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## SCRUTINY BOARD (RESOURCES AND COUNCIL SERVICES)

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Meeting to be held in Civic Hall, Leeds, LS1 1UR on  
Monday, 23rd February, 2015 at 10.00 am

*(A pre-meeting will take place for ALL Members of the Board at 9.30 a.m.)*

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### MEMBERSHIP

#### Councillors

- S Bentley - Weetwood;
- J L Carter - Adel and Wharfedale;
- J Cummins - Temple Newsam;
- N Dawson - Morley South;
- P Grahame (Chair) - Cross Gates and Whinmoor;
- J Jarosz - Pudsey;
- A Khan - Burmantofts and Richmond Hill;
- A Lowe - Armley;
- C Macniven - Roundhay;
- T Wilford - Farnley and Wortley;
- R Wood - Calverley and Farsley;

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*Please note: Certain or all items on this agenda may be recorded*

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**Agenda compiled by:**  
**Guy Close**  
**Scrutiny Unit**  
**Civic Hall**  
**LEEDS LS1 1UR**  
**Tel: 39 50878**

**Head of Scrutiny and Member Development:**  
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# A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p><b>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</b></p> <p>To consider any appeals in accordance with Procedure Rule 25* of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded).</p> <p>(* In accordance with Procedure Rule 25, notice of an appeal must be received in writing by the Chief Democratic Services Officer at least 24 hours before the meeting).</p>	
2			<p><b>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</b></p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p><b>RESOLVED</b> – That the press and public be excluded from the meeting during consideration of the following parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information, as follows:</p> <p><b>No exempt items have been identified.</b></p>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
3			<p><b>LATE ITEMS</b></p> <p>To identify items which have been admitted to the agenda by the Chair for consideration.</p> <p>(The special circumstances shall be specified in the minutes.)</p>	
4			<p><b>DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS</b></p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13-16 of the Members' Code of Conduct.</p>	
5			<p><b>APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES</b></p> <p>To receive any apologies for absence and notifications of substitutes.</p>	
6			<p><b>MINUTES - 26 JANUARY 2015</b></p> <p>To confirm as a correct record, the minutes of the meeting held on 26 January 2015.</p>	1 - 4
7			<p><b>LEEDS ADVICE CONSORTIUM - CAB PROVISION</b></p> <p>To receive a report from the Head of Scrutiny and Member Development regarding future Citizens Advice Bureau provision.</p>	5 - 6
8			<p><b>THE FORMER FIR TREE SCHOOL</b></p> <p>To receive a joint report from the City Solicitor, Director of Children's Services and the Director of City Development providing information and the background leading up to the transfer of the freehold of the former Fir Tree Primary School site to the Khalsa Science Academy Free School.</p>	7 - 18

Item No	Ward/Equal Opportunities	Item Not Open		Page No
9			<p><b>WORK SCHEDULE</b></p> <p>To consider the Scrutiny Board’s work schedule for the 2014/15 municipal year.</p>	19 - 24
10			<p><b>DATE AND TIME OF NEXT MEETING</b></p> <p>Monday, 23 March 2015 at 10.00am (Pre meeting for all Board Members at 9.30am)</p> <p><b>THIRD PARTY RECORDING</b></p> <p>Recording of this meeting is allowed to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings. A copy of the recording protocol is available from the contacts named on the front of this agenda.</p> <p>Use of Recordings by Third Parties– code of practice</p> <ul style="list-style-type: none"> <li>a) Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title.</li> <li>b) Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete.</li> </ul>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No

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## SCRUTINY BOARD (RESOURCES AND COUNCIL SERVICES)

**MONDAY, 26TH JANUARY, 2015**

**PRESENT:** Councillor P Grahame in the Chair

Councillors S Bentley, J L Carter,  
N Dawson, R Grahame, J Jarosz, A Khan,  
A Lowe, C Macniven and R Wood

**58 Late Items**

There were no late items.

**59 Declaration of Disclosable Pecuniary Interests**

There were no disclosable pecuniary interests declared to the meeting.

**60 Apologies for Absence and Notification of Substitutes**

Apologies for absence were received from Councillors J Cummins and T Wilford.

Councillor R Grahame substituted for J Cummins.

