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Monday 27 March 2017

Notice of Meeting

Dear Member

Personnel Committee

The **Personnel Committee** will meet in the **Leadership Meeting Room - 1st Floor, Civic Centre 3, Huddersfield, HD1 2TG** at **5.30 pm** on **Tuesday 4 April 2017**.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read 'Julie Muscroft', on a light-colored background.

Julie Muscroft

Assistant Director of Legal, Governance and Monitoring

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

The Personnel Committee members are:-

Member

Councillor David Sheard (Chair)
Councillor Shabir Pandor
Councillor Martyn Bolt
Councillor David Hall
Councillor Terry Lyons
Councillor Nigel Patrick
Councillor Nicola Turner
Councillor Peter McBride
Councillor Graham Turner

When a Personnel Committee member cannot be at the meeting another member can attend in their place from the list below:-

Substitutes Panel

Conservative

B Armer
D Bellamy
L Holmes
B McGuin
K Sims

Green

K Allison
A Cooper

Independent

C Greaves

Labour

G Asif
E Firth
C Scott
M Sokhal
S Ullah

Liberal Democrat

R Eastwood
J Lawson
A Marchington
L Wilkinson

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

This is where Councillors who are attending as substitutes will say for whom they are attending.

2: Minutes of Previous Meeting

1 - 8

To approve the Minutes of the meeting of the Committee held on 25 January 2017.

3: Interests

9 - 10

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

4: Admission of the Public

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

5: Public Question Time

The Committee will hear any questions from the general public.

6: Member Question Time

To consider questions from Councillors.

7: Deputation/Petitions

The Committee will receive any petitions and hear any deputations from members of the public.

A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

8: Crow Lane Primary and Foundation Stage School and Paddock Junior Infant and Nursery School - Designation of support staff and their participation in the Local Government Pension Scheme

11 - 24

The Governing Bodies of Crow Lane Primary and Foundation Stage School and Paddock Junior, Infant and Nursery School are proposing to change the category of their schools from Community Schools to Foundation Schools and acquire a Foundation – “The Aspire Co-operative Learning Trust” on 24 April 2017.

Subject to a final decision on this proposal, the Council will cease to be the employer of staff at the school from the implementation date and staff will transfer to the employment of the schools’ Governing Bodies. The designation of support staff is sought in order that they can continue in or join the Local Government Pension Scheme (LGPS).

Contact: Martin Wilby 01484 221000

9: Exclusion of the Public

To resolve that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

10: Update on Human Resources and Industrial Relations and Trade Union Relationships in the New Council

To receive an update on developments in the period since the Personnel Committee on 25 January 2017.

Contact: Rosemary Gibson 01484 221000

11: Succession planning and managing change

To receive an update on developments in the period since the Personnel Committee on 25 January 2017.

Contact: Jacqui Gedman 01484 221000

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Contact Officer: Steve Copley

KIRKLEES COUNCIL

PERSONNEL COMMITTEE

Wednesday 25th January 2017

Present: Councillor David Sheard (Chair)
Councillor Martyn Bolt
Councillor David Hall
Councillor Nigel Patrick
Councillor Nicola Turner
Councillor Peter McBride
Councillor Graham Turner

Apologies: Councillor Shabir Pandor
Councillor Terry Lyons

1 Membership of the Committee

Apologies for absence were noted on behalf of Councillors Terry Lyons and Shabir Pandor.

2 Minutes of Previous Meeting

The minutes of the Personnel Committee meeting on 17 November 2016 were approved.

3 Interests

No interests were declared.

4 Admission of the Public

Members resolved to consider items 10, 11, 12 and 13 in private session, as they contain exempt information. The details and reasons are set out at the start of each item.

5 Public Question Time

No questions were received.

6 Member Question Time

No deputations or petitions were received.

7 Deputation/Petitions

No questions were received.

8 Returning Officer and Responsibilities for National Elections and Referenda

Adrian Lythgo introduced a report containing a recommendation to correct the existing contractual approach of consolidating the (Acting) (Local) Returning Officer fees relating to national elections and referenda into the Chief Executives salary, in order to treat them in future as separate payments.

Adrian Lythgo answered questions on the background and history to the current arrangements, and the reasons for the recommendations in the report.

