

MAYOR AND CABINET			
Report Title	The Future of Crossways Sixth Form – Consultation Proposals		
Key Decision	Yes	Item No.	
Ward	All		
Contributors	Executive Director for Children and Young People Executive Director of Resources Head of Law		
Class	Open	Date:	20 th June 2012

Reason for Urgency

This matter has not been included in the Council's Forward Plan. However, the decision must be taken by such a date that it is impracticable to defer it until after it has been included in the next Forward Plan and until the start of the period to which the next Forward Plan relates. The reason for this is that consultation is due to commence prior to the start of the school holidays and deferring the report until included in the next forward will prevent this from occurring.

In accordance with the provisions of Regulation 15 Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000, written notice has been given to the Chair of the Business Panel in writing and made publicly available by posting at the Town Hall for 5 clear days.

1. Summary

This report sets out proposals and framework to consult on the closure of Crossways Sixth Form in order for Christ the King Sixth Form College, an outstanding, over-subscribed provider, to expand their post-16 provision on to the site.

The consultation is designed both to inform discussion by interested stakeholders within Lewisham, and to allow individuals and groups to report their views.

2. Purpose

This proposal aims to safeguard the education and hence the life opportunities for the current and future students on the Crossways Sixth Form site.

3. Recommendations

- 3.1 That the Mayor instructs officers to undertake consultation on the closure of Crossways Sixth Form and the expansion of Christ the King Sixth Form College provision on to the site.
- 3.2 That the outcomes of the consultation be brought back to the Mayor and Cabinet.

4. Policy Context

- 4.1 The report is consistent with the Council's policy framework. The Council's priorities include a commitment to "young people's achievement and involvement: raising educational attainment and improving facilities for young people through partnership working". This is a proposal to consult on the potential for current and future students on Crossways Sixth Form site to benefit from the proven expertise of an outstanding provider.
- 4.2 It supports the delivery of Lewisham's Children & Young People's Plan (CYPP), which sets out the Council's vision for improving outcomes for all children and young people by improving their achievement and involvement, inspiring and supporting them to fulfil their potential, and in so doing reducing the achievement gap between our most disadvantaged pupils and their peers.
- 4.3 The CYPP describes how partnership agencies working with children, young people and their families will support the delivery of the borough's priorities for the wider community which are set out in Lewisham's Sustainable Community Strategy 2008-2020, and, in particular in relation to this report, its priority *Ambitious and Achieving* – where people are inspired and supported to achieve their potential.
- 4.4 The proposals support the Council's Corporate Strategy commitment to raise educational attainment and improving facilities for young people through partnership working.

5. Background

- 5.1 The Local Authority has had increasing concerns about the long term sustainability of Crossways Sixth Form and how it could secure the future of high quality post-16 provision on the site. These concerns are focused on its financial viability, set against a backdrop of declining numbers together with the capacity of the school to improve outcomes rapidly.
- 5.2 Despite the best combined efforts of the school leadership, governors and Local Authority, the school has been unable to demonstrate the rapid and sustained improvements needed to secure its own future as a stand-alone institution.

- 5.3 The original concept of Crossways Sixth Form working with a consortium of four secondary schools started well but was not sustained, with the schools variously developing in their own ways and with students choosing to study elsewhere. This has contributed to the recruitment issues faced by the school and further brought into question the sustainability of Crossways as a stand-alone institution.
- 5.4 The Local Authority and Governing Body of Crossways Sixth Form have agreed that action is needed with the proposal that an outstanding, over-subscribed provider should expand on to the site.
- 5.5 Christ the King Sixth Form College has been identified as an appropriate outstanding provider and there have been exploratory discussions about their expansion on to the Crossways Sixth Form site subject to consultation.