**61 Minutes - 22 December 2014**

**RESOLVED** – That the minutes of the meeting held on 22 December 2014 be confirmed as a correct record.

**62 Executive Board Minutes - 17 December 2014**

**RESOLVED** – That the Executive Board minutes of 17 December 2014 be noted.

**63 Request for Scrutiny**

The Head of Scrutiny and Member Development submitted a report providing detail of a request for Scrutiny submitted by Councillor Alan Lamb. The request related to the transfer of the former Fir Tree Primary School to the Khalsa Education Trust.

Councillor Alan Lamb was in attendance to put his request before the Board.

**RESOLVED** –

- (i) That the Board agree to the request and to schedule the work for its February meeting
- (ii) That the inquiry would focus on lessons learnt for the future

Draft minutes to be approved at the meeting  
to be held on Monday, 23rd February, 2015

- (iii) That representatives be invited from City Development, Children's Services, Legal Services, Khalsa and the Education Funding Agency

#### **64 Plans to Develop an Integrated Peoples' Commissioning Service**

The Chief Officer Strategy and Commissioning submitted a report briefly setting out plans to develop an integrated peoples commissioning service.

The following were in attendance to respond to Members' questions:

- Councillor Peter Gruen, Executive Member (Neighbourhoods, Planning and Personnel)
- Bridget Emery, Chief Officer Strategy and Commissioning

In summary the main areas of discussion were:

- Confirmation of the Board's support for this initiative and its wish to act as a 'critical friend' at key stages of the projects development and implementation.
- The driving forces for the introduction of this initiative.
- The respective roles of a centralised commission unit and directorates.
- The need to harness the expertise of the Third Sector in commissioning.
- The need for strong and effective contract letting and management.
- The likely Executive lead responsibilities.

#### **RESOLVED –**

- (i) That a further report back be provided in April addressing contract management and phrase three timescales.
- (ii) That this Scrutiny Board as 'critical friend' a key stages of the project.

#### **65 Community Lettings**

The Head of Scrutiny and Member Development submitted a report updating the Board on the letting arrangements established since the Board last considered this issue.

The following were in attendance to respond to Members' questions

- Councillor Peter Gruen, Executive Member (Neighbourhoods, Planning and Personnel)
- Rory Barke, Area Leader.

In summary the main areas of discussion were:

- The lack of progress in establishing a more efficient and customer focused lettings process and associated pricing arrangements as previously discussed.



- The role of Community Committees within the letting and charging process.
- The need to ensure Caretakers were sufficiently trained in managing any new letting responsibilities.
- The move to on line payments and telephone bookings.
- The need to ensure that those organisations who receive free bookings understand that such arrangements equate to financial support from the Council.

**RESOLVED –**

- (i) That a progress update be brought back in March 2015
- (ii) That the Board be advised on those organisations receiving free lets
- (iii) That detail be provided on the staff groups involved in the lettings process.

**66 Work Schedule**

The report of the Head of Scrutiny and Member Development presented the draft work schedule for the forthcoming municipal year.

The following work areas were noted:

**February**

- Fir Tree request
- CAB

**March**

- Investors In people update and employee survey
- Community Lettings
- Employee Interests

**April**

- Integrated Peoples' Commissioning Services – Contract Management.

In addition, performance information would be supplied to the Board in relation to the Contact Centre and also information regarding debt collectors.

**RESOLVED –** That the Board's work schedule be updated to reflect the above work areas identified during today's meeting.

**67 Date and Time of Next Meeting**

Monday, 23 February 2015 at 10.00 am (Pre-meeting for all Board Members at 9.30 am)

(The meeting concluded at 11.15 am).

**Report of Head of Scrutiny and Member Development**

**Report to Scrutiny Board (Resources and Council Services)**

**Date: 23<sup>rd</sup> February 2015**

**Subject: Leeds Advice Consortium – CAB Provision**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Background**

1. This Scrutiny Board requested information and the background leading up to decisions made by the Leeds Advice Consortium regarding the future provision of Citizen Advice Bureau offices in Leeds and plans for future advice provision.
2. The requested report was unavailable at the time of agenda despatch but will be circulated to Members prior to the meeting.