RESOLVED: - That the Personnel committee approves the recommendations in this report, which are that:

(1). In future the Chief Executive/Acting Chief Executive will receive separate election fees to their Council salary for all national elections and/or referendums.

(2). A proportion (46.5%) of which will be paid back into the election staffing budget or as a direct payment to the Deputy Returning Officer (with full delegated powers) as detailed in 2.5 of the report.

9 Exclusion of the public

RESOLVED - That acting under Section 100(A)(4) of the Local Government Act, 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act, as specifically stated in the under mentioned minutes.

10 Update on Human Resources and Industrial Relations and Trade Union Relationships in the New Council

(Exempt information relating to consultations or negotiations, or contemplated consultations and negotiations, in connection with a labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority. The need to maintain confidentiality around negotiations with the trade unions outweighs the public interest in disclosing the information)

Personnel Committee - 25 January 2017

Further to the Personnel Committee on 17 November 2016, the Committee received a verbal update from Jacqui Gedman and Rosemary Gibson on the progress being made in the discussions with the trade unions to try to develop the working arrangements between the management and trade unions.

The report focused, in summary, on the progress being made with:-

- The progress made in the discussions between the management and trade union sides to-date
- The progress made in the discussions to-date about the proposal to introduce changes by 1 April 2017 which will see the total number of trade union representatives for UNISON, GMB and UNITE, plus the formal time off that is allocated to them and recorded for their trade union duties, being based on some new ratios based on 1:1000 for the total number of members that they have working in Kirklees.
- Plans for subsequent work on the recording of any "green time", and any other ad hoc and informal time off for other trade union duties in 2017/18.
- The recent ballot for industrial action in Children's Services, which was scheduled to begin on 27 January 2017, and which has been averted *for the time being* following a request for the trade unions to clarify matters and their decision to refer these items to the joint secretaries for further consideration.
- Other service areas where the likelihood of further ballots and calls for industrial action are likely to occur in 2017/18

RESOLVED: - Members of the Committee agreed to:-

- (1). Receive this progress report
- (2). Unanimously commit to support the introduction of the changes by 1 April 2017 which will see the total number of trade union representatives for UNISON, GMB and UNITE, plus the formal time off that is allocated to them and recorded for their trade union duties, being based on some new ratios based on 1:1000 for the total number of members that they have working in Kirklees.
- (3). Ask officers to progress further work with managers, staff and the trade unions to manage and record any "green time" and any other ad hoc and informal time off for other trade union duties in 2017/18
- (4). Ask officers to review how time off for managers and staff to undertake any other official or voluntary duties and roles e.g. local magistrates, will also be managed and recorded in 2017/18.

(5). Ask officers to provide members of the committee with the current list of issues in Children's Services which the trade unions have raised for attention in January 2017, and following the discussions with CNT and the Employee Relations Sub Committee in April 2014.

(6). Ask management to issue some communications to councillors, managers and staff to help raise awareness of these issues and the actions that are being taken to address them.

11 Succession planning and managing change

(Exempt information relating to particular employees. The public interest in maintaining the exemption, which would protect the rights of the individual under the Data Protection Act 1988, outweighs the public interest in disclosing the information and providing greater openness in the council's decision making)

Following a report at the Personnel Committee on 17 November 2016, Adrian Lythgo provided a report on progress with the process and timetable to complete the review of the senior management structure.

The report focused on:-

- A recommendation to seek formal approval for the remuneration for an interim Director for Children's Services,
- A recommendation to seek formal approval for the remuneration of the Acting Chief Executive, and
- Clarification of the approach to developing heads of service and senior managers roles and their recruitment

Adrian Lythgo and Jacqui Gedman answered members questions on the report and its recommendations focusing, in particular, on the:-

- Plans to cover the role of Director for Children's Services in the period up to 31 March 2017, and then the next steps from April 2017 onwards. This will be the subject of a report for the next Personnel Committee.
- The reasons to vary the recruitment process for the following Service Director posts, to encourage applications from internal and external candidates at the same time
 - Early help and learning
 - Quality, assurance, standards and safeguarding
 - Service solutions

Personnel Committee - 25 January 2017

Following on from the above, Adrian Lythgo went on to hold a private conversation with members of the committee regarding the recommendation on the grade of the Acting Chief Executive in 2017/18.