6. Need for Change

- 6.1 The school was inspected by Ofsted and placed in a category of 'Notice to Improve' in November 2009.
- 6.2 The Local Authority moved the school into a Local Authority Category 4a and set up a School Improvement Partnership Board in November 2009. Significant external support was put into place to support the pace of improvement.
- 6.3 The school was removed from a category of concern by Ofsted in February 2011. The School Improvement Partnership Board agreed that the school should continue to receive external support, until the school was securely 'good' in all areas.
- 6.4 Whilst recognising the achievement of the school to come out of an Ofsted category and acknowledging the many pressures facing the institution, the Local Authority became increasingly concerned about the long-term sustainability of the institution.
- 6.5 At a governing body meeting on 20th October 2011 the Local Authority highlighted questions about the long term sustainability of the school, which although interlinked, are defined by the following areas:
- Standards were not rising rapidly enough to ensure good and outstanding outcomes.
 - Student numbers have been declining with Crossways Sixth Form still not a school of choice.
 - School finances were under pressure through lack of numbers. Crossways Sixth Form has the capacity to take 700 students and had a 2011/12 target based on 650. However numbers on roll in January 2012 stood at 543.

- 6.6 Questions over the sustainability of the improvements that had taken place were initially raised in October 2011 by the School Improvement Advisor and substantiated in March 2012. The significant challenges facing the school were affecting the capacity of the school to bring about the necessary improvement to attract a significant number of students to the school in a short period of time.
- 6.7 Discussions have been held with the Governing Body over the long term future of the institution and on 3rd May the Governing Body passed a unanimous resolution agreeing to work with the Authority to identify an outstanding, over-subscribed provider to extend their provision onto the Crossways Sixth Form site, with Crossways Sixth Form closing. The Governing Body was keen to acknowledge the commitment and hard work of the current leadership to support the students who are currently on roll. On 30th May the Governing Body reaffirmed this resolution to include their agreement to pursue discussions with Christ the King College and to support the local authority in this process. (Appendix 1).

7. Proposed Direction

7.1 Much time, expertise and resources have been invested to build the capacity of the school to raise standards and the quality of provision, but the problems are deep rooted and varied and the impact of these initiatives has not been sufficient. A fresh approach is therefore needed.

7.2 The expansion of an outstanding over-subscribed provider onto the Crossways Sixth Form site would:

- Immediately give access to in-depth expertise and experience to support improved outcomes.
- Provide an opportunity to address falling numbers on roll.
- Provide the vehicle to become provision of choice.

Conditions would be placed on such a provider to ensure that:

- Provision must include lower level courses as well as good access programmes leading to higher level provision.
- Admission arrangements must ensure that Lewisham students will get good access to provision.

7.3 It is proposed that Christ the King College should be the provider to expand onto the Crossways site. Reasons include:

- The success and popularity of their provision: with 800 places in Year 12, they receive 3,000 applications each year.
- Their strong track record in securing excellent results and ensuring that students progress to higher education.

- They have a strong track record in Level 1 and 2 provision as well as in higher level provision.
- They can provide access courses to enable students to proceed on to higher level programmes
- They have strong experience of taking and supporting more vulnerable young people and securing their success
- They have very successfully carried out a similar exercise (taking over St Luke's in Sidcup) and have experience of TUPE and other processes required.

7.4 Although Christ the King is a Catholic College, their ethos is based on mutual respect and community building and the College is committed to taking young people from all faiths and none. Of their current intake fewer than 50% of students are Catholic.

7.5 Currently 43% of students come from Lewisham. However, the College has indicated that its admissions policy would extend to add more partner schools (particularly Conisborough College) and would ensure that all Lewisham students would gain priority status which, just as with their partner schools, secures them a guaranteed interview. As indicated, currently they have over 3000 applicants for 800 places (1600 places at the college overall). The College is therefore confident that it will fill the Crossways Sixth Form site to capacity.

8. Progression

8.1 Having briefed the Chair and Vice Chair of Governors at Christ the King College, the Principal and Local Authority met with the Governing Body of Crossways Sixth Form on 17th May. They agreed to progress with Christ the King College and were reassured around provision and support for vulnerable students, while still expressing concern to ensure that such students would gain places at the expanded Christ the King provision.

8.2 On 22nd May the Governing Body of Christ the King College agreed that they would support the discussions on the proposal.

8.3 The Principal of Christ the King College met with staff at both Christ the King College and Crossways Sixth Form to answer questions about the potential process. Preliminary discussions have also been held with Unions.

