

<b>Cabinet</b>  28 April 2021	 <b>TOWER HAMLETS</b>
<b>Report of James Thomas, Corporate Director Children's and Culture</b>	<b>Classification:</b> Unrestricted
<b>The proposal for the amalgamation of Ben Jonson Primary and Harry Roberts Nursery Schools from 1st January 2022</b>	

<b>Lead Member</b>	Councillor Asma Begum, Cabinet Member for Children's, Youth Service and Education
<b>Originating Officer(s)</b>	Terry Bryan, Service Head for Pupil Access and School Sufficiency and Ikwi Mkparu, School Organisation Manager
<b>Wards affected</b>	St Dunstan's, Stepney Green, Mile End
<b>Key Decision?</b>	Yes
<b>Forward Plan Notice Published</b>	30 March 2021
<b>Reason for Key Decision</b>	Impact on Wards
<b>Strategic Plan Priority / Outcome</b>	A better deal for children and young people: aspiration, education and skills

### Executive Summary

A first stage public consultation has been carried out on the proposal to amalgamate Ben Jonson Primary and Harry Roberts Nursery Schools into an all-through 3 to 11 years' primary school, with effect from 1<sup>st</sup> January 2022. The consultation took place during the period 8<sup>th</sup> February to 19<sup>th</sup> March 2021. A report on the consultation responses together with its recommendation is attached as Appendix 1. The report has been published on the council and schools' websites. This Cabinet report references the report's findings with the recommendation that the council should now publish statutory notices for the amalgamation proposal. During the statutory notice period, legal objections can be set by any consultee, which would need to be considered before any final determination is made by the Mayor in cabinet.

### Recommendations:

The Cabinet is recommended to:

1. To agree for the publication of a statutory notice for 28 days, in respect of the proposal to amalgamate Ben Jonson Primary and Harry Roberts Nursery schools into an all-through 3 to 11 years' primary school. This would take effect from 1<sup>st</sup> January 2022.
2. To note the findings from the Equalities Assessment, attached as Appendix 2.

## **1 REASONS FOR THE DECISION**

- 1.1 The recommendation is made in order to determine the council's response to the proposal for the amalgamation of Ben Jonson Primary and Harry Roberts Nursery Schools
- 1.2 The proposal is being put forward as part of the strategy for these two schools to move towards integrated 3 to 11 primary school provision, rather than maintain separate nursery and primary schools. This will benefit children's education by maximising the resources available and optimising the expertise of staff across the nursery and primary age range, providing outstanding nursery practice alongside top quality primary education in a single setting.
- 1.3 The amalgamation would be achieved through the closure of Harry Roberts Nursery and extending the age range of Ben Jonson Primary, to accommodate the displaced Harry Roberts pupils. Ben Jonson Primary School would therefore become a primary school for pupils aged 3 to 11, whilst retaining its original school Department for Education (DfE) number.
- 1.4 In line with the DfE guidance (November 2019), 'Making significant changes (prescribed alterations) to maintained schools' and 'Opening and Closing Maintained Schools', a first stage public consultation has been undertaken, and a report on the outcome of the consultation has been published on both the council and schools' websites.
- 1.5 The consultation report includes feedback on the representations received following the first publication of the proposals on the 8<sup>th</sup> February 2021.

## **2 OPTIONS AVAILABLE**

- 2.1 **Option 1:** to move to the publication of a statutory notice for 28 days, which is the next stage in the statutory consultation process. This will provide further opportunity for consultees to have their say and or set legal objections against the proposal.
- 2.2 **Option 2:** not to move to the publication of a statutory notice, but to cease the proposal after the formal consultation period. This would mean not concluding the full statutory consultation process in order to take the decision to establish the newly amalgamated school.
- 2.3 Option 1 is preferred as it takes the proposal to the next stage in the full statutory consultation process. It allows consultees further opportunity to fully consider the proposal during an additional 28 day period and before the Mayor (in cabinet) is required to make a final determination.

## **3 DETAILS OF THE REPORT**

- 3.1 Following a formal consultation period from the 8<sup>th</sup> February and 19<sup>th</sup> March 2021, it was appropriate to publish a Consultation Report on the findings, which enables a decision to be reached on whether to move to the next stage of the school organisation process by publishing statutory notices. (Appendix 5). A copy of the Consultation Report is attached at Appendix 1.

