



## EDUCATION FOR LIFE SCRUTINY COMMITTEE – 6TH NOVEMBER 2012

**SUBJECT: AN UPDATE ON THE SOUTH EAST WALES EDUCATION  
ACHIEVEMENT SERVICE (EAS) FORMERLY KNOWN AS THE  
INTEGRATED ACHIEVEMENT SERVICE (IAS)**

**REPORT BY: CORPORATE DIRECTOR - EDUCATION & LIFELONG LEARNING**

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### 1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to provide an update to Members of the Education for Life Scrutiny Committee on the development and implementation of the South East Wales Education Achievement Service (EAS), formerly known as the Integrated Achievement Service (IAS).

### 2. SUMMARY

- 2.1 The current system for delivering education services across Wales has had some success, and generally standards across schools have continued to improve. However, the education system as a whole is underperforming.
- 2.2 The Programme for International Student Assessment (PISA) suggests that Wales' position has worsened between 2006 and 2009 and children in Wales are falling further behind their counterparts in the United Kingdom and other comparator countries in literacy, numeracy and science.
- 2.3 The South East Wales region, which encompasses Blaenau Gwent, Caerphilly, Monmouthshire, Newport and Torfaen councils has a significant performance challenge. This was highlighted by the secondary school banding information published by the Welsh Government's Standards Unit in December 2011, which revealed that the region has the highest proportion of schools in the lower bands compared with other regions across Wales.
- 2.4 Nationally and locally progress has not been fast enough or far enough, and the accepted view is that the current systems are unlikely to significantly change that position. A transformation is necessary and the partners in the South East Wales region have been developing proposals that will enable them to work together as part of one integrated service to support and challenge its schools effectively, enhance front line services and make the most of the available resources.
- 2.5 Many schools are performing below expectation at KS2 and KS4 and there are low rates of attainment in literacy and numeracy. Under achievement by learners in receipt of free school meals has been identified, as has under achievement by boys. There is concern for low level attendance and relatively high level exclusions, with a culture of dependency by many schools and inconsistent challenge from Local Authority, hence the need to develop a collaborative approach between the five Local Authorities in forming the South East Wales Education

Achievement Service (EAS).

- 2.6 Collaboration between the five authorities will bring resilience to the service; amalgamate procedures and policies and share initiatives and benefits throughout South East Wales.
- 2.7 The five Local Authority cabinets and councils have approved the outline and detailed business cases, including a financial model and budget.
- 2.8 The five Local Authorities have a shared commitment to ensure that by 2015 the creation of the Education Achievement Service will, as a minimum, result in:
  - No school in Band 5 \*
  - All current Band 4 schools moved up out of band \*
  - Level 2 maths raised to at least current Level 2 English/Welsh

On leaving primary school:-

- Every child a reader\*\*
- Every child numerate\*\*
- All schools - The gap halved between FSM and non FSM performance

*\* Unless subject to LA use of powers*

*\*\* Literate/numerate within 2 years of age level*

### **3. LINKS TO STRATEGY**

- 3.1 This report links directly to the Council's Education for Life Strategy.

### **4. THE REPORT UPDATE**

- 4.1 The five Local Authorities agreed their commitment to the EAS and acknowledge the benefits and shared risk of the collaboration.
- 4.2 The company came into existence on 1st September 2012. The company is wholly owned and completely controlled by the five Local Authorities. It is not a profit making company and is a separate legal entity. The company has been established for the five authorities, to allow them to collaborate in the most effective manner and in-line with recommendations from the Welsh Government. There is no lead authority within the company and each authority will be represented equally.
- 4.3 Detailed legal papers have been prepared by the five authorities working together and with a high level of consensus. The legal documents have been produced in order to detail and agree the way in which the company operates and commissions services during the collaboration. The three documents produced are;
  - a) The Articles of Association
  - b) The Collaboration Agreement
  - c) The Commissioning Agreement
- 4.4 The Articles of Association is a public document held at Companies House and contains the basic management and administrative structure of the company. Identified within this document is the requirement for a Board of the company, on which a Cabinet Member from each of the Member Councils will sit; this cannot be the Cabinet Member for Education. This document has been completed and was used to register the company at Companies House. In order to ensure equality, a 12-month rotating chair with accompanying secretarial provision shall follow the order as detailed within the Articles of Association.

