

Issues raised in correspondence with the Governing Body of Priory Primary School

1. Pecuniary Interests and Conflicts of Interest

- 1.1 Pecuniary interests and conflicts of interest may have arisen if any governors with children enrolled in Kings School participated in the decision making process. There appears to have been no consideration of this in the minutes of the Governing Body meetings supplied to date and therefore the Authority has requested the names of any such governors and confirmation of the steps the Governing Body will take to resolve the issue.
- 1.2 The Department for Education has indicated that there may have been a conflict of interest for governors with children attending Kings School and consequently any relevant governors should have declared a conflict of interest. The Department for Education disagrees that pecuniary interests would arise.
- 1.3 The Authority asserts that both interests are relevant but that specifically pecuniary interest would have arisen for governors with children enrolled in Kings School as the merger of the two schools (and thus taking Kings School out of the fee paying independent sector) was intrinsic to the decision of the Governing Body of Priory School to pursue academy status.
- 1.4 The Authority has pressed the Department for Education as to the steps it will require the Governing Body to take in order to rectify the errors and ensure that the decision making process is compliant with the law. Regulation 14 of the School Governance Procedures (England) Regulations 2003 provides that where either a conflict of interest or a pecuniary interest arises, the governors shall disclose their interest, withdraw from the meeting and not vote on the matter in question.

2. Accuracy of Financial Information

- 2.1 The Authority has expressed concern regarding the accuracy of financial information relied upon in the decision to pursue academy status, requested clarification as to the basis of a projected deficit for Priory Primary School and sought confirmation that the Governing Body will reconsider its decision in light of the correct financial information.
- 2.2 The Authority has made repeated requests for the Governing Body to clarify the basis upon which it has projected a deficit for Priory Primary School. The School has not operated a deficit budget for the past six years. In March 2007 the School's balance was in a marginal deficit of £1988. Since then the School's balance has been in excess of £45k each year i.e. always greater than 4% of school funding. At March 2012 the school's balance was £45,361 or 5.2%. This level of balance would be regarded as reasonable and is in line with the average school balance in North Tyneside at March 2012 (of 5.3%).

2.3 The 3 year budget plans submitted in May 2012 by all schools provide only an approximate indicator of the medium to long term position due to the significant national changes to school funding from 2013/14. Therefore, although the Authority recognises that the budget plan for Priory outlines a potential emerging deficit at March 2014 it would be expected that the School would be working upon identifying options to avoid this should the funding formula changes not deliver additional funds in 2013/14. This work would include a review of staffing needs, non staff expenditure and new income/grant opportunities. The Authority has requested further details of the work undertaken in those areas that led the Governing Body to conclude that a deficit at 31 March 2014 was unavoidable.

2.4 In a letter dated 14 November 2012 the Chair of Governors asserted that “the principle reasons for the decision were educational and the finance was a due diligence issue.” However, financial considerations have been prominent in all discussions and literature regarding this matter to date. For example,

- i. the Governing Body minutes of 19 March 2012 state that in the headteacher’s view one of the positive aspects of the proposals was “a significant financial benefit for the school”, and that “the current funding model posed a threat to Priory in terms of future provision”. During its deliberations the Governing Body was provided with a section on “Alternatives – what happens if we stay as we are” and the assessment therein was entirely financial. The minutes record that the funding would be on a free schools model for the whole school and that this would increase funding per pupil by around £700.
- ii. the agreed minutes of a meeting between representatives of the Authority, the Trust and the Governing Body on 7 September 2012 state that, “ the decision for the academy application was purely financial for both schools. The headteacher indicated that she would receive around £700 per pupil extra to the current funding allocation.”

2.5 Financial considerations in support of the proposals have been publically highlighted by the Governing Body. For example:

- i. The School’s note to parents for a meeting on 10 September 2012 contained a section headed “Our Financial Situation” which stated, “unless the funding model changed, viewed as unlikely in the foreseeable future, the deficit could only be addressed through pay bill reductions at Priory...”

