

WILTSHIRE COUNCIL

STAFFING POLICY COMMITTEE

04 September 2013

Local Government Pension Scheme (LGPS) and Trust Schools Status within the Pension Fund

Purpose of report

1. The purpose of this report is to seek agreement from Staffing Policy Committee's to allow co-operative trust schools continued access to the local government pension scheme (LGPS) for their current, and future non-teaching employees.

Background

2. Four schools in Wiltshire; Longleaze Primary, Lyneham Primary, Noremarsh Junior and St Sampsons Infants are seeking to acquire foundation status and join a co-operative trust to be known as the North Wiltshire Learning Trust with effect from 01 September 2013.
3. The opportunity for community schools to seek foundation status was introduced by government as part of the Education and Inspections Act 2006.
4. The School Organisation (Prescribed Alternations to Maintained School) (England) Regulations 2007 detail the provisions which enable a school to change category. Paragraph 29 stipulates that all the contracts of employment will transfer automatically from the council to the governing body. The existing terms and conditions of employment of staff are protected under this statutory transfer.

Main considerations for the council

5. The governing bodies of the four schools named above made a request that the council protect the pension position of their non teaching staff.
6. If continued membership is not given the council would have to identify a comparable pension scheme for the staff in question. A refusal may negatively impact the establishment of foundation trust schools, and result in a relationship strain between the schools and the local authority.
7. Currently each school has the following number of staff in the LGPS:

Longleaze Primary	18
Lyneham Primary	22
Noremarsh Junior	9
St Sampsons Infants	9

8. The position as regards the pensions of teachers remains the same before and after the transfer, that is they remain members of the Teachers Pensions Scheme. Their eligibility is not affected if the school has a change of category.

Financial implications

9. The pension scheme liabilities in relation to these staff will remain the responsibility of the council and thus there is no additional cost implication.
10. Designating non-teaching support staff at these schools as a class of employee eligible for membership of the LGPS, will mean new employees at the schools are also eligible to join the scheme.

Legal implications

11. The LGPS Regulations require a local authority to “designate” employees of the governing body of a Foundation school as being eligible to join the LGPS. This requires a Council decision, by resolution of the relevant committee. Wiltshire Council’s Constitution (Part 3 paragraph 2.4) states that the Staffing Policy Committee’s role and function is to “determine, monitor and review staffing policies and practices to secure the best use and development of the council’s staff, including the power to deal with all matters relating to staff terms and conditions.”

To allow future similar conversions to foundation status to be dealt with quickly and without ambiguity, Wiltshire Council has by means of this paper requested general delegated authority to take these decisions under Regulation 8 of the Local Government Pension Scheme (Administration) Regulations 2008.

Safeguarding considerations

12. There are no safeguarding considerations as a result of these proposals.

Public health implications

13. There are no public health implications as a result of these proposals.

Environmental and climate change considerations

14. There are no environmental or climate change considerations as a result of the proposals.

Equalities impact of the proposal

15. There could potentially be inequality in terms of teaching and non teaching staff eligibility to remain in their current pension scheme. This would be removed if the proposal is agreed.

Risk assessment

16. The proposal removes the risk of any potential challenge from non teaching staff members about their eligibility to remain in the LGPS. The transfer is a statutory transfer and terms and conditions transfer from one employer to another.
17. Other foundation schools in Wiltshire continue to enjoy the benefits provided by the LGPS. Refusal will not afford equal treatment of all non teaching staff in foundation schools in Wiltshire in terms of pension provision.

Other options considered

18. The other option considered was to remove eligibility of the LGPS for the non teaching employees of the schools outlined in paragraph 2. However this could lead to a potential challenge from these staff on the basis of equal treatment when compared to other non-teaching staff in schools with eligibility for the LGPS.

Conclusions

19. The implication of the other option considered, means that the proposal to allow continued membership of the LGPS is recommended for agreement by Staffing Policy Committee.

Proposals

20. It is proposed that Staffing Policy Committee agrees:
 - a. that all non teaching staff employed by the governing bodies of Longleaze Primary, Lyneham Primary, Noremarsch Junior and St Sampsons Infants schools are eligible for continued membership of the LGPS following a change in the school's category.
 - b. that schools who change from community/voluntary controlled to foundation category in the future, are granted eligibility for continued membership of the LGPS for existing non teaching staff (and future employees)

Reason for proposals

21. The reasons for these proposals are outlined in paragraphs 5 - 8.

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