

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 <a href="#">Council's Forward Plan (key decisions and private reports?)</a>	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 <sup>th</sup> 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 <sup>th</sup> March 2017)
Cabinet member <a href="#">portfolio</a>	Cllr Masood Ahmed Cllr Graham Turner

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

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## 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](mailto:martin.wilby@kirklees.gov.uk)  
01484 220000

Sharon Crane  
Human Resources Partner  
[sharon.crane@kirklees.gov.uk](mailto:sharon.crane@kirklees.gov.uk)  
01484 220000

Karl Larrad  
Deputy Head of Legal  
Legal & Governance  
[karl.larrad@kirklees.gov.uk](mailto: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](mailto: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](mailto:karl.larrad@kirklees.gov.uk)  
[www.kirklees.gov.uk](http://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  
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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**

Tel: 01484 221000  
Fax: 01484 221423

Email: [karl.larrad@kirklees.gov.uk](mailto:karl.larrad@kirklees.gov.uk)  
[www.kirklees.gov.uk](http://www.kirklees.gov.uk)

22 February 2017

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Chair of Governors  
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Crow lane  
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Yours sincerely

*Karl Larrad*

**Karl Larrad**

Legal Manager  
Legal and Governance Services

We accept the terms of your letter dated 22nd Feb . 2017  
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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  
Primary And Foundation Stage School  
Name (Print): IRENE JACOB  
.....  
.....

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

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