

Open Report on behalf of Debbie Barnes, Executive Director for Children's Services

Report to:	Executive
Date:	05 July 2016
Subject:	Developing a Model for the Charging of LCC Services to Schools
Decision Reference:	I011422
Key decision?	Yes

Summary:

The purpose of the report is to seek approval from the Executive to support the development of a common approach to the recovery of costs where schools, academies and other education organisations in Lincolnshire access services delivered by Lincolnshire County Council (LCC).

The approach will also involve exploring opportunities to provide a single comprehensive source of information and access for schools, academies and other organisations to receive all of the services they need. LCC Services in scope of cost recovery would be reviewed periodically to ensure each offer is comprehensive, with clear benefits with an agreed cost structure for each support package. To support the process by which schools, academies and other education organisations are able to learn about and access the support available we aim to translate the services offered into a digital form similar to an 'E-commerce' environment.

This involves standardising terms and conditions and the formula we use to ensure the full recovery of costs for service activities. This will necessarily involve an analysis of the nature of the services delivered and the degree to which the cost of delivery can properly be recovered and will have an impact on some services which currently are discretionary and for which LCC does not charge.

There are four categories of services which form LCC's support and potential support to schools:

- a. Services which are currently provided and do not charge but which seek a decision to charge
- b. New services which it is proposed to provide and for which it is proposed to charge
- c. Services which currently do not charge and will continue not to charge

d. Services which charge and will continue to charge

This report seeks general approval to the principle of cost recovery in the delivery of discretionary services in the future and specific approval of the proposals set out in this report relating to the first two categories above.

The report also seeks approval for LCC to charge an amount to new Academies to cover the cost to the Council of supporting the conversion process.

Recommendations:

That the Executive

1. Notes the support services currently provided by LCC to maintained schools and Academies set out in Part 4 of Appendix A for which LCC charges and will continue to charge.
2. Notes the support services currently provided by LCC to maintained schools and Academies set out in Part 3 of Appendix A for which LCC does not charge and does not propose to charge.
3. Approves in principle charging schools, Academies and other education organisations for discretionary services provided by LCC on a cost recovery basis.
4. Approves in relation to the new and existing support services set out in Parts 1 and 2 of Appendix A, that from 1 September 2016, LCC recover the cost of the provision of such services from schools, Academies and other education organisations through appropriate charging mechanisms to be developed for each such service.
5. Approves in relation to all support services to schools the development of a single source of information and access to services including by way of digital access similar to an e-commerce environment.
6. Approves that authority be delegated to the relevant Chief Officer, in consultation with the relevant Executive Councillor, for each service area to approve the amount and recovery mechanism appropriate to each service set out in Parts 1 and 2 of Appendix A and the offering of further discretionary services to schools, Academies and other education organisations and the amount and cost recovery mechanism appropriate to each such service.
7. Approves that authority be delegated to the Executive Director of Children's Services in consultation with the Executive Councillor responsible for Children's Services to approve the final form of the proposed single source of information and access to LCC support services.

8. Approves the making of a flat rate charge of £6,500 for standard conversions to schools that choose to convert to academy status to cover officer time and legal charges incurred by LCC.

Alternatives Considered:

Do Nothing

This is not recommended because at present services are isolated and operate using different costing formulas, terms and conditions etc, resulting in multiple financial transactions and having multiple contacts in LCC. This makes co-ordinated provision of support to schools by LCC difficult and in some cases causes confusion to schools in seeking to access LCC support, not knowing who to contact for what service, especially if it is either urgent or there is a problem.

Further, while provision of support to schools is important to the achievement of LCC's overriding responsibility for the provision of quality education in Lincolnshire, the sustainability of such services is in question due to the financial challenges facing LCC. Ensuring the recovery of costs for the provision of such support helps to make them self-sustaining and thereby protects what are discretionary services from the effects of the need to find further savings in LCC budgets.

Recover cost on some but not all of the proposed services

This would be a possible option but for each service where costs are not recovered the sustainability of all services is potentially reduced.

