

**TITLE OF REPORT: Academy Conversion of the Behaviour Support Service -
Property Update**

**REPORT OF: Mike Barker, Strategic Director Corporate Services &
Governance**
Caroline O'Neill, Strategic Director Care, Wellbeing and Learning

Purpose of the Report

1. To update Cabinet regarding the property arrangements to support the conversion of the Behaviour Support Service to Academy Status and seek its approval, in its capacity as Trustee, to the grant of a lease of Heworth Welfare Hall.

Background

2. At its meeting on 19 September 2017, Cabinet considered a report setting out the Council's statutory duty and legal obligations in relation to the education of children excluded from school due their behaviour or 'medically not fit for school'.
3. An Academy Order was made in respect of the Gateshead Behaviour Support Service, known as the Pupil Referral Unit (PRU) earlier this year and its conversion to academy status is expected to take place on 1st January 2018 to River Tees Multi-Academy Trust (RTMAT). The PRU currently uses Millway at Carr Hill and Heworth Welfare Hall in Felling and a number of rooms booked within council buildings. Heworth Welfare Hall, which is used for the 'medically not fit for school' provision, is held in trust rather than being owned by the Council and therefore an alternative site was sought.
4. Cabinet agreed that in the short term, pending identification of more suitable accommodation, the Millway site, currently occupied by the PRU, would be transferred to them by way of a lease together with the former Ravensworth Terrace Primary School, which is presently undergoing some minor alteration works. In the case of Ravensworth Terrace the use of the premises would be limited to those students who fall within the 'medically not fit for school' provision (i.e. the 'medically not fit for school' provision currently provided at Heworth Welfare Hall will be relocated into the former Ravensworth Primary School).
5. It was also agreed that officers would seek to replace Heworth Welfare Hall with the former Brandling Community Centre with the intention of leasing the community centre in the short term in order to ensure RTMAT has sufficient accommodation to enable it to meet the service need. The former Brandling Community Centre is currently let to Fighting Chance Foundation Community Interest Organisation for a term of seven years with three years remaining, and their short lease is preventing the organisation from accessing funding to drive the project forward. (Min No.C54)

Current Position

6. On further detailed inspection of Brandling Community Centre It has been established that only with substantial physical alterations would the building t be suitable for the RTMAT's operating approach, which aims to create an academic and personalised curriculum for pupils as a basis for work or future learning. Classrooms with lower suspended ceilings would need to be created, together with additional toilet facilities to make the building fit for purpose. However, such works would take a considerable time to carry out and nor there is any budgetary provision identified.
7. Classrooms with suspended ceilings are already in place at Heworth Welfare Hall so it is considered physically fit for purpose. Although, as reported previously, it is held on trust by the Council, it is proposed that a short term lease be granted to RTMAT, pending a more suitable long term site being identified. .
8. In all other respect, discussions with RTMAT and the Department for Education have progressed well and the principle of granting only short term leases of Millway and the former Ravensworth Terrace school to the RTMAT (as opposed to the standard 125 years for academies) has been agreed, along with the vacation of both sites as soon as more suitable alternative provision is identified.

Proposal

9. It is proposed that a 2 year lease being granted to River Tees Multi-Academy Trust as this is considered to be in the best interests of the Trust.

Recommendation

10. It is recommended that Cabinet:
 - (i) Notes the progress of discussions with River Tees Multi-Academy Trust; and
 - (ii) Acting as Trustee of the Heworth Welfare Hall Trust, approves the grant of a 2 year lease of the Hall to River Tees Multi-Academy Trust, the detailed provisions of the lease to be agreed by the Strategic Director, Corporate Services & Governance, in consultation with the Leader of the Council.

For the following reason:

To continue delivery of cost savings to the Trust.

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Policy Context

1. The proposal supports the overall objects of the Trust and will give children the best start in life and reduce levels of inequality for the disadvantaged and vulnerable.

Background

2. At its meeting on 19 September 2017, Cabinet considered a report setting out the Council's statutory duty and legal obligations in relation to making arrangements for the provision of suitable education of children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them.
3. The Council currently fulfils its obligation for its secondary aged pupils (Key Stage 3 and 4) through the Gateshead Behaviour Support Service, known as the Pupil Referral Unit (PRU). An Academy Order was made in respect of the PRU earlier this year and its conversion to academy status is expected to take place on 1st January 2018 to River Tees Multi-Academy Trust (RTMAT).
4. Unlike a standard academy conversion, the legal obligation to provide education will still sit with the Local Authority and the role of the Academy will be that of a service delivery provider acting on behalf of the Authority. Following its conversion to an Academy the Council will still be able to make referrals to the RTMAT as it currently does with the PRU, but when RTMAT's accommodation is full it will be under no obligation to accept further admissions, and the onus will revert to the Council to make appropriate alternative provision for the additional pupils.
5. The number of pupils requiring this type of provision is increasing but, not only is the PRU's main building already full, the alternative temporary arrangements made for 31 children is barely sufficient to meet the Council's statutory duty. Consequently there is a need for additional/alternative accommodation to be provided in order to ensure the RTMAT can deliver the entire service without the need for the Council to be involved in delivering any of the service. This had been acknowledged by the Council prior to the issue of the Academy Order following a review undertaken of the Council's property portfolio.
6. The PRU currently uses Millway at Carr Hill and Heworth Welfare Hall in Felling and a number of rooms booked within council buildings. Heworth Welfare Hall, which is used for the 'medically not fit for school' provision, is held in trust for the purpose of the Trust rather than being owned by the Council and, as such, a lease for a longer period than 2 years cannot be granted to RTMAT without referring the matter to the Charity Commission. Bearing in mind that additional/alternative accommodation needs to be available by January 2018, and that pupils 'medically not fit for school' need to be kept appropriately separated from those excluded from mainstream school due to their behaviour, five buildings were considered as potentially suitable from which RTMAT could deliver the service.
7. At its meeting on 19 September 2017, Cabinet agreed that in the short term, pending identification of more suitable accommodation, the Millway site would be leased to the RTMAT together with the former Ravensworth Terrace Primary School but with the use of Ravensworth Terrace being limited to being for the

‘medically not fit for school’ provision. (i.e. the PRU will relocate the ‘medically not fit for school’ provision from Heworth Welfare Hall into the former Ravensworth Primary School).

