



C A B I N E T

Thursday, 17 August 2023 at 5.00 pm
Committee Rooms, Hackney Town Hall,
Mare Street, London, E8 1EA

Live stream link: <https://youtube.com/live/nLzxVLTpHSQ>

Back up link: <https://youtube.com/live/lxpyAmeLkfk>

Members of the Committee:

- Mayor Philip Glanville, Mayor (Chair)
Councillor Anntoinette Bramble, Deputy Mayor and Cabinet Member for Education,
Young People and Children's Social Care (Vice-Chair)
Councillor Robert Chapman, Cabinet Member for Finance, Insourcing and Customer
Service
Councillor Mete Coban MBE, Cabinet Member for Environment and Transport
Councillor Susan Fajana-Thomas, Cabinet Member for Community Safety and
Regulatory Services
Councillor Christopher Kennedy, Cabinet Member for Health, Adult Social Care,
Voluntary Sector and Culture
Councillor Clayeon McKenzie, Cabinet Member for Housing Services
Councillor Guy Nicholson, Deputy Mayor for housing supply, planning, culture and
inclusive economy
Councillor Carole Williams, Cabinet Member for Employment, Human Resources
and Equalities
Councillor Caroline Woodley, Cabinet Member for Families, Parks and Leisure

Deputy Cabinet Members:

- Councillor Sem Moema
Councillor Sade Etti

Dawn Carter-McDonald
Acting Chief Executive
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Governance Officer
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Cabinet

Thursday, 17 August 2023

Order of Business

1 Apologies for Absence

2 Declarations of Interest

Members are invited to consider the guidance which accompanies this agenda and make declarations of interest as appropriate.

3 Urgent Unrestricted Business

The Chair will consider the admission of any late items of Urgent Unrestricted Business which will be considered under the agenda item where they appear.

4 Notice of Intention to Conduct Business in Private, Any Representations Received and the Response to Such Representations

On occasions part of the Cabinet meeting will be held in private and will not be open to the public if an item is being considered that is likely to lead to the disclosure of exempt or confidential information. In accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (the "Regulations"), members of the public can make representations about why that part of the meeting should be open to the public.

At the time of publication this agenda does not contain exempt items as set out at the **Exclusion of the Press and Public** agenda item.

This is the formal 5 clear day notice under the Regulations to confirm that this Cabinet meeting will be partly held in private for the reasons set out in this Agenda.

5 Questions/Deputations

At the time of the agenda publication, no questions or deputations have been received.

6 General Exception: FCR S257 Granting of 125 Year Lease over Haggerston School, Weymouth Terrace, London E2 8LS (Pages 9 - 30)

7 Delegated Powers Reports - For Noting (Pages 31 - 32)

8 Exclusion of the Press and Public

Note from the Governance Team Leader:

Item 9 allows for the consideration of exempt information.

Proposed resolution:

That the press and public be excluded during discussion of the remaining items on the agenda, on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Local Government Act 1972.

9 Urgent Exempt Business

The Chair will consider the admission of any late items of Urgent Exempt Business

Public Attendance

The Town Hall is open. Information on forthcoming Council meetings can be obtained from the Town Hall Reception.

Members of the public and representatives of the press are entitled to attend Council meetings and remain and hear discussions on matters within the public part of the meeting. They are not, however, entitled to participate in any discussions. Council meetings can also be observed via the live-stream facility, the link for which appears on the agenda front sheet of each committee meeting.

On occasions part of the meeting may be held in private and will not be open to the public. This is if an item being considered is likely to lead to the disclosure of exempt or confidential information in accordance with Schedule 12A of the Local Government Act 1972 (as amended). Reasons for exemption will be specified for each respective agenda item.

For further information, including public participation, please visit our website <https://hackney.gov.uk/menu#get-involved-council-decisions> or contact: governance@hackney.gov.uk

Rights of Press and Public to Report on Meetings

The Openness of Local Government Bodies Regulations 2014 give the public the right to film, record audio, take photographs, and use social media and the internet at meetings to report on any meetings that are open to the public.

By attending a public meeting of the Council, Executive, any committee or sub-committee, any Panel or Commission, or any Board you are agreeing to these guidelines as a whole and in particular the stipulations listed below:

- Anyone planning to record meetings of the Council and its public meetings through any audio, visual or written methods they find appropriate can do so providing they do not disturb the conduct of the meeting;
- You are welcome to attend a public meeting to report proceedings, either in 'real time' or after conclusion of the meeting, on a blog, social networking site, news forum or other online media;
- You may use a laptop, tablet device, smartphone or portable camera to record a written or audio transcript of proceedings during the meeting;
- Facilities within the Town Hall and Council Chamber are limited and recording equipment must be of a reasonable size and nature to be easily accommodated.
- You are asked to contact the Officer whose name appears at the beginning of this Agenda if you have any large or complex recording equipment to see whether this can be accommodated within the existing facilities;
- You must not interrupt proceedings and digital equipment must be set to 'silent' mode;
- You should focus any recording equipment on Councillors, officers and the public who are directly involved in the conduct of the meeting. The Chair of the meeting will ask any members of the public present if they have objections to being visually recorded. Those visually recording a meeting are asked to

respect the wishes of those who do not wish to be filmed or photographed. Failure to respect the wishes of those who do not want to be filmed and photographed may result in the Chair instructing you to cease reporting or recording and you may potentially be excluded from the meeting if you fail to comply;

- Any person whose behaviour threatens to disrupt orderly conduct will be asked to leave;
- Be aware that libellous comments against the council, individual Councillors or officers could result in legal action being taken against you;
- The recorded images must not be edited in a way in which there is a clear aim to distort the truth or misrepresent those taking part in the proceedings;
- Personal attacks of any kind or offensive comments that target or disparage any ethnic, racial, age, religion, gender, sexual orientation or disability status could also result in legal action being taken against you.

