

Litigation Group

Treasury Solicitor's Department
One Kemble Street, London, WC2B 4TS

Louise Watson
North Tyneside Council
Quadrant West
The Silverlink North
Cobalt Buisness Park
North Tyneside
NE27 0BY

DX 123242 Kingsway 6
Switchboard: 0207 210 3000
Direct Line: 020 7210 6161
Direct Fax: 0207 210 3001
tom.bullimore@tsol.gsi.gov.uk

Please Quote: Z1310838/TBU/B5
Your Reference: VMG/LW

Via email first to:
vivienne.geary@northtyneside.gov.uk
louise.watson@northtyneside.gov.uk

25 July 2013

Dear Sirs

North Tyneside Council v Secretary of State for Education and Others Letter before action in respect of the King's Priory Academy proposals

This is a pre-action response sent on behalf of the Secretary of State, in response to your letter before action of 18th July 2013.

1 Proposed Claimant

North Tyneside Council, Quadrant, The Silverlink North, Cobalt Business Park, North Tyneside, NE27 0BY.

2 Proposed Defendant

The Secretary of State for Education, Sanctuary Buildings, Great Smith Street, Westminster, London, SW1P 3BT.

3 Reference details

Please use reference Z1310838/TBU/B5.

4 The details of the matter being challenged

The decision of the Secretary of State of 5th July 2013 that King's Priory Academy ("the Academy") open on 1st September 2013 and that funding arrangements should be entered into for that purpose. The Secretary of State's letter of 10th July 2013 gives reasons for this decision.

5 Response to the proposed claim

I turn directly to the position of those in North Tyneside who are affected by your threatened claim (meritorious or not), foremost among them the pupils, parents and staff of the schools which are due to be converted into the Academy.

The Academy is due to open on 1st September 2013. The commencement of any claim at the end of July or early August, regardless of its merits, will mean a great deal of uncertainty for all concerned over whether this can take place. In particular it will be very difficult and stressful for pupils and their families not to be sure where they will be going to school at the start of the next academic year.

In the circumstances, rather than take up time in debating the merits of your proposed grounds of claim and waiting for a claim to be brought, the Secretary of State will urgently re-determine whether to enter into the funding arrangements. In doing so, the Secretary of State will look afresh at the relevant facts, and at the public sector equality duty. This is without admission of liability at all.

If the Secretary of State, upon re-determination, decides not to enter into the funding arrangements, then no doubt the Council will be pleased. If the Secretary of State decides to enter into the funding arrangements, it is to be hoped that the decision will set the Council's mind at rest that it was lawfully undertaken.

However, there is one issue which I believe can be disposed of right away. One of your complaints is that no information was provided to consultees about the King's School's finances. The Secretary of State was under no obligation to consult about this issue under the 2010 Act or otherwise.

If your complaint is that another party should have provided information about this issue, you have directed the complaint at the wrong person. Furthermore any such claim would now be well out of time and, in any event, you have failed to explain how any failure to consult by another party could render the Secretary of State's decision unlawful. Lastly, we do not see why any consultation in this case would be flawed by the lack of information about the Secretary of State's agreement to fund the loan and overdraft of the King's School.

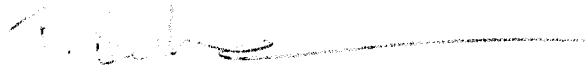
6 Details of any other interested parties

Those named in the pre-action letter of 18th July 2013.

7 Address for further correspondence and service of court documents

As on this letterhead.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Tom Bullmore', followed by a long horizontal line extending to the right.

**Tom Bullmore
For the Treasury Solicitor**

CC.
Woodard Academies Trust
Governing Body of the King's School
Governing Body of Priory Primary School