**Recommendations**

3. Members are asked to note that the requested report will be made available prior to the Board's meeting:

**Background papers<sup>1</sup>**

4. None used

<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

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Report author: Neil Charlesworth  
Tel: 2477885

**Report of the City Solicitor, Director of Children’s Services and the Director of City Development**

**Report to Scrutiny Board (Resources and Council Services)**

**Date: 23<sup>rd</sup> February 2015**

**Subject: The Former Fir Tree Primary School**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Alwoodley	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. On 10<sup>th</sup> October 2014, the Under Secretary of State for Education gave notice to the Council that he was making a Scheme to transfer the site of the former Fir Tree Primary to the Khalsa Science Academy Free School. The Scheme was to come into force on the 13<sup>th</sup> October 2014. These powers are exercised at the discretion of the Secretary of State and authorise the transfer of the freehold interest of a local authority former school premises, within prescribed time limits, to a Trust, Academy or Free school for nil consideration. There is nothing that a Local Authority can do to prevent such a transfer taking place under these circumstances. This report sets out the circumstances which led to that course of action being taken.
2. The Department for Education launched the Free School Programme in June 2010, Ministers expected the first wave of Free Schools to open in September 2011.
3. Under such a transfer, a beneficiary Free School cannot profit from the acquisition, should the school ultimately cease to operate. Upon closure, the Secretary of State can direct that all or part, of any proceeds are returned to the Local Authority.
4. Throughout the Council’s dialogue with the Education Funding Agency (EFA), an Executive Agency of the Department for Education, Council officers have solely been concerned with protecting the Council’s position, to ensure it was acting within the relevant legislation, within its Powers and not acting ‘Ultra Vires’ if transferring a valuable asset at nil value without the appropriate Council approvals in place.

5. In October 2013 the EFA identified the former Fir Tree Primary School as a potentially suitable site for the Khalsa Science Academy Free School. The EFA made it clear that they intended to acquire the former school site on a 125 year lease at a peppercorn rental and nil consideration and that the powers granted within the Academies Act 2010 (as amended by the Education Act 2011) provided the necessary authority to do so.
6. The Council's Legal Officers' interpretation of the legislation was that, although a Local Authority can transfer former school land for nil consideration to an existing school converting to Academy status, the legislation did not make it clear that the Council was compelled to do so in respect of a Free School (a Free School having no legal meaning within the legislation). A Free School is a new school as distinct from an Academy school converting from a pre-existing local authority school. Clarification of the relevant powers was sought from the EFA on a number of occasions. The site was valued at £900k and officers sought to ensure that the Council would not be contravening the 1972 Local Government Act s123 which specifically obliges local authorities to dispose of property at "Best Consideration". The Councils Legal Officers wanted to ensure that any proposed transfer was done using the correct powers.
7. Reports were submitted to Executive Board in June 2014 and September 2014 and on both occasions, further information and clarification was requested by Executive Board to inform a way forwards. The clarification on relevant powers was not provided by the EFA until 29<sup>th</sup> September 2014.

### **Recommendations**

8. Scrutiny Board (Resources and Council Services) is asked to note the contents of this report.

## **1 Purpose of this report**

- 1.1 The purpose of this report is to provide Scrutiny Board (Resources and Council Services) with the information and background leading up to the transfer of the freehold of the former Fir Tree Primary School site to the Khalsa Science Academy Free School.

## **2 Background information**

- 2.1 Fir Tree Primary School closed in 2007. The school was built in 1961 and occupies a site of 4.5 acres just off the Ring Road in Alwoodley Ward (please see the site plan attached at Appendix 1). During 2009/10 the school was used to accommodate pupils from Allerton High School during works on their main site and in the following year, 2010/11 provided decant space for pupils from Bankside Primary school as a new school was built on their site in Harehills. The site was last used as a school in 2011.
- 2.2 The Education Act 2002 contains provisions that a Local Authority must not dispose of or appropriate land that had been used solely or mainly as a school within eight years from the date of its last use as a school without the consent of the Secretary of State. This Act also contains a provision that the Secretary of State can make a Scheme to provide land for use by an Academy if the land had been used solely or mainly as a school within the previous eight years since its last use as a school. A 'Scheme' is effectively a compulsory purchase of a property but without provision for compensation. These same regulations were carried forwards into the Academies Act 2010.
- 2.3 The Khalsa Education Trust founded the Khalsa Science Academy Free School in 2013 and opened in the Sikh Centre on Chapeltown Road, Leeds on 2nd September 2013. The school is a primary school with an admission capacity of 210 pupils or one form of entry (1FE, 30 pupils per year group). It is not designated by the DfE as a faith school but the Trust and DfE note that its teaching will operate with core Sikh values.
- 2.4 Members will be aware that the Council is managing the Basic Need programme of school expansion in the city to deal with the increased demand for school places. Since 2008 the Council has delivered over 1,300 new reception places in those parts of the City where demand for places has exceeded the established school admission limits. Despite the rising demand in Leeds, the requirement to provide new school places can be quite localised. In Alwoodley, Children's Services assessed the level of need for new school places to be provided. It was determined, at that time that demand for additional places did not require the provision of a new school in the area. In August 2013 Children's Services declared the Fir Tree primary school site surplus to its requirements. This had the effect of potentially releasing the site to be considered for other Council uses or to be considered for disposal through the Council's capital receipts programme. The site was valued in May 2014 at £900k.
- 2.5 On 10th October 2014, the Secretary of State for Education informed the Council that he had made a Scheme to come into effect of the 13<sup>th</sup> October 2014, to

