Appendix 1 C&F05/06-016

Policy Guidance Document for Independent Schools Applying for Maintained Voluntary Aided Status with Brent Council

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1. Background and Introduction

The aim of this policy document is to assist promoters of independent schools who are seeking Voluntary Aided status and to clarify the decision process for any proposed new schools. This document introduces a robust set of criteria that future independent schools must consider carefully before embarking on the road to being maintained. It does not change Brent's current policy on faith schools, but sets out the steps more clearly.

This document is written in conjunction with new (as yet unpublished – as at September 2005) guidance expected from the DfES.

Brent Council has always encouraged independent schools seeking maintained status, as they will increase the diversity of schools within the Council's family of schools, give parents more choice and help raise standards.

This guidance is for Promoters of independent schools wanting to become maintained schools (under section 28 of the School Standards Framework (Act 1998).

- Independent schools are schools which are not maintained by the Council.
- Maintained schools are publicly funded schools maintained by the Council.
- **Promoters** are groups of people who want to set up maintained schools.

This guidance gives details of the stages involved in bringing independent schools into the maintained sector, moving from initial idea to published proposal and introduces new criteria for Promoters.

2. The Department for Education and Skills (DfES) Guidelines for Independent Schools Seeking Maintained Status

This document is produced incorporating key features of the revised and as yet unpublished (as at September 2005) guidelines from the DfES entitled: Guidance for Independent Schools Wishing to Join the Maintained Sector. Promoters are encouraged to use the Brent guidelines in conjunction with DfES guidelines when seeking VA status. DfES guidelines can be obtained from Elaine Kennedy at the School Organisation Unit.

Useful contact telephone numbers at the DfES:

Schools Organisation Unit	01325 391277
	01325 391279
Designation of schools with a religious character	01325 391094
2	01020 001001

Capital building, finance and land tenure for new 01325 392148 voluntary aided schools School governance 01325 391183 Statutory proposals 01325 391274 Liaison with Teacher Training Agency and General 020 7925 6190 **Teaching Council** School admissions 020 7925 5277 020 7925 6474

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3. Characteristics of Voluntary and Foundation Schools

	Voluntary Aided	Voluntary Controlled	Foundation
Source of initial capital funding	At least 10% from promoters (new schools) or the governing body (existing schools); the remainder through grant support from the DfES	LEA	LEA
Improvement (devolved formula) capital funding	Directly from DfES on national formula reflecting governors' 10% contribution and VAT	Through LEA on national formula	Through LEA on national formula
Staff employer	Governing body	LEA	Governing body
Owner of school's land and buildings	Charitable foundation (usually)	Charitable foundation (usually)	Governing body or charitable foundation
Owner of playing fields	LEA (usually)	LEA (usually)	Governing body of charitable foundation (usually)
Admissions authority	Governing body	LEA	Governing body

4. Consultation

In order to draw up the new set of criteria the following bodies and Council officers were consulted:

- Members of the Brent School Organisation Committee (SOC)
- The Place Planning Development Group made up of the Director of Children and Families, officers from Children and Families and officers from Housing and Planning.
- Governor Services
- The Admissions Team
- Legal Services

- Early Years
- The DfES
- The Policy and Regeneration Unit

As a result of the above consultation it is proposed that the following points should be covered by Promoters seeking maintained status, before issuing their statutory notice:

- Criterion 1 Conform to OFSTED and DfES guidelines
- Criterion 2 Demonstrate wide and stable support for the proposal
- Criterion 3 Security of tenancy of the school site
- Criterion 4 Capital funding and a balanced school budget
- Criterion 5 Adhere to Brent's Schools Admissions Code of Practice
- Criterion 6 Promoters understand the responsibilities of the school Governing Body

Each criterion is fully explained under Section 5. The Process.

