
PROPOSED LAND TRANSFER TO HEATHFIELD ACADEMY TRUST

**Responsible Cabinet Member - Councillor Cyndi Hughes,
Children and Young People Portfolio**

Responsible Director - Murray Rose, Director of People

SUMMARY REPORT

Purpose of the Report

1. The purpose of this report is to:
 - (a) Seek Cabinet approval for the proposed land transfer at nil consideration to Heathfield Academy Trust.
 - (b) Inform Cabinet of the provisions being put in place in connection with the proposed land transfer to ensure that
 - (i) The Council can control the use for the period required; and
 - (ii) Ensure that the burden of the grant funding is transferred along with the asset.

Summary

2. Cabinet is advised that Heathfield Primary School converted to Academy status on 1 June 2012 in accordance with the provisions of the Academies Act 2010. As part of the conversion process and in accordance with section 13 of the Academies Act 2010 all land used wholly or mainly for the purpose of a maintained school is to be transferred from the local authority to the Academy trust on conversion.
3. The transfer of land in accordance with the provisions of the Academies Act 2010 was approved by Cabinet on 21 June 2011.
4. The land referred to in this report is the “Well-being Centre” shown outlined red on the plan attached at Appendix 1. The Well-being Centre is a separate unit attached to the school, there is independent access and it is used for the delivery of emotional health and well-being services to children and their families in Cluster D. It is not required to be transferred by the provisions of the Academies Act 2010. However, this report recommends that it should transfer for the reasons outlined.

Recommendation

5. It is recommended that :-
 - (a) Members receive the report
 - (b) The transfer of the Well-being Centre be approved on the terms set out in option one (paragraphs 16-24) of this report
 - (c) The Borough Solicitor be authorised to complete the transfer accordingly.

Reasons

6. The recommendations are supported by the following reasons :-
 - (a) The requirements of the grant funding obligate the authority to maintain the current use and purpose of the asset (Well-being Centre) until the end of the claw back period in 2026. The transfer of the land (Well-being Centre) to the Heathfield Academy Trust is a balanced financial decision of the transfer at undervalue against the costs of the Authority retaining the land and therefore maintaining the current use and purpose, including consequential unknown staffing costs, and repairs and maintenance costs.
 - (b) The Heathfield Academy Trust welcomes the transfer and has provided suitable indemnity to the Authority against claw back of the grant funding from the Department for Education (DfE). It is in the spirit of the original agreement between the school and the Authority i.e. that the Authority would support with running costs only and the Academy will have responsibility for the delivery of the well-being service from the Centre.

Murray Rose
Director of People

Background Papers

There are no Background papers

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S17 Crime and Disorder	The content of this report will not impact on Crime and Disorder.
Health and Well Being	Positive for young people.
Carbon Impact	There is no impact on carbon emissions as a result of this report.
Diversity	No individual is adversely affected as a result of this report.
Wards Affected	Lingfield
Groups Affected	Young people.
Budget and Policy Framework	This report does not recommend a change to the budget and policy framework.
Key Decision	This is a key decision.
Urgent Decision	This is not an urgent decision.
One Darlington: Perfectly Placed	The Well-being Centre is consistent with Healthy Darlington: promoting emotional health and well-being and Aspiring Darlington: providing high quality facilities that support modern approaches to education in schools and for lifelong learning.
Efficiency	The outcome of this report is to ensure that safeguarding and wellbeing services can be provided in schools under a self-sustaining model.

MAIN REPORT

Background

7. Cabinet is advised that Heathfield Primary School converted to Academy status on 1st June 2012 in accordance with the provisions of the Academies Act 2010. As part of the conversion process and in accordance with section 13 of the Academies Act 2010 all land used 'wholly or mainly' for the purpose of a maintained school is to be transferred from the local authority to the Academy trust on conversion.
8. The transfer of land in accordance with the provisions of the Academies Act 2010 was approved by Cabinet on 21 June 2011.
9. The land referred to in this report is the "Well-being Centre". The Wellbeing Centre is a separate unit attached to the school with separate access and is used for the delivery of community services and is not required to be transferred by the provisions of the Academies Act 2010.
10. The Well-being Centre was opened in September 2011 and was funded by 'Co-location funding' of £1,050,000. The funding was awarded by the DfE to the local authority under the terms of a grant funding agreement dated 19 June 2009 for a dedicated co-location centre located at Heathfield Primary School to deliver well being services to children in Cluster D.
11. As part of the original bid for the grant the local authority committed to providing a contribution to the running costs of the well-being centre.