transfer the freehold of the former Fir Tree Primary School site to the Khalsa Science Academy Free School using the powers contained within the Academies Act 2010. These powers are exercised at the discretion of the Secretary of State and the only issue to be determined was whether the transfer was to be by way of freehold or long leasehold at nil premium. There is nothing the Council could have done to prevent the site being transferred for the purposes of the Free School. This report sets out the events leading up to the transfer.

- 2.6 Notwithstanding the fact that the freehold was transferred, under the terms of the funding agreement between the Secretary of State and Khalsa Academy Trust, should the premises cease to be used as a school, the Secretary of State would have to grant consent to the disposal of an asset that was transferred from a Local Authority to a school at 'nil consideration' and that the Secretary of State may only give such a consent on the basis that all or part of the proceeds from the disposal should be made over to the Local Authority.

### **3 Main issues**

- 3.1 In October 2013 the Education Funding Agency (EFA), an Executive Agency of the Department for Education, identified the Fir Tree site as a potentially suitable location for the Khalsa Science Academy Free School. It is usual when an operating school transfers to Academy status that a 125 year lease is granted to the new governing body at a peppercorn rental and nil consideration. The EFA sought to transfer the Fir Tree site on the same basis. However, officers were concerned that this proposal was not covered by the appropriate legislation and that the Council was being asked to agree, without legitimate reason, to the loss of a capital receipt in the region of £900k.
- 3.2 There had been no prior transfers of surplus school sites in Leeds for the purpose of accommodating an Academy or Free School. Indeed, prior to Fir Tree being identified, the EFA, acting on behalf of the Khalsa Science Academy Free School, had submitted a financial offer to acquire the Council owned former Elmete Centre. Also, part of the City of Leeds School was leased by the Council to the Lighthouse Free School at a 'market rent'. At no point had the EFA sought to obtain these premises for the Lighthouse Free School at nil consideration.
- 3.3 The Council has made a number of transfers, under the Academies Act 2010, of sites to academy schools where they have converted from existing, operational local authority schools. These transfers were at nil cost as dictated by legislation.
- 3.4 Legal Services were concerned as to whether the Academies Act 2010 applied in respect of a transfer of land to a Free School. Council officers requested evidence from the EFA detailing the relevant powers upon which such a transfer at nil consideration could be made. In the alternative, the Council could transfer the site at nil value, but this would have required Executive Board approval as a less than best disposal. In order to protect the Council's interests, officers were obliged to ensure that the Council was acting within its powers or that the Council was receiving "Best Consideration".



3.5 The Academies Act 2010 states that:

- *“The Secretary of State may make a Scheme in relation to land if at any time in the period of eight years ending with the day on which the Scheme is made the land was used wholly or mainly for the purposes of a county school or community school”.* At the time only a handful of schools throughout the UK had been transferred by the EFA and none had been Schemed.
- *“Section 123(2) of the Local Government Act 1972 (c.70)(disposal for consideration less than the best reasonably obtainable) does not apply to a disposal to a person for the purposes of an Academy.”* Section 123(2) of the Local Government Act states *“Except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.”*

3.6 Legal Services’ interpretation of the legislation was that a Local Authority can transfer land on a ‘less than best’ basis for the purposes of an Academy, but that there was nothing in any of the legislation quoted to say that the Council is compelled to transfer land at less than best to a Free School. Furthermore, officers were not clear that a Free School would be covered by the provisions of the Academies Act 2010.

