



***Delegated Decisions by Cabinet Member with the  
responsibility for Education***

***Monday, 20 May 2013 at 12.00 pm  
County Hall, Oxford OX1 1ND***

***Items for Decision***

The items for decision under individual Cabinet Members' delegated powers are listed overleaf, with indicative timings, and the related reports are attached. Decisions taken will become effective at the end of the working day on 29 May 2013 unless called in by that date for review by the appropriate Scrutiny Committee.

Copies of the reports are circulated (by e-mail) to all members of the County Council.

**These proceedings are open to the public**

Handwritten signature of Peter G. Clark in black ink, underlined.

Peter G. Clark  
County Solicitor

May 2013

**Contact Officer: *Deborah Miller***  
*Tel: (01865) 815384; E-Mail: [deborah.miller@oxfordshire.gov.uk](mailto:deborah.miller@oxfordshire.gov.uk)*

**Note: *Date of next meeting: 24 June 2013***

**If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named on the front page, but please give as much notice as possible before the meeting.**

## Items for Decision

### 1. Declarations of Interest

### 2. Questions from County Councillors

Any county councillor may, by giving notice to the Proper Officer by 9 am two working days before the meeting, ask a question on any matter in respect of the Cabinet Member's delegated powers.

The number of questions which may be asked by any councillor at any one meeting is limited to two (or one question with notice and a supplementary question at the meeting) and the time for questions will be limited to 30 minutes in total. As with questions at Council, any questions which remain unanswered at the end of this item will receive a written response.

Questions submitted prior to the agenda being despatched are shown below and will be the subject of a response from the appropriate Cabinet Member or such other councillor or officer as is determined by the Cabinet Member, and shall not be the subject of further debate at this meeting. Questions received after the despatch of the agenda, but before the deadline, will be shown on the Schedule of Addenda circulated at the meeting, together with any written response which is available at that time.

### 3. Petitions and Public Address

### 4. Alteration of Lower Age Range for Bampton CE Primary School

(Pages 1 - 4)

*Forward Plan Ref:* 2013/030

*Contact:* Deborah Rouget, Sufficiency & Access Manager, Early Years & Childcare  
Tel: (01865) 810617

Report by Director for Children's Services (**CMDE4**).

Bampton Primary School has applied to open a Foundation Stage Unit (new nursery class). On 4 February 2013 the Cabinet Member agreed the recommendation at Stage 1 of the proposal for publication of a statutory notice. As no objections have been received, at Stage 2 the Cabinet Member for Education will determine the proposal as the 'decision maker' under the Education and Inspections Act 2006. This requires consideration of the proposal against the factors that must be considered as laid down in statutory guidance. The report requires the cabinet member to reject the proposal or approve it with a modification or subject to meeting a specific condition.

***The Cabinet Member for Education is RECOMMENDED to either:***

- (a) reject the proposal;***
- (b) approve the proposal;***
- (c) approve the proposal with a modification (e.g. the proposed implementation date);***
- (d) approve the proposal subject to them meeting the specific conditions:***
  - that all remedial and preventative building works recommended in the***

***Carillion survey of the temporary unit be fully funded from pre-school and school reserves;***

- ***that an asbestos management survey of the temporary unit be undertaken;***
- ***that the school revise their fire management programme to include the temporary unit;***
- ***that the pre-school write to the Headteacher to confirm transfer of ownership or 'gift' of the temporary unit and surrender their lease;***
- ***that all conditions are met before the proposed implementation date.***

## **5. Procedures for Making Resolutions where the Council is Acting as a Charitable Trustee (Pages 5 - 8)**

*Forward Plan Ref: 2013/039*

*Contact: Stephanie Skivington, Corporate Finance Manager Tel: (01865) 323995*

Report by Director for Children's Services (**CMDE5**).

The report requests a decision to set up processes to allow the Council to discharge its powers as a charitable trustee under the provisions of the Charities Act 2011 relating to replacing the purposes of unincorporated charities with smaller funds (section 275) and spending the capital of unincorporated charities with smaller funds (section 281), where necessary with a view to closing the relevant trust.

The Council is trustee of a number of small trusts, many relating to schools' prizes or similar with a permanent endowments. The size of the endowments is such that they only generate a small amount of income each year and the funds of some of these trusts have not been used for a number of years. In some cases, the purposes for which the funds are required to be used are out of date (for example, relating to schools which no longer exist).

The Charities Act 2011 contains provisions allowing for the trustees of unincorporated charities to replace the purposes and spend the capital of the charities. These provisions require the making of resolutions. The report proposes a way by which the Council would make such resolutions where it is a trustee, including with a view to closing the trust.

