

Public Sector Equality Duty Assessment Steiner Academy Bristol, Steiner Academy Frome, Steiner Academy Exeter

Background

1. Steiner Academy Frome, Steiner Academy Frome and Steiner Academy Bristol are single academy trusts that were established through the Free Schools programme in 2012, 2013 and 2014 respectively. The schools were established as 2FE 4-16 schools, each with an overall capacity of 624 (52 PAN). As new free schools opened between 2012 and 2014, the schools are still growing to capacity and are not full in all year groups.

2. All the schools were inspected in Autumn 2018 and were judged inadequate (Special Measures). The schools were found to have serious safeguarding failings, poor leadership and governance, and poor quality of teaching and learning. As a result, school improvement support from local sponsor MATs has been brokered and operational governance at each school has been strengthened with Academy Management Committees (AMCs).

3. The three trusts have extremely precarious finances. Steiner Academy Exeter has received £470k in recoverable financial support for the remainder of the 2018/19 academic year. Steiner Academy Frome and Bristol operate with small cumulative deficits, within which they have so far been able to manage their cash-flows. Frome is currently under a Financial Notice to Improve on compliance grounds, having failed to submit financial statements by the deadline for the second time.

4. On the basis of the financial vulnerability, analysis was undertaken to look at the operating model. This concluded that the 2FE all-through structure, was not financially sustainable without exceptional funding arrangements or external income generation. The schools collectively provide 1872 pupil places across the three settings, with around 1200 pupils currently on roll. In each of the three areas the pupil places provided are required in at least one phase of provision.

5. The option of closing the schools was considered but given the number of pupil places the schools offered, it was agreed that the schools should be transferred to a new sponsor. Only one strong sponsor came forward – Avanti Schools Trust. AST expressed interest in sponsoring the schools in their existing operational structure and with close alignment to their existing Steiner ethos. However, having undertaken detailed modelling of the all-through structure, as well as a deeper exploration of Steiner/Waldorf pedagogy the Avanti trust board was not prepared to move forward with the sponsorship of the schools if they remained 2FE all-through Steiner academies. AST therefore proposed to run a significant change consultation around the future structures for the school. The transfer of the schools to AST is expected to take place on 1st November 2019.

6. This assessment sets out the impact of:

a) transferring the schools to a new sponsor – Avanti Schools Trust - and the subsequent changes to the educational vision. The new sponsor plans to implement a new ethos and curriculum at the school, ending their association with the Steiner “brand”. AST will launch a curriculum review once they become legally responsible for the schools to consider how best to deliver an effective education to the pupils that brings together Avanti approaches with those currently used at the three Steiner schools.

b) proposed change to the structures at Steiner Academy Bristol and Steiner Academy Exeter. Throughout sponsor negotiations, AST have indicated that they plan to review the 2FE all-through model, on the basis that it is not financially viable. That may result in the sponsor applying to make a significant change to the structures at SAB and SAF to the Regional Schools Commissioner, following the necessary consultations.

Summary of overall effects of the proposal – transferring the schools to a new sponsor and changes to the educational vision

7. At the early stages of trying to find a sponsor for the three schools, the Department had discussions with the Steiner Waldorf Schools Fellowship (SWSF) and engaged with them to outline the options for the academies, including sponsorship by AST, ending secondary phase provision, and closure. They were invited them to bring forward any alternative proposals, which they were unable to provide. SWSF have supported the appointment of AST as sponsor, and AST have engaged with them over their future plans.

8. When AST expressed an interest in sponsoring the three Steiner schools, there was relatively high alignment with the AST ethos and the Steiner/Waldorf approach to education, as both have an emphasis on individual child development. Through discussions in early summer with both Avanti and the SWSF, it was clear that there was some distance between Avanti's proposals and typical practice within Steiner schools. AST was clear from the outset that it would not retain the Steiner trademark, and its approach to devising a new curriculum for these schools would represent a significant departure from current provision.