Failure to comply with the above requirements may result in the support and assistance of the Council in the recording of proceedings being withdrawn. The Council regards violation of any of the points above as a risk to the orderly conduct of a meeting. The Council therefore reserves the right to exclude any person from the current meeting and refuse entry to any further council meetings, where a breach of these requirements occurs. The Chair of the meeting will ensure that the meeting runs in an effective manner and has the power to ensure that the meeting is not disturbed through the use of flash photography, intrusive camera equipment or the person recording the meeting moving around the room.

Advice to Members on Declaring Interests

If you require advice on declarations of interests, this can be obtained from:

- The Monitoring Officer;
- The Deputy Monitoring Officer; or
- The legal adviser to the meeting.

It is recommended that any advice be sought in advance of, rather than at, the meeting.

Disclosable Pecuniary Interests (DPIs)

You will have a Disclosable Pecuniary Interest (*DPI) if it:

- Relates to your employment, sponsorship, contracts as well as wider financial interests and assets including land, property, licenses and corporate tenancies.
- Relates to an interest which you have registered in that part of the Register of Interests form relating to DPIs as being an interest of you, your spouse or civil partner, or anyone living with you as if they were your spouse or civil partner.
- Relates to an interest which should be registered in that part of the Register of Interests form relating to DPIs, but you have not yet done so.

If you are present at any meeting of the Council and you have a DPI relating to any business that will be considered at the meeting, you **must**:

- Not seek to improperly influence decision-making on that matter;
- Make a verbal declaration of the existence and nature of the DPI at or before the consideration of the item of business or as soon as the interest becomes apparent; and
- Leave the room whilst the matter is under consideration

You **must not**:

- Participate in any discussion of the business at the meeting, or if you become aware of your Disclosable Pecuniary Interest during the meeting, participate further in any discussion of the business; or
- Participate in any vote or further vote taken on the matter at the meeting.

If you have obtained a dispensation from the Monitoring Officer or Standards Committee prior to the matter being considered, then you should make a verbal declaration of the existence and nature of the DPI and that you have obtained a dispensation. The dispensation granted will explain the extent to which you are able to participate.

Other Registrable Interests

You will have an 'Other Registrable Interest' (ORI) in a matter if it

- Relates to appointments made by the authority to any outside bodies, membership of: charities, trade unions,, lobbying or campaign groups, voluntary organisations in the borough or governorships at any educational institution within the borough.
- Relates to an interest which you have registered in that part of the Register of Interests form relating to ORIs as being an interest of you, your spouse or civil partner, or anyone living with you as if they were your spouse or civil partner; or
- Relates to an interest which should be registered in that part of the Register of Interests form relating to ORIs, but you have not yet done so.

Where a matter arises at any meeting of the Council which affects a body or organisation you have named in that part of the Register of Interests Form relating to ORIs, **you must** make a verbal declaration of the existence and nature of the DPI at or before the consideration of the item of business or as soon as the interest becomes apparent. **You may** speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

Disclosure of Other Interests

Where a matter arises at any meeting of the Council which **directly relates** to your financial interest or well-being or a financial interest or well-being of a relative or close associate, you **must** disclose the interest. **You may** speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

Where a matter arises at any meeting of the Council which **affects** your financial interest or well-being, or a financial interest or well-being of a relative or close associate to a greater extent than it affects the financial interest or wellbeing of the majority of inhabitants of the ward affected by the decision and a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest, you **must** declare the interest. You **may** only speak on the matter if members of the public are able to speak. Otherwise you must not take part in any discussion or voting on the matter and must not remain in the room unless you have been granted a dispensation.

In all cases, where the Monitoring Officer has agreed that the interest in question is a **sensitive interest**, you do not have to disclose the nature of the interest itself.

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Title of Report	Granting of 125 Year Lease over Haggerston School, Weymouth Terrace, London E2 8LS
Key Decision No	FCR S257
For Consideration By	Cabinet
Meeting Date	17 August 2023
Cabinet Member	Mayor Philip Glanville
Classification	Open
Ward(s) Affected	The school is in Haggerston Ward, but serves all of Hackney
Key Decision & Reason	Yes Affects more than one ward
Implementation Date if Not Called In	25th August 2023
Group Director	Jackie Moylan, Acting Group Director of Finance and Jacquie Burke, Group Director of Children and Education

1. Cabinet Member's Introduction

- 1.1 This report seeks approval to a 125 year lease on peppercorn terms that will enable the transfer of land and buildings comprising Haggerston School, to enable its conversion to an academy by Community Schools Trust and will be referred to as such in the rest of this report.
- 1.2 Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 – 28 days notice needs to be given before the decision is taken, Regulation 9(2). However this is subject to Regulation 10 (General exception) and 11 (Cases of special urgency), see also Rule 16 and 17 (pages 260-262 of the Constitution). If Cabinet does not take this decision the Secretary of State has reserve powers to compel the Council to do so.
- 1.3 While the Council is required to transfer the title of land, it would be remiss of me to introduce this report without reiterating Hackney Council's opposition in principle to forced academisation; and the course of action embarked on by the leadership team at Haggerston School. We recognise that the decision to become an academy under current legislation lies with the school and its governing body - in consultation with parents, staff and the community.