5. The Process – criteria and steps to take before issuing the statutory notice

- 5.1 Criterion 1 Promoters are requested to engage OFSTED to conduct a preapplication inspection (and adopt a school development plan) and conform to DfES guidelines for independent schools seeking VA status.
 - The DfES has its own set of criteria for Promoters of independents schools wishing to join the maintained sector. For details contact: Elaine Kennedy at <u>elaine.kennedy@dfes.gsi.uk</u>.
 - The DfES advise that Promoters draw up a project plan. Bringing a new independent school into the maintained sector takes time at least two years. Therefore to ensure the best chance of success a plan should be drawn up as soon as possible identifying key activities and setting target dates. In preparing the plan it needs to be borne in mind that certain tasks are dependent on others, for example, the School Organisation Committee (SOC) will only consider a proposal for which capital funds are agreed in principal. If the Promoters are depending on DfES capital funding to bring their school into the maintained sector the plan should reflect that they will only have the opportunity for this once every two years beginning in 2005. This will dictate the timetable for the project. For detailed information about the project plan please follow the DfES guidelines.

- Promoters wishing to seek maintained status must have an OFSTED inspection (Office of Standards in Education). The inspection results in a published report which informs the school and the Council of: the standards of education at the school; the school's ability to deliver the basic curriculum, including the National Curriculum, by the date of implementation of the proposals; and where the school is co-educational, the provision of equal opportunities. The report should also comment on the suitability of the school premises and on the adequacy of the accommodation available. It is an independent external view of the schools strengths and weaknesses.
- In commissioning a report, Promoters should use OFSTED-registered inspectors. The OFSTED contacts team (tele: 020 7421 6558/6600) can supply a list of approved contractors. Before taking action, Promoters should discuss the commissioning of the report and its scope with the Council. Promoters must bear in mind that they will have to meet the cost of this report.
- For further information on the National Curriculum and the OFSTED report from Brent Council promoters can contact Catherine Ross, Senior Improvement Adviser, tele: 020 8937 3341 or <u>catherine.ross@brent.gov.uk</u>.
- Promoters are advised to employ the services of consultant experienced in guiding schools through the maintained process and educational law.

5.2 Criterion 2 – Promoters are required to show wide and stable support in their religious communities in their local area.

- Promoters will need to make a decision on a wide range of factors relating to the new school and whether these differ from the existing independent school, including: size, age range, gender of pupils, school ethos, any religious character it may have etc.
- The success of the proposal will be influenced by the level of demand for the school and the effect of bringing it into the maintained sector will have on other schools and colleges in the area.
- Promoters should consider the likely demand for school places. If the school is a secondary school they should consider whether the size is compatible with the breadth of curriculum envisaged. To do this, Promoters will need to consult widely and obtain as much relevant information as they can, for example:

<u>Education plan information</u> - School Organisation Plan or similar plans which give details of current and projected school places. If the school is close to an LEA border or one that will draw pupils from a wide geographical area Promoters should look at school place planning information fro the neighbouring LEA(s).

<u>Faith information</u> – If the school is to give priority to applicants of a particular faith or denomination Promoters should assess the likely demand for places from parents of that faith.

<u>Parents and community</u> – Promoters should consult with and secure the support of the parents and communities the school is intended to serve. This will probably involve: providing written information (in various languages if appropriate; meeting to discuss the proposal with those likely to be affected by it, holding a number of meetings at various stages in the project's development to get local feedback and to ensure that people want what is being proposed. The support of parents and the community has to be voluntary but the religious teaching of the school may be seriously compromised without sufficient contributions.

<u>Demographic information</u> – Promoters are advised to look at recent census data, Health Authority data on births and other local information. Promoters should also consult the Council's planning department about new housing and obtain details of type, quantity, location and timetable. All of these factors will influence the number of children in the school's catchment area.

<u>Information about other schools</u> – Promoters should take account of other schools in the area (independent as well as maintained) that cater for the same age range. In determining the extent to which these other schools meet current demand they should consider: their type (religious character, single sex, specialist etc), their location, the number of places they provide.

- Promoters of a new (VA faith) school should demonstrate evidence of support for the new school from within their local/ relevant faith communities. Such evidence should encompass support of the particular characteristics and ethos of the new school as proposed by the Promoters. Where this is relevant, it should specifically address issues of diversity within the relevant faith community.
- The aims of the new school must complement the existing family of community schools and VA schools in Brent and as such the school should seek to meet the needs of children in the local community.
- For further information on this item from Brent Council please contact Judith Joseph, tele: 020 8937 3187 or judith.joseph@brent.gov.uk.