Options Appraisal

12. DfE have consented to the transfer of the asset to the Academy on the basis that the usage and purpose of the asset must not change: it must remain an integrated centre for well being for a minimum of 15 years from the date of operation, which is until 31 August 2026.
13. The Heathfield Academy Trust is committed to the delivery of well-being services. The academy was the driving force behind the original funding bid which cluster D schools developed together. The former Heathfield Primary School formed a company, Darlington Well Being, in January this year for the purposes of developing its well-being and counselling services for young people in the Borough. There is no current local authority provision made in this respect.
14. The Academy have agreed to commit to running the centre as a Well-being Centre, in accordance with the grant funding agreement, subject to the land being transferred to the school.
15. The land referred to in this report would be transferred on the same terms as the land transferred under the Academies Act 2010.

Option One – Transfer of the Asset to Heathfield Academy Trust

Description

16. The Academy Trust has committed to the obligation required by DfE under the terms of the Commercial Transfer Agreement dated 1 June 2012. The Academy Trust has agreed to carry out the Authority's obligations under the terms of the grant funding agreement dated 19 June 2009 and provided an indemnity to the Authority in the event of any claw back of funding by the DfE arising as a result of the Academy Trust failing to observe, adhere to and carry out the obligations under the grant funding agreement.
17. The Authority currently have 10 members of staff working from the Well-being Centre delivering locality services. These services are a good fit with the well-being agenda of the centre, but do not wholly meet the 'use' as defined by the grant agreement. The Authority will be able to retain use of the Well-being Centre under the terms of a shared use agreement and subject to making a fair contribution to utilities costs which have been agreed at £1,500 per annum to be reviewed after five years. A contribution to running costs was committed by the local authority in the original funding bid.
18. The Academy Trust will assume liability for building repair and maintenance costs. At the end of the five year term the Authority will have no obligation to continue to financially support the service. This obligation will rest with the Academy Trust unless alternative provision is agreed.

Transfer Cost to the Authority

19. The transfer of the land will be at nil value with a reservation to the Authority for 15 years. Accordingly, the transfer will be at an undervalue, although the reservation giving the Authority the right to occupy the centre for 15 years paying only for services means the amount of the undervalue is only £18,000. This is justified by the benefit to the Authority of being able to leave the centre at any time and thus save running costs and staff costs associated with the centre.

Main Considerations for the Cabinet

20. The transfer will be at an undervalue

Risk Assessment

21. There is a risk of claw back of grant funding by the DfE until 2026. This risk is managed by the indemnity from the Academy Trust.

Financial Implications

22. The land affected will no longer be on the Authority's asset register
23. The authority will have to pay a fair contribution to utilities costs. This is no more than was previously expected as there was a commitment from the local authority to contribute to the running costs of the centre in the original bid.

24. The liabilities for repairs will be met by the Academy Trust.

Option Two – Council to retain the asset

Description

25. Alternatively the Authority could retain the land affected, its use will be limited to use as a Well-being Centre and the Authority will need to financially support the running of the service in accordance with the terms of the grant funding agreement and additionally be liable for on-going repairs and maintenance and the full costs of running the centre.
26. The delivery model for the centre has been agreed and services are being delivered from the centre which meet the requirements of the grant. The local authority is not involved in the management of these services. The services are non-statutory and have been developed by the Academy Trust and Darlington Well Being for delivery to pupils and their families in Cluster D. By retaining the land and therefore the local authority retaining responsibility for meeting the use and purpose of the centre this is a far greater role than was initially envisaged and with this responsibility comes costs. It also goes against the spirit of the original bid which was about the Academy and other schools in cluster D working together to design and deliver well-being services.

Transfer Cost to the Council

27. There would be no transfer cost as no transfer would take place.

Main Considerations for the Cabinet

28. Due to the Authority taking a larger role than envisaged in the original funding bid for the well-being centre there will be costs to the authority regarding staffing and repairs and maintenance.
29. The negative effect a change in management could have on the delivery of the well being service: the delivery model for the centre has been agreed and the Academy and Darlington Well Being are already successfully delivering services.

Risk Assessment

30. There is a risk of claw back of grant funding by the DFE. This risk would remain with the Authority.

Financial Implications

31. The liability for on-going repairs and maintenance costs will remain with the Authority.
32. Staffing costs of service delivery to meet the purpose and use of the grant funding.