


Individual Mayoral Decision Proforma Decision Log No: <u>135</u>	 TOWER HAMLETS
Report of: Debbie Jones, Corporate Director Children's Services	Classification: Unrestricted
Academy Conversion, St. Paul's Way Trust School	

Is this a Key Decision?	Yes
Decision Notice Publication Date:	15 August 2016
General Exception or Urgency Notice published?	Yes
Restrictions:	Public
Reason for seeking an Individual Mayoral Decision:	To enable academy conversion on 01 September 2016

EXECUTIVE SUMMARY

This report asks for Mayoral approval for assignment of the commercial transfer related to the academy conversion of St Paul's Way Trust School. A Mayoral decision is sought to enable the school to convert to academy status on 1 September 2016.

1. REASONS FOR THE DECISIONS

- 1.1 St Paul's Way School Trust School received an academy order on 26 May 2016 and has indicated its wish to convert to an academy on 1 September 2016 ahead of the new 2016-17 academic year.
- 1.2 Upon conversion, the school will become a member of its own Multi Academy Trust (MAT). MATs are groups of academies who come together to form a charitable company, with a single group of "members" and a single group of trustees or directors

2. ALTERNATIVE OPTIONS

- 2.1 There is no alternative to the planned course of action. Once the application from a Governing Body has been approved by the Secretary of State the expectation is that the local authority will work with the school in all transfer matters. The Council is required by the Academies Act to proceed with academy conversions.

Full details of the decision sought, including setting out the reasons for the recommendations and/or all the options put forward; other options considered; background information; the comments of the Chief Finance Officer; the concurrent report of the Head of Legal Services; implications for One Tower Hamlets; Risk Assessment; Background Documents; **and other relevant matters are set out in the attached report.**

DECISION

Recommendations:

The Mayor is recommended to:

1. Approve the Council to put into effect the commercial transfer
2. Authorise the Corporate Director Children's Services, in conjunction with the Corporate Director Law, Probity and Governance and Corporate Director Resources to enter into and undertake any remaining issues associated with the conversion
3. Authorise the Director Law, Probity and Governance in consultation with the Corporate Director Children's Services to enter into all documentation required to achieve this

APPROVALS


1. (If applicable) Corporate Director proposing the decision or his/her deputy

I approve the attached report and proposed decision above for submission to the Mayor.

Signed  Date 23/08/16

2. Chief Finance Officer or his/her deputy

I have been consulted on the content of the attached report which includes my comments.

Signed  Date 23/8/16

3. Monitoring Officer or his/her deputy

I have been consulted on the content of the attached report which includes my comments.

(For Key Decision only – delete as applicable)


I confirm that this decision:-


- (a) has been published in advance on the Council's Forward Plan OR
- (b) is urgent and subject to the 'General Exception' or 'Special Urgency' provision at paragraph 18 or 19 respectively of the Access to Information Procedure Rules.

Signed  Date 23/8/16

4. Mayor

I agree the decision proposed in paragraph above for the reasons set out in paragraph X in the attached report.

Signed  Date 23/8/16

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Academy Conversion: St Pauls Way Trust School	

Lead Member	Cllr Rachael Saunders, Deputy Mayor and Cabinet Member for Education and Children's Services
Originating Officer(s)	Peter Stone, Academy Conversion Project Manager
Wards affected	Mile End
Key Decision?	Yes
Community Plan Theme	A great place to live A fair and prosperous community A safe and cohesive community A healthy and supportive community

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3. ACADEMY CONVERSION

Background

- 3.1 Conversion usually occurs by two main transactions for the Council, these being the land transfer and commercial transfer. However, as a trust school, St Paul's Way already holds the land and property on a long lease and as a result there is no disposal of land and no decisions required in relation to land or lease for this conversion. The commercial transfer is concerned with the transfer of existing contracts, staff and associated goods. However, the trust is also the employer of staff and as a result this conversion does not require the transfer of any staff from the Council. As the employer of staff the school has led its own consultation with the support of the Council's HR team. In this conversion as there is nothing transferring to the school, the execution of the CTA is the final severance between the school and the local authority.

Conversion process – property implications

- 3.2 St Paul's Way Trust holds the property of the secondary school site on a 999 year lease from the Council. As part of the conversion process, the trust has sought the Council's consent as landlord for the assignment of the existing lease to the academy trust. The terms of lease relating to assignment state that the tenant may "not [...] assign the whole of the property except to a similar educational establishment approved by the Landlord in writing (such consent not to be unreasonably withheld)". The proposal is to assign the lease to a trust which falls within this definition. The Council's Legal Services has advised that assignment of a lease is not a disposal and therefore no formal consent is required for the assignment.