- 1.4 During the course of this year Deputy Mayor Bramble and I made it clear to the school's leadership how much we valued their status as a community school, one of only two in the borough, and how maintaining such a partnership was good for the school and the borough. As a Council, we've also made significant investment in the school and myself, Deputy Mayor Bramble and senior officers presented a clear alternative approach if they remained a maintained school.
- 1.5 The school, however, has decided to become an academy at the start of this academic year and we are therefore conscious - however uncomfortable we might be with the decision and having to take it forward over the summer - that there are legal requirements we need to fulfil before this can happen. The Council has met with the Department for Education and the Community Schools Academy Trust to progress these obligations. This includes the transfer of the school building on a 125-year lease, which is a requirement of the process.
- 1.6 The Council values its close partnership with our schools across the borough, be they locally maintained, voluntary aided, free schools or academy schools. However, we firmly believe that we achieve the best results for children together, as a family of schools with a range of providers and ethos underpinned by a central education service, where all parties in the system can be held accountable to each other and to the communities whose interests they ultimately serve. This belief is why we have continued to take an active role in supporting and investing directly in our maintained schools such as Haggerston; and this style of partnership has meant that 100% of Hackney pupils in maintained secondary schools and 94% of those in primary schools attend a school rated Good or Outstanding by Ofsted.
- 1.7 In particular, the close partnership between the Council and Haggerston has facilitated high levels of support from the Council, despite unprecedented government cuts to both of our budgets. In the last seven years this has amounted to almost £3.8m, including £1.5m for the Haggerston Science Laboratory, and additional investment for repairs and maintenance. I hope that even after the transfer and signing of this lease Haggerston School will continue to make its excellent facilities open to the wider community, especially given the valuable role they play in supporting grassroots sport.
- 1.8 Nevertheless, while we disagree with the academisation path Haggerston school is taking and will feel this loss deeply, I reluctantly recognise the school leadership team's right to choose Haggerston School's destiny. Following the school's successful academisation application to the Department for Education, Cabinet is therefore seeking approval for these measures which are legally required to enable those decisions to be taken into effect.

1.9 I would like to finish by acknowledging the hard work of the school, its Head, leadership team, governors, teachers and support staff, pupils and wider community; and stress that, while Haggerston School will no longer have the status of a maintained school, I recognise and welcome the school's wish to continue to play an important part in our local Hackney family of schools. The Council is committed to maintaining a positive relationship with the school as part of this community, and providing the same full support and partnership as we do other academies in the borough and wish them every success for the future.

2. Group Directors' introduction

2.1 The Council is required to transfer the title of land it holds for the purpose of a school which falls within the remit of the School Standards & Framework Act 1998 and Academies Act 2010 which offers all schools the opportunity to become academies. Academies are publicly funded independent schools, free from local authority and national government control. Other freedoms include setting their own pay and conditions for staff, delivery of the curriculum, and the ability to change the length of their terms and school days.

2.2 The conversion of a school to academy status can only take place under the terms of a Funding Agreement between the Academy Trust and the DfE. This is dependent on the completion of a Commercial Transfer Agreement (CTA) between the Academy Trust, the Governing Body and the Council which governs the transfer of the education undertaking, and a lease which enables the transfer of the school property.

2.3 The Secretary of State for Education has given approval to the formation of the new Academy and for it to become independent from the Council's control. In conjunction with the CTA, which the Director of Children and Young People's Services has delegated authority to complete, the process will involve the transfer of land and buildings used by the existing school for educational purposes and owned by the London Borough of Hackney under the terms of a model 125 year peppercorn lease recommended by the Department for Education.

2.4 In finalising the agreement and the leases it is important to safeguard both the Council's interests as a local education authority and public landowner. Where a key provision, such as community interest in the property, cannot be made under the terms of the model lease then officers will seek to include that provision in the CTA.

3. Recommendations

3.1 Authorise the granting by the Council to the Community Schools Trust a lease for a term of 125 years at a peppercorn rent for land and buildings comprising Haggerston Community Secondary School, shown edged red on Plan 1 attached to this report, subject to the terms of the

Department for Education's model lease (subject to reasonable updating and modification).

- 3.2 Authorise the Acting Group Director of Finance and the Group Director of Children and Education, in consultation with the Mayor and lead member for Education, to agree the commercial terms of the relevant Commercial Transfer Agreement in connection with the academy transfer.
- 3.3 Authorise the Acting Director of Legal, Democratic and Electoral Services to prepare, agree, settle and sign the legal documentation envisaged to complete the transactions set out in this report, together with any ancillary legal documentation.

4. Reason for decision

- 4.1 The Department for Education has stipulated that where a local authority owned community school wishes to convert to academy status the local authority must lease to the school the land and buildings used for educational purposes on a 125 year lease at a peppercorn rent.

5. Details of alternative options considered and rejected

- 5.1 The Secretary of State has agreed in principle to establishing Haggerston School as an Academy and holds powers to enforce that decision and transfer the land, if required.

6. Background

Policy Context

- 6.1 The Council does not support or approve the creation of academy status for schools and this proposal will further reduce the number of secondary schools under Council control. It could directly impact the Council's statutory duty to ensure there are sufficient high quality school places for our children, and that places are planned effectively. It is therefore important for the Council to maintain a dialogue with the school over its potential for reduction and/or expansion in the future.
- 6.2 The Council would wish to retain the right to negotiate through the lease or the CTA the expansion of the school when circumstances dictate and funding is available.
- 6.3 Furthermore, the Council as landlord would, either through the lease or through the CTA, wish to retain the right to work with the Academy Trust on the design of any capital works to either extend or improve the school or oversee the execution of such works to safeguard its land and property.

Equality impact assessment

- 6.4 No direct impacts on equalities have been identified.

Sustainability and climate change

- 6.5 This proposal has no current sustainability or climate change implications.

Consultations

- 6.6 The proposal has completed a formal consultation process as required by the School Standards and Framework Act. This consultation went to all wards, as children across Hackney may attend this school. The outcomes of the school consultation showed that 42% of parents who responded disagreed with the proposal to join Community Schools Trust, 36% agreed and 22% had no strong feelings either way. For staff 37.5% were in agreement and 37.5% disagreed with the proposal whilst 25% had no strong feelings either way.
- 6.7 Despite the above results the school governing body resolved to make an academy application to the Department for Education for an academy order to enable academisation to proceed and the Department has made the Academy Order.

Risk assessment

- 6.8 Failure to transfer the land voluntarily may result in the DfE stepping in and using other powers to transfer the land compulsorily, which will likely cause a breach with the school and reputational damage generally but specifically with the Department.