3.7 It should be noted that the General Disposal Consent 2003 removed the requirement for authorities to seek specific consent from the Deputy Prime Minister and First Secretary of State (“the Secretary of State”) for any disposal of land where the difference between the unrestricted value of the interest to be disposed of and the consideration accepted (“the undervalue”) is £2,000,000 (two million pounds) or less if the authority considers it will help to secure the promotion or improvement of the economic, social or environmental wellbeing of its area.

3.8 Any decisions on asset disposals for less than “Best Consideration” are taken in line with the Council’s Financial Procedure rules and taken at the appropriate level. In the case of a property valued at £900k only Executive Board could make such a decision to grant a disposal of this site on a ‘less than best’ basis.

3.9 Due to the uncertainty of the legislative powers it was proposed to take a report to Executive Board in December 2013 to seek authority to enter into negotiations with the EFA and approve the basis for such negotiations. This intent was communicated to the EFA. In response, the EFA alleged that the Academies Act 2010 removed the requirement for a local authority to transfer a former school at “Best Consideration” and therefore there was no requirement for the Khalsa Free School to make a payment for the Fir Tree site. As Khalsa Free School was not a former school – it was unclear as to whether the Academies Act covered this.

3.10 Council officers set out the position that, in their opinions, this legislation was insufficient to dictate that a local authority must voluntarily transfer land at nil consideration to a Free School and sought clarification from the EFA on this point. Officers requested the EFA to provide detail of the powers which would compel

the Council to do so. The December 2013 Executive Board report was delayed pending such clarification from the EFA.

- 3.11 The EFA explained that a Free School is an Academy for the purposes of the Academies Act 2010, but did not state the source of that information and relied on the previous advice about the terms of the transfer. Officers therefore took the view that any such transfer at less than “Best Consideration” would be an Executive Board decision.
- 3.12 In April 2014 the Secretary of State wrote to the Director of Children’s Services advising that he was minded to make a Scheme to transfer the site for the purposes of the Khalsa Science Academy Free School. The Academies Act 2010 gives the Secretary of State Statutory Powers to make a Scheme to transfer land to an Academy. In these circumstances the Local Authority would be obliged to comply, although this part of the legislation does not add any information as to an obligation or otherwise for any value to be paid for such land. DfE preferred to resolve the matter by negotiation rather than make a Scheme.
- 3.13 A letter was sent in response from the Chief Officer Strategy, Performance and Commissioning in Children’s Services dated 7<sup>th</sup> May 2014 to the EFA stating that the Council was “prepared to progress a negotiated transfer of a leasehold interest of the site of the ex-Fir Tree Primary School to the Khalsa Science Academy on a 125 year lease at nil consideration”. The letter confirmed that the proposal would be subject to Executive Board approval. Members are asked to note that whilst the letter was sent in ‘good faith’, officers in Asset Management and Legal Services were not copied into the letter, but regardless of this, it would not have affected the outcome.
- 3.14 A meeting was held between Council officers and representatives of the EFA on 2 June 2014 during which officers suggested that the EFA serve a Scheme but on a leasehold basis, thereby replicating transfers made to existing academies. The EFA response was that this was possible but deemed to be too difficult from an EFA perspective.
- 3.15 A report was submitted to Executive Board on 25 June 2014 to determine the approach to be taken. Two options were set out: for the Council to progress either a negotiated transfer for a long lease at nil consideration or to decline a voluntary transfer of the site and accept that the Secretary of State would be minded to create a Scheme to enforce the transfer of the freehold of the site at nil consideration. Executive Board did not come to a conclusion and sought further information and requested that a further report be submitted to a subsequent meeting.
- 3.16 A further report was submitted to Executive Board on 17<sup>th</sup> September 2014 which sought a recommendation on whether the Council should negotiate the transfer of a long lease at nil consideration or to continue discussions with DfE and EFA to seek market value for the site. Executive Board resolved that further information and clarification be sought from DfE in respect of those matters considered during the meeting, specifically as to whether the Government’s legal powers enabled a Scheme to be served on the Council which would compel it to transfer the freehold of the site in question to the Khalsa Education Trust.