5.3 Criterion 3 – Promoters must confirm in writing the security of tenancy of the school site.

• It is the responsibility of the Promoters to provide an appropriate site. There needs to be adequate security of tenure either owned or long term lease.

- Promoters will need to demonstrate that there are / they have good governance arrangements and that the security of the school is not overly dependent on influences of a small minority of individuals.
- Assessing the present site Promoters should discuss with the Council whether the present site of the school is suitable.
- Need a new site/premise Promoters will have to look for one on the open market
- In the case of a new voluntary aided school the Council may provide a site at no cost. If not, the Promoters will be expected to explore the option of getting a site on a long term lease.
- Promoters will need to appoint professional advisers, usually a project manager, an architect and a quantity surveyor, preferably with experience of education or school building projects, to look for and advise on sites. Other specialists such as an educationalist and a planning consultant may also be needed.
- Land tenure ideally the freehold of the school's site should be owned by a trust whose deeds are consistent with the promotion of the faith school as a VA school. Some voluntary aided schools have their site held by diocesan general trusts or by the general trust of religious orders. If the school is on a leasehold site, the School Organisation Committee will need to be assured that this will not compromise its viability in the long term. It is for this reason that the DfES advise that Promoters only to consider leases with a minimum of 99 years to run.
- For further information on this item from Brent Council please contact Nitin Parshotam, Head of Asset Management, tele: 020 8937 3061 or nitin.parshotam@brent.gov.uk.

5.4 Criterion 4 – Promoters are requested obtain capital funding (if necessary) and to demonstrate a fully worked and balanced school budget as per VA status

- If Promoters are planning on adapting an independent school or want a new site / premises for their school they will need to satisfy Brent's School Organisation Committee that capital funding is available for either the planned changes or for the school site and buildings before it can be consider the proposal.
- Promoters must demonstrate their Targeted Capital Funding award is sufficient. That is, that the school has the balance of any capital required between the maximum allowable by the TCF and the estimated cost of their project to improve school buildings. (It appears that most schools applying for VA status also apply for TCF. The schools would not qualify for TCF unless applying to be VA).

- Promoters must demonstrate that they can work within the revenue budget as illustrated by the budget modelling provided by the Finance Team within the Children and Families Department.
- Promoters are requested to indicate in writing that they understand that the indicative budget provided by the Children and Families Department is for demonstration purposes only. The formula is based on a variety of factors including pupil numbers, free school meals, SEN, floor area of the school etc., therefore the school can only be given an indication of the likely budget. It is inevitable that the figures will change as more information is known about the children and other data related to the school.
- Promoters must demonstrate that their budget calculations also demonstrate the raising of voluntary contributions for any extra curricula activities such as Quaranic studies, Arabic studies, Jewish studies etc.
- Promoters are requested to indicate in writing that they understand that fees cannot be charged to parents for National Curriculum subjects taught in the school.
- If Promoters are proposing a voluntary aided school they cannot receive any public funding until the trust is in place and a bank account is set up. So a trust will have to be established early if one does not already exist. This process can take around six months and the Promoters may need specialist legal advice.
- Promoters must meet with local authority officers on a regular basis to discuss the above points.
- For further information on targeted capital funding please contact Nitin Parshotam, Head of Asset Management, tele: 020 8937 3061 or nitin.parshotam@brent.gov.uk.
- For further information on revenue funding please contact Amar Barot, Head of Children and Families Finance, tele: 020 8937 3066 or amar.barot@brent.gov.uk.
- 5.5 Criterion 5 Promoters must confirm their adherence to the Schools Admissions Code of Practice, the regulations of the Schools Standard Framework Act 1998 and provide the Council with full details of their admissions arrangements.
 - Promoters should be aware of what the criteria are.
 - Promoters must understand that they have to set admissions arrangements, consult on them

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- Promoters must provide data to the Brent Admissions Team.
- The Code of Practice states that voluntary aided or foundation schools may give priority to children who are of the faith of the school. If they cannot fill all of their places with children of the faith they must admit children of other faiths and no faith. Voluntary controlled schools may give priority to children of the faith but because the admissions authority is the Council they tend not to.
- For further information on this item from Brent Council please contact Raj Parmar, Admissions Team Manager, tele: 020 8937 3039 or <u>raj.parmar@brent.gov.uk</u>.