7. Comments of the Acting Group Director of Finance

- 7.1 This report proposes the transfer of land and buildings comprising Haggerston School to a new incorporated Academy Trust which is necessary for the school to become an academy under the Academies Act 2010.
- 7.2 The transfer of the main site (the land and buildings comprising the Haggerston School) will be on the basis of a 125 year lease modelled on the standard lease provided by the Department for Education for these purposes. This is on a full repairing and insuring basis so responsibility for insurance and maintenance of the school will pass to the Community Schools Trust on completion of the lease.
- 7.3 The Academy Trust will only be able to dispose of its interest in the main site to a successor charity or public body with the consent of the Secretary of State (and approval of the Council, as landlord). In addition, the model lease restricts the use of the site to educational purposes and for community, fundraising and recreational purposes. The framing of the lease in this way will protect the public ownership aspect of this transaction for future generations.
- 7.4 The transfer of the educational undertaking including the transfer of staff is governed by Transfer of Undertakings (Protection of Employees) ("TUPE") Regulations 2006 and incorporated in the Commercial Transfer Agreement (CTA) between the Council and the Academy Trust. This covers employment issues including the transfer of contracts and pension arrangements. Authority

for completing this agreement is delegated to the Director of Finance and the Group Director of Children and Education as set out in the recommendations.

8. VAT implications on land and property transactions

- 8.1 Assuming that the only consideration the Council is to receive is the peppercorn and nothing else will be received from the Trust, the lease will be a non-business supply so any VAT that the Council will incur on costs attributable to the lease will be recoverable in full. The only issue would be if additional consideration was received as the lease would then be exempt from VAT and VAT on attributable costs would need to be included in the Council's partial exemption calculation

9. Comments of the Acting Director of Legal, Democratic and Electoral Services

- 9.1 The meaning of academy is found in section 1 of the Academies Act 2010 ("2010 Act"). Section 5B(1) of the 2010 Act provides that where an Academy order has effect in respect of a school, the governing body of the school and the Council must take all reasonable steps to facilitate the conversion of the school into an Academy. Section 5B(2) of the 2010 Act provides that where the Secretary of State notifies the governing body or Council that the Secretary of State is minded to enter into Academy arrangements with a specified person then they are under a duty to take all reasonable steps to facilitate the making of Academy arrangements with that person. This therefore imposes a statutory duty on the Council. To confirm, although the Council has a duty under section 123(2) of the Local Government Act 1972 to secure the best consideration, that obligation is overridden by the requirements of the 2010 Act.
- 9.2 Where the school land is Council public land (as is the case here) then the DfE's expectation is that all land and facilities used wholly or mainly for the purpose of the converting school will transfer and be made available to the academy in accordance with the mechanisms set out in the guidance titled "Land Transfer Advice 2013":
- 9.3 Local authorities require the consent of the Secretary of State to dispose, Involving the Secretary of State in land transactions, Non-statutory guidance on how and when to involve the Secretary of State in transactions involving land held for the purposes of a school (September 2021). However this transaction is outside of scope.
- 9.4 The terms of the lease mainly follow the DfE'S model lease. The DfE expects local authorities and schools to take timely steps to ensure that such transfers are completed in time for conversion. However, in circumstances where the parties concerned cannot reach agreement and/ or in the DfE's view there are unacceptable delays to the process then the Secretary of State can exercise powers under Schedule 1 of the 2010 Act to either make a scheme compulsorily transferring school land, or a scheme or direction transferring any

existing interest, rights, or liabilities, see the guidance titled Land Transfer Advice 2013. As to the transfer of assets (other than land), contracts and employees, this is done by way of a CTA and this is based on the DfE'S model.

- 9.5 It is considered that the TUPE applies to this academy transfer and to the staff of the school. The CTA deals with the transfer of things necessary for the operation of the Academy, namely: assets, contracts, employee/TUPE issues.
- 9.6 Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 – 28 days notice needs to be given before the decision is taken, Regulation 9(2). However this is subject to Regulation 10 (General exception) and 11 (Cases of special urgency), see also Rule 16 and 17 (pages 260-262 of the Constitution).

“Regulation 10

- 10(1) Subject to regulation 11, where the publication of the intention to make a key decision under regulation 9 is impracticable, that decision may only be made;
- (a) where the proper officer has informed the chairman of the relevant overview and scrutiny committee or, if there is no such person, each member of the relevant overview and scrutiny committee by notice in writing, of the matter about which the decision is to be made;
 - (b) where the proper officer has made available at the offices of the relevant local authority for inspection by the public and published on the relevant local authority's website, if it has one, a copy of the notice given pursuant to sub-paragraph (a); and
 - (c) after five clear days have elapsed following the day on which the proper officer made available the notice referred to in sub-paragraph (b).
- 10(2) Where paragraph 10.1 applies to any matter, regulation 9 need not be complied with in relation to that matter.
- 10(3) As soon as reasonably practicable after the proper officer has complied with paragraph 10.1, he or she must;
- (a) make available at the offices of the relevant local authority a notice setting out the reasons why compliance with regulation 9 is impracticable; and
 - (b) publish that notice on the relevant local authority's website, if it has one.

Regulation 11

11(1) Where the date by which a key decision must be made, makes compliance with regulation 10 impracticable, the decision may only be made where the decision maker has obtained agreement from;

(a) the chairman of the relevant overview and scrutiny committee; or

(b) if there is no such person, or if the chairman of the relevant overview and scrutiny committee is unable to act, the chairman of the relevant local authority; or

(c) where there is no chairman of either the relevant overview and scrutiny committee or of the relevant local authority, the vice-chairman of the relevant local authority, that the making of the decision is urgent and cannot reasonably be deferred.

11(2) As soon as reasonably practicable after the decision maker has obtained agreement under paragraph 11.1 that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must;

(a) make available at the offices of the relevant local authority a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and

(b) publish that notice on the relevant local authority's website, if it has one."