8.4 Christ the King College have commissioned an independent a 'Due Diligence' assessment in conjunction with the Local Authority. Discussions have also been held with the Education Funding Agency (EFA) to explore the funding implications if the proposal were to go ahead. On 14th June, the Christ the King Governing Body will consider further their position on the

proposal in the light of the Due Diligence findings and the EFA discussion. An oral report will be given at the Mayor and Cabinet meeting on the outcome of the Christ the King Governing Body meeting.

9. Consultation Arrangements

- 9.1 The Local Authority will undertake to consult with all interested parties, including but not limited to:
- students and their families at Crossways Sixth Form;
 - governing bodies, teachers and other staff of Crossways Sixth Form and of any other school that may be affected;
 - any local authority likely to be affected by the proposals, in particular neighbouring authorities where there may be significant cross-border movement of pupils;
 - families of any pupils at any other school who may be affected by the proposals;
 - trade unions who represent staff at the school and at any other schools who may be affected by the proposal;
 - Education Funding Agency;
 - council members and local Members of Parliament;
 - Diocesan Boards of Education;
 - such other persons as appear to be appropriate
- 9.2 Consultation will commence on 4 July 2012 and will allow for sufficient consideration and analysis of consultation responses prior to a further report to Mayor and Cabinet.
- 9.3 If, having considered the report on the consultation and subject to Christ the King College's proposed expansion onto the site, the Mayor agrees to the publication of statutory proposals to close Crossways Sixth Form, a further six week statutory period will enable the submission of representations.

10. Safeguarding continuity

- 10.1 For current and prospective students at Crossways Sixth Form the proposal provides reassurance that there will be no impact on their learning outcomes. Current, applied for and offered courses will be guaranteed until the end of these students study on the Crossways Sixth Form site.

11. Financial implications

Current budget

- 11.1 Crossways had a deficit at 31 March 2012 of £284k. The strategy at that time indicated that the school budget would be on track to balance. However, this was dependant on a growth in numbers which has not materialised.

- 11.2 Initial recruitment numbers for September 2012 suggested a further decline.
- 11.3 Savings have been taken from the non-pay headings which had already been reduced in the previous financial year. While progress has been made to keep the expenditure in line with the budget this year some of these budgets are indicating they could be overspent in 2012/13 unless management action is taken.
- 11.4 The budget plan for 2012/13 does not have a contingency and there must be a real risk that not all of the savings proposed will materialise. Further, some members of staff still need to go through the single status process and this may lead to increased ongoing costs as well as one-off costs of back pay.
- 11.5 Crossways in 2011/12 achieved a reduced deficit. The budget for 2012/13 continues to be increasingly challenging.

Treatment of Deficit on Transfer

- 11.6 This proposal will involve a 'technical' closure of Crossways Sixth Form. At this point the Local Authority will pick up the costs of the deficit from the Dedicated Schools Grant.

Other Issues

- 11.7 It is likely that the Transfer of Undertakings (Protection of Employment) regulations (TUPE) will apply to staff at Crossways. Details of any measures considered necessary to propose either by the Local Authority or the new provider in relation to the staff transfer will be the subject of communication at the appropriate time. As in any exercise of this kind, all efforts will be made to avoid redundancies but no guarantees can be given.
- 11.8 The new provider is already a scheduled body of the pension fund and there may be an additional burden on the pension fund as a result.
- 11.9 Crossways currently has a series of contracts for goods and services which may not continue past any proposed date of closure and these need to be identified and any early termination costs established.

Capital Financial Implications

- 11.10 The Council holds the freehold of the Crossways site. It is anticipated that a lease would need to be agreed. The terms of the lease will need to provide that the property may only be used for the provision of educational services by the new provider. In the event that the property ceased to be used for this purpose, the Council would be entitled to forfeit the lease.

