

Committee: Pensions Committee	Date: 17 February 2010	Classification: Unrestricted	Report No:	Agenda Item: 4.2
Report of: Corporate Director Children, Schools and Families Originating officer(s) Susan Acland-Hood/Kate Bingham		Title: Proposals for a National Challenge Trust at St Paul's Way Community – admission of support staff to Local Government Pension Scheme Wards Affected: Mile End East		

1. SUMMARY

- 1.1 On the 23rd December 2009, the St Paul's Way Interim Executive Board determined to implement on 26th February 2010 its proposals to make prescribed alterations to St Paul's Way School, involving a change from community school to foundation school (more particularly a National Challenge Trust).
- 1.2 Trust status will also mean that the new Governing Body becomes the employer of all staff at the school, rather than the London Borough of Tower Hamlets itself being the employer.
- 1.3 Teaching staff at the school can continue to be members of the Teachers' Pension Scheme after the transfer of employment without any special arrangements being made. Non teaching staff at the school can continue to be members of the Local Government Pension Scheme (LGPS) after the transfer of employment provided they have the consent of their new employer (the governing body) and an appropriate resolution is passed by the local authority that previously employed them (London Borough of Tower Hamlets).
- 1.4 The Local Government Pension Scheme (Administration) Regulations 2008 state that where the local education authority has, with consent of a foundation school, designated a person, or a class of employees to which the person belongs, as being eligible for membership of the LGPS, the person may be an active member of the scheme. For the purposes of administration of the LGPS and construing the 2008 Regulations, such persons are "deemed to be in employment with the relevant local authority".
- 1.5 This report proposes a resolution to the pensions committee to allow the non teaching staff at the Trust School to continue to be members of the LGPS.

2. RECOMMENDATION

The Committee is recommended to –

- 2.1 Authorise the Corporate Director Resources, on receipt of consent from the governing body of St Paul's Way School, to designate non-teaching staff employed by the Trust as person who are eligible for membership of the LGPS.

3. BACKGROUND

- 3.1. National Challenge Trusts (NCT) are intended for schools where fewer than 30% of pupils are achieving 5 A*-Cs at GCSE (including English and Maths), and where it is agreed that replacement with an Academy is not an option. The key aim of a National Challenge Trust is to use the experience, energy and expertise from partners as a lever to raise standards in schools.
- 3.2. NCT schools are set up under the same arrangements as for trust schools, but with two key differences:
 - NCTs must be led by a strong school or other education partner (HEI, independent school or FE College);
 - The Trust is set up in such a way so that the strong school/education partner can take charge of the governance of the weak school with the Trust appointing *the majority* of the school's governors.
- 3.3. In response to the National Challenge scheme, the Interim Executive Board proposed Trust status for St Paul's Way school and has managed the process with close support from the local authority.
- 3.4. The Trust will be incorporated and commence to operate as the foundation for St Paul's Way School from the 26th of February 2010. The Council will be a member of the Trust, along with Queen Mary, University of London, The Institute of Education (University of London), King's College London, The University of East London, Catlin Group Ltd and NHS Tower Hamlets.
- 3.5. Trust status will also mean that the new Governing Body becomes the employer of all staff at the school, rather than the London Borough of Tower Hamlets itself being the employer.

- 3.6. Teaching staff at the school can continue to be members of the Teachers' Pension Scheme after the transfer of employment without any special arrangements being made. Non teaching staff at the school can continue to be members of the Local Government Pension Scheme (LGPS) after the transfer of employment provided they have the consent of their new employer (the governing body) and an appropriate resolution is passed by the local authority that previously employed them (London Borough of Tower Hamlets).
- 3.7. The Local Government Pension Scheme (Administration) Regulations 2008 provide a mechanism for making persons employed to work at foundation schools eligible for membership of the LGPS, as specified in paragraph 1.4 above.

4. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 4.1. Under the proposal support staff who are existing LGPS members will change employer from the Council to the governing body of the relevant trust. The pension scheme liabilities in relation to these staff will remain with the school from its budget share, as they do currently.
- 4.2. The rate of employer contributions payable by the Trust will be the same as the prevailing rate for the Council as an employer (i.e. the same as for other schools), but the Authority will continue to take actuarial advice on the level of contributions required to finance the scheme. Therefore, the employer's (St Paul's Way Comm. School Trust) contribution rate may vary in future.
- 4.3. Designating non-teaching support staff at these schools as a class of employee eligible for membership of the LGPS will mean new employees at the school will also be eligible to join the scheme.
- 4.4. It is important that St Paul's Way Community (Trust) School continues to abide by the Council's policies and procedures for the approval of early retirements and redundancies that result in early retirement. Early retirements cause a strain on the Pension Fund, so the approval and funding of such retirements must be carefully managed.

5. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)

- 5.1. The proposal by the governing body of St Paul's Way school to become a foundation school is governed by the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007. Pursuant to the Prescribed Alterations Regulations, a person who was employed by the local education authority immediately before the implementation date (26 February 2010) to work solely at the school transfers to the governing body of the foundation school on the implementation date. The person's contract of employment has effect from the implementation date as if originally made with the governing body. The authority's rights, powers, duties and liabilities transfer to the governing body. Things done by the Council before the implementation date in respect of the contract of employment are deemed to have been done by the governing body.

- 5.2. The Local Government Pension Scheme (Administration) Regulations 2008 deal with membership of the Local Government Pension Scheme (“LGPS”). A person may be an active member of the Scheme if he or she is so enabled by one of the specified regulatory provisions and is not excluded by regulation 12 of the Administration Regulations. Specific provision is made in regulation 8 of the Administration Regulations for employees of a voluntary school, a foundation school, a foundation special school, or a technical institute or similar institution to be made eligible for membership of the LGPS. The effect of regulation 8 as it applies to a foundation school is correctly summarised in paragraph 1.4 of the report.

6. ONE TOWER HAMLETS CONSIDERATIONS

Reduce inequalities

- 6.1 The area around St Paul’s Way is one of the most deprived areas in the borough. Pupils at St Paul’s way Community School achieve less well than their peers in other schools in the borough, which significantly impacts on their life chances given what we know about the links between educational outcomes and deprivation. The aim of National Challenge Trusts is to raise standards in schools, by using the experience and expertise of their partners. This new form of governance will help to accelerate education outcomes and thereby improve life chances for pupils at the school and the local community. In the long term this will help to break the cycle of poverty, one of the key strands in our child poverty strategy.

Ensure strong community cohesion

- 6.2 There is a package of development in the St Paul’s Way area focused on bringing communities together. Alongside the development of the new school and governance arrangements, the goal is to make St Paul’s Way the school of choice for local families, where all children in the local area go to the same school thereby strengthening community cohesion.

Strengthen community leadership

- 6.3 The new governance arrangements will create a strong governing body; there will also be a representative from the local community on the governing body.

7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 7.1 There are no Sustainable Action for a Greener Environment implications.

8 RISK MANAGEMENT IMPLICATIONS

- 8.1 If this resolution is not passed there is a significant risk of support staff accusing the council of inconsistency by not allowing them to be active members of the Local Government Pension Scheme.

9. EFFICIENCY STATEMENT

- 9.1 The proposals will result in greater efficiency and better use of existing resource.

**Local Government Act, 1972 Section 100D (As amended)
List of “Background Papers” used in the preparation of this report**

Towards a Step Change in Educational outcomes;

Establishing a National Challenge Trust School at St Paul’s Way Community School

<http://www.trustandfoundationschools.org.uk/PDF/Trustee%20Handbook%20-%20Essential%20information%20for%20trust%20schools.pdf>