5.6 Criterion 6 – Promoters understand the role of a Governing Body in a maintained school.

- When a Governing Body comes into existence, the role of the promoter in governing the school reduces, because the Governing Body becomes the decision maker, therefore promoters may have a reduced input. Some promoters may, however, become governors and will therefore be on the Governing Body, but possibly not all.
- Promoters will need to understand the statutory framework and procedures within which the Governing Body will have to work.
- For further information on governance please contact Derek Balaam, Governor Support Manager, tele: 020 8937 3038 or derek.balaam@brent.gov.uk.

6. Consult all Interested Parties

Before publishing a statutory proposal the Promoters must consult all interested parties as outlined below (taken from DfES guidelines):

- Any local education authority (LEA) likely to be affected by the proposal, particularly neighbouring LEAs where there may be a significant cross-border movement of pupils.
- Schools in the area including schools in other LEAs that may be affected by the proposal – whether community, foundation, voluntary, community special or foundation special schools.
- **Diocesan authorities** Roman Catholic and Church of England
- Parents and teachers in the area who may be affected by the proposal, including those living in, or who have children attending a school in, the area or an adjoining LEA

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- Feeder primary school, if the proposed school is a secondary school
- The national faith group which provides the school or the trust or foundation providing the school if the proposal involves or is likely to affect a school with a religious character.
- **Any trust or foundation providing the school,** if a foundation or voluntary school does not have a religious character.
- **The local Learning Skills Council (LLSC),** if the proposal affects the provision of full-time14 -19 year old education, particularly neighbouring LLSCs where there may be significant cross-border movement of pupils.
- Promoters are also invited to discuss their aims and objectives with Brent SACRE (Standing Advisory Council on Religious Education) on a voluntary basis.
- **Any other interested parties** eg the Early Years service of the Council if the proposal affects early years provision, or those who benefit from a contractual arrangement giving them use of the premises.

Promoters should allow adequate time and provide sufficient information for those being consulted to come to a considered view on the proposal. Promoters must make clear how those consulted can make their views known. Promoters may decide methods of consultation and whether to hold public meetings.

Promoters must take account of responses to the consultation and be able to demonstrate that they have done so. If Promoters wish to consider a new option that emerges from the consultation, they should consult again on that option before publishing their proposal.

For further detailed information consult the DfES School Organisation Unit on 01325 391277 alternatively contact Judith Joseph, Principal Schools Organisation Officer on 020 8937 3187 or judith.joseph@brent.gov.uk.

It is important that all of the steps outlined in sections 5 and 6 are taken **before** the Promoters publish their statutory notice.

7. Publish the Proposal

Before publishing their statutory proposal Promoters must ensure they have followed the steps outlined in sections 5 and 6.

Timing – to ensure that the proposal reflects relatively recent feedback, it should be published within 12 months of completing the consultation. Additionally, in the case of a voluntary aided school, if the Promoters have received a provisional allocation

of capital funds from the DfES, they must publish their proposal within the timescale specified in the DfES letter.

Publication – Promoters must publish their proposal in the form of a statutory notice in at least one local newspaper and also display it in a conspicuous place in the area served by the school (e.g. the local library, community centre or post office). They should avoid publication during summer holidays.

The statutory notice must include the information listed below:

Information you must include in your statutory notice

- Promoters name(s)
- the date the school will open and, if it is to be opened in stages, the start date of each stage
- the address of the School Organisation Committee where objections/comments should be sent
- the date by which any objections/comments must be received
- where the school will be located and the postal address, if there is one
- whether the school will be foundation, voluntary aided or voluntary controlled
- the number of pupils it will cater for and their age range
- whether the school will admit boys and girls, or if it will be single sex
- whether the school will select pupils on the basis of ability by pupil banding
- what the proposal will deliver in terms of community cohesion
- whether the school is to have a religious character and if so, what that will be
- what arrangements Promoters propose for transporting pupils to the school
- whether the school will be federated with another school or schools

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- the number of pupils the school will admit in its first year in each age group, and, if it is to be opened in stages, the same information for the start of each stage
- whether the school's admissions authority will be the governing body or the local education authority
- if the school is to be **foundation** or **voluntary controlled**, whether the Promoters or the Council will set the school up, or if both, the extent to which the proposals will be implemented by both.

