

Name of meeting: Personnel Committee

Date: 23rd June 2014

Title of report: Report seeking the designation of support staff at Golcar Junior, Infant and Nursery School in order that they can continue in or join the Local Government Pension Scheme when they transfer to the employment of the Governing Body when the school changes category from Community School to Foundation School and acquires the Foundation - 'The Aspire Co-operative Learning Trust' on or around 1st July 2014.

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	not applicable
Is it in the Council's Forward Plan?	Yes
Is it eligible for call in by Scrutiny?	Yes
Date signed off by <u>Director</u> & name	Alison O'Sullivan
Is it signed off by the Director of Resources?	Yes - David Smith 12 th June 2014
Is it signed off by the Assistant Director – Legal, Governance and Monitoring?	Yes – Karl Larrad 12 th June 2014
Cabinet member portfolio	Children's Services Councillor Cath Harris Councillor Shabir Pandor Councillor Jean Calvert

Electoral [wards](#) affected: Golcar

Ward councillors consulted: Golcar (as part of the Governing Body consultation)

Public or private: Public

1. Purpose of report

When Golcar Junior, Infant and Nursery School changes category from Community School to become a Foundation School and acquire a Foundation - 'The Aspire Co-operative Learning Trust' all staff will be transferred through TUPE. The Terms and Conditions of staff would be maintained and teachers can remain members of the Teacher's Pension Scheme. However, Council agreement is needed to allow current and future non-teaching staff to remain or to become members of the Local Government Pension Scheme.

This report sets out the background and the regulations which govern the pension arrangements for staff. The report recommends that Personnel Committee approve that if the change of category is implemented then support staff would remain members of the Local Government Pension Scheme.

2. Key points

2.1 Background and rationale

The Governing Body of Golcar Junior, Infant and Nursery School has proposed and taken a decision to change the category of the school from a Community school to a Foundation school and simultaneously to acquire the existing charitable trust 'The Aspire Co-operative Learning Trust.' The proposed date of implementation is on or around 1 July 2014. The Trust is a co-operative trust, and is the foundation trust created when Royds Hall Community School became a Trust School.

The school, supported by the Trust, would work to improve the standards of attainment and services for pupils and their families in the local community.

The Trust members currently are:

- Royds Hall Community School
- Huddersfield New College
- Holmfirth Fair Traders
- Huddersfield Town Football Club
- St John's CE(VA) J and I School
- The Centre of Science Education (CSE) at Sheffield Hallam University

2.2 The statutory process

School organisation decisions have to follow a process set out by law and there is a 5-stage statutory process.

The five stages are:

- Consultation
- Publication
- Representation
- Decision
- Implementation

The proposal for the school to change category to a Foundation School and acquire a Trust have been subject to a statutory period of consultation undertaken by Governors in which the views of parents, staff, ward Councillors, students, the community and other key stakeholders has been sought. Statutory proposals were published and after a four week period of representation the Governing Body took a final decision about the proposals on 19th February 2014 with a view to implementing the proposal on or around 1st July 2014 and as a result there are Human Resource (HR) implications for the school and the LA.

2.3 The role of the council

The council has a duty to fulfil its obligations as part of the implementation of the proposals in relation to staff currently being employed at Golcar Junior, Infant and Nursery School that will transfer to the Governing Body of the school.

3. Implications for the Council

3.1 Human Resources implications

There are staffing and pension implications of implementing the proposal to change the category of Golcar Junior, Infant and Nursery School from a Community School to a Foundation School.

The Council would cease to be the employer of staff at the schools from the proposed implementation date (1 July 2014) and the staff would TUPE transfer to the Governing Body of the school (the transfer of staff occurs under Education law and TUPE Regulations 2006). The staff would transfer to the new Trust school and be employed by the Governing Body (not 'The Aspire Co-operative Learning Trust'). Terms and conditions of service would remain the same for both teaching and non-teaching staff.

The existing rights of teachers would be fully protected. The Governing Body of the Trust School would remain bound by the School Teachers' Pay and Conditions Document. Teaching staff would be able to remain members of the Teacher's Pension Scheme. However, in order for current and future non-teaching staff to remain or become members of the LGPS, the governing body needs to consent (which they have see Appendix 1) and the Council needs to agree to designate current and future staff to remain in or join the LGPS, under Regulation 3(1)(b)2013 of the Local Government Pension Scheme (as amended). If the Council agrees to this the Council will remain as deemed employer of non-teaching support staff for pension purposes only. As Local Authority Maintained schools, the school would continue to bear the cost of the employer's pension contributions through their DSG allocations.

