

1.	Meeting:	Staffing Committee
2.	Date:	10th April 2015
3.	Title:	Pension Arrangements for Non-Teaching Staff in Schools Becoming Foundation Trusts
4.	Directorate:	Resources

Summary

Wath Victoria Primary School is seeking to become a Foundation Trust School with effect from 13th April 2015. A feature of this change of status is that the Governing Body rather than the Local Authority will become the employer of the staff at the School. In order for non-teaching staff to retain membership of the Local Government Pension Scheme (LGPS) the South Yorkshire Pensions Authority ask the Council to make a formal decision to agree to support continued membership of the LGPS for the staff concerned.

Staffing Committee was established as the appropriate decision making body for such matters when a previous request by another School was made and supported. In preparing this report it has also been noted that in the case of Wath Comprehensive, Wath Central Primary; West Melton Primary and Cortonwood infants Schools which all became Trusts on 13th August 2013 the process of obtaining a formal decision via staffing committee was not highlighted at that time. However the staff have retained membership of the LGPS and it is therefore appropriate to rectify this by confirming retrospective approval.

6. Recommendations

- 6.1 Staffing Committee is asked to approve that support staff employed in Wath Victoria Primary School will remain in the LGPS when it changes its status to become a Foundation Trust School on 15th April 2015.**
- 6.2 That retrospective approval for retention of LGPS membership for staff in Wath Comprehensive, Wath Central Primary; West Melton Primary and Cortonwood infants Schools be given.**

7. Proposals and Details

When a School becomes a Foundation Trust this leads to a change in governance of the school such that the governing body:

- Becomes the employer of the school staff
- Becomes the admissions authority for the school within the requirements of the school admissions code
- Takes on ownership of the school's land and assets

Foundation Trust schools remain local authority maintained schools, teach the national curriculum, follow the Schools Admissions Code and are inspected by Ofsted. The Local Authority funds the School on the same basis as all other Local Authority schools and may use its intervention powers as appropriate should any problems arise. The decision to become a Foundation Trust School is a matter for a governing body rather than a decision for the Council.

Teaching staff in Foundation Trust Schools continue to be employed under the terms of the School Teacher Pay and Conditions document and all staff employed at the time of change of status transfer to the employment of the governing body under the Education Regulations Paragraphs 29 to 32 of Schedule 1 to the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 rather than TUPE regulations. The effect of these provisions is still to protect an individual's employment rights on transfer. Any agreements entered into by the Local Authority before this date, in respect of an individual's terms and contract of employment (including pension arrangements) must therefore be honoured by the new employer.

Staff transferring are entitled to pension arrangements that are broadly comparable to those applicable before the transfer. In the case of teaching staff, they will continue to be members of the Teachers Pension Scheme and as such will not have any change to their pension arrangements.

In the case of support staff, Wath Victoria Primary School wishes to ensure the continuity of current pension arrangements so that they remain members of the Local Government Pension Scheme (LGPS) administered by the South Yorkshire Pensions Authority (SYPA). To achieve this the SYPA ask for a formal determination to be made by the Local Authority to that effect and the purpose of this report is to seek the agreement of Staffing Committee to support staff at Wath Victoria Primary School retaining membership of the LGPS. The provision will also allow new non-teaching staff who join the School access to the LGPS.

Wath Comprehensive, Wath Central Primary; West Melton Primary and Cortonwood infants Schools all became Trusts on 13th August 2013. However it appears that the process of seeking a formal decision from Staffing Committee on retention of LGPS pension membership was not highlighted at that time. Nevertheless the staff have retained membership of the LGPS and it is thought appropriate to now rectify the absence of a formal decision by seeking retrospective approval for the retention of LGPS membership.

8. Finance

If it is agreed that the support staff are able to remain in the Local Government Pension Scheme they will continue to attract the same employee and employer contribution rates. The SYPA will not require a separate employer contribution rate to be fixed and this means there will be no costs associated with the actuarial calculation of such rates nor will any additional employer contributions be required.

All pension liabilities will remain within the same pool as Rotherham Council and therefore to minimise the risks of additional costs to the Council it is appropriate to include a condition in the agreement with the Schools that the Council is fully consulted on any matters that may give rise to costs associated with pension matters such as premature retirements or redundancies.

9. Risks and Uncertainties

A failure to agree to the retention of membership of the LGPS for the School staff will result in loss of pension entitlements for the staff concerned and contravention of obligations governing protection rights as the Schools do not have access to another broadly comparable pension scheme.

10. Policy and Performance Agenda Implications

Enabling retention of membership rights for non-teaching staff at the Schools will ensure that the Council and the Schools comply with statutory obligations with regards to the transfer of staff and demonstrate the partnership approach to supporting the ambitions of Rotherham's Schools.

11. Background Papers and Consultation

It is understood that all the Schools have complied with statutory duties in relation to consultation on proposal to become Foundation Trust Schools.

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