8. It was also agreed that officers would seek to replace Heworth Welfare Hall with the former Brandling Community Centre with the intention of transferring the Community Centre in the short term, to ensure RTMAT has sufficient accommodation to enable it to meet the service need. (Min No. C54)

The Current Position

9. RTMAT agreed to take 3 year leases of both the Millway site and the former Ravensworth Terrace Primary School, subject to the provision that the Council will identify a suitable long term site.
10. Discussions have since taken place with the Department for Education (DfE) which have progressed well, the DfE accepting that the standard form of lease (for 125 years) between the Council and the academy trust would not be appropriate in this case, and that the RTMAT will vacate both sites as soon as more suitable alternative provision is identified. The principle of only short term leases of Millway and the former Ravensworth Terrace school to the RTMAT has therefore been agreed, but with the DfE has advising that the minimum lease that it is willing to accept is ten years, subject to the Regional School Commissioner’s approval. The Commissioner has subsequently endorsed the DfE’s position, so that the leases will be for a maximum term of ten years; however, the leases will be subject to the provision that the Council will identify a suitable long term site, and it is anticipated this will be within a much shorter timescale.
11. It has been found that without undertaking substantial physical alterations the former Brandling Community Centre would not be suitable for RTMAT’s operating approach, which aims to create an academic and personalised curriculum for pupils as a basis for work or future learning. Classrooms with lower suspended ceilings would need to be created, together with additional toilet facilities to make the building fit for purpose.
12. It was also being suggested that the current occupants, a boxing club, move into Heworth Welfare Hall, when the PRU relocate the ‘medically not fit for school’ provision into the former Ravensworth Primary School. However, as this will not happen until the School’s Christmas holiday, this means that the alterations needed to the former Brandling Hall Community Centre could not be started until mid-January at the earliest (allowing some time for the boxing club to relocate into Heworth Welfare Hall).
13. As classrooms with suspended ceilings have already been created in Heworth Welfare Hall it is considered physically fit for purpose. Further consideration has therefore been given to as to whether granting a short term interest would be possible.
14. The purpose of the Trust as detailed in an Scheme Order made by the Secretary of State for Education and Science under the Charities Act 1960 stated that the land was to be used as a community centre to be held by the Council upon Trust for the use of the inhabitants of the Urban District of Felling...[and]...in particular for the use for meetings, lectures and classes for the purpose of physical exercise and training and other forms of recreation and leisure-time occupation with the object of

improving the conditions of life for the said inhabitants'. The Council, as trustee of the Trust has to act in the best interests of the Trust.

15. Although the purpose of the Trust does not specifically include education, community centres are frequently used to deliver education and learning skills; For example toddler playgroups, adult learning courses, local history groups, craft skills and dance classes etc. Various community centres have also been used by secondary schools and the local authority to help deliver their alternative education provision.
16. While it is not usual for a community centre to be occupied by a single group to provide education, over 26% of the children that attend the PRU are from the Felling area. Should suitable accommodation not be available for RTMAT to use, it is likely that some of these pupils will only be provided with 1 hour a day private tutoring, which is barely sufficient to meet its statutory requirements. It is therefore considered that granting a short term interest in the property would benefit these young inhabitants of Felling.

Consultation

22. In preparing this report consultation has taken place with the Leader, Deputy Leader, Portfolio for Children and Young People, and Ward Councillors. While highlighting the need to continue to pursue alternative options for future provision of these services, the Leader, Deputy Leader, Portfolio Holder and ward councillors acknowledge the proposal is the most suitable arrangement for the Council and RTMAT in the short term.

Alternative Options

23. This is the only option that ensures children from Felling, who attend the PRU, have suitable accommodation for their education from January.

Implications of Recommended Option

24. Resources:

- a. **Financial Implications** – The Strategic Director, Corporate Resources confirms that the grant of a lease to RTMAT will mean that Trust continues to minimise its outgoings.
 - b. **Human Resources Implications** – There are no implications for the Trust, however the grant of a lease will help secure the transfer of all staff employed within the PRU.
 - c. **Property Implications** - The grant of a lease will mean that the Trust continues to use its asset to support the inhabitants of Felling.
28. **Risk Management Implication** - If suitable accommodation is not available for the education of these pupils, they are at significant risk of educational underperformance. Issues such as mental health and SEN are best catered for when these children are in the care of teachers and other professionals within a school environment.

In addition, it is expected that providing education through tutoring arrangements for this vulnerable group of children will lead to poor academic outcomes. Also, due to the relatively low contact time with a tutor or other appropriate adult, potential significant safeguarding issues may arise.

29. **Equality and Diversity Implications** - The grant of a lease ensures the education of those pupils requiring the services of the Behavioural Support Service in Felling are suitably accommodated.
 30. **Crime and Disorder Implications** – There are no crime and disorder implications arising directly from this report
 31. **Health Implications** - There are no health implications arising directly from this report
 32. **Sustainability Implications** - There are no sustainability implications arising directly from this report
 33. **Human Rights Implications** - There are no human right implications arising directly from this report
 34. **Area and Ward Implications** - East - Felling
- Background Information** - None