- Designation by the Council under regulation 3(1)(b) of LGPS 2013 is the relevant route to enable non-teaching staff to remain in or join the LGPS.
- WYPF have confirmed that they will not allow the School Governing Body to apply for admission in to the LGPS in its own right.
- For valuation purposes, foundation schools are grouped with the Council and the schools future employer contribution rate will be the same as the Council's contribution rate. This reflects the schools' share of any notional deficit which may exist.
- The Council as "deemed" employer for pension purposes is legally responsible for payment of pension contributions to WYPF and remains liable for any deficit.
- The Governing Body of the School is required to enter into a legal agreement with the Council to govern the administration and payment of pensions. This is shown at Appendix 1. This provides, amongst other things, that:-
 - the school's employer discretions must "mirror" those agreed by the Council ensuring it cannot adopt more generous ill health or early retirement provisions.
 - employee and employer contributions will be paid to WYPF (who will monitor this happens).

- the school will be responsible for payment of employer contributions set by WYPF actuary.
- the school will indemnify (ie reimburse) the Council any costs arising out of default by the school in paying to the Council or WYPF sums payable (or payable by a different payroll provider) on the school's behalf in respect of school support staff.

The need for a legal agreement is appropriate because although the Council under Regulation 3(1)(b) of LGPS regulations 2013 is the deemed employer for pension purposes and therefore retains some residual risk, it is not the actual employer for other purposes. The Agreement is intended to mitigate financial risks to the Council so far as practicable.

4. Consultees and their opinions

The statutory proposal by the Governing Body of the school to change category from Community School to Foundation School and to acquire a Foundation - 'The Aspire Co-operative Learning Trust' has been the subject of a statutory consultation process and a period of representation in which the views of parents, staff, Ward Councillors, students, the community, Trade Unions, the LA and other key stakeholders have been sought and taken into consideration.

5. Next steps

Officers in HR and Legal have been working with the Governing Body at Golcar Junior, Infant and Nursery School to support the TUPE transfer of staff for the implementation date of on or around 1st July 2014.

Subject to the decision of the Personnel Committee and the signing of the legal agreement (Appendix 1), officers will work with the Governing Body of the school to facilitate the making of appropriate arrangements in respect of current non-teaching staff and future non-teaching staff at the school so that they can remain or become members of the LGPS as detailed in 3.1 above.

6. Officer recommendations and reasons

Officers request that Members:

- 6.1 Note the statutory proposals of the Governing Body at Golcar Junior and Infant School to change category from Community School to Foundation School and acquire a Foundation - 'The Aspire Co-operative Learning Trust'.
- 6.2 Note that the role of the council in the implementation of the proposal is enacting the transfer of the employment of staff from the Council to the Governing Body of the Trust School.
- 6.3 Note at Appendix 1 the text of the legal agreement that is required to be signed by the Governing Body of Golcar Junior and Infant School to the pension arrangements for non-teaching staff to remain as part of the Local Government Pension Scheme.
- 6.4 Subject to 6.3, the transferee employer entering into a legal agreement in the form set out at Appendix 1 to this report, approve that under Regulation 3(1)(b) of LGPS regulations 2013 Kirklees Local Education Authority, having received consent by Golcar Junior and Infant School, designates all existing non-teaching

staff of Golcar Junior and Infant School and future non-teaching staff of the school as being eligible for membership of the Local Government Pension Scheme.

7. Cabinet portfolio holder's recommendations

Not applicable

8. Contact officer and relevant papers

Jo-Anne Sanders
Deputy Assistant Director: Learning and Skills
Tel: 01484 221000
jo-anne.sanders@kirklees.gov.uk

Karl Larrad
Corporate Manager - Legal Services
Tel: 01484 221000
karl.larrad@kirklees.gov.uk

Karen Ashworth-Smith
Human Resource Project Manager
Tel: 07976 497711
karen.ashworth-smith@kirklees.gov.uk

9. Assistant director responsible

Gill Ellis
Assistant Director for Learning and Skills
Directorate for Children and Adults