12. Legal implications

- 12.1 The Human Rights Act 1998 safeguards the rights of children in the Borough to educational provision, which the Council is empowered to provide in accordance with its duties under domestic legislation.
- 12.2 Section 14 of the Education Act 1996 obliges each local authority to ensure that there are sufficient primary and secondary schools available for its area i.e. the London Borough of Lewisham, although there is no requirement that those places should be exclusively in the area. The Authority is not itself obliged to provide all the schools required, but to secure that they are available.
- 12.3 In exercising its responsibilities under section 14 of the Education Act 1996 a local authority must do so with a view to securing diversity in the provision of schools and increasing opportunities for parental choice.
- 12.4 The Education and Inspections Act 2006 places requirements on Authorities to make their significant strategic decisions concerning the number and variety of school places in their localities against two overriding criteria:
- to secure schools likely to maximise student potential and achievement;
 - to secure diversity and choice in the range of school places on offer.
- 12.5 Section 15 of the Education and Inspections Act 2006 provides that where a local authority of a maintained school proposes to discontinue the school, it must publish proposals. Before publishing proposals to discontinue a maintained school the local authority must consult with such persons as are statutorily prescribed and such other persons as appears to the local authority to be appropriate.
- 12.6 The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 provides that proposals to discontinue a maintained school have to be published, and there must be a period of six weeks for representations before a decision is made.
- 12.7 If the Local Authority fails to decide proposals within 2 months of the end of the representation period the Local Authority must forward proposals and any received representations (i.e. not withdrawn in writing) to the Schools Adjudicator for decision within one week of the end of the two month period.
- 12.8 The Equality Act 2010 (the Act) brings together all previous equality legislation in England, Scotland and Wales. The Act includes a new public sector equality duty (the equality duty or the duty), replacing the separate duties relating to race, disability and gender equality. The duty came into force on 6 April 2011. The new duty covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 12.9 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 12.10 As was the case for the original separate duties, the new duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 12.11 The Equality and Human Rights Commission (EHRC) issued guides in January 2011 providing an overview of the new equality duty, including the general equality duty, the specific duties and who they apply to. The guides cover what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guides were based on the then draft specific duties so are no longer fully up-to-date, although regard may still be had to them until the revised guides are produced. The guides can be found at:
<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-duties/new-public-sector-equality-duty-guidance/>
- 12.12 The EHRC guides do not have legal standing, unlike the statutory Code of Practice on the public sector equality duty which was due to be produced by the EHRC under the Act. However, the Government has now stated that no further statutory codes under the Act will be approved. The EHRC has indicated that it will issue the draft code on the public sector equality duty as a non statutory code following further review and consultation but, like the guidance, the non statutory code will not have legal standing.
- 12.14 In deciding whether to agree the recommendations in this report, the Mayor must be satisfied that to do so is a reasonable exercise of his discretion on a consideration of all relevant matters and disregarding irrelevancies and having regard to all guidance that he is statutorily required to consider.

13. Crime and Disorder Implications

There are no crime and disorder implications.

14. Equalities Implications

- 14.1 There will be benefits from improved educational opportunities for students in the area. A full Equalities Impact Assessment will be conducted and attached to any subsequent report on the consultation to the Mayor.

15. Environmental Implications

There are no environmental implications.

16. Conclusion

- 16.1 The proposals aim to improve the education and hence the life opportunities for students at Crossways Sixth Form.
- 16.2 Concern over the long term sustainability of Crossways Sixth Form has grown based on declining numbers, financial viability and capacity to improve outcomes rapidly.
- 16.3 To address these issues the Governing Body supports the Local Authority's proposal that an outstanding, over-subscribed provider expands their post-16 provision onto the site.
- 16.4 Christ the King College has been identified as the outstanding provider and their Governing Body has agreed to enter into discussions about their expansion onto the Crossways Sixth Form site. An oral report on the outcomes of the Christ the King 14th June Governing Body meeting will be given at the Mayor and Cabinet meeting.
- 16.5 Crossways Sixth Form would close to allow Christ the King College to expand onto the site and broad consultation of stakeholders will take place on this closure.
- 16.6 The outcomes of the consultation will be brought back to Mayor and Cabinet for decision.
- 16.7 Should the decision be taken to proceed to a statutory notice on the proposed closure of Crossways Sixth Form this will trigger a further 6 week period for the submission of representations from individuals and organisations to express their views about the proposal.
- 16.8 The earliest any new arrangements could begin would be December 2012.

Background Documents

- Appendix 1: Letter from Crossways Sixth Form Chair of Governors

If there are any queries on this report please contact, Sue Tipler, Head of Standards and Achievements, on extension 46142, sue.tipler@lewisham.gov.uk