

10 June 2014

Dear Board Member,

We are writing to you concerning AET's proposal to establish a Joint Venture (JV) with a private sector partner.

Earlier this week the trade unions and AET concluded negotiations on a Memorandum of Understanding (MOU). This MOU sets out a range of workforce standards that would apply to any JV. This does not mean, however, that our concerns have in anyway been allayed; rather we have simply secured some minimum protections for our members in case the JV goes ahead. Nevertheless the trade unions wish to put on record our thanks to the AET Chief Executive and his team for investing so much time in these negotiations.

Consulting and listening to your stakeholders

On 12 December 2013 Academies Enterprise Trust published an OJEU Notice which contained the following statement:

“AET is seeking to establish a shared services vehicle to deliver all transactional, commercial and centre of excellence services to the AET Group in conjunction with a commercial provider.”

The trade unions understand that at your Board meeting on 11 June 2014 you will not be supplied with full copies of the tenders but we believe you should review them in full before you consider whether to agree a 'preferred bidder'. Subsequently if you agree a 'preferred bidder' you will then be invited to authorise the signing of a contract with that 'preferred bidder', possibly by the end of July.

The trade unions formally request that if the Board decides to agree a 'preferred bidder', it also decides to fully consult head teachers and governors on the precise details and implications of the proposal and consider their views before any decision is taken to enter into a contract with a private sector partner.

You will be aware that the JV is a very controversial proposal. When the potential ramifications first began to be fully understood it caused widespread alarm and disquiet amongst head teachers, governors and staff in AET academies. The proposal was also the subject of questions in Parliament and comment in the education media.

Issues that this proposal raises

Devolving accountability

The 'information memorandum' that accompanied the OJEU Notice said:

“Our core principle is to devolve accountability nearest to the point of delivery including the local governors of academies; at every level in them; and the students and teachers in the classroom.”

The trade unions argue that the proposed JV **runs contrary to this core principle**.

It is our view that what the proposal will create is a situation where it is the JV, not individual academies, that determines the way in which key services are delivered - services that are critical to educational outcomes.

The underlying direction of education policy in recent decades has been that school improvement and rising educational outcomes is best achieved from devolving budgets and decision making to individual schools and head teachers, alongside strong accountability. The proposal to establish a JV could remove the ability of head teachers to take decisions about a significant part of the school's budget. As a consequence, the senior leadership teams within AET schools could find that they have less autonomy, influence and control over school services than their counterparts in community schools supported by local authorities.

Nor is it clear whether staff employed by the JV, but whose workplace is in the academy, will continue to be the subject of day to day direction by the head teacher. The JV will be the employer and situations could arise where there is a conflict between the day to day direction of school management and the requirements of the employer. It is also likely that different members of the same team within an academy will have different employers.

The trade unions ask that the Board considers the following questions before deciding to agree a preferred bidder:

‘...the leadership and direction of all of support services will remain within the academies – the Head Teacher and Governors will decide the roles they require within each academy’

Statement from Ian Comfort; 13 February 2014

Will the head teacher and governors decide the level of support and back office roles that they require within each academy or will the proposed arrangements for such decisions now mean that in the future they are (substantially) determined by decisions made by the JV?

Could situations arise where there is a difference of opinion between an individual school and the JV over budget or staffing levels and if so, what will be the mechanism for resolving those differences?

What does the proposed contract with the private sector partner say about these issues?

Conflict with 'Not for profit' status

The information memorandum that accompanied the AET OJEU Notice said:

“In undertaking this work, we shall remain a not-for-profit organisation incorporated as a charitable company”

The trade unions ask that the Board considers the following:

If a significant proportion of the public funds that are provided by the Education Funding Agency are transferred to a Joint Venture, whose principle purpose is to act in the interests of that Joint Venture (with a for profit private sector partner), does that significantly undermine and call into question the charitable purposes that AET espouses?

What choice will AET academies have?

It is also not clear whether individual academies **will be able to choose whether they “buy into”** the service offered by the JV.

The inability of schools to influence decisions about the service provider and the quality of the service provided under PFI contracts and the consequential problems is widely understood. It is important that these mistakes are not repeated.

Following the initial controversy over the proposed JV the Chief Executive issued a statement about the exercise that AET had underway which included the following:

“We are not intending to impose anything on any of our academies”

Statement from Ian Comfort; 13 February 2014

The trade unions ask the Board to consider what the proposed contract with the private sector partner says about these issues?

Employer of choice

Finally the ‘information memorandum’ that accompanied the OJEU Notice said

“Our academies will become high performing organisations and therefore must be the ...employer of choice....”

The trade unions are alarmed because our experience of shared services vehicles (with for profit partners) is that they seek to make their savings largely at the expense of their employees.