***The Cabinet Member for Education is RECOMMENDED to delegate to the Director for Children, Education and Families, in consultation with the Chief Finance Officer, the power to make resolutions on behalf of the Council pursuant to sections 275 and 281 of the Charities Act 2011 (or any successor provision with the same or substantially similar effect) where the Council is a charitable trustee, including with a view to closing the charitable trust where this is considered appropriate.***

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Division(s): Burford and Carterton

## **CABINET MEMBER WITH THE RESPONSIBILITY FOR EDUCATION 20 MAY 2013**

### **APPLICATION TO OPEN A NEW FOUNDATION STAGE UNIT**

**Report by Director for Children's Services**

#### **Introduction**

1. Bampton Primary School has applied to open a Foundation Stage Unit (new nursery class). On 4 February 2013 the Cabinet Member agreed the recommendation at Stage 1 of the proposal for publication of a statutory notice. As no objections have been received, at Stage 2 the Cabinet Member for Education will determine the proposal as the 'decision maker' under the Education and Inspections Act 2006. This requires consideration of the proposal against the factors that must be considered as laid down in statutory guidance. The report requires the cabinet member to reject the proposal or approve it with a modification or subject to meeting a specific condition.

#### **Background**

2. The proposal is to open a Foundation Stage Unit with 30 children aged 3-4. The funding proposals have been based on 15 children attending part time and the school offering paid-for childcare places for the remaining 15 if demand for funded places is low. An existing Pre-School on the site would close and staff would TUPE across to the school. The pre-school and parents support this application to transfer all management, administration and governance to the School. The aim is to improve the management and organisation of the Foundation Stage and to raise the quality of teaching and learning for these youngest children and links to a corporate objective of raising achievement. There may also be a reduction in staff across the FSU, with those not continuing in the nursery being given the opportunity to work elsewhere in the school. However, this is still to be confirmed as the school's discussions with HR progress, and dependent on demand for places.

#### **Financial Report**

3. The finance officer has assessed the financial position with the school and governors. The report shows it to be in balance for all three years. This indicates the sustainability of the proposal assuming the number of children planned for will be forthcoming.

#### **Premises Report**

4. The premises report indicates that the space is sufficient for the proposed pupil numbers under the Early Years Statutory Framework. There are sufficient toilets and the environment is secure. It has access to an outdoor

area and the available space in all areas is maximised for play and active learning. The FSU will be in the temporary classroom which is currently owned by the Pre-School. Legal advice from the Principal Solicitor (Conveyancing) is that ownership of a temporary building (as distinct from the land it sits on) can be transferred by mere delivery. The Pre-school will need to make it clear by letter or termination of lease that they are surrendering ownership. The Local Authority has commissioned a condition survey of the unit to determine the potential lifespan of the unit and possible future maintenance costs. A copy of this is available on request. A further requirement from the Property and Facilities service was for an asbestos management survey to be carried out on the unit. These recommendations are to ensure that the building retains structural integrity and remains safe and serviceable for the remaining lifespan of the building, without incurring any major costs for the Local Authority. The School Headteacher has confirmed that all recommended remedial and preventative building and electrical works will be funded by the pre-school and/or school and will take place prior to the opening date for the FSU.

### **Quality Report**

5. An early years specialist teacher will be appointed to lead the nursery class and planned staffing is suitable for the expected numbers of children. Facilities are appropriate for the age of children and a wide and varied range of resources are available. There are strong community links and partnerships with parents. The original report at Stage 1 from the Senior Early Years Team Leader concluded that the application was fully supported. In March 2013 the school was subject to an Ofsted Inspection and was subsequently rated as 'Requires Improvement'. The Lead officer has discussed the implications of this with the early years advisory teacher who reports that the FS was rated good. The majority of the recommendations and areas for improvement were based on areas higher up the age range and the EYAT is confident that the new Headteacher has plans to fully address these. Under the new Headteacher we are confident that the plans that have been put in place already for the FSU are appropriate to ensure a high quality provision for the school.

### **Responses from Statutory Notice and public consultation**

6. The Statutory notice was published on 18 February 2013 and the six week consultation period closed on 1 April. One representation was received which stated that it was not an objection but an enquiry as to why a qualified teacher was required for the FSU. Full text of the representation and the officer's response is available on request. The requirement for a qualified teacher is from the Early Years Statutory Framework.

### **RECOMMENDATIONS**

7. **The Cabinet Member for Education is RECOMMENDED to either:**
  - (a) **reject the proposal;**

- (b) approve the proposal;
- (c) approve the proposal with a modification (e.g. the proposed implementation date);
- (d) approve the proposal subject to them meeting the specific conditions:
  - that all remedial and preventative building works recommended in the Carillion survey of the temporary unit be fully funded from pre-school and school reserves;
  - that an asbestos management survey of the temporary unit be undertaken;
  - that the school revise their fire management programme to include the temporary unit;
  - that the pre-school write to the Headteacher to confirm transfer of ownership or 'gift' of the temporary unit and surrender their lease;
  - that all conditions are met before the proposed implementation date.