RESOLVED: - That the Committee approves the recommendations in this report, which are:-

- (1). To receive the progress report on the appointments to the roles of Strategic Directors and Service Director Directors to-date
- (2). To approve the variation proposed for recruitment to the vacant Service Director roles because of the particular nature of these roles, so as to bring in greater capacity and stability at the earliest point, and approve the internal and external advertising of the posts at the same time.
- (3). To note that Kim Brear, Assistant Director, will vary her personal arrangements to support the transition to new council
- (4). Formally approve the remuneration of Gill Ellis as interim Director of Children's Services, based on the figures set out in paragraph 3 of the report
- (5). To note the approach to the heads of service review in a number of stages
- (6). To formally approve the remuneration of Jacqui Gedman as Acting Chief Executive, based on the proposal as set in in Annexe B to the report, but on a revised starting point of SCP 79.

12 Arrangements for interim capacity in senior management

(Exempt information relating to particular employees. The public interest in maintaining the exemption, which would protect the rights of the individual under the Data Protection Act 1988, outweighs the public interest in disclosing the information and providing greater openness in the council's decision making)

The Committee considered a joint report from Jacqui Gedman, Rosemary Gibson and Adrian Lythgo which sought members approval to make a temporary (interim) appointment to cover the post of Strategic Director – Economy and Infrastructure.

Jacqui Gedman agreed to provide members of the committee with further information on the curriculum vitae of the proposed candidate, and an opportunity for Councillors David Hall and Nicola Turner to meet with him ASAP.

RESOLVED: - Members of the Committee went on to:-

- (1). Approve, in principle, the recommendation in this report, to appoint Mr Naz Parkar, on an interim basis, to the role of Strategic Director for Economy and Infrastructure, to help ensure sufficient strategic capacity and support in the council
- (2). Ask Jacqui Gedman to provide members of the committee with further information about this candidate, plus an opportunity to meet with him in Jan 2017.

13. Health and social care arrangements – Options for the extension of current arrangement for the joint role of Strategic Director for Adults and Health at Kirklees Council and Chief Officer at North Kirklees Clinical Commissioning Group (CCG)

(Exempt information relating to particular employees. The public interest in maintaining the exemption, which would protect the rights of the individual under the Data Protection Act 1988, outweighs the public interest in disclosing the information and providing greater openness in the council's decision making)

The Committee considered a report by Adrian Lythgo which sought members approval for an extension of the current arrangement for the joint role of Strategic Director for Adults and Health at Kirklees Council and Chief Officer at North Kirklees CCG.

Members of the committee raised some concerns and reservations about the continuation of the arrangements for an indefinite period of time, and the affect which this could have on the capacity and management of the council and its services in 2017/18.

Jacqui Gedman went on to acknowledge the concerns and risks, which she will continue to manage and review in her role as Acting Chief Executive in 2017, which is reflected in the decision made by the Personnel Committee, as set out below.

RESOLVED: - Members of the committee approve the recommendation in this report, and support option 2, but subject to the conditions that:-

- The arrangements are to continue but are to be reviewed, by Jacqui Gedman, on a 3 month basis up until 31 December 2017, and the CCG asked to clarify its direction of travel, dates and plans by Summer 2017.
- The current arrangements continue for a fixed term extension of 3 months, with an additional 3 month (rolling) notice period.
- David Hamilton will be asked to provide interim capacity in adult social care to provide whole time cover on adult social care statutory functions for the remaining period of the secondment.

Personnel Committee - 25 January 2017

- Officers to issue communications to councillors, managers and staff to help clarify the roles and responsibilities of Richard Parry and David Hamilton in covering the duties and role of Strategic Director for Adults and Health in the period up to 31 December 2017.