The employees find that, even if they transfer with the limited protections of TUPE, the commercial company, driven by the maximisation of profit, rapidly restructures, re-organises, churns and reduces the inherited workforce. This results in significant numbers being made redundant. The commercial company then employs new staff on reduced terms and conditions, and, equally significantly, reduced pensions. **These are not the actions of an employer of choice.**

It is these concerns that led the trade unions to seek to negotiate the MoU. Whilst we welcome the commitments secured in the MOU we are still extremely concerned about the potential for significant reductions in employment levels.

The trade unions will expect the Board (as the employer of our members) to exercise its duty of care by ensuring that it has a clear understanding of the implications for employees as set out in the tenders.

The trade unions believe that those implications should form part of the consultation we have requested with head teachers and governors before authorising any contract.

The occupational pension is a key part of any remuneration package and vital to securing the employment of a high quality workforce. The trade unions sought an undertaking that new employees would have access to a Government Actuary Department equivalent pension scheme if LGPS access cannot be secured. This is a matter that will need to be satisfactorily resolved before the contract is authorised.

Possible Alternatives to the Joint Venture

The trade unions fully understand the desire to improve AET central services to academies, to consolidate existing commercial contracts and to maximise economies of scale in procurement decisions. **The proposed Joint Venture is not the only course of action available.**

Improving the quality of centrally provided services to schools

There appears to be a widespread desire for the quality of the service that AET provides to schools to be improved.

AET could establish a 'service improvement panel(s)' drawn from staff from within its academies. This could be supported by public sector service improvement professionals to redesign services to better meet the needs of AET academies.

Utilise the skills that already exist within academies

Could AET utilise the skills that already exist within its academies to both improve service quality and redirect resources? This example, taken from the Education White Paper 2010 illustrates one such approach.

As the School Business Manager for a cluster of five primary schools in North Warwickshire, Peter James has brought clear benefits to all of the schools with which he works. A qualified accountant, Peter had spent most of his career in the private sector. The expertise and skills Peter brings have enabled the cluster to realise financial benefits including £80,000 in savings so far. In addition he has saved all five head teachers substantial time, allowing two to provide support to other schools beyond the cluster.

The schools are now sharing ICT services, procuring jointly and sharing contracts. Having identified the initial savings, Peter is now working with the schools on more strategic plans to save them money by, for example, employing an additional teacher to work across all five schools to cover absent staff.

Procurement

Across AET there exists a complex set of contractual arrangements for the provision of services to academies. There is a need to secure economies of scale and to explore how the contractual arrangements can be streamlined and at the same time improve service quality.

In May 2010 the National Audit Office published a list of public sector professional buying organisations. Examples include:

- Central Buying Consortium;

- Hampshire County Supplies;
- LASER;
- Local Authority Purchasing Partnership;
- South West Local Authority IT Procurement Consortium;
- Yorkshire Purchasing Organisation;
- North East Purchasing Organisation.

Academies Enterprise Trust could approach one (or more) of these organisations with a view to engaging them to undertake procurement on behalf of AET, whilst simultaneously strengthening the AET in-house procurement function.

One advantage of adopting an alternative strategy is that the ‘efficiency savings’ are fully retained and there is no need to provide the private sector partner with a significant share.

The joint trade unions fully understand the magnitude of the decision you as Board members are now being asked to take. The matter before the Board will ultimately determine the way that critical services that influence the quality of education and support teaching in AET Academies are delivered for the foreseeable future.

Equally important, it will determine the future prospects of the staff that deliver those services and it could also have significant implications for individual school budgets and autonomy.

For these reasons the trade unions urge the Board to ensure that it takes informed decisions. You should ensure you see the detailed tenders that have been submitted and you will also need to consider the financial analysis.

The magnitude of this decision requires all key stakeholders to be fully consulted. Head teachers and governors of the schools that form the Academies Enterprise Trust are key to delivering educational improvements and their voice needs to be heard.

The trade unions do not believe that a Joint Venture with a private sector partner is the most appropriate way forward for AET but we know that the Board will consider whether to approve a ‘preferred bidder’ at its meeting on 11 June.

It is for that reason that:

The trade unions formally request that if the Board decides to agree a ‘preferred bidder’ that it also decides to engage in full and genuine consultation with head teachers and governors on the precise details and implications of the proposal and consider their views before any decision is taken to enter into a contract with a private sector partner.

Thank you for giving us the opportunity to express our concerns and please do not hesitate to contact us if you have any questions or issues you wish to discuss with us.

Yours sincerely

Recognised trade unions

ASCL, ATL, GMB, NAHT, NASUWT, NUT, UNISON & UNITE