A copy of the statutory notice must be published to the School Organisation Committee with additional information as set out in DfES guidelines.

8. Await Comments and Objections

Once Promoters have published their statutory proposal, there follows a statutory six week period during which representations (objections or supportive comments) can be made directly to the School Organisation Committee.

For more information on the School Organisation Committee see section 9 or contact Judith Joseph, Principal Schools Organisation Officer on tele: 020 8937 3187 or judith.joseph@brent.gov.uk.

9. Receive a Decision

The School Organisation Committee (SOC) is the decision maker. The SOC is an independent entity to the Council - ie it is an independent decision making body and not a Council committee, made up of the following groups: Members, Schools, the London Diocese (Church of England), the Diocese of Westminster (Roman Catholic), Other Faiths and the Learning Skills Council.

The SOC can reach one of four decisions on the proposal:

- Approval
- Rejection
- Approval with modification eg the date the school should open
- Conditional approval eg grant of planning permission, acquisition of site or playing fields etc.

If the SOC cannot make a unanimous decision the final decision will be made by and independent schools adjudicator.

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Whilst it is reasonable and desirable for criteria and guidelines to be in place the decision maker, the SOC, still has a duty to take into account all relevant matters and not fetter its discretion in the decision making process.

For more information on the Brent School Organisation Committee contact Judith Joseph, Principal Schools Organisation Officer on tele: 020 8937 3187 or judith.joseph@brent.gov.uk.

10. Implement the Proposal - DfES Guidance

Implementation responsibilities – if the proposal is approved, those legally responsible for its implementation (either the Promoter, the Council or both of as stated in the proposal) must do whatever is necessary to proceed with the project until the school is established.

If the proposal is approved subject to a condition being met by a specified date, Promoters are responsible for ensuring that the condition is met.

If Promoters cannot or do not want to proceed with implementation, they must publish and get approval for a statutory proposal relieving them of their duty.

<u>Requesting changes</u> – any conditions attached by the School Organisation Committee or the schools adjudicator to the proposal are not negotiable. However, Promoters may ask them to change the date by which:

- the conditions must be met
- the proposal must be implemented.

<u>Capital work</u> – If the independent school is to become a voluntary controlled or foundation school, the responsibility could rest with the Promoter, the LEA or both as stated in the proposal.

If the school is to become a voluntary aided school the Promoter has sole responsibility for implementing the proposal. If they have been granted targeted capital funding the Governors and Trustees will need to sign a Condition of Grant agreement and send it to the DfES Voluntary Aided Capital Team. This will ensure that if the school closes or moves to a new site, the proceeds of sale of the site will be available for use in connection with another maintained school. The DfES will pay the project development costs once it has received the signed Condition of Grant agreement and the Promoter publishes statutory proposals.

Promoters should also send a completed form SB1 to the DfES Voluntary Aided Capital Team. This is used to check that any site or land acquisition (purchase or lease/rental, gift) offers value for money, and that it meets DfES recommendations on site requirements. Form SB1 is available under 'forms' on <u>www.teachernet.gov.uk/voluntaryaidedschools</u>.

Running costs – LEAs may be able to provide new schools with start up funds. These funds are agreed on a school by school basis dependant on circumstances and are designed to contribute to the costs of any staffing, resources and other activities which relate directly to the establishment of the school prior to it opening. Promoters will be asked to check with Council whether, and to what extent, the Council provides start-up funding.

Once the school opens the Council will provide a delegated budget largely based on the number of pupils in the school, but including other factors such as size of premises and number of pupils in receipt of free school meals. The school's budget will be set at the start of each financial year. For the first year, if the school opens in September, its delegated budget will be based on the period September to March but it will be payable the preceding April.

As soon as the decision to agree VA status is made, an Instrument of Government and temporary governing body must be set up. The local authority should work with the promoters in agreeing its composition and membership. This body functions until the school formally implements VA status, after which the permanent governing body is set up in accordance with the School Government Regulations.

Each maintained school has a governing body that is responsible for:

- setting the school's strategic direction, for instance by approving the school budget and appointing the head teacher
- monitoring and evaluating the school's performance, for instance by reviewing progress against targets and reviewing and revising policies and targets
- securing accountability, for instance by reporting to parents and the community on school performance and hearing appeals on pupil exclusions and staff dismissals.