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KIRKLEES COUNCIL			
COUNCIL/CABINET/COMMITTEE MEETINGS ETC			
DECLARATION OF INTERESTS			
Personnel Committee			
Name of Councillor			
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
- (b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



Name of meeting: Personnel Committee
Date: 4 April 2017

Title of report: Designation of support staff at Crow Lane Primary and Foundation Stage School and Paddock Junior Infant and Nursery School in order that they can continue in or join the Local Government Pension Scheme

Purpose of report:

To report the implications of the Governing Body proposal to change the category of Crow Lane Primary and Foundation Stage School and Paddock Junior Infant and Nursery School from Community Schools to Foundation Schools and acquire a Foundation – “The Aspire Co-operative Learning Trust” on 24 April 2017 and seek designation of support staff in order that they can continue in or join the Local Government Pension Scheme.

Key Decision - 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
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	not applicable
The Decision - Is it eligible for call in by Scrutiny?	No
Date signed off by <u>Director</u> & name	Gill Ellis, Director for Children’s Services, (Jo-Anne Sanders – 20 th March 2017)
Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?	Debbie Hogg – Assistant Director Resources – Financial, Risk, IT and Performance
Is it also signed off by the Assistant Director (Legal Governance and Monitoring)?	Julie Muscroft –Assistant Director - Legal, Governance and Monitoring – (Karl Larrad – 20 th March 2017)
Cabinet member portfolio	Cllr Masood Ahmed Cllr Graham Turner

Electoral wards affected: Greenhead and Golcar
Ward councillors consulted: not applicable
Public or private: Public

1. Summary

The Governing Bodies of Crow Lane Primary and Foundation Stage School and Paddock Junior Infant and Nursery School are proposing to change the category of their schools from Community Schools to Foundation Schools and acquire a Foundation – “The Aspire Co-operative Learning Trust ” on 24 April 2017

Subject to a final decision, the Council will cease to be the employer of staff at the school from the implementation date and staff will transfer to the employment of the schools’ Governing Bodies. The Designation of support staff is sought in order that they can continue in or join the Local Government Pension Scheme (LGPS).

2. Information required to take a decision

2.1. Background

The Governing Bodies of Crow Lane Primary and Foundation Stage School and Paddock Junior Infant and Nursery School are proposing to change of the categories of the schools from Community Schools to Foundation schools and, simultaneously, to acquire a charitable trust to be called “The Aspire Co-operative Learning Trust “. The proposed date of implementation is 24 April 2017. The proposed Trust is a mutual Co-operative Membership Trust.

The Trust already acts as a foundation for Royds Hall Community School, Golcar JIN School and Beech Primary School. The members of the trust are:

- Royds Hall Community School (2 trustees),
- Golcar JIN School (2 trustees)
- Beech Primary School (2 trustees)
- Golcar St Johns Primary School (2 trustees)
- The Co-operative Movement, represented by the Co-operative College (1 Trustee)
- Huddersfield New College (1 trustee)
- Huddersfield Town Football Club (1 trustee)
- University of Huddersfield (1 trustee)
- Sheffield Hallam University, Centre for Science Education (1 trustee)
- Holmfirth Fair Traders (1 trustee)

Crow Lane Primary and Foundation Stage School and Paddock Junior Infant and Nursery School will each appoint two trustees.

The Governing Bodies of the schools are proposing to join, through a Trust, a long-term partnership that brings together the co-operative movement and existing strong links with the local community. Other educational partners also support the work of the Trust.

The Governing Bodies of the schools will gain new powers and responsibilities. They will become the employer of all staff, although existing pay and condition arrangements will be unchanged as the schools will remain in the maintained sector and be subject to national pay and condition agreements. The Governing Bodies will also become responsible for pupil admissions, but will work jointly with the Local Authority to administer the provision of pupil places within the requirements of the DfE School Admissions Code. The Trust will hold the land and capital assets in trust for the schools and the Governing Bodies will retain day-to-day responsibility for managing these assets.

The school supported by the Trust will work to improve the existing standards of attainment and services for students and their families in the local community. The establishment of the Trust will help the drive for improved standards in the school, particularly through engaging with the wider community.

2.2. Statutory process

School organisation decisions have to follow a process set out by law. The Governing Bodies of Crow Lane Primary and Foundation Stage School and Paddock Junior Infant and Nursery School have had due regard to legislation and are following the 5-stage statutory process in respect of these proposals.