**JIM LEIVERS**

Director for Children's Services

Background papers: Proposal form from school, reports from finance and premises officers and the advisory teacher for the area. Copy of the statutory notice. These are available from the Contact Officer – or from Janine Foulkes-Williams, Senior Officer (Early Years Organisation) 01865 815181  
[Janine.foulkes-williams@oxfordshire.gov.uk](mailto:Janine.foulkes-williams@oxfordshire.gov.uk)

Contact Officer: Debbie Rouget, Sufficiency and Access Manager, Early Years and Childcare. 01865 810617  
[debbie.rouget@oxfordshire.gov.uk](mailto:debbie.rouget@oxfordshire.gov.uk)

April 2013

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Division(s): N/A

## **CABINET MEMBER WITH THE RESPONSIBILITY FOR EDUCATION – 20 MAY 2013**

### **PROCEDURES FOR MAKING OF RESOLUTIONS WHERE THE COUNCIL IS ACTING AS A CHARITABLE TRUSTEE**

**Report by the Director for Children's Services**

#### **Introduction**

1. This report requests a decision to set up processes to allow the Council to discharge its powers as a charitable trustee under the provisions of the Charities Act 2011 relating to replacing the purposes of unincorporated charities with smaller funds (section 275), and to spending the capital of unincorporated charities with smaller funds (section 281), where necessary with a view to closing the relevant trust.
2. The Council is trustee of a number of small trusts, many relating to schools' prizes or similar with permanent endowments. The size of the endowments is such that they only generate a small amount of income each year and the funds of some of these trusts have not been used for a number of years. In some cases, the purposes for which the funds are required to be used are out of date (for example, relating to schools which no longer exist).
3. As part of the academy conversion process, the Council has agreed to transfer trusteeship of trusts relating to schools which have converted to academies. This exercise has identified a need to rationalise certain small trusts which are not to be transferred in such a way.

#### **The Council's Obligations as Trustee**

4. Where trusts are for certain purposes (which include, amongst other things the advancement of education) and are for the public benefit (as defined in charity law) they are charitable and thus the provisions of the Charities Act 2011 apply.
5. As a trustee, the Council is obliged to ensure that the charity's assets are applied in pursuance of its charitable purposes. In some cases, this may be difficult due to the nature of the purposes (for example, where the stated purposes relate to a school which has closed down or another out-of-date matter which cannot now be fulfilled in the way envisaged) or due to the endowment being too small to generate sufficient income (for example, where the trust is for an annual prize but only a few pounds are generated each year).

6. Where a charitable trust is set up with an endowment, this cannot be spent other than in accordance with the provisions of the deed which set up the trust or charity law. A number of the trusts of which the Council is trustee have permanent endowments where the trust deed does not allow for these to be spent.

### **The Charities Act 2011**

7. The Charities Act 2011 (the “Act”) contains provisions allowing for the trustees of unincorporated charities to replace the purposes and spend the capital of the charities in certain circumstances. These provisions require the making of resolutions.
8. The Act sets out different processes for each action where the funds of the charity are smaller. In the case of replacing purposes, they are that (i) income in the trust’s last financial year did not exceed £10,000 and (ii) no designated land (land held on trusts which stipulate that it is to be used for the purposes, or any particular purposes, of the charity) is held. In the case of spending capital, the thresholds are that (i) income in the trust’s last financial year did not exceed £1,000 and (ii) the value of the endowment does not exceed £10,000.
9. If the purposes are to be changed, the trustees must be satisfied (a) that it is expedient in the interests of the charity for the purposes in question to be replaced, and (b) that, so far as is reasonably practicable, the new purposes consist of or include purposes that are similar in character to those that are to be replaced (section 275(4) of the Act).
10. If capital is to be spent, the trustees must be satisfied that the purposes set out in the trust to which the fund is subject could be carried out more effectively if the capital of the fund, or a portion of it, could be expended as well as income accruing to it, rather than just such income (section 282(3) of the Act).
11. In the event that all the assets of a charitable trust are expended, the trust can be closed.

### **The Council’s Processes**

At present, no formal regime is in place as to how the Council should make a resolution. It is therefore recommended that the Director for Children, Education and Families, in consultation with the Chief Finance Officer, should be able to make such a resolution, including with a view to closing the charitable trust where this is considered appropriate. The Director for Children, Education and Families, in making such a resolution, would need to be satisfied that the relevant provisions of the Charities Act apply. For the avoidance of doubt, this would not govern the making of resolutions where the size or nature of the trust means it does not fall within sections 275 or 281 of the Charities Act.

## **Financial and Staff Implications**

12. This decision is purely procedural and there are no financial or staff implications.

## **RECOMMENDATION**

13. **The Cabinet Member for Education is RECOMMENDED to delegate to the Director for Children, Education and Families, in consultation with the Chief Finance Officer, the power to make resolutions on behalf of the Council pursuant to sections 275 and 281 of the Charities Act 2011 (or any successor provision with the same or substantially similar effect) where the Council is a charitable trustee, including with a view to closing the charitable trust where this is considered appropriate.**

### **JIM LEIVERS**

Director for Children's Services

Background papers: Nil

Contact Officer: Stephanie Skivington, Corporate Finance Manager

Tel. 01865 323995

May 2013

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