- 3.2 Due to the coronavirus pandemic it was not possible to hold the preferred method of public and parents' meetings concerning the consultation. However, several alternative methods were offered (in line with the Tower Hamlets consultation processes during coronavirus guidance for public consultations) and these methods along with the type of responses are explained in the Consultation Report.
- 3.3 Notwithstanding the reasonable adjustments required, due to coronavirus, stakeholder engagement on these proposals has been carefully undertaken, adopting a proportionate and targeted approach, according to [central government consultation principles](#) and in line with the 'socially distanced' requirements of the pandemic. Although the public response has been relatively low, it is evident that the variety of consultation methods used has enabled a high level of engagement with key stakeholders, particularly with the families and staff at both schools. It is also evident that the schools and their wider communities understand the full nature of the proposals and the possible outcomes from an amalgamation of the two schools.
- 3.4 Overall, from the written responses and feedback in meetings with families and staff, there is understanding about reasons for the amalgamation and positivity about the opportunities it brings. Although, it should be noted that Harry Roberts school staff and parents are saddened by part of the need for change, having to be considered in view of the impact of the reduction in early years funding and the level of staffing in the nursery school.
- 3.5 Given that the first stage public consultation did not raise any issues that could be viewed as reasons not to proceed, this report recommends for the council to issue statutory notices, with the support of both School Governing Bodies.

#### **4 EQUALITIES IMPLICATIONS**

- 4.1 When making decisions the council must act reasonably and rationally. It must only consider relevant information and consult those affected, taking into account their views, before final decisions are made. It must also comply with its legal duties, including relating to equalities.
- 4.2 The Equality Act 2010 requires the LA, when exercising its functions, to have due regard to eliminate discrimination, harassment, victimisation; advance equality of opportunity; and to foster good relations between persons who share a relevant protected characteristic and those who do not ("the Public Sector Equality Duty").
- 4.3 An Equalities Assessment has been conducted by the LA and is attached at Appendix 2. To date, it has not found any obvious equalities issues arising from this proposal, either for staff, parents or children, that could not be mitigated through the process.
- 4.4 It will be updated in view of the responses to the statutory notice and its representations. This assessment must be considered in detail when the cabinet considers the matters above, as part of its decision on whether the two schools should amalgamate.

- 4.5 Governors and LA officers have considered carefully whether changes may affect groups disproportionately. They will continue to work with Trade Unions to ensure that planning for any staff changes are fair and equitable and in line with agreed policies, including the council's School Organisational Change Procedure attached as Appendix 4.

## **5 OTHER STATUTORY IMPLICATIONS**

### (i) Managing the Impact of the Amalgamation on School Staff

- 5.1 The LA and School Governing Bodies are working together to support the schools' staff through this change. A formal staff consultation will only take place once the final decision has been made on the schools' amalgamation. However, given that the financial position of both schools is strong, any necessary staff changes for September 2021 will be managed through natural wastage.

### (ii) Best Value Implications

- 5.2 The Local Authority has a duty to ensure that governors are fulfilling their duties and that value for public money is achieved, whilst standards are maintained. They must ensure that they do not fall into financial deficit so that they are unable to sustain an offer of quality education for children. This proposal supports the sustainability of high quality education for the children as it will maximise the available resource and space as well as ensure the pooling of the significant experience and expertise that exists in both schools.
- 5.3 The proposal does not have any significant mainstream revenue or capital implications for the council. When a school closes its finances (and any surplus or deficit) is returned to the LA. In the case of this amalgamation the Statutory Notice will make clear that any remaining balances from the closing school (Harry Roberts Nursery) would be transferred to Ben Jonson Primary School on the last business day of its operation.
- 5.4 Closure of Harry Roberts Nursery School will release the annual lump sum element for the school from the Delegated School's Budget, (at a sliding rate over 2 years). This money reduces the pressure on the DSG that is caused by having a large number of smaller schools and provides better value for money across the school estate.

### (iii) Environmental (including air quality)

- 5.5 There are no environmental issues arising from this proposal.