The five stages are:

- Consultation
- Publication
- Representation
- Decision
- Implementation

The proposals to change category to a Foundation School and acquire a Trust have been subject to a statutory six week period of consultation undertaken by Governors in which the views of parents, staff, ward Councillors, students, the community and other key stakeholders have been sought. The consultation ran from noon Monday 16 January 2017 to noon Monday 13 February 2017.

A four week period of representation period commenced on 7 March and will end on 4 April. The Governing Bodies of Crow Lane Primary and Foundation Stage School and Paddock Junior Infant and Nursery School will then be able to make a final decision about the proposals.

2.3. Role of the council

The role of the council when a school changes status from being a Community school to a Foundation school is prescribed by statute. In essence, the council has to “facilitate” and “enable” the implementation of the decision of the Governing Bodies of Crow Lane Primary and Foundation Stage School and Paddock Junior Infant and Nursery School to change status.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

EIP is about working across the Council, partners and communities to support people to have the lives they want, with support from the council only when needed. We will help people in the most appropriate way with the money we have available. One of the ways we are doing this is by establishing schools as community hubs, where schools become more involved in delivering a wider range of services within their local community. The proposed changes formalise existing partnerships of schools working in the same hub.

3.2 Economic Resilience (ER)

We want Kirklees to be a place where local people have the chance to develop skills, and where communities have good employment opportunities and wages. In line with this, we are committed to making sure that there are enough high quality school places in the areas

where communities and families need them. The proposals help to secure the future of existing school places.

3.3 Improving outcomes for Children

Our aim is that all children in Kirklees have equal access to, and equal opportunities in education, regardless of where they were born or their start in life. We are committed to improve the quality of education in our schools to give every child the best possible start

3.4 Reducing demand of services

Supporting families early decreases the need for costly interventions later. One of the ways we are doing this is by establishing schools as community hubs. The proposed changes formalise existing partnerships of schools working in the same hub.

3.5 Legal, financial, human resources (HR) and other resource implications

Subject to a final decision on the proposals for Crow Lane Primary and Foundation Stage School and Paddock Junior Infant and Nursery School to change category to a Foundation School and acquire a Trust, there are staffing and pension implications.

The Council will cease to be the employer of staff at the schools from the implementation date of 24 April 2017 when the schools convert to Foundation status (the transfer of staff occurs under Education law and TUPE Regulations 2006). All staff will be covered by the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007. The Regulations provide all rights, powers, duties and liabilities to transfer from the Council to the Governing Body, which will continue to recognise the same Trade Unions. The staff will transfer to the new Trust school and be employed by the Governing Bodies (not "The Aspire Co-operative Learning Trust"). Terms and conditions of service will remain the same for both teaching and non-teaching staff.

The existing rights of teachers will be fully protected if the school acquires the Trust. The Governing Body will remain bound by the School Teachers' Pay and Conditions document. Teaching staff can remain members of the Teachers' Pension Scheme. However, in order for current and future non-teaching staff to remain or become members of the LGPS, the governing body has given consent, and the Council needs to agree, to allow current and future staff to remain in or join the LGPS, under Regulation 8 of the Local Government Pension Scheme (Administration) Regulations 2013 (as amended). If the Council agrees to this, the Council will remain as employer of non-teaching support staff for pension purposes only. The school would continue to bear the cost of the employer's pension contributions through their DSG allocations

4. Consultees and their opinions

The Governing Body proposals to change category to Foundation Schools and acquire a Trust have been the subject of a broad statutory consultation undertaken by the governors 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.

As part of the consultation process, the schools have consulted with the following:

- Pupils currently at the schools (through school councils).
- Parents/carers of children currently at the schools.
- Staff currently employed at the schools, both teaching and support staff.
- All schools currently sending children to the schools.
- The Local Authority and neighbouring Local Authorities.
- Local MPs and serving local Councillors.
- The local Teacher Associations and Trade Unions representing our support staff

- Other neighbouring schools which may be affected by the proposals.
- Local Community Groups including nurseries, child care providers, sports and leisure providers.
- Milnsbridge Children's Centre.
- Local and neighbouring Colleges and Higher Education Institutes.
- Children and Adolescents Mental Health Service (CAMHS).
- The Primary Care Trust (PCT) and Local GP surgeries.
- Connexions.
- Local Diocese.
- Local Mosques.
- Huddersfield Muslim Community Centre.
- Paddock Community Forum.
- Paddock Community Church.