Reasons for Recommendations:

1. In our current economic climate, ensuring the viability and sustainability of services whilst maintaining quality is paramount. Currently there are approximately seventy services which have been identified as being directly offered to schools by LCC. There is no consistent formula for whether, and if so how, the cost of delivering these services is recovered, with different services using different methods of calculating the cost to the business. By implementing the recommended option, it will ensure LCC business costs for all services offered to schools are recovered on a basis that is consistently applied, including both direct and indirect costs.
2. Having all the services listed through a single access point reduces customer confusion whilst also increasing the visibility of services customers would not normally attribute to LCC delivering.
3. Wider benefits include:
 - growth in the number of schools, academies and other organisations aware of and obtaining support services from LCC;
 - Reduction in administration costs / back office costs;
 - Assurance to schools and LCC that schools receive accredited, quality

- services;
 - Increased funding into the Council;
 - Increase levels of satisfaction through a flexible service that can be tailored to individual requirements;
 - Full cost recovery of support service activities where this can be implemented;
 - Reduces the time of schools searching for services;
 - Increases the sustainability of services.
4. It is estimated that if all Lincolnshire schools converted, the costs to the Local Authority in staff time would be £1.379m; therefore it is advisable that the Local Authority introduce a charge to offset this cost.

1. Background

Recovering the cost of Services

Under sections 13, 13A and 14 of the Education Act 1996 LCC has statutory duties to:

- ensure that efficient primary, secondary and further education is available to meet the needs of its population;
- ensure that its education functions are exercised with a view to promoting high standards ensuring fair access to opportunity for education and learning, and promote the fulfilment of learning potential; and
- secure that sufficient schools for providing primary and secondary education are available for its area.

LCC retains its obligations in relation to the full range of education provision in the area whether schools convert or have converted to Academy status or not.

Historically, part of LCC's fulfilment of these duties especially those relating to efficiency and quality and the promotion of the fulfilment of learning potential has been the provision of a range of support services to schools and more recently Academies. These have been principally provided through Children's Services or CfBT as LCC's partner.

At the same time other LCC services have been provided to schools and Academies which have been provided more in support of schools in the operation of their businesses such as finance, property or health and safety support thereby contributing to efficiency.

Some of these services may themselves be separate specific statutory responsibilities. Others are discretionary. For some of these services LCC recovers the costs of delivery, for others it does not. Whether or not costs are recovered is largely determined by historical circumstances and has not been driven by a strategic approach.

The context in which LCC's support to schools across the board must be assessed is one of declining government funding for local authority services. Over the past 6 years government funding to LCC has reduced by some 40% of the Council's annual income from central government (excluding school budgets).

Over the period from 2009/10 to the end of the 2015/16 financial year LCC has made some £145m of savings. It is known that further savings of £130m will be required between 2016 and 2020.

These savings have been and will continue to have to be achieved against a background of increasing cost pressures including the cost of adult social care for an ageing population and more generally the national living wage. Furthermore, the Council has maintained a balanced budget over the last two years by calling on reserves. Once used, reserves are gone and they are not a sustainable form of funding for services.

In the course of the savings that have been made to date as referred to above the contribution made by schools to the cost of support services has not been systematically approached. In the circumstances it is appropriate to consider whether the scope of the support services in respect of which a contribution is made by schools to the cost of support be increased. To continue to provide services to schools without increasing the extent to which costs are recovered will potentially require additional cuts to be made to other services in order to maintain the support services at current levels. Alternatively LCC would have to look making savings in the cost of providing support services to schools which would impact on the level of the current services, especially those that are discretionary.

If that happened either schools would not receive support or the Council would have less control over the quality of the support services going into schools. This would in turn make it less able to assure itself in its fulfilment of its functions in relation to the efficient provision of quality education.

At the same time introducing a cost recovery mechanism will provide much more information to LCC as to the resource being used in the delivery of the services to schools, Academies and other organisations and their efficiency. When the schools, Academies and other organisations pay on a cost recovery model they will make choices about how they spend their budgets. LCC will then have more information as to the services schools, Academies and organisations value and feel they need which will in turn identify the LCC services which meet those needs and which are sustainable. Future decisions about the services to be provided will therefore be more informed.

