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Councillor Zenith Rahman
London Borough of Tower Hamlets
Mulberry Place
5 Clove Crescent
London, E14 2BG

21st February 2013

Dear Councillor Rahman,

Re: Old Ford Primary School- Recovery of Pension Fund Deficit Contribution

I am writing on behalf of the Governing Body of Old Ford Primary School in connection with the report to your Pensions Committee which will be considered on 21 February (Agenda item 4.5).

We have reviewed the report and would like to make some representations for you to take into consideration when making your decision.

We support the view that circumstances have changed since the decision was taken by the committee on 17 November 2011, and the matter should be looked at afresh. New Guidance has been issued in December 2011, and the Pensions Committee need to carefully consider that Guidance and in our view only



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from it if there is good reason.

We note in particular that any decision of the Committee to agree a period of less than 20 years for the deficit recovery period would be contrary to the prevailing trend of decisions made by other funds, as the evidence at para 8.8 is that 18 out of the 27 Local Authorities surveyed had periods of 20 years or more. We disagree with para 8.9 that we have to have a recovery period of 14 years as that is what is set out in the Strategy Report- it is for the Committee to look at the individual circumstances and form an assessment taking into account Guidance which has been issued to it.

We note in particular that at para 8.10 that Community Admission Bodies are to be given a period equivalent to the expected future working lifetime. We consider by analogy that Old Ford Primary School and Culloden Primary School are very strong, and both well established and will outlive us all. We consider that it is extremely remote that the academy trust would become insolvent. There are over 2800 academies established, and since the first academy opened in 2002 no academy trust has become insolvent. The Secretary of State has considerable intervention powers to intervene and take or require specific actions be taken to address issues at a school which is struggling either educationally or financially. We note that the report does not address in any way the actual risk of this academy trust becoming insolvent.

We refer to para 9.2 and the analogy of an academy trust to the private sector. This is incorrect. A private company is subject to the vagaries of the market and its source of income remains subject to free competition. The academy trust is a state funded institution, regulated by the state and cannot be compared to a private sector company.

At para 9.4 there is reference to a “rolling 7 year period”. This is incorrect and misleading. The funding agreement is of an indefinite period. Whilst the Secretary can give a 7 year notice to terminate the agreement, no such notices have been given to any academy trust since their inception in 2002. You should also compare this to the position of a maintained foundation school, also a scheduled employer in the scheme, where the local authority can at any time close the school on statutory notice usually in a period of between 18 months and 2 years.

At para 9.5, there is reference to the right of intervention if things go wrong. The Secretary of State enjoys considerable rights in the funding agreement to intervene in a failing academy, and it both wrong and misleading to refer to the academy trust as “a stand-alone business”. As an academy trust is not a business. It is a state funded charitable entity controlled and regulated by the State. The Minister for Education has a direct responsibility for the provision of education in academy schools, and the political reality is that academy schools are not going to be allowed to become insolvent without any provision made by the Secretary of State to meet the liabilities. The Secretary of State will intervene to fix the problem.



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which has the case in the last 10 years and will continue to be the case. Also the report does not highlight the commitment given in the December 2011 Guidance (at para 9) which we have set out below:

“The Government would be bound to consider all available options for dealing with an academy’s outstanding LGPS pensions liabilities including, but not limited to, the assignment of assets and liabilities to a new or existing education establishment where this was the desired outcome”

At para 9.6 again the report ignores the overriding political reality is that the Secretary of State will not allow academy trusts to become insolvent, and there are ample powers which he has to change the management of the school if there has been a failure to manage the school properly. Also the Guidance makes it clear what steps will be taken to avoid unmet liabilities.

The report does not address the actual risk of the academy trust being allowed by the Secretary of State to fall into insolvency with no provision made to have its liabilities met. This is a fundamental flaw in the report. We are also disappointed that the report does not address the alternative approaches which Hyman Robertson has referred to the penultimate paragraph of their report. The Committee is asked to positively consider these approaches with a view to mitigating the adverse impact the 32.9% rate will have on the school budget.

Finally,if the decision is made to set the period at 14 years, which we consider an arbitrary figure not based on any actual risk analysis which has been carried out, we would like to be advised of what the contribution amount would be if we were given a 20 year deficit recovery period in line with the maintained schools. We can then assess the financial impact of any such decision on the school’s budget.

Yours sincerely



Christopher Crozier



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Chair of governors

Old Ford Primary School



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