5. Next steps

Subject to the final decision of each Governing Body and the decision of the Personnel Committee, officers would work with the school Governing Bodies to facilitate appropriate arrangements in respect of current and future non-teaching staff to remain or become members of the LGPS as detailed in 3.5 above.

6. Officer recommendations and reasons

Officers request that Members:

- i. Note the Governing Body proposals to change the category of Crow Lane Primary and Foundation Stage School and Paddock Junior Infant and Nursery Schools to a "Trust School" (a Foundation school with a charitable foundation) and the role of the Council when a school changes status from being a Community school to a Trust school.
- ii. Note that the Council will cease to be the employer of staff at the school from the implementation date of 24 April 2017 when the school will convert to Foundation status and the transfer of staff will occur under Education law and TUPE Regulations 2006. All staff will be covered by the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007. The Regulations provide all rights, powers, duties and liabilities to transfer from the Council to the Governing Body, which will continue to recognise the same Trade Unions. The staff will 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 will remain the same for both teaching and non-teaching staff.
- iii. Subject to final decisions by the Governing Bodies of Crow Lane Primary and Foundation Stage School and Paddock Junior Infant and Nursery School, approve that under Regulation 8 of the Local Government Pension (Administration) Regulations 2008, Kirklees Council with consent of the governing body of Crow Lane Primary and Foundation Stage School and Paddock Junior Infant and Nursery School, designates all current and future non-teaching employees of the school as being eligible for membership of the Local Government Pension Scheme, subject to the school Governing Body as employer entering into a legal agreement. This legal agreement will provide amongst other things,
 1. The school Governing Body as employer discretions must mirror those of the council and not be more generous regards ill health and/or early retirement provisions ;
 2. Employee and employer contributions will be paid to West Yorkshire Pension Fund (WYPF) who monitor this happens;

3. The school will be responsible for employer contributions set up by WYPF Actuary from time to time;
4. The school will indemnify (i.e. 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 schools behalf in respect of school support staff .

An agreement is needed because although the council is deemed employer under Regulation 8 for pension purposes and therefore retains some residual risk, it is not the actual employer for other purposes. The agreement is intended to mitigate these risks so far as practicable.

7. Cabinet portfolio holder's recommendations

The Cabinet Members are aware of this report and the referral of the item to the Personnel Committee for determination.

8. Contact officers

Martin Wilby
Acting Deputy Assistant Director – LA Statutory Duties
Directorate for Children and Young People
Civic Centre 3
martin.wilby@kirklees.gov.uk
01484 220000

Sharon Crane
Human Resources Partner
sharon.crane@kirklees.gov.uk
01484 220000

Karl Larrad
Deputy Head of Legal
Legal & Governance
karl.larrad@kirklees.gov.uk
01484 220000

9. Background Papers and History of Decisions

Background papers can be located on the schools websites:

<http://www.crowlane.org.uk/aspire-trust>

<https://paddockpri-kgfl.secure-dbprimary.com/kgfl/primary/paddockpri/site/pages/trustconsultatiion>

10. Assistant Director responsible

Jo-Anne Sanders
Acting Assistant Director, Learning and Skills
Directorate for Children and Young People
Civic Centre 3
jo-anne.sanders@kirklees.gov.uk
01484 221000

**Legal, Governance and Monitoring
PO Box 1274
Huddersfield
HD1 2NQ**

Tel: 01484 221000
Fax: 01484 221423

Email: karl.larrad@kirklees.gov.uk
www.kirklees.gov.uk

22 February 2017

Private and Confidential

I Jacob
Chair of Governors
Crow Lane Primary And Foundation Stage School
Crow lane
Huddersfield
HD3 4QT

Dear Mrs Jacob,

Change of Category from a Maintained School to a Trust School - Designation of support staff in order that they can continue in or join the Local Government Pension Scheme after becoming part of a Trust School

When a maintained school changes category to a Trust school support staff employed by the Governing Body of a Trust school may continue in or join the Local Government Pension Scheme (LGPS) provided that the Local Education Authority has, with the consent of the Governing Body of the School, designated such support staff as being eligible to continue in or to join the LGPS under Regulation 8 of the Local Government Pension Scheme (Administration) Regulations 2013 (S12015/2356).