- 4.5 The Collaboration Agreement details the arrangements between all parties and puts in place the controls of the company. Throughout the agreement there is an underlying principle of commitment and equality from the five Local Authorities, which aligns the company with the collaborative approach of the service. This document includes the Joint Executive Group (JEG), on which the Cabinet Member for Education and Director of Education sit. The JEG commission services from the EAS on behalf of the Local Authorities for each academic year.
- 4.6 The Commissioning Agreement sets out the service to be delivered by the EAS to each Local Authority. The document highlights the core services provided to all authorities and also the bespoke services which will be available, if required. The basis by which payment will be made is included as is the complaints and confidentially procedures of the EAS.
- 4.7 The Collaborative Agreement requires unanimous approval of the five Local Authorities for the following reserved matters:-
1. Varying in any respect the Articles of Association or the rights attaching to any of the members of the Company.
  2. Permitting the registration of any person as a member of the Company.
  3. Issuing any loan capital in the Company or entering into any commitment with any person with respect to the issue of any loan capital.
  4. Making any borrowing other than from the Company's members for an initial loan for working capital purposes or from its bankers in the ordinary and usual course of business.
  5. Passing any resolution for its winding up or presenting any petition for its administration other than in accordance with this Agreement unless it has become insolvent.
  6. Altering the name of the Company or its registered office.
  7. Opening a new bank account.
  8. Changing the nature of the Company's Business or commencing any new Business by the Company which is not ancillary or incidental to the Business.
  9. Forming any Subsidiary or acquiring shares in any other company or participating in any partnership or joint venture (incorporated or not).
  10. Amalgamating or merging with any other company or business undertaking.
  11. Making any acquisition or disposal by the Company of any material asset(s).
  12. Creating or granting any encumbrance over the whole or any part of the Business, undertaking or assets of the Company or over any membership in the Company or agreeing to do so other than liens arising in the ordinary course of business or any charge arising by the operation or purported operation of title retention Clauses and in the ordinary course of business.
  13. Making any loan (otherwise than by way of deposit with a bank or other institution the normal business of which includes the acceptance of deposits or in the ordinary course of business) or granting any credit (other than in the normal course of trading) or giving any guarantee (other than in the normal course of trading) or indemnity.
  14. Factoring or assigning any of the book debts of the Company.
  15. Making or permitting to be made any material change in the accounting policies and principles adopted by the Company in the preparation of its audited and management accounts except as may be required to ensure compliance with any generally accepted accounting principles in the United Kingdom.
  16. Establishing any profit sharing, bonus or other incentive scheme of any nature for directors or employees.
  17. Establishing or amending any pension scheme or granting any pension rights to any director, officer, employee, former director, officer or employee, or any member of any such person's family.
  18. Appointing or dismissing the Head of EAS.
  19. Instituting, settling or compromising any material legal proceedings (other than debt recovery proceedings in the ordinary course of business) instituted or threatened against the Company or submitting to arbitration or alternative dispute resolution any dispute involving the Company other than provisioned for in this Agreement.

Details of the EAS company governance structure is attached at Appendix 1.

- 4.8 It should be noted that each Local Authority will still be subject to scrutiny by the Welsh Audit Office. Each Local Authority will retain its statutory responsibility for the provision of the service being provided by the EAS. The Welsh Audit Office has stated through correspondence with Welsh Government that they will continue to audit each Local Authority to ensure adherence of responsibility and that the EAS will not be audited in isolation from the five Local Authorities.
- 4.9 Core services will be delivered by a level of support to each Local Authority by the EAS. Bespoke services will also be delivered by the EAS to address specific needs of a Local Authority. Also, additional services will be made available to the five authorities, although the EAS must provide evidence of the resource used to undertake the commission, so as not to remove attention from elsewhere within the company.
- 4.10 The core services being operated by the EAS include:-
- School Improvement (Monitor Challenge and Support)
  - Performance Management (Data)
  - 14-19
  - Governor Support
  - ICT
  - Early Years
  - Literacy & Numeracy
  - Welsh
- 4.11 Scrutiny of the EAS will continue as at present in each council, and the Chairs of those arrangements across the five authorities will work together to coordinate their activity throughout the year as far as possible. Opportunities for joint scrutiny are being investigated and within 12 months of the commencement of the EAS elements that would be suited to joint scrutiny will be implemented.
- 4.12 The EAS now utilise existing council accommodation in Ystrad Mynach and Newport. In addition to these premises EAS staff have access to 'touch-down' facilities and operates in an agile manner. EAS have a presence in each of the five Local Authorities.
- 4.13 A support services tender has been awarded to Torfaen CBC for a duration covering 1 September 2012 to 31 March 2014. The award covers payroll, ICT, audit, legal services, and procurement.