3.17 On 29<sup>th</sup> September 2014 a letter was sent from the EFA which finally clarified the relevant powers:

- *“Free Schools are Academies as they are run by companies (known as Academy trusts) which have entered into Academy arrangements with the Secretary of State (as per S.1 Academies Act 2010) and the educational institutions they establish and maintain meet the requirements of either S.1A, 1B or 1C of the Academies Act 2010. Part 1 of Schedule 1 to the Academies Act 2010 sets out the requirements which must be met before a land transfer scheme can be made, at paragraph 1 and sub-paragraph 3(1). These requirements do not include payment of compensation by any person. Had Parliament intended that consideration was to be paid by the Secretary of State or the transferee then provision would have been made for this in Part 1. Such provision would have included identifying who is liable to make the payment and a formula for calculating the payment. By contrast, the amendment to the Schools Standards and Framework Act 1998 – which was brought in by the same legislation which brought in the amendments to the Academies Act 2010 regarding land transfer schemes (The Education Act 2011) – does specifically provide for the Secretary of State to consider paying “such sum by way of consideration (if any) as the Secretary of State determines to be appropriate” on directing that “playing fields, or any part of them, be transferred to a person concerned with the running of an Academy School.” As no such payment is provided for in relation to land transfer scheme, it is clear that Parliament intended a different approach for such schemes.*

This was the first occasion that the EFA had brought this particular piece of information to the Council’s attention. Although the 29 September 2014 letter from the EFA, did make a persuasive argument, it wasn’t from their lawyers. The Council’s request for a dialogue with their lawyers had not been taken up. In addition, whilst this letter was based on the position that the Khalsa Education Trust met the statutory definition of an academy, the EFA did not provide any actual evidence that this was the case.

3.18 On the basis of this subsequent information, Legal Services advised that the EFA’s argument on the issue of the requirement for payment appeared persuasive.

3.19 Also In September 2014, Children’s Services were advised by OFSTED that the Elmete SILC was being put into ‘Special Measures’ and that one of the reasons was the poor quality of accommodation. This gave rise to an urgent Council requirement for accommodation for the SILC and Fir Tree was identified as a potential solution.

3.20 Further to the resolution of Executive Board on 16<sup>th</sup> September 2014, the Director of City Development wrote to the EFA on 1<sup>st</sup> October 2014 making the following points:

- Seeking clarification on the Secretary of State’s powers to make a Scheme in respect of a Free School;

- Providing the reasons the Council considered the site not to be suitable for the proposed Scheme given the location, level of educational need in the area, nature and size of the school proposed;
- Suggesting two alternative sites which were considered more suitable;
- Identifying the urgent need for an alternative site to relocate the SILC school.

It should be noted that this letter 'crossed' with the DfE's letter of 29<sup>th</sup> September 2014.

The Secretary of State took into account that the site might possibly be needed by a Special school, and that the special school may have pupils who share the protracted characteristic of disability and decided that any negative effect on such pupils by making a land Scheme would be outweighed by the benefits of providing a greater choice for parents who may be seeking a Sikh faith ethos education. The Secretary of State proceeded to make a Scheme and transfer the title of the freehold of the site using the statutory powers contained within the Academies Act. This course of action was outside the control of the Council. The Council remains unclear of the basis of the decision as the Council's letter did not disclose the name of the school and therefore the Secretary of State could not take into account the needs of the children

- 3.21 On 10<sup>th</sup> October 2014 an email was received from DfE rejecting all offers made by the council in its 1st October letter. The DfE informed the Council that the Secretary of State had made a Scheme for the site and that it would be transferred to Khalsa on effectively the next working day, with effect from 00.01 Monday 13<sup>th</sup> October 2014. DfE contractors changed the locks of the Fir Tree site on that date and took 'forced' possession of the site. The Council wrote to the DfE on 13<sup>th</sup> October 2014 advising that the Council believed it had grounds to seek a judicial review.
- 3.22 A meeting was arranged for 7<sup>th</sup> November 2014 between senior officers and the EFA. At that meeting it was agreed that to continue legal proceedings would not represent good value to the public purse and would only serve to deteriorate relations between Leeds City Council and The Department for Education.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 There are no implications for Consultation and Engagement from the contents of this report.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 The contents of the report have no impact on Equality and Diversity / Cohesion and Integration.