9.7 The DfE usually require agreed and signed documents a month before the academy conversion date, so by 1 August 2023. It has been agreed with the DfE that on this occasion the documents can be submitted to the DfE on 18 August 2023. Assuming this decision is not called in, it can be implemented in time for conversion on 1 September 2023. The next Cabinet meeting is scheduled for 25 September 2023, which would mean the academy conversion would not be able to take place until 1 November 2023. The matter of authority for the disposal of a 125 year lease was unfortunately initially overlooked and together with compliance with the DfE's requirements and timescales and lack of lead-in time meant that this matter could not otherwise get Cabinet approval in time for the 1 September 2023. The Interim Director of Education has noted that failure to meet the 1 September 2023 academy conversion date would result in possible reputational damage to the Council.

9.8 The Council is required when exercising its functions to comply with the duty set out in section 149 of the Equality Act 2010, namely to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity between those who share a protected characteristic and those who do not, and foster good relations between those who share a protected characteristic and those who do not. There are no direct equality implications arising from the proposed transactions as they are statutorily required to be made.

10. **Comments of the Director of Strategic Property Services**

- 10.1 The Council is granting a lease of 125 years at a peppercorn to fulfil its obligations under the Academies Act 2010, which requires the Council to grant a lease under these terms, consequently the Director is satisfied that the Council's obligation under section 123 of the Local Government Act 1972 has been discharged.

Appendices

Appendix 1 - Plan 1

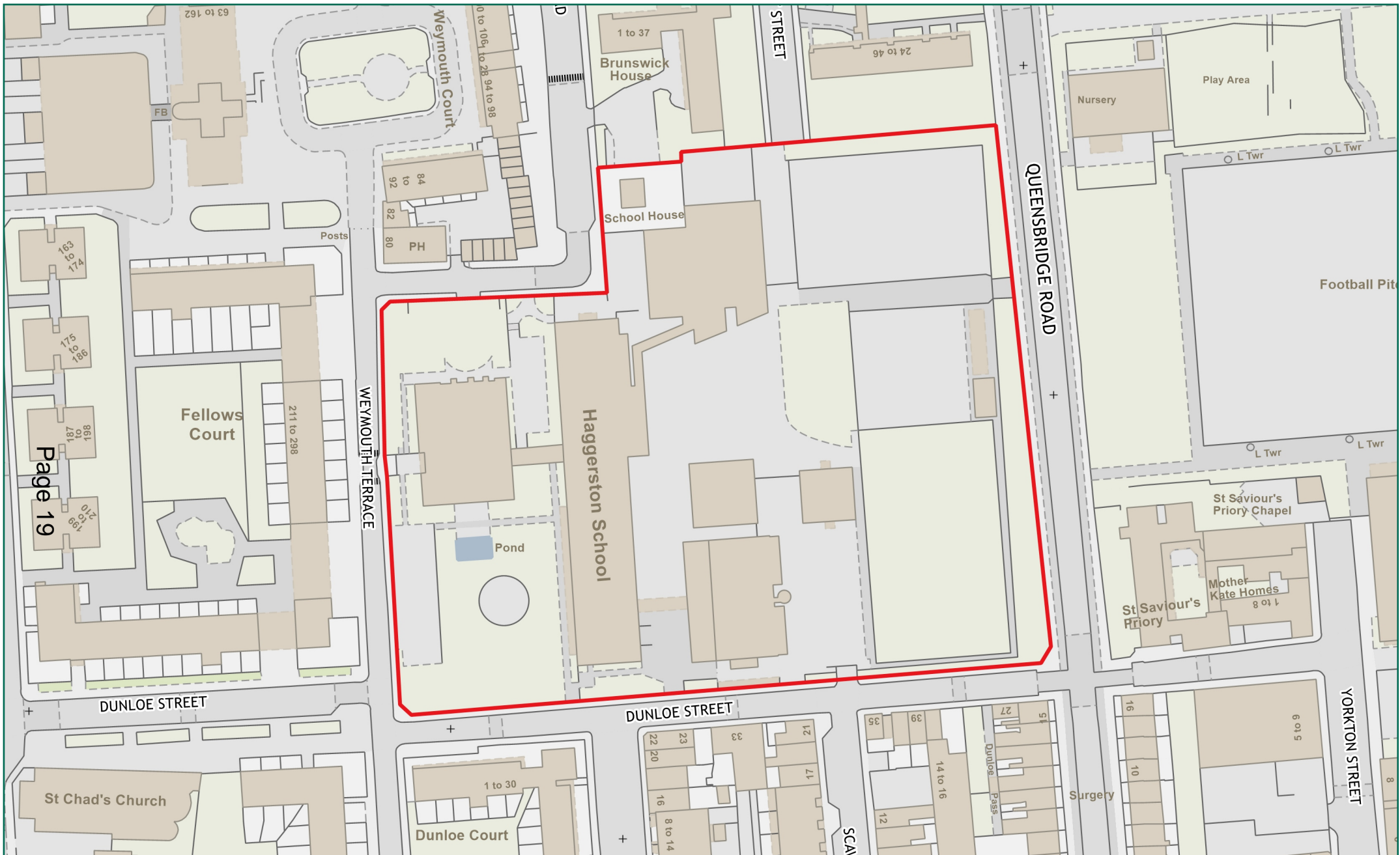
Appendix 2 - Copy of Academy Order

Background documents

None

Report Author	Name: David Mitchell Title: Acting Head of Property Strategy and Projects Email: david.mitchell@hackney.gov.uk Tel: 0208 356 8108
Comments for the Acting Group Director of Finance	Name: Mizanur Rahman Title: Chief Accountant - Finance and Resources Email: mizanur.rahman@hackney.gov.uk Tel: 020 8356 4347
Comments for the Acting Director of Legal, Democratic and Electoral Services	Name: Andrew Jackson Title: Regeneration Lawyer Email: andrew.jackson@hackney.gov.uk Tel: 07733948355

