

## **Proposed Change of Designation to Church End Lower School from a Foundation School to a Church of England Voluntary Controlled School**

Report of Cllr Steve Dixon, Executive Member for Families, Education and Children ([steven.dixon@centralbedfordshire.gov.uk](mailto:steven.dixon@centralbedfordshire.gov.uk))

Advising Officer: Sue Harrison, Director of Children's Services  
([sue.harrison@centralbedfordshire.gov.uk](mailto:sue.harrison@centralbedfordshire.gov.uk))

**This report relates to a non-Key Decision**

---

### **Purpose of this report**

1. To seek Executive support for the application from Church End Lower School, Marston Moretaine to the Department for Education (DfE), under Section 10 of the Education and Inspections Act 2006, as amended by the Education Act 2011, for a change of designation from a Foundation school to a Church of England Voluntary Controlled School.
2. If supported the Section 10 application will be submitted by the school to the DfE for consideration. If approved by the DfE a further statutory consultation by the school will commence.
3. The school referred to within the report serves the Ward of Cranfield and Marston Moretaine.

### **RECOMMENDATIONS**

**The Executive is asked to:**

1. **note the favourable responses to the preliminary consultation carried out by the school and support the application from Church End Lower School to the DfE for the consideration of a change of designation from a Foundation school to a Voluntary Controlled school;**
2. **subject to approval by the DfE, Executive are asked to support the statutory process to be carried out by the school, which will require publication of a statutory notice followed by formal consultation of at least four weeks; and**

- |  |
|--|
| <p><b>3. approve that determination for the proposed change of designation be made by the Executive Member for Families, Education and Children, if responses to the formal consultation are favourable. If responses to the formal consultation are not favourable determination to be made by the Executive.</b></p> |
|--|

### **Children's Services Overview and Scrutiny**

4. This report was presented to Children's Services Overview and Scrutiny Committee at its meeting on the 22 May 2018 and recommended:-
- That the Committee support the application from Church End Lower School to the DfE for the consideration of a change of designation from a Foundation school to a Voluntary Controlled school and note the favourable responses to the preliminary consultation carried out by the school.
  - Subject to approval by the DfE, the Committee support the statutory process to be carried out by the school, which will require publication of a statutory notice followed by formal consultation of at least four weeks.
  - Support that determination for the proposed change of designation be made by the Executive Member for Families, Education and Children, if responses to the formal consultation are favourable. If responses to the formal consultation are not favourable determination to be made by the Executive.

### **Background**

5. In January 2018 Church End Lower School submitted a Section 10 request to Central Bedfordshire Council to support its application to the DfE for a change of designation from a Foundation School to a Voluntary Controlled School, as part of the Diocese of St Albans Board of Education (Appendix A). The Section 10 application, part 6, requires the school to seek the support of the local authority for the change, before consideration by the DfE.
6. The DfE usually expects changes to a school to be in the form of an academy conversion. However, the governors of Church End Lower School have considered that there is no significant demand for the school to seek Academy status from any stakeholder group. The school has met with Academy Headteachers and Governors and it was concluded that becoming an Academy was not right for the school at this stage.

7. For the school to change designation it will need to close as Church End Lower School (Foundation) and open on the following day as a new voluntary controlled school. The Governors of the school propose the new school to be named Marston Moretaine Voluntary Controlled Church of England School. The date for the proposed changes are subject to the DfE's timetable for a decision regarding the Section 10 application, a further statutory consultation and Executive approval if the responses are not favourable. The school have indicated a preference for closure of Church End Lower School (Foundation) on the 31 December 2018 and to open as Marston Moretaine Voluntary Controlled Church of England School on the 1 January 2019.
8. Church End Lower School operates over two school sites, Church End and Forest End. The school was expanded by 1 form of entry in September 2014 at the new Forest End site and as part of phase 2 it is currently being expanded by a further 1 form of entry for September 2018. The school's total capacity in September 2018 will be 600 pupils for Reception Year to Year 4.
9. The expansion of the school over two sites is the result of Marston Moretaine seeing a considerable level of housing growth. The school does not plan to change its catchment which will remain as Marston Moretaine and the immediate surrounding area. The admissions policy for the school will remain unchanged. Any future changes proposed in the admissions policy will need to undertake a further consultation as outlined in the Schools Admission Code.
10. If the proposal is implemented for 1 January 2019, the school will cease to be a Foundation school with the staff group employed by the Governing Body and become a Voluntary Controlled School with the staff group employed by Central Bedfordshire Council. The school buildings and the school playing fields will transfer from the Governing Body to the Diocese. The school will remain as a maintained school and Religious Education will continue to follow the Local Authority Agreed Syllabus.
11. The key differences for Church End Lower as a Foundation School and a Voluntary Controlled School are:-