### (iv) Risk Management

## **5.6 School Organisational Change Proposal**

<b>Risk</b>	<b>Impact of Risk if it occurs* (H/M/L)</b>	<b>Probability of risk occurring (H/M/L)</b>	<b>What is the Council doing or what has it done to avoid the risk or reduce its effect</b>	<b>Who is responsible for dealing with the risk?</b>
Failure	L	L	This risk has been	Director of

to move to statutory notice			mitigated by carrying out a full and public statutory consultation process, which includes a 40 day first stage consultation before moving to publication of a statutory notice for 28 days	Children and Culture (Service Head for Pupil Access and School Sufficiency)
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## 5.7 Revenue Implications:

In the event of amalgamation of the primary and nursery schools, savings should be generated with regard to employee-related costs as a result of leadership and administration and, as a result of the amalgamation of the two schools, the previous two lump sum payments would be reduced to one, given there will only be one school as result of this proposal.

Based on the current formula an amalgamated school will generate the same amount of Age Weighted Pupil Unit funding. There will however be a reduction relating to the formula lump sum paid.

Under the authority's formula distribution, a lump sum payment is made available to all new and amalgamating schools in the first financial year of opening. Any costs of redundancies as a result of the process would be met by the Local Authority.

This amalgamation process is being taken forward by extending the age range of the Primary School to become the new all-through Primary and closing the Nursery School, therefore the following actions will take place. On amalgamation, the balance of the school to be extended will be retained by the new all-through primary and all other balances (surplus or deficit) will be allocated against the amalgamated primary school budget. The budget of the new school will have financial adjustments to fall in line with typical budgets for that size school.

5.8 If this recommendation is agreed, continuation of the statutory consultation process will be carefully managed and evaluated in line with statutory guidance, taking account the views of stakeholders and the further findings from the council's Equalities Assessment.

5.9 It is proposed to amalgamate the two schools from January 2022. This gives further opportunity to ensure that children, parents, and staff are engaged in the process and full prepared for the change.

(v) Safeguarding

5.10 The report deals with the council's approach to managing the supply of school places for the local population. The efficient supply of school places contributes to the safeguarding of children by ensuring their early access to 'good quality' and sustainable education provision.

(vi) Data Protection / Privacy Impact Assessment

- 5.11 The proposals presented in this report have followed a full public consultation. All responses received through these mechanisms or made directly to council officers or members have been included in the analysis of the feedback received. These responses have only been used to assess the community's view of the proposals and not for any other purpose.
- 5.12 The council handles information in accordance with the Freedom of Information Act 2000 and the Data Protection Act 2018 and is the data controller for the purposes of the Data Protection Act 2018. For more information the privacy notice for Pupil Services can be accessed here.

## **6 COMMENTS OF THE CHIEF FINANCE OFFICER**

Both Schools are funded through the Dedicated Schools grant, Harry Roberts through the early years block and Ben Johnson through the Schools block. The amalgamation would allow the Schools to benefit from economies of scale and rationalised management costs. There would be no impact to the General Fund

## **7 COMMENTS OF LEGAL SERVICES**

- 7.1 Section 14 of the Education Act 1996 requires local authorities to provide sufficient schools for primary and secondary education in their area. Local authorities also have best value duties in the performance of their functions under the Local Government Act 1999. In addition, local authorities have public sector equalities duties under Section 149 of the Equality Act 2010.
- 7.2 The procedure for amalgamating schools is set out in the Education and Inspections Act 2006, the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013, and the statutory guidance 'Opening and Closing Maintained Schools' (November 2019). The proposals set out in this report comply with the above legislation and guidance.

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

None

### **Appendices**

- Appendix 1 Report on the responses to the first stage consultation on the proposed amalgamation of Ben Jonson Primary and Harry Roberts Nursery Schools
- Appendix 2 Equalities Assessment
- Appendix 3 Public Consultation Document on the Proposal for the amalgamation of Ben Jonson Primary and Harry Roberts Nursery Schools
- Appendix 4 Council's HR Organisational Change Procedure (To follow)
- Appendix 5 Draft Statutory Notice

**Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

None

**Officer contact details for documents:**

N/A