### **4.3 Council policies and City Priorities**

- 4.3.1 There are no implications for Council policies or City Priorities.

#### **4.4 Resources and value for money**

4.4.1 The report advises Scrutiny Board of the circumstances surrounding the transfer of land for the purposes of a Free School and therefore has no direct implications for Resources and value for money.

#### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 There are no Legal or Access to Information implications.

4.5.2 As a report to Scrutiny Board the report is not eligible for Call In.

#### **4.6 Risk Management**

4.1 The report contains no Risk Management issues.

### **5 Recommendations**

5.1 Scrutiny Board (Resources and Council Services) is asked to note the contents of this report.

### **6 Background documents<sup>1</sup>**

6.1 None.

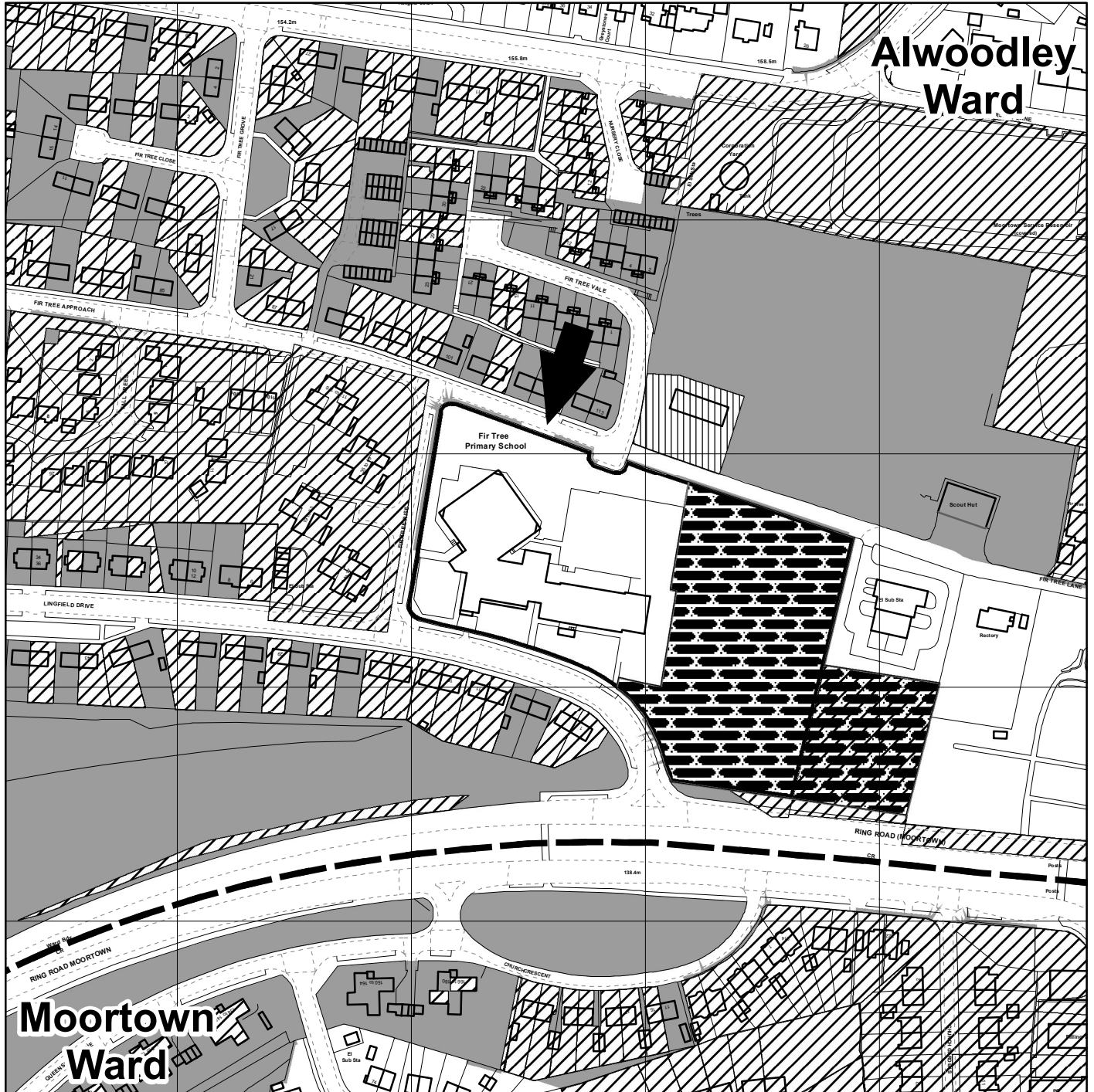
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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

