

OFFICER DECISION RECORD 1 FORM

This form should be used to record Officer Decisions in Excess of £100k (but below the key decision threshold), or where required by Financial, Contract or other Procedure Rules or following formal delegation from Cabinet or a Cabinet Member or a Council Committee.

Decision Reference No: 1920029

Box 1

DIRECTORATE: Learning & Opportunities **DATE:** 28 October 2019
– Children & Young People

Contact Name: Neil McAllister **Tel. No.:** 01302 735283

Subject Matter: Hawthorn Primary Academy Conversion

BOX 2

DECISION TAKEN

Further to the academy order of the Regional Schools Commissioner issued on 17 October 2019 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 Hawthorn Primary to convert to academy status on 1 March 2020 as a converter academy. It is proposed that Hawthorn Primary will join a Multi Academy Trust – Empowering Minds Academy Trust.

BOX 3

REASON FOR THE DECISION

To comply with the Secretary of State's Academy Order of 17 October 2019

BOX 4

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

No further options were available for consideration in order comply with the statutory order.

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 upon model documents prescribed by the DfE.

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: Paula Coleman Signature: [REDACTED] Date: 29th October 2019

Signature of Assistant Director of Legal and Democratic Services (or representative)

BOX 6

FINANCIAL IMPLICATIONS:

Hawthorne Primary School held a surplus balance of £81,460 as at 31st March 2018 and is forecast to have a surplus balance of £46,582 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:**  **Date:** 29/10/19

Signature of Chief Financial Officer and Assistant Director of Finance (or representative)

BOX 7

OTHER RELEVANT IMPLICATIONS

Name: **Signature:** **Date:**

Signature of Assistant Director (or representative)

ANY IMPLICATIONS SENT TO DEPARTMENTS SHOULD GENERALLY BE SUBMITTED AT LEAST 5 WORKING DAYS IN ADVANCE TO ENSURE THESE CAN BE GIVEN THE RELEVANT CONSIDERATION.

BOX 8

EQUALITY IMPLICATIONS: (To be completed by the author).

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.

BOX 9

RISK IMPLICATIONS: (To be completed by the author)

This is a statutory process, there are no risks attached to this decision.

BOX 10

CONSULTATION

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

BOX 11

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:**



Date: 28 October 2019

Signature of FOI Lead Officer for service area where ODR originates

BOX 12**BACKGROUND PAPERS**

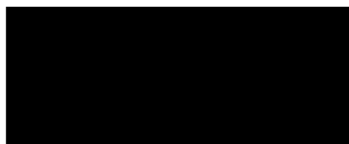
Please confirm if any Background Papers are included with this ODR - NO

(If YES please list and submit these with this form)

**BOX 13
AUTHORISATION**

Name: Riana Nelson

Signature:



Date: 12/11/2019

Director of Learning, Opportunities and Skills

Does this decision require authorisation by the Chief Financial Officer or other Officer

YES/NO

If yes please authorise below:

Name: _____ **Signature:** _____ **Date:** _____

Chief Executive/Director/Assistant Director of _____

Consultation with Relevant Member(s)

Name: _____ **Signature:** _____ **Date:** _____

Designation _____

(e.g. Mayor, Cabinet Member or Committee Chair/Vice-Chair)

Declaration of Interest YES/NO

If YES please give details below:

PLEASE NOTE THIS FORM WILL BE PUBLISHED ON THE COUNCIL'S WEBSITE IN FULL UNLESS IT CONTAINS EXEMPT OR CONFIDENTIAL INFORMATION.

Once completed a PDF copy of this form and any relevant background papers should be forwarded to Governance Services at Democratic.Services@doncaster.gov.uk who will arrange publication.

It is the responsibility of the decision taker to clearly identify any information that is confidential or exempt and should be redacted before publication.