9. AST consider the following aspects of provision to be non-negotiable, which would place its approach at odds with elements of the Steiner ethos. It would:

- Insist on Qualified Teacher Status for all classroom teachers;
- Implement a consistent pay policy in line with the National Pay and Conditions scales;
- End the Steiner practices of small classes in EYFS, and pupils progressing from kindergarten to the end of KS3 with the same class teacher;
- Waive the exemption for the teaching of phonics to primary age pupils;
- Deliver a full GCSE curriculum of 11 subjects in schools where the secondary phase is retained;
- Introduce its existing trust-wide policies on safeguarding, SEND, behaviour, and financial management.

10. AST stressed before its formal appointment as sponsor, that it would develop full proposals for curriculum and ethos through a listening period process or '**curriculum review**'. This would be an opportunity for dialogue with the school communities, in recognition of the strength of feeling of those affected once they became responsible for the school. This review will look at how the Waldorf principles can be aligned with the Avanti Way. The review will report in March 2020, making clear recommendations for the curriculum at the three schools from September 2020.

11. AST Trustees are clear that as state funded institutions there is a balance to be found to ensure that any new curriculum should be ambitious and designed to give all learners the knowledge they need to succeed in life. AST are aware that parents have already expressed concerns regarding the teaching of phonics, literacy and numeracy particularly though not exclusively in the kindergarten phase.

12. AST has consistently confirmed that it values aspects of the Waldorf education, and this was an important consideration in becoming the sponsor. Since their appointment as sponsor, AST has run a number of parental engagement sessions. As a result of these AST have confirmed (October 2019) that the three schools will not have Steiner in their title, post transfer, in line with other AST schools. During the initial consultation with stakeholders, AST stated that schools may

also carry the tagline 'inspired by Waldorf principles'. The AST Board has subsequently agreed to give acknowledgement to the origins of the schools but until the curriculum review is completed there will be nothing that ties AST to the Waldorf principles.

13. AST has actively engaged with interested parties to ascertain their concerns in relation to ethos and there is clarity from AST about what elements of the Steiner ethos that will be retained, and what will be reviewed by them. AST runs a number of faith based schools which could lead to a perception of the trust as Hindu only. We are clear that Avanti is not proposing to introduce any religious element to the three schools. There is a high risk that should AST seek to impose a different ethos on these schools that this could lead to challenge.

Summary of overall effects of the proposal – proposed structural changes to SAB & SAF

14. AST have begun the process of consultation in line with the Department's 'making significant change to open academies' guidance. These consultations will ensure all stakeholder representations are considered before a formal decision made. There has been a significant response to the consultations from the local communities and Avanti have committed, through this process to considering the issue of transition for Year 10 pupils at Frome more carefully, to enable them to continue their education until the end of their GCSEs.

15. If AST submit a proposal to the RSC to change the structures of the schools leading to the creation of a primary school in Bristol and a primary/middle school in Frome, it *could* be argued that these new structures no longer meet the Steiner vision of an all through education, which is at the heart of it's ethos. However, there are several Steiner schools nationwide that are kindergarten only, primary only, or operate with a 4-13 age range. These schools are endorsed by the Steiner Waldorf Schools Fellowship. The SWSF acknowledges that there are some examples of successful independent Steiner schools that operate at primary phase only.

16. If AST secure the agreement of the RSC to make changes to the structure of Bristol and Exeter, it will mean that pupils in years 7-11 (Bristol) and 9-11 (Frome) will need to be allocated an alternative school place. Data from Bristol City Council/South Gloucestershire Local Authority (Bristol) and Somerset Local Authority (Frome) demonstrates that there is space available in alternative schools, however for Bristol, these are not in the immediate pupil planning area that covers Steiner Academy Bristol and may be in other parts of the city. Alternative places are likely to be in mainstream schools that do not follow a Steiner approach, unless the parents opt for private Steiner education.

17. The DfE and AST engaged with the SWSF at an early stage on the plans, and run a number of engagement sessions for parents to set out their views. Through the formal consultation, AST have received a high number of responses from the local communities setting out their concerns.