Foundation School	Voluntary Controlled School
Playing fields and buildings owned by the School/governing body	Playing field and buildings owned by the Church of England Diocese
School staff employed by the Foundation	School staff employed by the Council
Admissions Authority is the governing body	Admissions authority is the Council

Foundation School	Voluntary Controlled School
Governance - 5 parent governors, 1 LA governor, 1 staff governor, 1 headteacher, 4 co-opted governors and 2 partnership governors.	Governance - governing board will cease to have partnership governors and, instead, will be required to have at least two foundation governors but not more than a quarter of the total.

### Preliminary consultation responses

12. Church End Lower School launched a preliminary consultation between November and December 2017. (Appendix B) Consultees included parent/carers, staff, the wider community and a range of stakeholders (as per DfE guidance) including Members and Officers of Central Bedfordshire Council. All Central Bedfordshire schools were also advised of the consultation and invited to respond.
13. The school facilitated four public meetings as part of the preliminary consultation and representatives of the Diocese and school governors addressed key stakeholders.
14. The school received a total of 86 responses to the preliminary consultation of which:-

Responses	Percentage
Support the proposal	91%
Opposed the proposal	2%
Neither supported or objected	7%

15. Those in support of the proposal felt it would be a '*positive step for the school and children*' and that '*the school should not academise*'. A summary of the responses is in Appendix A.
16. Those who objected to the change of designation stated they did not believe in church based schools and preferred the school to remain as a foundation school.

### Reasons for decision

17. Church End Lower School is a successful school, Ofsted inspected on the 4 December 2016 and judged it as a good school. Currently pupils progress is good for almost all groups.

18. The school has been expanded over 2 phases and remains popular with parents and carers in the catchment and further afield. Housing around the school continues to be built and occupied and the school is likely to fill, subject to the rate of housing completions.
19. The preliminary consultation indicated a favourable response to the proposal. The school is currently a feeder school for Holywell Church of England Academy which is part of the Diocese of St Albans.
20. The school governors have been considering this proposal since 2011 and weighed the benefits of a change of designation against academisation.
21. The pupil yield from the new housing developments within the area is likely to increase demand for school places and the need for school places is unlikely to change over the next 5 years.
22. Subject to support from the DfE for the Section 10 application, favourable responses to the school's statutory consultation, and subsequent approval from either the Executive Member for Families, Education and Children or the Executive, the Governing Body propose to change designation on the 1 January 2019.

### **Council Priorities**

23. The proposal supports the following Council priority:
  - Improving Education and Skills.

### **Legal Implications**

24. It is not possible for an existing school to make any change to its religious character. Instead the local authority or governing body must publish a proposal, via a statutory notice ,to close the existing school, and a faith organisation, as proposer, must issue a 'related' proposal, via a statutory notice, to establish a new voluntarily school with a religious character. This can be done by either gaining the Secretary of States consent under Section 10 or as a special case under Section 11 of EIA 2006.
25. The main legislation governing school organisation is found in sections 6A-32 of the Education and Inspections Act 2006, The School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.
26. Department for Education Guidance for proposers and decision makers regarding school organisation in maintained schools was published in April 2016 to support the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.

