

North Tyneside Council

Report to Cabinet

Date: 9 July 2012

Item 7(f)

Title: Trust Schools Admittance to the Tyne and Wear Local Government Pension Scheme

Portfolio(s): Children, Young People and Learning

Cabinet Member(s): Councillor David Lilly

Report from Directorate: Children, Young People and Learning

Report Author: Jean Griffiths, Head of Schools, Learning and Skills (Tel: 643 8782)

Wards affected: All

PART 1

1.1 Purpose:

The report outlines the arrangements for managing the protection of pensions for school-based support staff in schools that decide to change their category from community school to Trust School (Foundation school with a foundation) and, in doing so, acquire the North Tyneside Learning Trust as their Foundation.

1.2 Recommendation(s):

Cabinet is recommended, in respect of Forest Hall Primary School and Fordley Primary School, to authorise the Strategic Director of Children, Young People and Learning to designate, pursuant to Regulation 8 of the Local Government Pension Scheme (Administration) Regulations 2008, those schools-based support employees whose employment will transfer to the governing bodies of the schools participating in the North Tyneside Learning Trust, as being eligible for membership of the Tyne and Wear Local Government Pension Scheme, upon the receipt by the Authority of a letter agreeing to such a designation from any such school governing body changing its status to a Trust School and acquiring the North Tyneside Learning Trust as their Foundation.

1.3 Forward plan:

This report was listed on the Cabinet Forward Plan published for the period 1 July – 30 September 2012.

1.4 Council plan and policy framework

The report is concerned with the following Council Strategic Plan 2012-15 priority:

Priority 2: Maintaining excellent education, training and employment opportunities, including apprenticeships and working in collaboration with partners.

1.5 Information:

The Cabinet meeting of November 2009 approved Council membership of the school-led North Tyneside Learning Trust. The Trust provides a sustainable framework for long-term partnership between schools, employers, universities, FE providers and North Tyneside Council.

The Cabinet meeting of July 2010 subsequently approved support staff membership of the Tyne and Wear Local Government Pension Scheme (TW LGPS) for those schools acquiring the North Tyneside Learning Trust and changing their category from community school to Foundation School with a Foundation (the Learning Trust)

The Cabinet meeting of July 2011 approved arrangements for 3 further schools (Benton Dene Primary School, Benton Dene Special School and Hadrian Park Primary School).

The decision to change the category of school from community to Trust school must be taken by each individual governing body. Currently, there are 26 first, primary, special and secondary community schools who are now Foundation Schools aligned with the North Tyneside Learning Trust. A further two primary schools now wish to move ahead with Trust membership. They are:

- Forest Hall Primary School
- Fordley Primary School.

Subject to the final consultation, both schools have an implementation date of September 1st 2012.

There are an additional six schools currently engaged in the consultation process and pending the outcomes of these a further report will be brought to Cabinet in August 2012.

If the governors of the school decide to change category to become a Trust school, the school, through its governing body, becomes the legal employer of all the school's teaching and support staff. Those staff are therefore no longer employees of the Council and transfer to the employment of the governing body of the Trust school. This transfer is effected through a TUPE-like (Transfer of Undertakings – Protection of Employment) transfer. Whilst this form of transfer does not have the same requirements as a TUPE transfer, the Council and its community schools have consulted, including with unions and professional associations, as if it did have.

One of the consequences of a governing body decision to become a Trust school is in relation to support staff membership of the Local Government Pension Scheme ("the Scheme"). There are no changes required in respect of teaching staff membership of the Teachers Pension Scheme.

In particular a person may still be eligible, after transfer of their employment to a new employer, to be an active member of the Scheme if she/he is an employee of the governing body of: -

- A Voluntary School
- A Foundation School
- A Foundation Special School
- Any Technical School or other similar institute which is being assisted by a Local Education Authority

The above bodies are not Scheme Employers (previously referred to as a Scheduled Body). Therefore any membership will need to be by virtue of **Regulation 8** of the Local Government Pension Scheme (Administration) Regulations 2008.

The first step in the process is to confirm to the Pension Fund that the body is a Foundation School. This can be done by way of simply referring to the relevant legislation.

For a person to be eligible for the Scheme, the Local Education Authority must designate him/her, or the class of employees to which he/she belongs, as being eligible for membership to the Scheme.

The Local Education Authority must also have the consent of the Employer to allow them to designate. It is proposed that this be effected by individual governing bodies of the affected schools writing to the LEA to confirm this. Eligibility under Regulation 8 does not therefore require an Admission Agreement.

1.6 Decision options:

Option 1

Cabinet could agree the recommendations as a set out at 1.2.

Option 2

Cabinet could decide not to support the designation of Trust schools' employees to the Local Government Pension Scheme.

1.7 Reasons for recommended option:

Agreeing the recommendations will ensure school support staff of the named schools retain their right to be members of the Tyne and Wear Local Government Pension Scheme.

1.8 Appendices:

None.

1.9 Contact officers:

Jean Griffiths – Head of Schools, Learning and Skills, tel: (0191) 643 8782
Stephen Ballantyne – Manager Legal Services: Monitoring Officer Support and Employment, tel: (0191) 643 5329
Anthony Gollings – Financial Business Manager for CYP&L and Finance & Resources, tel: (0191) 643 8071

1.10 Background information:

July 2010 Cabinet Report – Trust Schools and the TW LGPS
July 2011 Cabinet Report – Trust Schools admittance to the Tyne and Wear LGPS

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

There are no direct financial implications in respect of this report. The financial liabilities of the Council remain unchanged in respect of support staff pensions, with any liability arising being included as part of the Council's total Pension Fund liability.

2.2 Legal

To protect the pensions of the employees who are currently members of the Local Government Pension Scheme, and who are proposed to be transferred from the Council to the Governing Bodies of the Schools participating in the North Tyneside Learning Trust, the Council is required to make a decision pursuant to Regulation 8 of the Local Government Pension Scheme (Administration) Regulations 2008 to designate employees, or the class of employees transferring, as eligible for membership of the Local Government Pension Scheme.

2.3 Consultation/community engagement

There has been an extensive consultation programme both prior to the consultation required by the Education and Inspections Act 2006 and then as part of the consultation programme prescribed in the Trust Schools Toolkit, published by the (then) Department for Children, Schools and Families, now Department for Education (DfE). Schools including teaching, support staff and governors, parents, children and young people, professional associations and unions, employers, universities, FE, third sector partners, Diocesan authorities, members and other stakeholders have all been involved in the consultation process.

2.4 Human rights

There are no human rights issues arising from this report.

2.5 Equalities and diversity

There are no equality and diversity issues arising from this report.

2.6 Risk management

Risks associated with this proposal have been managed through a risk register that has been reviewed formally by the Extended Joint Consultative Forum of North Tyneside Council.

2.7 Crime and disorder

There are no crime and disorder issues arising from this report.

2.8 Environment and sustainability

There are no environment and sustainability issues directly arising from this report.

PART 3 - SIGN OFF

- Strategic Director(s) x
- Mayor/Cabinet Member(s) X X
- Chief Finance Officer x
- Monitoring Officer X
- Strategic Manager
Policy and Partnerships X