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Scale: 1:1250 at A4

Haggerston Secondary School, Weymouth Terrace, London, E2 8LS



Ref: Lease Plan

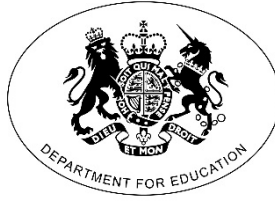
Produced by: Strategic Property Services

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Tuesday, August 1, 2023

email: Property@hackney.gov.uk

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The Rt Hon Gillian Keegan MP
Secretary of State for Education

Sanctuary Buildings 20 Great Smith Street Westminster London SW1P 3BT
tel: 0370 000 2288 www.education.gov.uk/contactus/dfe

To: The Chair of Governors of Haggerston School

Hackney London Borough Council

ACADEMY ORDER

1. This is an Academy Order made further to section 4 of the Academies Act 2010.
2. I hereby order that on the conversion date Haggerston School shall be converted into an Academy.
3. The conversion date shall be the date that the school opens as an Academy further to and as provided for in Academy arrangements made further to section 1 of the Academies Act 2010.
4. On the conversion date Hackney London Borough Council shall cease to maintain Haggerston School.
5. The independent school standards (as defined in section 157(2) of the Education Act 2002) are to be treated as met in relation to the Academy on the conversion date.

Signed on behalf of the Secretary of State for Education by:

Signed:..... Date: 23 March 2023

Claire Burton,
Regional Director

The Chair of Governors
Haggerston School
Weymouth Terrace
Hackney
London
E2 8LS

23 March 2023

ACADEMY ORDER FOR HAGGERSTON SCHOOL

Following the recent application of your governing body to convert your school to an academy, I am delighted to inform you that I am content to agree in principle to Haggerston School becoming an academy. I enclose an Academy Order in respect of your school in order to enable it to convert to an academy.

The purpose of an Academy Order is to enable your school to convert to an academy. For actual conversion to take place, I will need to agree with the Academy Trust a Funding Agreement and the Articles of Association of the Academy Trust. The Funding Agreement will record the date on which your school will convert to an academy.

Your DfE delivery officer will work with you on the next steps set out in Annexes A and B, to enable the project to progress quickly. Under the provisions of the Academies Act 2010, schools are required to carry out a consultation with appropriate people on the question of whether they should convert into an academy. Your school is likely to have already started this consultation. You will need to confirm to your DfE delivery officer that the consultation has been carried out by the governing body prior to the Funding Agreement being signed and you should therefore keep all of the documentation relating to this consultation.

Further information and supporting documents are available on our website at <http://www.education.gov.uk/schools/leadership/typesofschools/academies>

I enclose a copy of this letter for you to pass onto the head teacher and I am writing to Hackney London Borough Council.



Claire Burton,

Regional Director, London Region

Ms Jacquie Burke
Director of Children's Services
Hackney London Borough Council
1 Reading Lane
E8 1GQ

23 March 2023

ACADEMY ORDER FOR HAGGERSTON SCHOOL

Following the recent application of the governing body of Haggerston School to become an academy, I am delighted to confirm that I am agreeable to the conversion of this school to an academy.

I enclose a copy of an Academy Order, which will enable the school to convert to an academy. For conversion to take place, I will need to agree, with the Academy Trust that will run the academy, a Funding Agreement and the Articles of Association of the Academy Trust. The Funding Agreement will record the date on which the school will convert into an academy.

Formal TUPE consultations with staff, unions, and the employer should start as soon as possible. For schools where the governing body is the employer of staff, the governors will lead on the TUPE process, but they may require your support to do so. In all cases, you should please ensure that any personnel files which you hold for the schools are fully up-to-date, and that you have an accurate record of the staff employed at the schools and the terms and conditions of their employment.

It will be necessary for the land and buildings occupied by the school to be transferred to the Academy Trust so that they are available for use by the academy from the conversion date. The exact arrangements for achieving this will depend on whether the school is a community, foundation or trust school, or a voluntary school, and whether the land used by the school is public land, private land or a combination of the two.

In cases where you own the land and buildings currently occupied by the school, I am asking you to agree to lease these to the Academy Trust through a 125-year lease similar to that used for existing academies. As a first step, you should please start to gather land ownership and land registration

documentation and information if you have not already done so. My officials will also discuss with you the implications of any schools proposing to convert to academies that are involved in an existing PFI contract or BSF scheme. Model lease documents for Academy Trusts and local authorities to use as the basis for negotiations are available on the Department's website at <http://www.education.gov.uk/schools/leadership/typesofschools/academies>

I am writing to the chair of governors, copied to the head teacher, to give my agreement to the conversion.

A handwritten signature in black ink, appearing to read 'CBurton'.

Claire Burton,

Regional Director, London

Annex A: Next Steps

Having received agreement in principle, you can now work towards your Funding Agreement between the Academy Trust and the Secretary of State. The Funding Agreement will stipulate the date when the Academy will open.

The actions listed below will need to be completed before reaching Funding Agreement:

- set up the Academy Trust, completing the Memorandum and Articles of Association (available on our website);
- use these to register the Academy Trust with Companies House. This normally takes between 8 – 10 working days and costs £20. It can, however, be done on the basis of same day incorporation for a fee of £50;
- review your Management Information System (MIS). When you convert to an academy you can change supplier- there are many firms offering competitive licence and maintenance charges.
- set up a bank account for the newly-formed Trust and appoint an Accounting Officer, who must be the Principal of the academy and be in place from the day of opening as an Academy. Please note that bank accounts can take several weeks to set up. We advise you to identify your preferred bank and obtain the necessary paperwork in order to be able to set up a bank account as soon as possible after registering the Academy Trust at Companies House.
- agree land and building arrangements with the local authority or other landowner where appropriate. Lawyers acting for your governing body and the Academy Trust (when established) must prepare a land questionnaire, providing land ownership and other important details, and send a copy to the DfE project lead **as soon as possible**. It will enable DfE to work with your school and the lawyers to determine what arrangements should be made and what DfE documentation should be completed. A model lease and other model documents, including a land questionnaire, are available on our website and schools are advised to read the advice on land also published on the website;
- agree asset and property transfer arrangements with the local authority or other landowner (if applicable). A model Commercial Transfer Agreement is available on our website;
- the employer of the current staff should continue and complete the TUPE process;
- confirm the membership of the governing body for the academy in line with the arrangements outlined in your Memorandum and Articles of Association;
- ensure that DBS checks are completed as necessary;
- your governing body must, prior to signing the Funding Agreement, consult with the appropriate persons on the proposal to convert to an academy.

