


<b>Cabinet</b>  9 March 2022	 <b>TOWER HAMLETS</b>
<b>Report of James Thomas, Corporate Director Children's and Culture</b>	<b>Classification:</b> Unrestricted
<b>Report on the outcome of representations received in response to the statutory (public) notice to amalgamate Marion Richardson and Old Church Nursery Schools</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
<b>Wards affected</b>	Stepney Green and St Dunstan's
<b>Key Decision?</b>	Yes
<b>Forward Plan Notice Published</b>	29 October 2021
<b>Reason for Key Decision</b>	To be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.
<b>Strategic Plan Priority / Outcome</b>	A better deal for children and young people: aspiration, education and skills

### **Executive Summary**

This report informs cabinet of the outcome of the four week period of public representation in response to the statutory notice on the proposal for the amalgamation (merger) of Marion Richardson Primary and Old Church Nursery Schools. This would create an all-through 3 to 11 years' primary school, with effect from 1<sup>st</sup> September 2022

It recommends for the cabinet to consider a decision on whether or not to formally agree for the schools' amalgamation.

### **Recommendations:**

The Cabinet is recommended to:

1. Consider the report and its supporting documents, particularly the statutory notice (Appendix 1) and the Equality Assessment (Appendix 2), along with comments made by respondents to the Statutory Notice.
2. Agree to the amalgamation (merger) of Marion Richardson Primary and Old Church Nursery schools to form an all-through 3 to 11 years' primary school, taking effect from 1<sup>st</sup> September 2022.

## **1 REASONS FOR THE DECISION**

- 1.1 The recommendation is made in order to determine the council's decision following the responses received to the statutory notice.
- 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 Both schools already work closely together and engage in joint planning. They share resources and expertise and are continually developing their links. They worked particularly closely following the temporary closure of the Old Church building due to fire, enabling provision to continue for the benefit of all children.
- 1.4 Changes to the way the Government has funded Early Years has made it very difficult for Maintained Nursery Schools to be self-sustainable, and the governors of Old Church do not believe the school can continue as a standalone nursery school.
- 1.5 The amalgamation will create a single governing body to drive the school's strategic planning, monitor whole school development to ensure robust accountability and provide an all-through primary school to serve the needs of the local community
- 1.6 The amalgamation would be achieved through the technical closure of Old Church Nursery and the expansion of the current nursery provision at Marion Richardson Primary, to accommodate the displaced Old Church pupils. Marion Richardson would continue as a primary school for pupils aged 3 to 11, whilst retaining its original school Department for Education (DfE) registration number. The Old Church Nursery site would continue to be used to provide the Early Years Foundation Stage for the amalgamated school.
- 1.7 In line with the DfE guidance (November 2019), 'Making significant changes (prescribed alterations) to maintained schools' and 'Opening and Closing Maintained Schools', public consultation has been undertaken in the form of a first stage informal consultation followed by a formal statutory notice inviting further representation over the necessary 28 day period.

## **2 ALTERNATIVE DECISIONS**

- 2.1 Cabinet could decide not to agree to the recommendation for the schools amalgamation. In which case the schools would continue as separate institutions and seek to find alternative ways to ensure their individual sustainability, as well as gain most benefit from their existing partnership.
- 2.2 Cabinet could decide to delay its decision on the schools amalgamation. However, this could mean the amalgamation taking place later than the proposed date of 1<sup>st</sup> September 2022, by which time the position for Old Church Nursery will be less advantageous and the uncertainty over its future unsettling for children, staff and parents.

### **3 DETAILS OF THE REPORT**

- 3.1 Following a report to cabinet on 24<sup>th</sup> November 2021, it was agreed for the council to proceed with the issuing of a statutory notice for 28 days, in respect of the proposal to amalgamate Marion Richardson Primary and Old Church Nursery Schools into an all-through 3 to 11 years' primary school. The main facts and the reasons for this decision are set out in both the November cabinet report and also in the earlier first stage public consultation paper attached as Appendix 3.
- 3.2 Notification of the publication of the statutory notice was advertised widely, in line with DfE guidance. It was posted publicly outside the schools and on the schools and council websites on the 8<sup>th</sup> December 2021. All parents and staff received a copy of the notice, and other stakeholders were signposted to the council website.
- 3.3 Due to coronavirus, it was not possible to hold the traditional method of public and parents' meetings for both the first stage consultation and the subsequent statutory notice period. However, several alternative methods were used, in accordance with the Tower Hamlets guidance on public consultation processes during coronavirus. These methods are explained below and detailed in the report on the outcome of the first stage public consultation, included as Appendix 4.
- 3.4 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](#). It is evident that the consultation has enabled a high level of engagement with key stakeholders, particularly with parents 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.
- 3.5 Overall, from the feedback in meetings with parents and staff, there is understanding about reasons for the amalgamation and positivity about the opportunities it brings. Old Church parents and staff, understandably, have more anxieties about the potential arrangements. All can see the benefits, particularly more children having access to wider resources and expertise, whilst protecting outstanding Nursery education and creating a wonderful early years foundation site.
- 3.6 Prior to the start of the consultation, the Local Authority's independent consultant held a series of preparatory meetings with both Marion Richardson and Old Church schools to discuss the background and process for the consultation. These included separate meetings with the head teacher and chairs' of governors, the governing bodies, the school's senior leadership teams and schools' staff. The following formal meetings were then held as part of the consultation, to give consultees the opportunity to ask questions and make their views known:

<b>Parents</b> (including wider public)	Virtual Meetings on: 29 <sup>th</sup> and 30 <sup>th</sup> September, 4 <sup>th</sup> and 5 <sup>th</sup> October 2021
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<b>School Staff</b>	Meetings with staff and unions 4 <sup>th</sup> and 7 <sup>th</sup> October 2021
<b>Parents, Staff and other Key stakeholders</b>	Virtual meeting with staff/parents/governors/ Stakeholders, 5 <sup>th</sup> October 2021.

- 3.7 The schools worked with pupils to help them understand the proposal, reassuring them that they would be fully supported throughout the transition period. This included age appropriate activities when consulting pupils on their views

#### **4 RESPONSES TO THE STATUTORY NOTICE (Second Stage Consultation)**

- 4.1 The statutory notice period provided a further opportunity to engage with stakeholders and obtain their views. This followed on from the earlier first stage consultation, which was reported to the 24<sup>th</sup> November 2021 cabinet meeting and is included again with this report as Appendix 4

- 4.2 One written representation was received following the statutory notice:

*'I would like to object to the amalgamation of Old Church Nursery with Marion Richardson Primary, for two reasons, one on principle and one on practicalities. First, the principle, it moves an independent nursery which sent its children to multiple Schools' Reception classes to become a nursery solely linked to one primary school. This is likely to impact admissions to the other primary schools which received children from Old Church. It is unfair to privilege one primary over others in this way. It looks like one primary is being rewarded to the detriment of others. Secondly, the practice, Old Church ran up a huge deficit of approximately £½million. At the very least, this suggests a lack of oversight and governance. There appears to be no challenge or real rebuke to this situation. Instead, their deficit is being paid off by the Local Authority as part of the amalgamation. This is unfair to other schools which have carefully lived within their means. It looks like one nursery is being rewarded for its failures.*

*I hope that you will reconsider the amalgamation and put in place a different plan to address the mismanagement of Old Church and one which does not hinder surrounding primaries.'*

#### **The Council's response to this representation is as follows:**

- (i) Concern raised regarding impact on intake to other schools

- 4.3 The reception intakes at other primary schools will not be affected by the proposed amalgamation. This is because, although Marion Richardson has historically always been full, the Council will not be increasing the school's reception intake (60 places). The overall number of nursery children in the amalgamated school will be lower than the current nursery capacity across both schools. This is because the existing Old Church building will be used to accommodate both the reception and nursery for the amalgamated school.

- (ii) Concern regarding monitoring of schools finances

- 4.4 The funding for nursery provision has changed significantly in recent years, with many schools being affected. Some schools have reduced their provision, and others have been able to subsidise provision. Historically a number of schools began to face financial challenges as pupil numbers fell from 2016 onwards. The need for more robust financial practices to address

the challenges was identified in the Local Authority Commissioned 'Future Ambitions Report' (2019) and the council has responded to that challenge through new appointments and revised processes, including Licensed Deficit processes.

- 4.5 The council has worked closely with Old Church Nursery to reduce its deficit since 2020. Prior to that time Nursery Schools were overly hopeful that a national commitment to protecting Nursery Schools, would lead to increased funding. The realisation that increased finances would not be forthcoming led to the Old Church undertaking a major staffing restructure in 2020-21, which included redundancies, bringing additional costs to the school, in order to reduce staffing to more affordable levels.
- 4.6 However, the continuing fall in pupil numbers has meant that governors now feel there is insufficient funding for the school to continue to run independently. This was a key reason for the governing body to propose an amalgamation, alongside the school continuing to take measures to reduce expenditure. The governing body and LA officers will work together on further staff reductions to reduce the final budget deficit when Old Church closes on amalgamation.
- 4.7 When a school closes its finances (and any surplus or deficit) is returned to the Council and this does not affect the funding that schools receive from the Dedicated Schools Grant (DSG).
- 4.8 The statutory notice period did not bring any further representation that gives cause for officers to recommend that the council reconsiders its recommendation for the amalgamation of Marion Richardson Primary and Old Church Nursery Schools.
- 4.9 If the council's decision is for the schools to amalgamate a full HR consultation will be completed before 1<sup>st</sup> September 2022, in line with the Council's 'Human Resources Organisational Change' policy and procedures (Appendix Five).