LCC does not have a joined up and efficient process of making available its services to schools, Academies and other educational organisations in Lincolnshire. There is no one consistent method of engagement with schools; with all areas who offer a support service they are all doing something differently and independent of each other. This piecemeal approach not only makes it hard for schools to engage with the Local Authority, but also for them to understand what services are available to meet their individual needs, whether the Council seeks to recover its costs and if so whether it is within their available funds.

There is an opportunity to review all the services which are offered to schools, not only to make it a coherent offer, which meets the real needs of Lincolnshire schools, but also to provide consistent recovery of full costs, and offering excellent value for money. Ideally this would be accessible through one website which provides details of the wide range of services available to Lincolnshire's schools and academies. In the short term the services would be able to be requested through this site. Medium to long term the proposal is to have an area where all schools can browse and place an online request for services offered by Lincolnshire County Council. This would present a more coherent and better experience for school leaders when reviewing service information and accessing services from Lincolnshire County Council. The County Council will need to review how charged-for services are taken up. It may need to demonstrate how its statutory duties are being met when services that are charged for are not taken up.

A Project Board has been set up to provide a balanced view on how the services can be offered to schools as well as coordinating a consistent offer. The Board's membership is cross cutting and includes: Children's Services – Education Support, Learning and Commissioning, Finance, Fire and Rescue, Environment and Economy, Public Health, Sustainability, Safer Communities, Digital Engagement, Health and Safety, and Audit and Risk.

To support a consistent offer a list has been compiled of all support services for which the Council already recovers its costs through charging schools. This is set out in Part 4 of Appendix A.

An analysis has also been undertaken of the legal basis of the services being provided to ensure that cost recovery is not applied to any services that LCC is under a statutory obligation to deliver. This has resulted in a list of support services provided to schools for which the Council does not recover cost and does not propose to recover cost. This is set out in Part 3 of Appendix A, and for the following services, recovering the costs would not be appropriate:

- Road Safety Awareness Lessons for Primary Schools - not funded by LCC, it is jointly funded through a number of partner agencies within the Lincolnshire Road Safety Partnership (LRSP). LCC Education funding has been removed from the budget this year as part of the budget review. The LRSP Board has historically agreed that income generated as a result of enforcement should be utilised to fund road safety.
- Display Energy Certificate for Maintained Schools – not appropriate to charge as supplied free of charge for maintained schools, as agreed in the Property contract between LCC and schools.
- Countryside Access Education Pack – not appropriate to charge. There has only ever been one print run and there are no current plans to print any more. The whole pack is available to download from the county council website. A possible income option would be to charge for a service to schools where the service works with schools to promote the understanding and use of rights of way and the wider countryside (this could include the role of rights of way in sustainable travel, wellbeing and tourism as well as map reading and the countryside code).

- Bikeability and Bikeability Plus – no cost for the Local Authority service as it is funded via a grant from the Department for Transport. LCC applies for funding to deliver an amount of sessions and claim the money in arrears on an annual basis, being subject to audit to ensure that the monies are spent on Bikeability.
- Provide Guidance on the completion of Fire Risk Assessment - Not appropriate to charge – provision of service is included within the statutory duties under the Fire Services Act 2004.
- Fire Safety Awareness - Not appropriate to charge – service is an offer of advice to staff and is included within the statutory duties under the Fire Services Act for LCC employees, which includes maintained schools – A traded offer will be explored for Academies.
- Annual Health and Safety Self-Assessment for controlled Schools - The schools self-assessment programme was introduced following a visit from the Health and Safety Executive (HSE) several years ago. Failure to continue this service for our controlled schools could result in LCC being unable to show how we are monitoring H&S standard within our schools, which was the original concern the HSE had and why we introduced the self-assessment programme.
- Our responsibility to provide home to school transport gives rise to consequential statutory duties that are presently fulfilled by the following means, which should not be charged to schools:
 - Transport advice and support – to ensure compliance with statutory obligations, mainly relating to children's safety and schools/LA responsibilities on a needs-led basis only.
 - Transport Inspections and risk assessment - to comply with health and safety legislation and vehicle and other statutory safety requirements.