Your project lead will support you to complete these steps, and further information and supporting documents are available on our website at <https://www.gov.uk/schools-colleges/schools-types>. There are a number of other actions your school will need to take before opening, including data protection registration and pension registration (see section 4 of the guidance on pre-opening checks).

Minimizing the cost of conversion

There are steps you can take to keep your costs of conversion as low as possible. The following can be used as a checklist but does not replace existing guidance on becoming an Academy:

- Shopping around for solicitors to get the best value for money-. It may help to ask other Academies in your area which firms they used and whether in their opinion they offered good value for money. We would also recommend that you obtain an estimate for the cost of the legal work or if possible, a fixed price for the legal work required.
- Ensuring your solicitors know the requirements for conversion by supplying them with the land transfer advice and 'Convert to an academy: guide for schools' document available on our website: <https://www.gov.uk/guidance/convert-to-an-academy-information-for-schools>
- Our guidance states that converting schools are not expected to make changes to the model documentation. If you consider that changes are required then we suggest you discuss these with your project lead before approaching your solicitors as this can save time and considerable expense.
- Make sure that you have adequate insurance cover in place before the academy opens or have opted into the <https://www.gov.uk/academies-risk-protection-arrangement-rpa>

Support Grant

The Secretary of State has agreed to allocate a grant under **Section 14** of the **Education Act 2002** of no more than £25,000, to contribute towards expenses incurred by your school in converting to an Academy.

The grant is subject to the following conditions:

1. Grant may only be used for the following purposes
 - a) obtaining legal advice in respect of the conversion process;
 - b) the costs of software licence transfers;
 - c) HR/TUPE advice;
 - d) re-branding costs; and
 - e) expenses incurred in setting up the Academy Trust.

2. You should retain records to show that the grant has been used for the purposes outlined in 1 above for 6 years after the end of the financial year in which the expenditure has taken place. The books and records relating to claiming and using the grant will be open to inspection by the National Audit Office and representatives of the Secretary of State as and when they may require.

3.
 - a. In the event of a successful conversion, any unused element of Grant should be transferred to the Academy Trust for the purposes described in its charitable objects, typically the advancement of education. The Chair of the governing body will be expected to sign a declaration confirming how much of the grant has been spent at the point of conversion to academy status and, if relevant, how much has been transferred to the academy budget. The Chair will send a certificate (see Annex) to the Secretary of State declaring this and including the exact amounts of grant spent and transferred. This will still apply if the total amount of the grant has been spent.

 - b. In the event that the conversion does not occur then any unused grant should be repaid to the Secretary of State within 10 working days of notifying us that you are withdrawing your application to convert.

4. When procuring goods and services for the school or academy, you are reminded of the requirement to comply with EU and UK procurement law and regulations when appropriate.

Annex B – Setting Up Financial and Governance Arrangements

We have put together a list of the main financial and governance arrangements that academies need to have in place, including highlighting the new requirements for academies. It may be that you have already set up many of these systems and processes, but this is an ideal opportunity to review all your school-based policies and to check their continuing suitability. The list below is intended to support your smooth start up and offers a helpful checklist but is not a substitute for published documents such as the Academies Financial Handbook, the Governors' Handbook and the Academies Accounts Direction which are available on the <https://www.gov.uk/schools-colleges/schools-types>.

As a new academy you will need to complete a Financial Management and Governance Self-Assessment (FMGS) within four months of opening, unless you agree an alternative with the ESFA. Feedback from academies that have completed the FMGS return shows that it is a very useful tool for new academies when setting up their financial management and governance arrangements, and provides helpful assurance to the board of trustees that arrangements meet the mandatory requirements. It will also help you create an action plan to address any areas of non-compliance identified.

ESFA's wall planner will help academy trusts plan for some of the requirements which are set out in more detail below.

1. Understanding the framework

- Be familiar with the statutory and regulatory basis of academy trusts. They are charitable companies and therefore must operate for public benefit rather than for the benefit of the people running them. They are also public sector bodies, and must apply high standards of accountability and transparency in the manner that Parliament expects. Much of this is set out in the Academies Financial Handbook (AFH).
- The Secretary of State is the Principal Regulator of Academy Trusts, Voluntary Aided Schools, Foundation Schools and Sixth Form Colleges. This duty requires him to promote and monitor the compliance of Academy Trustees with Charitable and Company Law and removed the requirement for them to register directly with the Charity Commission. There are some changes to an Academy's Memorandum and Articles that can only be agreed by the Commission. These are the amendments regulated by S198 of the Charities Act 2011. The Commission provides a significant amount of guidance on how Trustees should carry out their responsibilities on its website.
- Ensure that your governors know they are charity trustees **and** company directors and that they understand the responsibilities that this conveys. Again, the AFH, and also the Charity Commission's publication CC3: The Essential Trustee, provides information about this.
- It is important that you read both your **funding agreement** and the AFH thoroughly and review them regularly to ensure your academy remains compliant with all the terms of them. Non-compliance can happen simply because you fail or forget to do something which you are required to do, for example not getting approval to enter into a leasehold.

2. Reviewing your governance position

- Review your governance arrangements so that you are confident you have in place the skilled people, structures and delegated authorities you need to govern your academy effectively and ensure high standards of financial probity. It is particularly important that trusts, in their first year, review and improve their governance arrangements; you will need to set out in your first governance statement after conversion what you have done to review and develop your governance structure and the composition of the board of trustees.