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**FORMER FIR TREE PRIMARY SCHOOL  
LINGFIELD DRIVE  
MOORTOWN  
LEEDS LS17**







**Appendix 1.**



**Moortown  
Ward**

**Alwoodley  
Ward**

Fir Tree Primary School

- |   |  |   |   |   |  |
|---|--|---|---|---|--|
|  | <b>← SUBJECT SITE</b>                  |  | <b>LAND OWNED BY LEEDS CITY COUNCIL</b> |  | <b>LAND LEASED OUT BY LEEDS CITY COUNCIL</b> |
|  | <b>LAND SOLD BY LEEDS CITY COUNCIL</b> |  | <b>N6 PROTECTED PLAYING PITCH</b>       |  | <b>WARD BOUNDARY</b>                         |

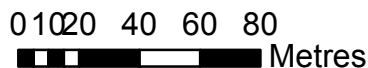


**Leeds**  
CITY COUNCIL

PREP BY M. CHRISTIAN  
DATE 10/10/2013  
OS No SE3039SW  
Scale 1:2,500



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Ordnance Survey LA100019567



**PLAN No 16485/H**

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**Report of Head of Scrutiny and Member Development**

**Report to Scrutiny Board (Resources and Council Services)**

**Date: 23<sup>rd</sup> February 2015**

**Subject: Work Schedule**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**Summary of main issues**

1. The Board's draft work schedule is attached as appendix 1. The work schedule reflects discussions at the Board's meeting in January. It will be subject to change throughout the municipal year.

**Recommendations**

2. Members are asked to note the work schedule and make amendments as appropriate.

**Background documents<sup>1</sup>**

None used

<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

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## Scrutiny Board (Resources and Council Services) Work Schedule for 2014/2015 Municipal Year

Area of review	Schedule of meetings/visits during 2014/15		
	June	July	August
People Plan		Update	
<i>To be determined</i>			
<i>To be determined</i>			
<i>To be determined</i>			
Briefings			
Budget & Policy Framework Plans			
Recommendation Tracking		Welfare Reform Civic Enterprise Leeds Translation Services Contact Centre – performance	
Performance Monitoring			
Budget		Out turn Report	

## Scrutiny Board (Resources and Council Services) Work Schedule for 2014/2015 Municipal Year

Area of review	Schedule of meetings/visits during 2014/15		
	September	October	November
<b>People Plan</b>			
<b>Briefings</b>	Contract Procedure Rules - revision	Richard Corbett MEP	
<b>Procurement</b>			Off contract spend and waivers
<b>Council Tax Relief Scheme</b>	Council Tax		
<b>Budget &amp; Policy Framework Plans</b>			
<b>Recommendation Tracking</b>			Officer Interests
<b>Performance Monitoring</b>	Best Council Plan – Key Indicators		

## Scrutiny Board (Resources and Council Services) Work Schedule for 2014/2015 Municipal Year

Area of review	Schedule of meetings/visits during 2014/15		
	December	January	February
<b>People Plan</b>			
<b>Briefings</b>	How we work – presentation on changes to customer access, business management and changing the workplace	Commissioning Request for Scrutiny – Cllr Lamb – Former Fir Tree school site	Request for Scrutiny – Cllr Lamb – Former Fir Tree school site
<b>Budget &amp; Policy Framework Plans</b>	To receive Executive Board's initial budget proposals		
<b>Recommendation Tracking</b>			
<b>Performance Monitoring</b>		Community letting	CAB
<b>Budget</b>			

## Scrutiny Board (Resources and Council Services) Work Schedule for 2014/2015 Municipal Year

Area of review	Schedule of meetings/visits during 2014/15		
	March	April	May
People Plan			
Commissioning		To receive and update on integration proposals and to receive a report on contract management.	
Briefings			
Budget & Policy Framework Plans			
Recommendation Tracking	Community Lettings – Interim report Employee Interests (Follow up from November)	Community Lettings – Interim report	
Performance Monitoring	Investors in People & Staff engagement		
Budget			