

## HAREFIELD ACADEMY - LICENCE TO ASSIGN AND DEED OF VARIATION

<b>Cabinet Member</b>	Councillor Jonathan Bianco
<b>Cabinet Portfolio</b>	Finance, Property and Business Services
<b>Officer Contact</b>	Mike Paterson, Residents Services
<b>Papers with report</b>	None

### HEADLINES

<b>Summary</b>	<p>The Council granted a lease of Harefield Academy to the Harefield Academy Trust for a term of 150 years from 1<sup>st</sup> July 2005. As a very early version of an academy lease, it contains an absolute prohibition on the assignment of the whole property.</p> <p>In May this year the Department for Education (DfE) confirmed its consent to the application from the Harefield Academy Trust to join the Meller Educational Trust with effect from the 1<sup>st</sup> September 2017. In light of the terms of the existing lease, this requires the Council's consent to the assignment of the lease to the Meller Educational Trust.</p> <p>The Trust has also requested that the existing lease is varied to bring it in line with the current DfE template lease provisions dealing with the assignment of academy leases.</p> <p>The Trust has provided an undertaking to be responsible for the Council's costs in dealing with this matter.</p>
<b>Putting our Residents First</b>	This report supports the following Council objectives of: <i>Our People; Our Built Environment.</i>
<b>Financial Cost</b>	No direct financial implications to the Council arising from recommendations contained within this report
<b>Relevant Policy Overview Committee</b>	Corporate Services and Partnerships Policy Overview Committee.
<b>Relevant Ward(s)</b>	Harefield

## RECOMMENDATIONS

### That Cabinet:

1. **Authorises consent to the assignment of the lease of Harefield Academy to the Meller Educational Trust and;**
2. **Authorises the variation of the current lease to reflect current DfE guidance so that the Council's consent is not required for any assignment where the assignment is made to another proprietor of an academy and where the Secretary of State for Education has given approval in writing to the assignment or transfer.**

### Reasons for recommendation

The recommendations will enable the assignment of the existing lease to the Meller Educational Trust thereby complying with the requirements of the letter from the DfE. The variation to the lease will update the current lease to reflect current DfE guidance and the more recent academy leases granted by the Council.

### Alternative options considered / risk management

None.

### Democratic compliance and previous authority

Cabinet authority is required as the original decision-maker to vary such lease arrangements that exceed 25 years, as per the Procurement and Contract Standing Orders.

### Policy Overview Committee comments

None at this stage.

## SUPPORTING INFORMATION

1. The Council granted a lease of Harefield Academy to the Harefield Academy Trust for a term of 150 years from 1<sup>st</sup> July 2005. As a very early version of the template academy lease, it contains an absolute prohibition on the assignment of the whole property. The current position set out by the Department for Education (DfE) is that the consent of the Council should not be required for any assignment where the assignment is made to another proprietor of an academy and where the Secretary of State for Education has given approval in writing to the assignment or transfer. The more recent academy leases granted by the Council follow the current DfE guidance and do not require Council consent in these circumstances.
2. In May this year the DfE confirmed its consent to the application from the Harefield Academy Trust to join the Meller Educational Trust with effect from the 1<sup>st</sup> September

2017. In light of the terms of the existing lease, this requires the Council's consent to the assignment of the lease to the Meller Educational Trust.

3. The Trust has also requested that the existing lease is varied to bring it in line with the current DfE template lease provisions dealing with the assignment of academy leases so that the Council's consent will not be required in these circumstances for the remainder of the lease term.
4. The Trust has provided an undertaking to be responsible for the Council's costs in dealing with this matter.

### **Financial Implications**

As confirmed in the Supporting Information, the Trust will cover any costs the Council incurs in dealing with the assignment of the lease to the Trust and associated deed of variation. Therefore there are no direct financial implications to the Council arising from recommendations contained within this report.

## **RESIDENT BENEFIT & CONSULTATION**

### **The benefit or impact upon residents, service users and communities?**

None directly from this recommendation.

### **Consultation carried out or required**

None required.

## **CORPORATE CONSIDERATIONS**

### **Strategic Finance**

Strategic Finance has reviewed the report and concur with the financial implications set out above noting that the Meller Educational Trust will cover any costs the Council incurs in reassigning the lease.

### **Legal**

The current position set out by the DfE is that the Council's consent should not be required for any assignment where the assignment is made to another proprietor of an academy and where the Secretary of State for Education has given its approval in writing to the assignment or transfer. The more recent academy leases granted by the Council follow the current DfE guidance and model lease and do not require the Council's consent in such circumstances. There is, therefore, no legal impediment in proceeding with the proposed assignment and deed of variation in respect of this particular academy lease.

## BACKGROUND PAPERS

NIL