

Agenda Item No:

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Report of : Head of Property Services

Report to : Chief Asset Management and Regeneration Officer

Date: October 2014

Subject: ROYDS SCHOOL, PENNINGTON LANE, OULTON, LS26 8EX

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	ROTHWELL	
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?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

Summary of main issues

1. The purpose of this report is to note the transfer and vesting of the Royds School site to the Royds Learning Trust in pursuance of the Schools Standards and Framework Act 1998 the school organisation (prescribed alterations to maintained Schools)(England) Regulations 2007 and the Education and Inspections Act 2006 ("The Acts and Regulations").
2. The subject site is noted within this report and comprises an operational school site.
3. The Acts and Regulations set out the basis upon which assets are to be transferred from a local authority to a school which changes category or acquires a foundation. The Acts and Regulations provide flexibility for schools to work together under a shared Trust in partnership with external organisations (such as Universities, Business Foundations and Community Groups).
4. Under the Acts and the Regulations all assets (being land and buildings held or used for the purposes of the school by a local authority) will automatically transfer for nil consideration to the trustees of schools converting to trust status ("trust schools") on the date the trust is implemented ("the Implementation Date"). The requirements of the Acts and Regulations override a local authority's duty under section 123 of the Local Government Act 1972 to secure best consideration for the disposal of and interest in the land. A school decides to become a trust school and applies to the Department of Education. Once the conversion is authorised by the Department for Education a local authority must comply with the request to convert.

5. Under the Acts and Regulations, the trustees do not have to pay for the land and buildings and the Local Authority cannot demand any consideration for the land and buildings.

Recommendations

6. It is recommended that the Director of City Development notes the proposed statutory transfer and vesting of land and buildings, known as Royds School to the Royds Learning Trust. This is to be at nil consideration in line with the Acts and Regulations.
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1 Purpose of this report

- 1.1 The purpose of this report is to note the statutory transfer and vesting of Royds School to the Royds Learning Trust under the Acts and Regulations.

2 Background information

- 2.1 Provisions contained within the Acts and the Regulations have added to the opportunities for diversity in school structures and governance, particularly in relation to the establishment of foundation schools with a charitable foundation, commonly referred to as trust schools. In respect of trust schools there is a statutory transfer and vesting of the land in a trust on the date that the trust is implemented. The Council is responsible for transferring the title of the land after the date of implementation. The extent to be transferred can be agreed between the parties.
- 2.2 The governing bodies of schools can decide to convert to trust status. This results in land and buildings used for school purposes automatically transferring and vesting for nil consideration in a trust once it is established. Royds School elected to convert to trust status in November 2013. The Council and the Trust have agreed the extent of the land that transferred and are ready to formalise the land transfer by completing the Transfer document. City Development, Children's Services and Legal Services have ensured that the land to be transferred is appropriate and does not fall outside the extent of land that is legally permitted to be transferred under the Acts and the Regulations.
- 2.3 A trust school remains a local authority maintained school that is funded on the same basis as other local authority maintained schools, and funding will be delegated to the governing body, not the Trust. There will be no additional funding from the local authority for a trust school, and there is no expectation that the Trust will provide the school with additional funding. Trusts are not required or expected to make any financial contribution to the schools they support. They could, however, bring in additional resources in terms of professional expertise, knowledge and vocational opportunities.
- 2.4 Any deficit that occurs is the responsibility of the governing body but, as with any maintained school in deficit, a local authority licenses the deficit and agrees a recovery plan.
- 2.5 The governing body will set the school's own admission arrangements, but it will have to act in accordance with the School Admissions Code and will not be allowed to introduce selection by ability. Trust schools will be expected to play a full part in taking "hard to place" pupils, have a fair admissions policy and work with other

schools. School staff of a trust school including teachers and caretakers will be employed directly by the governing body.

- 2.6 The governing body of any trust school will manage its own land and buildings. A trust will hold the land and buildings of the school on trust for the duration of that trust. The implications of this are covered in more detail below.
- 2.7 A school is supported by a trust through the appointment of governors to the school's governing body. The governing body of a trust school, and not the trust itself, will remain responsible for all aspects of the conduct of the school. The trust and the governing body remain separate entities.