## 5. FINANCIAL IMPLICATIONS

- 5.1 The financial structure to the EAS is as follows:-

GROSS	GRANTS	TRADED	OTHER	NET
£13,975,436	£7,967,329	£859,705	£794,416	£4,353,986

- 5.2 The contributions required for each of the five Councils are:-

- Blaenau Gwent £483,726
- Caerphilly £1,450,095
- Monmouthshire £534,484
- Newport £1,039,168
- Torfaen £846,513

- 5.3 Member council stakes in the EAS are pro rata to their contributions. CCBC is the largest contributor with a 34.75% share.
- 5.4 It has been agreed amongst the five Local Authorities that as a principle the financial gains and losses will be proportionately allocated as per the contributions made by the five Local Authorities.
- 5.5 Whilst the contributions for the first period of operation (until March 2014) are agreed, thereafter, they will be based on the level of services received by each Council. This area needs to be managed very effectively due to the potential risks arising from the additional costs of service delivery.
- 5.6 Now that all budgets currently earmarked for funding areas of work transferring to the EAS are committed, it should be noted that any additional work required of the EAS will have to be found from additional resources. Therefore comprehensive quality assurance processes will need to be established in order to ensure that the EAS delivers in accordance with its requirements thereby ensuring the Council achieves good value for money for its contributions and statutory responsibilities are met.
- 5.7 The exit arrangements for a Council wishing to withdraw from the EAS contained in the Collaboration Agreements have been updated. The withdrawing Local Authority will now have to pay the sum of £250,000, or the full costs associated with the withdrawal of the Local authority, whichever sum is greater. It is anticipated therefore that should the Council wish to withdraw from the EAS the actual exit fee will significantly exceed the sum of £250,000. For the avoidance of doubt it should be noted that the liability is uncapped.
- 5.8 An indication of the maximum, uncapped cost of withdrawal cannot be provided, although it must be noted that an Authority must give 24 months notice. This cannot be submitted during the first 24 months of the EAS operating. It should be noted that the notification period of 24 months will allow for exit arrangements to be made, which could reduce the impact and therefore the cost.

## **6. PERSONNEL UPDATE**

- 6.1 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) applied to the creation of the EAS and the formal TUPE consultation process has been complied with. Employees transferring to the EAS retaining their existing Local Authority terms and conditions of employment.
- 6.2 Local and regional trade union representative meetings have taken place throughout the process.
- 6.3 Applications have been submitted for admitted body status of the Local Government Pension Scheme (LGPS) and separately the Teachers Pension Scheme (TPS) which will allow transferring employees to continue to be members of these pension schemes post-transfer.
- 6.4 The application for the EAS to be included as part of the Modification Order, has been made and acceptance is awaited.
- 6.5 Employees transferring to the EAS were kept updated throughout the process via the Education Directors.

## **7. EQUALITIES IMPLICATIONS**

- 7.1 An Equalities Impact Assessment has been undertaken and was approved at the same time as the Outline Business Case for the EAS, formerly known as the EAS.

## **8. CONSULTATIONS**

- 8.1 Leaders of the Councils were briefed and attended Project Board meetings throughout the process. Chief Executives have been party to regular progress meetings as part of the project development governance. Education Directors have and continue to meet weekly as a collaborative group.
- 8.2 The report reflects the views of the Consultees.

## **9. RECOMMENDATIONS**

- 9.1 Members of the Education for Life Scrutiny Committee are requested to note the content of this report and progress made.

## **10. REASONS FOR THE RECOMMENDATIONS**

- 10.1 To keep Members updated with the progress of the EAS.

## **11. STATUTORY POWERS**

- 11.1 Local Government Acts 1972 and 2000  
Children's Act 2004  
Standards and Framework Act 1998

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Education Directorate Senior Management Team  
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Geraint Willington - Principal Education Officer  
Jane Southcombe - Financial Services Manager  
Gareth Hardacre - Head of People Management

Appendices:  
Appendix 1 - EAS Company Governance

Background Papers:  
Cabinet Reports dated 1st November 2011 and 17th April 2012  
Education for Life Scrutiny Committee Report 28th February 2012