3 Summary of Respondents

Primrose - Summary of respondents (letters and e-mails)

Community Representative	2
Staff	2
Governing Body	1
University	1
Union	1
Colleges Group	1
Other	1
Grand Total	9
Petition with 423 signatures (pupils and staff)	