There must be at least nine but no more than 20 governors on the governing body. Beyond this, governors may choose their preferred constitutional model so long as the proportion of different types of governor is in line with DfES requirements, subject to Diocesan or trustee approval if appropriate.

For more information about Governing Bodies contact Derek Balaam on tele: 020 8937 3038 or <u>derek.balaam@brent.gov.uk</u>. Alternatively Promoters are advised to read 'Guide to the Law' for more details. It is available on <u>www.governornet.co.uk</u>.

Teaching staff and qualified teacher status (QTS) – Funding is available for teachers in independent schools, where the school has been approved to join the maintained sector. This allows independent schools to be funded for employment-based training before the proposals are formally implemented.

Designation of schools having a religious character – if the school is to have a religious character the governing body, or temporary governing body, must apply to the Secretary of State for the school to be designated as such. The designation

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form can be obtained from Diane Hewitt, Room 38GF, Mowden Hall, Darlington , DL3 9BG or on tele: 01323 391094.

11. How the criteria will be implemented

- A detailed survey / questionnaire from the Council for the promoters to complete and each section signed off by the promoters to demonstrate their understanding of what the Council is telling them.
- The document would advise the schools to employ an experienced VA consultant who can also give them good legal advice.
- The Council should provide a clear framework eg setting out management information etc., as they need to know what the implications are and sign up to it.
- The document could ask the promoters to demonstrate in their own words why they want VA status. 'We want to become a VA school because
- The fully completed document will be acted upon by the Council before any work begins and will be given to the SOC before they make their decision whether to grant VA status.
- The document will give a step by step guide to seeking VA status in conjunction with the yet unpublished new DfES guidelines.
- The document will give useful contact numbers for DfES, OFSTED and Key Officers in Children and Families Department.
- There are detailed statutory provisions, particularly under the School Standards and Framework Act 1998, which govern a school becoming a voluntary aided maintained school. Once such status is obtained the school will be subject to the whole range of statutory provision and guidance which applies to maintained schools which is quite different to the law which applies to independent schools.

12. Summary of the Key Steps to Maintained Status for Promoters (this list is not exhaustive)

Relevant section

1.	Obtain DfES guidelines	2
2.	Check OFSTED inspection criteria	5.1
3.	Draw up a project plan	5.5
4.	Make a decision on a wide range of factors	5.2
5.	Consider the likely demand for school places	5.2
6.	Secure tenancy of school site	5.3
7.	Obtain capital funding if necessary	5.4
8.	Demonstrate a fully worked and balanced school budget as per VA	5.4
9.	Demonstrate adherence to the Schools Admissions Code of Practice	5.5
10.	Consult all interested parties	6
11.	Publish proposals	7
12.	Await comments and objections	8
13.	Receive a decision	9
14.	Implementation of proposal	10

13. Contact Details for Key Staff at Brent Council:

Judith Joseph, Principal Schools Organisation Officer, Chesterfield House, 9 Park Lane, Wembley, Middlesex, HA9 7RW, Tele: 020 8937 3187, judith.joseph@brent.gov.uk

Nitin Parshotam, Head of Asset Management, Chesterfield House, 9 Park Lane, Wembley, Middlesex, HA9 7RW, Tele: 020 8937 3061, <u>nitin.parshotam@brent.gov.uk</u>

Amar Barot, Head of Children and Families Finance, Chesterfield House, 9 Park Lane, Wembley, Middlesex, HA9 7RW, Tele: 020 8937 3066, <u>amar.barot@brent.gov.uk</u>

Raj Parmar, Head of Schools Admissions, Chesterfield House, 9 Park Lane, Wembley, Middlesex, HA9 7RW, Tele: 020 8937 3039, raj.parmar@brent.gov.uk

Catherine Ross, Senior School Improvement Adviser, Centre for Staff Development, Brentfield Road, London, NW10 8HB, Tele: 020 8937 3341, <u>catherine.ross@brent.gov.uk</u>

Derek Balaam, Governor Support Manager, Chesterfield House, 9 Park Lane, Wembley, Middlesex, HA9 7RW, Tele: 020 8937 3038, derek.balaam@brent.gov.uk