18. If a decision to close the secondary phase at SAB is made, it will remove it as an option for prospective parents who may have been considering sending their child to the school in the future and may have chosen the school on the basis of it's all through structure. There is a lesser impact at Frome, as the structure proposal is likely to be around the upper school affecting years 9,10 and 11, but this may impact on parental choice as they would need to move pupils to an alternative school at the end of Y8, in line with the three tier system that operates in the local area.

19. If a change to structures is approved at SAB and SAF, this will also have an impact on staff at the school, as those delivering the secondary curriculum will need to find alternative employment. At SAB there are high numbers of temporary staff, due to the low numbers of pupils in Y7-11, staff resignations and actions to remove staff due to poor performance.

20. As part of the analysis of options following the Ofsted judgements the closure of the three schools was carefully considered. Closure would have meant **all pupils** at the school would have to find alternative education rather than just those that might be affected by the structural change proposals.

The public sector equality duty

21. Section 149 of the Equality Act 2010 provides that:

“(1) A public authority must, in the exercise of its functions, have due regard to the need to –

- (a) eliminate discrimination, harassment, victimisation and other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) ...

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to –

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

(4) ...

(5) ...

(6) ...

(7) The relevant protected characteristics are-
Age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.”

22. This analysis considers the impact of transferring the three Steiner Academies to Avanti Schools Trust (AST) in relation to the three statutory objectives listed in s 149(1) of the Equality Act. The courts have confirmed that the Steiner philosophy is likely to be considered a relevant belief or “philosophical conviction” for the purposes of A2P1 of the European Convention on Human Rights, specifically that “the state shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

23. There are clear arguments for transferring the schools to a strong sponsor who will seek a way to retain elements of the Steiner philosophy. The alternative option was to close the schools, which would have had a considerable impact on the sufficiency of pupil places in Frome, Exeter and Bristol, as alternative places for up to 1200 pupils would have needed to be found. All the schools are subject to inadequate (Special Measures) Ofsted judgements, and a monitoring report at SAF on 11th September 2019 found that leaders and managers were not taking sufficient action towards the removal of special measures.

24. The new sponsor has listened carefully to the parental, school and local community over the summer months, enabling them to hear concerns and to consider how best to address these. They have been clear that the curriculum review will be the formal opportunity to consider how best to align the schools with the Avanti vision or 'Avanti' way. They have been clear about their rationale for what are the non-negotiables to parents.

25. This initial listening period has been followed by a formal significant change consultation regarding the possible structural changes at SAF and SAB. If a proposal to change the structures at SAB and SAF is received and agreed by the RSC, this would mean that those pupils affected are more likely to receive a more sustainable level of education by attending one of the alternative schools in Bristol/South Gloucestershire and Frome. Frome Community College is rated Good (May 2018)

Data in relation to age, eligion or belief, disability, sex and race (protected characteristics)

26. The relevant protected characteristics are disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Reference to religion includes a reference to a lack of religion, while belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief (s.10 of the Equality Act).

Age

27. Age is not a protected characteristic where, as in this case, the function in question relates to the provision of education to pupils in schools (paragraph 1 of Schedule 18 to the Equality Act).

Gender reassignment, pregnancy and maternity and sexual orientation

28. The Department does not have access to any available data on the number of potentially affected staff falling into these relevant groups. If a significant change proposal to amend the structures at SAB and SAF is made, then we will work with the new sponsor to ensure that all reasonable steps are taken to ensure that any member of staff with these characteristics is not discriminated against.

29. In relation to people with these characteristics as listed above, it is not possible to reach a definitive conclusion that the change of structures at SAB and SAF would achieve any of the statutory objectives referred to in s 149(1) of the Equalities Act 2010. However, it is unlikely that it would have an adverse impact on the achievement of the statutory objectives and it is likely that equality of opportunity would be increased by the provision of better education to the pupils.

Religion or belief, disability, sex and race

30. The Department considers that the protected characteristics most likely to be relevant for the purposes of section 149 are religion or belief, disability, sex and race.