Pension provisions relating to the designation of support staff employed by Trust schools are not adequately covered in the Kirklees Scheme for Financing Schools. Therefore, in order that the Council will agree to the designation, the Council requires the Governing Body of Crow Lane Primary and Foundation Stage School to agree to the following provisions to govern the administration and payment of pension contributions and payments for support staff transferring to the employment of the Governing Body of Crow Lane Primary And Foundation Stage School on 24 April 2017.

1. The Governing Body of Crow Lane Primary And Foundation Stage School agrees, from the Transfer Date of 24 April 2017 as follows:

- 1.1 to procure that payment is made to the West Yorkshire Pension Fund (WYPF) or to the Council for credit to the WYPF of all pension contributions, payments and any other sums as are required to be paid to WYPF by or under the regulations governing the LGPS from time to time in respect of eligible support staff employed by the Governing Body of Crow Lane Primary And Foundation Stage School; and
 - 1.2 that the Governing Body shall be responsible for the payment of an employer contribution rate from time to time set by the WYPF actuary relating to the eligible support staff's membership of the LGPS; and
 - 1.3 to procure the prompt provision to the Council of such completed forms, documentation and information as are required to be submitted under LGPS legislation relating to the payment of all pension contributions, payments and any other sums in respect of all eligible support staff employed by the Governing Body of Crow Lane Primary And Foundation Stage School; and
 - 1.4 to publish within 3 months after the Transfer Date a statement concerning the school's employer discretions under LGPS legislation which should (unless the Council agrees to the adoption of any alternative terms) mirror those agreed by the Council from time to time in relation to ill-health retirement or early retirement and redundancy or any other relevant policies.
2. The Governing Body of Crow Lane Primary and Foundation Stage School shall indemnify and keep indemnified the Council against all losses and liabilities (including but not limited to costs, claims, demands, losses and interest payments) and expenses which relate to or arise out of:
 - 2.1 any default by the Governing Body in paying to the Council or WYPF any sum or sums payable by the Governing Body and/or payable by any third party payroll provider on behalf of the Governing Body by virtue of the regulations governing the LGPS from time to time and the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 in respect of eligible support staff with effect from the Transfer Date, where such default occurs while the Governing Body employs the employees or in connection with any transfer of any of the employees from the Governing Body to a new employer; and
 - 2.2 any failure by the Governing Body to comply with its obligations under clause 1 above.
 3. In the event that the Governing Body of Crow Lane Primary and Foundation Stage School fails to comply with the above clause 1, the Council shall be entitled to charge any costs arising from such failure to the school's budget share.
 4. This Agreement does not and is not intended to confer any contractual benefit on any person under the Contracts (Rights of Third Parties) Act 1999.

We enclose a second copy of this letter which we would be grateful if you would return and sign in order that the Council will designate support staff employed by the Governing Body of Crow Lane Primary And Foundation Stage School in order that support staff employed by the school can be eligible to continue in or to join the LGPS.

Yours sincerely

Karl Larrad

Karl Larrad

Legal Manager
Legal and Governance Services

We accept the terms of your letter dated 22nd Feb . 2017
.....

Signed: Irene S Jacob
.....

An authorised signatory for and on behalf
of the Governing Body of Crow Lane
Primary And Foundation Stage School
Name (Print): IRENE JACOB
.....

Position (Print): CHAIR OF GOVERNORS
.....

Dated: 22nd Feb '17
.....

**Legal, Governance and Monitoring
PO Box 1274
Huddersfield
HD1 2NQ**

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22 February 2017

Private and Confidential

I Jacob
Chair of Governors
Crow Lane Primary And Foundation Stage School
Crow lane
Huddersfield
HD3 4QT

Dear Mrs Jacob,

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Karl Larrad

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Legal Manager
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Signed: Irene S Jacob
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An authorised signatory for and on behalf
of the Governing Body of Crow Lane
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Name (Print): IRENE JACOB
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Dated: 22nd Feb '17
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