27. This guidance can be viewed at:  
<https://www.gov.uk/government/publications/school-organisation-maintained-schools>
28. All decisions on proposals to either open or close a maintained school must be based on the factors within the guidance as set out in the link in paragraph 26, following the statutory 5 stage process.

### **Financial Implications**

29. There are no financial implications for the Council arising out of a decision to support the applications from the school to the DfE. If the DfE approve the Section 10 application and the responses to the statutory notice are favourable and the Council's Executive Member for Families, Education and Children determines the proposal to a change in designation, there will be financial implications for the school and the governing body.
30. There are no additional pension costs arising from a change of designation as the school will continue to be Maintained by the Council and employee will remain eligible to contribute to the LGPS and Teachers' Pension Schemes. The Council will continue to be responsible for the monthly return of Teachers' Pension service.
31. The school will continue to receive Payroll and HR provision from external providers.
32. The staff, who are currently employed by the Governing Body of Church End Lower School, will need to be transferred to the employment of the Council. This will need to be managed in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended 2014). This process will need to be managed by the Governing Body of the School (the Transferor) and the Council (the Transferee) and supported by each organisations HR provision.
33. As a Maintained Voluntary Controlled School any reductions in staffing will be managed in accordance with the CBC Redundancy Policy for Schools (as adopted by the Governing Body of the School).
34. Redundancy payments for Maintained Voluntary Controlled schools are calculated based on actual weekly pay as opposed to calculated in accordance with statutory maximum weekly pay (currently £508 per week) for Foundation Schools, therefore the change of designation will result in an increase in redundancy liability cost to the Council should staffing reductions be required after a change of designation.

35. Any dismissals made by the school (for redundancy or other reasons) will be a dismissal from CBC as the employer and therefore has the same associated employer risk as all CBC Maintained Community and Voluntary Controlled Schools.
36. There are no envisaged capital costs to the Council arising from this application and if approved the change in designation. The school buildings and the school playing fields will transfer from the Governing Body to the Diocese.
37. Although there are no pensions issues specifically arising, any transfer of staff to the Council would potential leave the Council liable for any future redundancy costs.

### **Equalities Implications**

38. The consultation and decision-making process set out in regulation for schools requires an evaluation on a project by project basis of any equalities and human rights issues that might arise.
39. Public authorities have a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and to foster good relations in respect of the following protected characteristics: age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
40. This statutory duty includes requirements to:
  - i. Remove or minimise disadvantages suffered by people due to their protected characteristics.
  - ii. Take steps to meet the needs of people from protected groups where these are different from the needs of other people.
  - iii. Encourage people from protected groups to participate in public life or in other activities where their participation is disproportionately low
41. The proposal is not envisaged to have an adverse impact on any of the listed groups below:-

• Sex	N/A
• Gender Reassignment	N/A
• Age	N/A
• Disability	N/A
• Race & Ethnicity	N/A
• Sexual Orientation	N/A

<ul style="list-style-type: none"> <li>• Religion or Belief (or No Belief)</li> </ul>	Parents of children will have the option to opt out of religious activities at the school
<ul style="list-style-type: none"> <li>• Pregnancy &amp; Maternity</li> </ul>	N/A
<ul style="list-style-type: none"> <li>• Human Rights</li> </ul>	N/A
<ul style="list-style-type: none"> <li>• Other Groups (rural isolation etc.)</li> </ul>	N/A

## **Risk Management**

42. Key risks include:

- Failure to discharge legal and statutory duties/guidance.
- Failure to deliver the Council's strategic priorities
- Reputational risks associated with the non-delivery of required school places.

## **Appendices**

The following appendices are attached:

### **Appendix A**

Section 10 application form

### **Appendix B**

Consultation on Church End Lower School gaining a designation as a Church of England School and becoming a Church of England Voluntary Controlled Lower School

## **Background papers**

None

Report author(s):

Victor Wan, Head of School Organisation, Admissions and Capital Planning (interim); [victor.wan@centralbedfordshire.gov.uk](mailto:victor.wan@centralbedfordshire.gov.uk)