

OFFICER DECISION RECORD (ODR2)

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Date of Decision	27 November 2023
Decision Taker (including Job Title)	DEBORAH WOODCOCK EXECUTIVE DIRECTOR OF CHILDREN'S SERVICES
Specific Delegation	<p>Children and Families Committee, 13 November 2023</p> <p>Academisation of Millfields Primary School and Nursery, Marsh Lane, Nantwich</p> <p>Report of: Deborah Woodcock, Executive Director of Children's Services</p> <p>Report Reference No: CF/39/23-24</p> <p>That the Children and Families Committee:</p> <p>Authorise the Executive Director of Children's Services in consultation with the Chief Finance Officer and the Monitoring Officer to take all steps necessary to agree and execute the Commercial Transfer Agreement (Appendix 2) to the North West Academies Trust Limited relating to the transfer of all staff under the Transfer of Undertakings (Protection of Employment) Regulations 2006, and assets</p>
Brief Description of Decision	<p>To enter into a Commercial Transfer Agreement with North West Academies Trust Limited in substantially the same standard form as required by the Department for Education on the conversion of Millfields Primary School and Nursery, Marsh Lane, Nantwich.</p> <p>The DfE has made an Academy Order dated 30 June 2023 that Millfields Primary School and Nursery converts to an Academy.</p> <p>The School is proposing to join the North West Academies Trust Limited, an established multi academy trust.</p> <p>The proposed conversion date is 1 January 2024.</p> <p>The Council is entering into a Commercial Transfer Agreement with the Governing Body of</p>

	<p>Millfields Primary School and Nursery and North West Academies Trust Limited to give effect to this conversion. This agreement deals with transfer of non-land assets, contracts, staffing and information.</p>
<p>Reasons for the Decision and alternatives considered</p>	<p><u>Reasons for the decision</u> In April 2021, the Education Secretary set out the government’s vision of “a world-class school-led system where every school is part of a family of schools in a strong multi-academy trust (MAT).” Key reasons schools consider conversions to MATs are to increase collaboration, to benefit from better strategic planning and direction; to provide more opportunities to staff for professional development; to gain access to better centrally provided services; to benefit from cost savings and efficiencies; to benefit from strengthened governance and leadership. Source: Schools’ views on the perceived benefits and obstacles to joining a multi-academy trust (publishing.service.gov.uk) Millfields Primary School and Nursery is one of 53 primary school provisions in Cheshire East which has not already converted to an Academy. There are currently 71 primary academies. The school and Governing Board began to consider options for academisation in May 2022. The DfE granted an academy order in June 2023; therefore, the Council is under a statutory duty to facilitate the academisation of the school and is expected to work constructively so that the conversion takes place within a specified time period.</p> <p><u>Alternative options considered and rejected</u> The Council’s consent is not required for the School to convert to an Academy. The Council consent is required for the commercial and land transaction. The land and commercial transactions follow standard documentation which the Council and school can vary to achieve the best outcome dependant on the individual circumstance of each school. This may include historic land issues and sporting facilities as way of example. An Academy Proprietor is entitled to expect the lease of all the premises and facilities which the school uses and are matters for negotiation and if agreement cannot be reached then the Council should make application to the Office of the School’s Adjudicator on or before the conversion date seeking resolution of the dispute.</p>

	The Secretary of State retains a default power where there is an inability to reach agreement and negotiate the lease arrangements and a Commercial Transfer Agreement.
Member consultation and interests declared	Committee members RESOLVED (unanimously) the recommendations in the report. See item 46. Agenda for Children and Families Committee on Monday, 13th November, 2023, 2.00 pm Cheshire East Council
Significant Decision	YES Committee approval is sought for the academisation of the school as it is a significant decision in terms of the effects of the decision on communities living or working in an area comprising one ward or electoral divisions.
Legal Implications	I am satisfied that the recommended decision is supportable. Name: Bhavna Thakrar Title: Lawyer, Contracts & Procurement Team Date: 21/11/2023
Financial Implications	The conversion to Academy status has a number of financial implications for the Council as outlined in the Committee report. CEC Report Template (cheshireeast.gov.uk) The CTA can provide for certain liabilities to fall on the Council, e.g. certain staff termination costs where a reorganisation is necessary to balance the budget and action has not been previously taken by the school. The extent of such liabilities would need to be identified in the CTA. The CTA includes standardised text that confirms the Council remains liable for any pre conversion costs and the academy is responsible for post conversion costs. It must be noted that any cash balance or local bank account balance remains the property of the Council (excluding any local school funds). The 2022/23 outturn show that the school had a surplus carry forward of £1,180 as at 31/3/2022. The school are forecasting a surplus position for 2023/24 of £13,449. However, they are subsequently forecasting to be in deficit for the next two years 2023/24 and 2024/25. This is not uncommon as funding announcements for these years are not clear at this stage and work on the plans will continue with the aim to bring them back

	<p>in to a balanced position. The school has leases for printer/copiers.</p> <p>There are no issues with any current deficit balances, loans or leases with this school.</p> <p>I am satisfied that the recommended option is supportable.</p> <p>Name: Kathy Oliver Title: Finance Lead Business Partner (Children and Families) Date: 20/11/2023</p>
Confidential/Exempt Information	Not applicable.
Background Papers	<p>Agenda for Children and Families Committee on Monday, 13th November, 2023, 2.00 pm Cheshire East Council See Item 46</p> <p>Children and Families Committee Report Reference No: CF/39/23-24, Academisation of Millfields Primary School and Nursery, Marsh Lane, Nantwich</p> <p>Report included five appendices:</p> <p>Appendix 1: Previously agreed Committee approval on Academy Conversions</p> <p>Appendix 2: Draft Commercial Transfer Agreement</p> <p>Appendix 3: Draft Lease</p> <p>Appendix 4: Millfields Lease plan</p> <p>Appendix 5: Academy Order for Millfields Primary School and Nursery School</p> <p>And link to background paper Convert to an academy: documents for schools - GOV.UK (www.gov.uk)</p>

Alex Thompson, Chief Finance Officer, Section 151 Officer

Signed



Dated 23/11/2023

OFFICIAL

David Brown, Director of Governance & Compliance Services, Monitoring Officer



Signed

Dated 23/11/2023

Deborah Woodcock, Executive Director of Children's Services

Signed



Dated 27 November 2023