- Establish a register of trustees' business interests so that any conflicts of interest can be identified and managed. Trustees should provide annual declarations of interest, as well as providing information on any changes which occur during the year. You will also need to ensure that future procurement contracts meet the Department's rules in relation to related party transactions and 'not for profit'. Further information can be found in the AFH.

3. Establishing roles

- You will need to appoint an **accounting officer**. This person is different to the school's bursar. In a single academy trust the accounting officer will normally be the head teacher. In a multi-academy trust it will normally be the chief executive or executive head teacher. The accounting officer is personally responsible for ensuring regularity, propriety and value for money in the use of the trust's funds. The role and responsibilities of academy accounting officers are set out in some detail in the AFH.
- Ensure that your **chief financial officer (CFO)** is suitably qualified or experienced to discharge the finance role required within the trust. It is not necessary for the CFO to perform the full range of financial duties personally - for example the CFO can be supported by an accountant to prepare your annual accounts; however, you should assess capacity against the requirements in the AFH and ensure that the right mix of qualifications and experience is available.

4. Developing controls

- Establish a scheme of financial delegations and have it approved by the board of trustees. This will also ensure the trust remains within its delegated authority limits set out in the AFH.
- As best practice put in place a financial procedures manual and have it approved by the board of trustees.
- Establish robust financial internal control arrangements (for example to cover segregation of duties; use of authorised signatories for ordering and payments; matching orders to invoices; monitoring and reconciliation of budgets and timely completion of VAT returns).
- Put in place a competitive tendering policy to ensure that all goods and services are procured by means of free and open competition.
- Set up a payroll system that includes adequate checks and controls to ensure the accuracy of data and that all statutory and contractual deductions are made.
- Set up and maintain a fixed assets register.

5. Handling money

- Set an annual budget, have it approved by the trustees and submit a copy to the ESFA in the form specified.
- Ensure that you can produce regular, reliable and accurate financial management information, based on accruals accounting principles, to inform your monitoring of the financial health of the academy and decisions.
- Reconcile all your bank accounts on a monthly basis as a minimum.
- Ensure correct accounting and monitoring of any restricted and unrestricted funds. For example, restricted funds should be used only for the purpose intended.
- Consider the need for a strategy for investing surplus cash that also ensures access to cash

when required.

6. Being transparent

- Do the work necessary to enable you to prepare and produce annual accounts and have them audited:
 - Appoint external auditors as soon as possible after opening to ensure you have access to the necessary financial advice on the production and audit of accounts.
 - Ensure your accounting period ends on 31 August, unless DfE has specified in writing that another date can be used, and ensure it is recorded as this date at Companies House.
 - In conjunction with your auditor review the Academies Accounts Direction and ensure you know when you need to start preparing the trust's first set of accounts.
 - Bear in mind that your accounts will need to be sent to the ESFA by 31 December and must be published on your website.
- From September 2012, *Schedule 4 of the School Information (England) (Amendment) Regulations 2012* requires all schools (including academies), to publish additional information online. This includes the schools: name, address, named contact for enquiries, admission arrangements, academic performance and how its Pupil Premium funding has been spent.
- Ensure you have a complaints procedure which is compliant with Part 7 of *The Education (Independent School Standards) Regulations 2010*. This factsheet can help you put in place a compliant procedure.
- You should also have a whistle blowing policy.
- You should tell the Information Commissioner's Office (ICO) in writing that the academy is opening and will now be responsible for processing personal and pupil data (*failure to do so is a criminal offence*).

7. Thinking about risks

- Ensure that the academy trust has in place an adequate risk management process to monitor and manage risks including financial risks.
- Establish an audit committee or, if permitted under the AFH, ensure that one of the academy's other committees (for example the finance committee) adopts terms of reference which will permit it to fulfil the responsibilities of an audit committee.
- Ensure that your audit committee (or other committee, as above) puts in place a process for independent checking of financial controls, systems, transactions and risks - for example the appointment of an internal auditor or equivalent, as described in the AFH.
- Make sure that you have adequate insurance cover in place before the academy opens or have opted into the Department's Risk Protection Arrangements.
 - If you don't already have a business continuity plan you will need to put one in place and have it approved by your board of trustees.

8. Other

- On opening please complete the online contacts form confirming to the ESFA the key people to contact in your academy.

- Remember that as an academy you will still need to comply with the School Admissions Code and School Admission Appeals Code.



Title of Report	Delegated Powers Reports - For Noting	
Key Decision No	CHE S260	
For Consideration By	Cabinet	
Meeting Date	17 August 2023	
Cabinet Member	Mayor Philip Glanville	
Classification	Open	
Ward(s) Affected	N/A	
Key Decision & Reason	No	N/A
Implementation Date if Not Called In	25 August 2023	
Group Director	Louise Humphreys, Acting Director Legal Governance and Electoral Services	

1. Summary

1.1 This report is for Cabinet to note the following Delegated Powers Reports (DPRs) that have been published on the Council's website:

- Hackney Britannia Phase 2b Contract Award Update, and;
- CHE S260 Local Authority Housing Fund Round 2.

1.2 Cabinet is recommended to note the Delegated Powers Reports.

2 Delegated Powers Report

2.1 The Hackney Britannia Phase 2b Contract Award Update Delegated Powers Report was published on the Council's website on 17 July 2023. The report sets out the changes in contract provider from subsidiary to parent company.

2.2 Local Authority Housing Fund Round 2 Delegated Powers Reports was published on the Council's website on 15 August. It is to be noted that this funding report was admitted on the Council's Executive Meetings Key Decisions Notice under General Exception due to the stringent time frame for the acceptance of the funding.

2.3 The full reports can be found on the Council's website under Delegated powers reports at the link below:
<https://hackney.gov.uk/council-business>