This has left some existing services for which the Council could recover cost, or new services which the cost of providing could be recovered. These are listed in Parts 1 and 2 of Appendix A. This Report proposes that cost recovery is put in place for the services in Parts 1 and 2 of Appendix A in addition to those in Part 4 of Appendix A and all those services (Parts 1, 2 and 4) are made subject to the co-ordinated consistent offer referred to above.

More generally, approval is sought in principle to the cost recovery model being used whenever discretionary services are offered to schools including potential future services not listed at all in Appendix A. If this is agreed, the recommendations propose a delegation to the relevant Chief Officer in consultation with the relevant Executive Councillor to offer additional services and determine the basis on which they will be offered.

To support a consistent offer the Board requested a standardised toolkit to be produced by Finance colleagues in consultation with the relevant service area. The toolkit includes staffing costs plus an element of overhead costs such as accommodation, insurances, information management, HR and payroll, financial services and finance support. Costs can be calculated on a daily, half-daily or hourly basis.

If the Executive approves the cost-recovery approach, then a delegation is sought to enable Executive Directors in consultation with the relevant Executive Councillor to identify the appropriate charge based on use of the toolkit described above.

Academy Conversion

The Government's education white paper "Educational Excellence Everywhere" states "by the end of 2020, all remaining maintained schools will be academies or in the process of conversion". Although more recently it has been decided that this will not be enforced by law, the Government has made it quite clear that academisation continues to be the direction of travel.

So far in Lincolnshire, 132 of 361 schools have converted to Academy status. This represents 36% of the schools in Lincolnshire. These schools educate approximately 61% of all the pupils in Lincolnshire. There are still 228 maintained schools in Lincolnshire educating 39% of the pupils. The average cohort size in academies is approximately 470 whereas the average cohort size in maintained schools is approximately 177. Sixty-four of the remaining schools are primary schools with fewer than 100 pupils.

Schools that choose to convert to become an academy benefit from a financial support grant of £25,000 to pay for the associated conversion costs, which is usually more than the actual cost of conversion to the school. Local authorities get no such financial help. The costs incurred by Lincolnshire County Council have been borne by the council funded budget. Lincolnshire's council funding is under significant financial pressure as described earlier in this report. It is no longer considered sustainable for LCC to absorb such costs moving forward.

The charge to schools proposed in recommendation 8 would offset the cost of legal, educational officer and school finance officer time, in facilitating the academy conversion. The actual costs incurred in any single conversion depend on the complexity of the conversion and the issues raised. In order to identify a flat rate charge, a range of costs have been established from considering actual conversions and a judgment made as to the costs of a "standard" conversion. These have then been compared with the charges used by other Authorities that are charging.

It is proposed that the charge of £6,500 would apply to any school converting to academy status that submits an application to convert to the Department for Education (DfE) after 20th May 2016. Any schools that have submitted an application to the DfE prior to that date would not be subject to the charge.

Equality Act 2010

The Council's duty under the Equality Act 2010 needs to be taken into account when coming to a decision.

The Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010

- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it: [Equality Act 2010 section 149\(1\)](#). The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation: section 149(7)

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in this section may involve treating some persons more favourably than others.

A reference to conduct that is prohibited by or under this Act includes a reference to:

- ❖ A breach of an equality clause or rule
- ❖ A breach of a non-discrimination rule

This duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

An Equality Impact Analysis has not been specifically carried out for this proposal but potential impacts on people with a protected characteristic have been assessed. There are no proposed changes to the services offered and therefore no direct impact on service users with protected characteristics is anticipated. The offer is to recover costs to LCC as well as providing better access to services. However, it will have a financial impact on schools who currently obtain services

free of charge due to a change in charging formula. As a result, schools, Academies and other organisations may choose not to take services they would currently take. Those services may be aimed at addressing equality issues such as training on equalities. If that occurred there would potentially be an adverse impact on people with a protected characteristic. The impact is mitigated as Schools and Academies have their own responsibilities to address equality issues.