## **5 TIMETABLE FOR IMPLEMENTATION OF THE AMALGAMATION**

- 5.1 If the decision is made for Marion Richardson Primary and Old Church Nursery Schools to amalgamate, the timetable for implementation will be as follows:

March 2022	The LA, schools and THEP will work together to plan and finalise arrangements and the new staffing structures for the amalgamation.
April-July 2022	Staff consultation will be undertaken on the new staffing structure for the primary school.
August 2022	Old Church Nursery School will formally close on the 31 <sup>st</sup> August 2022 and children from Old Church Nursery will automatically transfer to the Marion Richardson.
September 2022	Marion Richardson Primary School will continue to operate as a 3 -11 age range primary school, retaining its existing DfE registration number.

## **6 EQUALITIES IMPLICATIONS**

- 6.1 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.
- 6.2 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”).
- 6.3 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.
- 6.4 They will continue to work with Trade Unions to ensure that planning for any staff changes is fair and equitable and in line with agreed policies, including the Council’s ‘Human Resources Organisational Change’ policy and procedures.

## **7 OTHER STATUTORY IMPLICATIONS**

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

- 7.1 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.

### **(ii) Best Value Implications**

- 7.2 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. 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.
- 7.3 The closure of Old Church 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. Upon closure of Old Church Nursery, 85% of the annual lump sum will be paid to the amalgamated school the year after amalgamation to support transition.
- 7.4 When a school closes its finances (and any surplus or deficit) is returned to the council.

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

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

#### **(iv) Risk Management**

- 7.6 If this recommendation is agreed, the LA will mitigate any risk by supporting the schools with the further stages of the amalgamation process, ensuring that this is carefully managed and evaluated in line with statutory guidance and taking account the views of stakeholders. The provision for children with Special Educational Needs will not be adversely affected by this proposal.

#### **(v) Safeguarding**

- 7.7 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/continued access to 'good quality' and sustainable education provision.

#### **(vi) Data Protection / Privacy Impact Assessment**

- 7.8 The proposals presented in this report have followed an initial and formal public consultation using a variety of mechanisms. 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.
- 7.9 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.

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

- 8.1 Old Church Nursery is currently wholly funded by the Early Years block of the Dedicated Schools Grant (DSG) whilst Marion Richardson School is funded from the schools block of the DSG. For the Year of Amalgamation (2022/23) the two separate budgets will be added together for the remainder of the financial year, meaning the budget is fully protected at the level of the individual school budgets.
- 8.2 For The Financial year 2023/24 There will be protection of the prior year's separate budget to support the costs of transition through Marion Richardson's base budget. As one school there will be opportunity to make significant Economy of Scale savings. All Funding will be through the DSG and there would be no impact on the Councils General Fund.

### **9 COMMENTS OF LEGAL SERVICES**

- 9.1 The process of amalgamating two schools requires either both schools to be closed and a new school opened, or as proposed in this report, one school to be closed and the other school expanded.
- 9.2 The procedure for closing a school is set out in the statutory guidance 'Opening and closing maintained schools' (November 2019), in Part 2 and Schedule 2 of the Education and Inspections Act 2006 (as amended) and in the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013.

- 9.3 The procedure for expanding a school is set out in the statutory guidance 'Making significant changes ('prescribed alterations') to maintained schools (October 2018), in Parts 2 and 3 and Schedule 3 of the Education and Inspections Act 2006 and in the School Organisation (Establishment and Discontinuance of Schools Regulations 2013.
- 9.4 The statutory guidance states that where there are linked proposals to close one school and expand another the consultation and statutory notices must make this clear.
- 9.5 The guidance and regulations set out the process of consultation which must take place before any decision is made to close one school and expand another, and state that the decision maker is the local authority.
- 9.6 The Public Sector Equality Duty is set out in section 149 of the Equality Act 2010. This duty requires public authorities, in the exercise of their functions, to have due regard to the need to eliminate discrimination, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.7 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 Statutory (Public) Notice (Stage Two Consultation)
- Appendix 2 Equalities Assessment
- Appendix 3 Public Consultation Document (Stage One)
- Appendix 4 Public Consultation (Stage One) Feedback Report
- Appendix 5 Council's HR Organisational Change Procedure

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

None

### **Officer contact details for documents:**

N/A