This is misleading. The Governing Body knew or should have known that changes to the funding model were imminent. Following the Department for Education’s consultation, which started in April 2011, the Authority has worked through the school funding reform changes with the School Forum and wider school community and a new funding model for all North Tyneside schools is to be implemented for 2013/14. Furthermore, the Department for Education has confirmed that “from 2013/14 all maintained schools, academies and free schools will be funded on the same basis.”

- ii. A letter from the Chair of Governors published in the News Guardian on 11 October 2012 described at length the Governing Body's reasoning as to why the funding of Priory School was unfair and concluded that, "Given the facts that I have outlined above, our decision to merge to become Kings Priory school is entirely rational, logical and certainly in the best interests of the children attending it."
- iii. Financial considerations were placed before both meetings of the Governing Body and the public as being a key factor in the decision to pursue academy status. The minutes of the Governing Body meeting of 26 March 2012 (at paragraphs 19 and 20) details financial benefits as the first two items in a list of the "Pros of (Joint) Academy Status"; with "Through School" and "Flexibility and Control" following as the third and fourth items on the list.

2.6 The Authority has asserted that as the financial information presented in the public and Governing Body domains was flawed it is appropriate that steps are taken to ensure that members of the Governing Body and consultees are not misled regarding the true financial position of the school and of any resulting academy. The Governing Body's decision of 26 March 2012 was conditional upon a number of matters, including confirmation of the funding formula. As the funding for the academy will not be in the form anticipated but will be funded on the same basis as local authority maintained schools the Authority has asserted that this decision must be revisited by the Governing Body, with full consideration given to the correct financial position. The Authority has asserted that the Governing Body must be clear (both in its recorded decisions and with consultees) about the basis upon which it is pursuing the academy.

3. Educational Benefits

The Authority has requested an explanation and evidence as to how the proposed merger and academy proposal will bring educational benefits. The Governing Body has indicated that the reasons relied upon to pursue academy status were educational rather than financial. However, the documentation supplied to the Authority and the Governing Body to date has focused upon the alleged financial benefits of the academy proposals. It is noted that in recent correspondence the Chair of Governor's comments upon educational benefits have centred upon sixth form provision. Notwithstanding the wider discussion about the need and benefits of additional sixth form provision the Authority notes that the merger of the two schools would not in fact be necessary in order for such provision to be made in the Tynemouth area.

4. Governing Body Minutes

4.1 Confirmation of the date of the Governing Body meeting at which the minutes of 26 March 2012 were signed off has been sought and a copy of the minutes of that further meeting have been requested. Under Regulation 13 of the School Governance (Procedures) (England) Regulations 2003 the clerk to the Governing Body is required to ensure that minutes of a meeting are drawn up and signed (subject to the approval of the Governing Body) by the Chair of the next meeting.

The minutes of the 26 March appear to have been signed but the meeting at which they were approved by the Governing Body is not clear.

4.2 The Authority has requested copies of minutes and reports/documentation supplied to all further meetings of the Governing Body at which the Kings Prior Academy proposals have been discussed (in accordance with regulation 13 of the School Governance (Procedures) (England) Regulations 2003 and the Freedom of Information Act 2000).

5. Consultation

The Authority has raised a concern that consultees have not been given the necessary information to enable them to provide an informed response or that consultees (and perhaps also the Governing Body) have been misinformed by earlier assertions regarding the financial and educational benefits of the proposals. There is settled law on consultation, which requires that whether or not consultation of interested parties and the public is a legal requirement, if it is embarked upon it must be carried out properly. To be proper, consultation must be undertaken at a time when proposals are still at a formative stage; it must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response; adequate time must be given for this purpose; and the product of consultation must be conscientiously taken into account when the ultimate decision is taken (*R v Brent London Borough Council, ex parte Gunning* (1986) 84 LGR 168).