

OFFICER DECISION RECORD

For staff restructures, please also complete an RA1 form to update the HR Portal. This is attached at Annex 2.

Decision Ref. No:
1819012

Vacancy: N/A

Box 1

DIRECTORATE: Learning & Opportunities:
Children & Young People

DATE: 23 May 2018

Contact Name: Neil McAllister

Tel. No.: 01302 735283

Subject Matter: Hatfield Sheep Dip Lane Primary Academy Transfer

Box 2

DECISION TAKEN:

Further to the academy order of the Secretary of State issued on 20 April 2018, the Council is now required to execute all formal documentation necessary to complete the conversion to academy status.

This decision record approves the appropriate instruction to the Council's Legal section to complete and seal the appropriate documentation in order for Hatfield Sheep Dip Lane Primary School to convert to academy status (date to be confirmed) as a converter academy. Hatfield Sheep Dip Lane Primary will join a Multi Academy Trust with Exceed Learning Partnership.

Box 3

REASON FOR THE DECISION:

To comply with the Secretary of State's Academy Order of 20 April 2018.

Box 4

OPTIONS CONSIDERED & REASONS FOR RECOMMENDED OPTION:

To comply with the Secretary of State's Academy Order of 20 April 2018.

Box 5**LEGAL IMPLICATIONS:**

Under the Academies Act 2010, Local Authorities are under an obligation to give effect to the Secretary of State's Academy Order by doing all acts necessary to assist the relevant School to convert to an Academy as per the above Order.

In particular, the Local Authority are obliged to:

- (a) enter into a 125 year lease to the Academy of the premises currently occupied by the school.
- (b) enter into a Commercial Transfer Agreement transferring the Assets to the Academy.

The Lease and Commercial Transfer Agreement are based on model documents prescribed by the DfE.

It will also be necessary to enter into a separate short lease to the Academy with a service level agreement for the provision of childrens early years development to ensure that clawback under the grant funding agreement with the Council and the Department for Education (Grants Team) is not invoked.

The Academisation of the School means that staff will be transferring from the Employment of the Local Authority to the new Academy. This transferring of staff is likely to be regarded as a relevant Transfer within the meaning of the Transfer of Undertakings Protection of Employment Regulations 2006 (as Amended). The relevance of this is that the legislation imposes obligations on both in old and new employer in relation to consulting with staff. Not consulting in accordance with the legislation can give rise to a claim to a Tribunal where both the new and old employers can be found to be responsible for any financial penalty imposed therefore care should be taken to ensure the staff transferring are consulted in accordance with the legislation to avoid legal and financial liability. This legal obligation includes informing the staff of any action it is proposed to be taken by the Employer following the transfer. Doncaster Council should therefore ensure the new employers have complied with their obligation to inform of any action to be taken and that this is communicated to transferring staff.

Any staff, whose principal or main role is with the transferring service are likely to transfer. Employees are entitled to transfer on their current terms and conditions. Liability in respect of the employment of the transferring staff transfers to the new employer and advice must be taken when considering indemnities in respect of these liabilities.

Name: Wahid Khan

Signature: 

Date: 25th May 2018

Signature of Assistant Director of Resources (Legal and Democratic Services)

Box 6**FINANCIAL IMPLICATIONS:**

Hatfield Sheep Dip Lane Primary School held a surplus balance of £98,829 as at 31st March 2018 and is forecast to have a surplus balance of £3,619 at 31 March 2019.

As a **Converter Academy**, any surplus balance held by the school must be paid to the Academy Trust as per the Academy Conversion (Transfer of School Surpluses) Regulations 2013. Should the school have a deficit upon conversion, as a convertor academy, the DfE would reimburse the LA and recover the money back from the academy through abatement of their General Annual Grant (GAG).

Name: Laura Sudbury **Signature:** [REDACTED] **Date:** 23/05/18

**Signature of Assistant Director of Finance & Performance
(or representative)**

Box 7

HUMAN RESOURCE IMPLICATIONS:

For staff working at the school, the academisation of Hatfield Sheep Dip Lane Primary will involve a TUPE transfer from Doncaster Council to the multi academy trust. Prior to this all necessary actions will need to be undertaken including consultation with unions and employees working at the school. Additionally employees will require appropriate information on the process and the due diligence staffing information will be required to be provided to the new employer.