Child Poverty Strategy

The Council is under a duty in the exercise of its functions to have regard to its Child Poverty Strategy. Child poverty is one of the key risk factors that can negatively influence a child's life chances. Children that live in poverty are at greater risk of social exclusion which, in turn, can lead to poor outcomes for the individual and for society as a whole.

In Lincolnshire we consider that poverty is not only a matter of having limited financial resources but that it is also about the ability of families to access the means of lifting themselves out of poverty and of having the aspiration to do so. The following four key strategic themes form the basis of Lincolnshire's Child Poverty strategy: Economic Poverty, Poverty of Access, Poverty of Aspiration and Best Use of Resources.

Education is recognised as a key component of an anti-poverty strategy. The Child Poverty Strategy aims have been taken into account in this report. By delivering services to schools directly from LCC it provides sufficiency and quality of provision to help enable schools to continue to provide effective education provision.

Joint Strategic Needs Assessment (JSNA) / Joint Health & Well Being Strategy (JHWS)

The JSNA reports on the health and wellbeing needs of the people of Lincolnshire. It brings together detailed information on local health and wellbeing needs and looks ahead at emerging challenges and projected future needs.

The Lincolnshire JSNA identifies a number of needs that directly relate to young people. The policy on transport support under-pins the identified topics and aims of the JSNA, in particular Health and Wellbeing Strategy.

The Lincolnshire JSNA and JHWS identify a number of needs that directly relate to young people. The recommended key decisions support the aims of the JSNA and JHWS in the following areas:

- Improve health and social outcomes and reduce inequalities
- Achieve potential
- Improve educational attainment

Each of the above aims are specifically addressed by the key decision to enhance access to services LCC offers to schools, academies and other educational organisations.

2. Conclusion

By supporting the recommendations LCC can continue implementing a model for recovering the true costs of delivering services to schools, academies and other educational organisations. This will enable services to become more sustainable, as well as supporting the sufficiency of the market-place and providing effective services that schools can trust. Using the supporting information within the report and the appendices there is evidence why LCC should be recovering our costs to ensure the sustainability and validity of the services. The next steps are to fully implement a central system for ordering services that directly complements the existing ordering arrangements for services. As suggested, in the medium to long term, an E-commerce type of environment can be established that customers can place orders and make payments through.

3. Legal Comments:

The Council has the power to provide support services to schools, Academies and other education organisations.

Where the Council acts for a commercial purpose the law requires the Council to provide services through a company so that it is not enabled to compete against the market on a favourable basis.

The term "commercial purpose" is not defined. However, it is considered that in this instance the Council is acting for a non-commercial purpose – i.e supporting schools in pursuance of the Council's statutory responsibilities as education authority and ensuring the sustainability of such services through making them self-financing. As long as charges are limited to cost recovery for discretionary services it is considered that the Council is acting lawfully in charging to recover those costs.

The decision is consistent with the Policy Framework and within the remit of the Executive if it is within the budget.

4. Resource Comments:

Receiving a fair level of income for the council services it offers to maintained schools, academies and other education providers will arise from the decision of the Executive. The services will charge through a consistent approach of cost recovery which will draw in income to meet the costs of providing the service. The Council's funding is under significant financial pressure due to large reductions in Local Government funding, therefore it is important that such traded services are charged out at full cost recovery.

5. Consultation

a) Has Local Member Been Consulted?

N/A

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

This report will be considered by the Overview and Scrutiny Management Committee at its meeting on 30 June 2016 and the views of the Committee will be reported to the Executive.

d) Policy Proofing Actions Required

See the body of the Report.

6. Appendices

The following Appendices are attached to this report

Annex A	Support Services to Schools, Academies and other education organisations
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7. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by James Sharples, who can be contacted on 01522 553908 or james.sharples@lincolnshire.gov.uk.