3 Main issues

3.1 The Transfer is negotiated between the parties and the main provisions are as follows:

1. Transferee: The party to the transfer will be the Royds Learning Trust.
2. Freehold transfer: All the land within the area edged black on the attached plan.
3. Consideration: The consideration payable for the transfer will be nil.
4. Use: The Transferee will covenant not to use the Property otherwise than:
 - (a) for the purposes of the provision of educational services; and
 - (b) for community, fundraising and recreational purposes which are ancillary to the use permitted under Clause (a) above.
5. Restriction on title A restriction will be placed on the title under the provisions of the School Standards and Framework Act 1998 requiring the Transferee to notify the Council of any proposed disposals. The Council has an opportunity to make comment on the proposed disposals (including requesting a share of any proceeds) to disposals.
6. Legal Costs: Under the Acts and the Regulations each party is responsible for its own legal costs.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Children's Services advises that pupils, their parents/guardians, teachers and staff were all made aware of the School's proposal to convert to trust status. In addition, public meetings have been held where details of the proposed conversion to an academy were made available.

4.1.2 All Ward Members have been contacted by City Development by e-mailed letter on 15 October 2014. Councillor Bruce responded by e-mail on 15 October 2014 indicating that she fully supports the proposal. Councillor Golton e-mailed on 20 October 2014 explaining that he is a school governor and fully supports the conversion. Councillor Nagle e-mailed on 20 October 2014 to confirm his support for the proposal.

4.1.3 It is understood from Children's Services that the Director of Children's Services and the Executive Member for Children's Services are aware of the proposal.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 The proposals have no specific implications for equality, diversity, cohesion and integration.

4.3 Council Policies and City Priorities

4.3.1 The proposals outlined in this report will impact on the Leeds City Council aim that Councillors are committed to improving outcomes for children and young people. *The Best Council Plan 2013-17* has, as one of its key objectives, to "build a child friendly city" by improving outcomes for children and families, with a focus on: its "obsessions" of looked after children, NEETs and attendance; raising educational standards and narrowing the gap for vulnerable groups; and ensuring enough school places as the City grows.

4.4 Resources and Value for Money

4.4.1 Although the Council has a duty under s.123 of the Local Government Act 1972 (or the Housing Act 1995) to secure the best consideration that it reasonably can from the disposal of its property assets, this obligation is overridden by the requirements of the Acts and the Regulations which dictate that the transfer is for nil consideration.

4.4.2 The site is entered in the asset register at a figure of £18,000,000 (last valued as of 5 October 2009). The disposal of the land and premises to the Royds Learning Trust would represent value for money for the Council and as such would not have less than best implications, as it is a statutory function of the Council to provide education for children in Leeds.

4.4.3 The report referred to at 7.1 below, of the Director of Children's Services to the Executive Board detailed the financial implications for the Council of the proposed school trusts in the process of being created in Leeds.

4.5 Legal Implications, Access to Information and Call In

4.5.1 Under Part 3 Section 3E Paragraph 2(a) of the Council's Constitution (Officer Delegation Scheme (Executive Functions)) the Director of City Development has authority to discharge any function of Executive Board in relation to the management of land (including disposals of land).

4.5.2 The Director of City Development has authority to take the decisions requested in this report under functions 1 and 10 (d) of the Director of City Development's sub delegation scheme.

4.5.3 The proposal constitutes a significant operational decision and is therefore not subject to call in.

- 4.5.4 Under the Acts and Regulations the Council is required to transfer land which is held or used by a local authority for the purposes of a school to the governing body, the foundation body or the trustees of any applicant school which falls within the remit of the legislation. The land is to be transferred for nil consideration, to be held by the transferee for the purposes of a school. In this regard, land includes the building structures attached to it.
- 4.5.5 Under the Education and Inspections Act 2006 the freehold of a school site vests in a trust when that trust is implemented. The presumption is that all land held or used by the local authority for the purposes of that school transfers to the trust for nil consideration.
- 4.5.6 The requirements of the Acts and Regulations override the Council's duty under section 123 of the Local Government Act 1972 to secure best consideration.
- 4.5.7 Transfers at nil consideration under this legislation are not discretionary or a matter for Leeds City Council to approve, but are required by legislation.

4.6 Risk Management

- 4.6.1 Royds Learning Trust has occupied the site since conversion in November 2013. There is deemed to be no risk in the transfer of the site as requested.

5 Conclusions

- 5.1 The proposal should be supported in line with the DfE's making of an order enabling the school to convert to trust status under the Schools Standards and Framework Act 1998 and the School Organisation (Prescribed Alterations to Maintained Schools)(England) Regulations 2007.

6 Recommendations

- 6.1 It is recommended that the Director of City Development notes the proposed disposal of land and buildings, known as Royds School, to the Royds Learning Trust. This is to be at nil consideration in line with the statutory obligations placed upon the Council.

7 Background documents¹

- 7.1 Report of the Director of Children's Services to the Executive Board on 5 September 2012.

¹ 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.