It is essential to ensure that consultation is undertaken appropriately

Name: Phil McGinnity **Signature:** [REDACTED] **Date:** 29/05/2018

Signature of Assistant Director of Human Resources and Communications (or representative)

Box 8

PROCUREMENT IMPLICATIONS:

There are no procurement implications associated with this Officer Decision Record.

Name: Shaun Ferron **Signature:** [REDACTED] **Date:** 25.05.18

**Signature of Assistant Director of Finance & Performance
(or representative)**

Box 9

ICT IMPLICATIONS:

ICT do not provide any services to this school and as such there are no ICT implications associated with this decision.

Name: Peter Ward (Technology Governance & Support Manager)

Signature: [REDACTED] **Date:** 24/05/18

Signature of Assistant Director of Customers, Digital & ICT (or representative)

Box 10

ASSETS & PROPERTY IMPLICATIONS:

In accordance with the usual terms of an academy transfer, all land and buildings utilised by the school will transfer to the academy under a 125 year lease at a peppercorn. This is a standard arrangement which has been successfully applied across a number of Doncaster Schools that have changed status.

A separate short term lease linked to a Service Level Agreement will be required in respect of the Children's Centre building that is located on the site to cover the provision of early years services by the academy. This is in order to ensure compliance with the terms of a funding agreement that exists between Doncaster Council and the Department for Education (Grants Team)

Name: Gillian Fairbrother (Principal Property Surveyor)

Signature: [REDACTED] **Date:** 5th June, 2018

Signature of Assistant Director of Trading & Property Services (or representative)

Box 11

RISK IMPLICATIONS:

Complying with statutory regulations

(Explain the impact of not taking this decision and in the case of capital schemes, any risks associated with the delivery of the project)

Box 12

EQUALITY IMPLICATIONS:

In taking this decision, the decision maker must be aware of their obligations under section 149 Equality Act 2010. This section contains the Public Sector Equality Duty (PSED). It obliges public authorities, when exercising their functions, to have 'due regard' to the need to:

- a) Eliminate discrimination, harassment and victimization and other conduct which the Act prohibits;
- b) Advance equality of opportunity; and
- c) Foster good relations between people who share relevant protected characteristics and those who do not.

Local educational facilities will remain accessible for local children and their families.

**Name: Neil McAllister
(Report author)**

Signature: [REDACTED]

Date: 23 May 2018

**Box 13
CONSULTATION**

Officers

(In addition to Finance, Legal and Human Resource implications and Procurement implications where necessary, please list below any other teams consulted on this decision, together with their comments)

TUPE transfer will be undertaken and further consultation to be undertaken by the Doncaster Council as part of academy transfer process

Members

Under the Scheme of delegation, officers are responsible for day to day operational matters as well as implementing decisions that have been taken by Council, Cabinet, Committee or individual Cabinet members. Further consultation with Members is not ordinarily required. However, where an ODR relates to a matter which has significant policy, service or operational implications or is known to be politically sensitive, the officer shall first consult with the appropriate Cabinet Member before exercising the delegated powers. In appropriate cases, officers will also need to consult with the Chair of Council, Committee Chairs or the Chair of an Overview and Scrutiny Panel as required. Officers shall also ensure that local Members are kept informed of matters affecting their Wards.

Please list any comments from Members below:

Box 14

INFORMATION NOT FOR PUBLICATION:

It is in the public's interest to be aware of this decision record under the Freedom of Information Act 2000, therefore this decision will be published in full redacting signatures only.

Name: Neil McAllister

Signature: [REDACTED]

Date: 23 May 2018

Signature of FOI Lead Officer for service area where ODR originates

Box 15

**Signed: Damian Allen
Director of People**

Signature: [REDACTED]

Date: 13 June 2018

**Signed: _____ Date: _____
Additional Signature of Chief Financial Officer or nominated
representative for Capital decisions (if required)**

**Signed: _____ Date: _____
Signature of Mayor or relevant Cabinet Member consulted on the above
decision (if required).**

- **This decision can be implemented immediately unless it relates to a Capital Scheme that requires the approval of Cabinet. All Cabinet decisions are subject to call in.**
- **A record of this decision should be kept by the relevant Director's PA for accountability and published on the Council's website.**
- **A copy of this decision should be sent to the originating Directorate's FOI Lead Officer to consider 'information not for publication' prior to being published on the Council's website.**
- **A PDF copy of the signed decision record should be e-mailed to the LA Democratic Services mailbox**