31. The Department does not collect data, nor is it aware of any other robust and comparable data, on the faith or belief of pupils attending individual schools and therefore we do not know the religious beliefs of pupils currently at the three Steiner Schools. The Department neither collects nor has access to information about the faith or beliefs of staff at the school. We are aware that case law of the European Court of Human Rights and of the domestic courts establishes that atheism and humanism qualify as "beliefs" for the purpose of Article 9 of the European Convention on Human Rights (and therefore also for the purposes of Article 2 Protocol 1).

Application of section 149 to the above facts

32. Having regard to the available data, the Department considers the impact of this proposal in relation to the following questions:

- (i) Is the proposal likely to eliminate any existing unlawful discrimination, harassment or victimisation against/of persons with a particular protected characteristic set out in paragraph above?;
- (ii) Does the proposal advance equality of opportunity?
- (iii) Does the proposal foster good relations between persons who share a relevant protected characteristic and persons who do not share it?
- (iv) If any adverse impacts are identified, are there any measures that could be implemented to mitigate those adverse impacts?

Is the proposal likely to eliminate any existing unlawful discrimination, harassment or victimisation against/of persons with a particular protected characteristic?	The Department does not have any information about the prevalence of any such issues at the three Steiner academies and has no reason to think that a decision to change the structure of the school will have any adverse impact on persons due to a protected characteristic.
Does the proposal advance equality of opportunity?	<p>The proposal to transfer the three Steiner Schools to a new sponsor should advance equality of opportunity for all pupils. Pupils will have the opportunity to be part of a multi academy trust that has a strong track record in securing educational outcomes. The new sponsor will be better positioned to offer resources and support permitting them to deal adequately with any protected characteristics.</p> <p>When considering whether the proposal advances equality of opportunity, the Department has considered the impact on pupils with protected characteristics in neighbouring schools should proposals to change the structure of SAB and SAF be approved. There is no evidence to suggest that this proposal will either advance or have a negative impact on equality of opportunity for these pupils if they move from SAB/SAF to another school.</p>
Does the proposal foster good relations between persons who share a relevant protected characteristic and persons who do not share it?	The Department has considered whether this proposal will foster good relations between pupils and staff who share a protected characteristic and pupils and staff who do not share it. There is no evidence to suggest that this proposal will foster good relations between these pupils and staff, but equally there is also no evidence to suggest that it will not.
If any adverse impacts are identified, are there any measures that could be implemented to mitigate those adverse impacts?	The Department has considered potential adverse impacts for pupils due to their protected characteristics who are currently at the Steiner academies, and the potential impact on pupils with protected characteristics in neighbouring schools. No significant adverse impacts have been identified

Conclusion

33. This analysis has identified that there is some evidence that that the transfer of the three Steiner schools to a new sponsor could have a limited negative impact on some of the pupils and staff with protected characteristics on the basis of their beliefs. AST has taken a number of steps to mitigate these risks. There has been ongoing consultation with the parental community about the proposed changes and a further 'curriculum review' will take place once AST becomes legally responsible for the schools. These have been opportunities for the parents to set out their views to the new sponsor, and for AST to set out their non-negotiables.

34. There will be a full and through consultation for the proposed significant changes at SAB and SAF. AST will consider the responses fully before making any proposal to the RSC.

35. The Department's view is that these negative impacts are likely to be outweighed by the benefits of the proposal to a) transfer the three schools to AST and amend the original educational vision and b) change the structure at the schools.

Sources

- Schools, pupils and their characteristics (January 2017), via <https://www.gov.uk/government/statistics/schools-pupils-and-their-characteristics-january-2017> (SFR28/2017/Schools_Pupils_UD), (SFR28_2017_Schools_NCYear_UD), accessed 18th April 2018
- Schools Capacity Survey, 2016-17, via <https://www.gov.uk/government/statistics/school-capacity-academic-year-2016-to-2017>, (SCAP-UD1-capacity) accessed 18th April 2018
- Get Information about Schools (GIS), via <https://get-information-schools.service.gov.uk/>, accessed 18th April 2018