- 3.3 The project to provide primary phase accommodation to allow the expansion of the school is in progress. The capital costs are being funded by the Council working in partnership with Poplar Harca. The school is to be completed in phases. LBTH will take a lease for 125 years of each phases and immediately sub-let to the Trust for the same period. This agreement is covered in a set of documents between the three parties. These documents have been drafted to allow the academy trust to enter into the leases. The first phase of the accommodation has been completed and the remaining phases will be completed in agreed stages over the next 3 years. There are no additional consents required arising from the academy conversion.

Conversion process – commercial transfer

- 3.4 In general, the Commercial Transfer Agreement (CTA) is intended to ensure that all information on the transferring staff is recorded and transferred to the academy trust so that the appropriate arrangements for payment of salaries, pension contributions, etc. can be made. The CTA also includes details of any assets, liabilities and contracts that will transfer to the academy trust and those that will remain with the local authority.
- 3.5 In this conversion there is no transfer of staff as the school is already the employer. In relation to the pensions of non-teaching staff who previously transferred from the Council to the school when it became a trust school, St Paul's Way is a 'Scheduled Body' which means that it has an automatic right to be an employer in the Local Government Pension Scheme (LGPS). As a result there is no need for them to sign an admission agreement to become an 'Admitted Body'. It has also been confirmed that there is no reason for a re-assessment of the employers' contribution in this case.
- 3.6 St Paul's Way Trust School has a number of SLAs with the Council. The school has confirmed their intention to carry on with these arrangements until the end of the 2016-17 financial year at which point they will be able to enter into new contracts with the Council like any other school.

4. CONTINUING RELATIONSHIP

- 4.1 All matters related to the continuing relationship with the school once they become an academy and future conversions will be addressed in a report to Cabinet in October.

COMMENTS OF THE CHIEF FINANCE OFFICER

- 5.1 The school will receive funding based on the level of local authority funding calculated for the school, and in addition they will receive a sum of money amounting to what is usually retained by the local authority to fund central services that the local authority will no longer provide. The academy will receive funding to meet the additional VAT that they incur from the government and they will also able to ask for

funds for their insurance costs. A grant of up to £25,000 is also available to assist with the cost of conversion.

5.2 There are no implications for the two main transactions normally affected by the conversion, these being the land transfer and commercial transfer. St Paul's Way, which is a trust school, already holds the land and property on a long lease. The school also employs the staff and thus there is no transfer of staff involved.

6. LEGAL COMMENTS

6.1 The Academies Act 2010 introduced a procedure for maintained schools wishing to transfer to academy status. The Act provides a procedure for the transfer of assets, land and buildings to the newly established academy.

6.2 The school has obtained an Academy Order made by the relevant Secretary Of State. The Council must comply with this order in any event and facilitate the conversion of the School into an Academy if it so wishes. The Order includes the transfer of assets, fixtures and fittings, existing contracts but only if the new Academy wishes to take them on and all other matters relating to the transfer such that the school when closed will be able to reopen as an Academy and continue to operate seamlessly if the academy so wishes.

6.3 The transfer of assets, contracts and employees is done by way of a "commercial transfer agreement" which is based on the model transfer agreement as published by the DfE. It is permissible to make various derogations from the standard agreement in order to attempt to protect the Council's interests. However, this may not be used in a manner to frustrate the transfer process.

6.4 The Council must make appropriate arrangements under the commercial transfer agreement in respect of all the existing contracts. This requires the agreement of both the suppliers and the Academy. The transfer may be effected by novating the existing contracts which has the effect of replacing the old school with the Academy as the party to the contract.

6.5 The council must also make appropriate arrangements in respect of the payment of PFI / BSF credits in respect of the school. Under the Academies Act this is the only form of maintenance that the Council is allowed to provide to the School once it has become an Academy. However the Council should consider taking appropriate measures to obtain these repayments in effect for a building of which it no longer has the use.

7. ONE TOWER HAMLETS CONSIDERATIONS

7.1 St Paul's Way Trust School has committed to signing up to the Tower Hamlets Education Partnership demonstrating its commitment to the vision that all

schools and other educational settings in the borough work collaboratively to enable all children to experience the best possible educational opportunities, outcomes and life chances.

8. BEST VALUE (BV) IMPLICATIONS

8.1 None identified.

9. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

9.1 None identified.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

10.1 None identified.

11. SAFEGUARDING IMPLICATIONS

11.1 New statutory guidance for schools and colleges will come into effect from September 2016. This updated guidance lays greater stress on schools, colleges and their staff being part of the wider safeguarding system for children as described in 'Working together to safeguard children' (March 2015) and the need to fulfil responsibilities in relation to this. On conversion the Council will continue to work collaboratively with St Paul's Way Trust School, like any other school, to safeguard and promote the welfare of all children in the borough.

Linked Reports, Appendices and Background Documents

Linked Report

- None

Appendices:

- None

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

None

Officer contact details for documents: