



**PARK HIGH SCHOOL**  
Technology College & Leading Edge School

Mr Michael Lockwood  
Chief Executive  
Harrow Council  
Harrow Civic Centre  
Station Road  
HA1 2UW

EL/academies/lockwood

11 May 2011

Dear Michael

**Academies and LGPS: Licensing and General Purposes Committee decision**

This letter is sent on behalf of the Headteachers of the seven High Schools exploring academy status.

At our meeting on 5 May 2011 you confirmed our understanding that the Licensing and General Purposes Committee ("LGPC") did not agree to the recommendations put before it regarding the obligations of prospective academies' under the LGPS. This has been confirmed through the minutes of the meetings of 11 and 19 April 2011 that were made available to the schools on 10 May 2011. In particular, the LGPC decided upon a far harsher set of conditions in respect of the prospective academies participation in the LGPS. Specifically, the LGPC decided upon a seven year deficit recovery period, and the inclusion of deferred and current pensioners as well as active members when determining the employer contribution rate to be applied. As you are aware, this decision has been greeted with great disappointment and surprise by the schools.

The schools formally request that the Council urgently reconsiders this decision. The reasons for this are that:

- The policy determined by the LGPC goes against DfE advice, and the recommendations of the Council's own Pension Investment Panel, both of which recommend a 20-year deficit recovery period based on active members only. The decision that was reached is therefore surprising, particularly given the comment by a Member, recorded in the minutes of 19 April that "*this was a highly technical and complex issue and Members of the Committee were looking to officers and actuaries for sound advice in order to make informed decisions*";
- The approved policy would put any academies in a different position to FE Colleges despite the similarity of their history of being part of the Council and their similar remits to provide state-funded education for local communities;
- The schools do not understand why North London Collegiate School, an exclusive fee-paying independent school, should be pooled within the Council fund while state-funded local academies would not be;

- The decision fails to strike a balance between *“protecting the fund and ensuring that the contribution rate payable by the academy is reasonable”* as outlined in the Investment Panel minutes;
- We understand that the actuary was not present at the second part of the LGPC meeting on 19 April and have concerns that this prevented members benefiting from the actuary’s advice regarding risk to the pension fund when considering the deficit recovery period and range of fund members to include. This is particularly of concern given that the composition of Members attending the two meetings differed;
- The schools are concerned that Members that declared interests at the meeting on 11 April 2011 and abstained from voting, do not appear to have declared any interests at the subsequent meeting on 19 April 2011 and it is unclear from those minutes whether they voted or not;
- The schools do not understand the rationale for the inclusion of deferred and pensioner members in the employer contribution rate calculation when the prospective academies will never have employed those deferred and/or pensioner members; and
- The schools do not understand the rationale for a 7 year recovery period, given that 20 years was considered to be a realistic period which would *“offer fairness and consistency to both the schools and the Council, as any risks would be mitigated.”* The Funding Agreement of an academy is guaranteed by central government on a rolling contract, with a seven-year notice termination clause. The LGPC appears to have erroneously concluded that the funding itself only lasts for 7 years. This assumes that each academy serves notice to terminate as soon as it converts to academy status, which is not credible. As the minutes of 19 April note, it was considered highly unlikely that any academy would be allowed to become insolvent and that the risks to the Council were stated to be *“very low”*; and
- The Council has consistently re-iterated its commitment to the family of schools and to maintaining equity between schools, yet this decision significantly undermines that position. The impact of the policy is that it would significantly reduce the financial viability of conversion to academy status, as is recognised in the Investment Panel minutes. This could result in precisely the situation that the schools and Council want to avoid, whereby only certain (principally larger) schools could afford to convert. It seems likely to prevent any primary-phase schools converting.

The schools originally requested that any academies in Harrow should remain pooled within the current fund. This would:

- Maintain the pension fund viability in exactly the same position as it is now; and
- Ensure equity for all state-funded educational providers in the borough (i.e. all schools and FE Colleges);

The schools still believe that the pooling of any academies within the Council fund is the most logical position. That decision not to pool was reached at the meeting on 11 April 2011 and the minutes provide no rationale for that decision.

We recognise, however, that the DfE advice is that academies should have a separate employer rate, With that in mind, the schools however see no justification for the LGPC’s decision to impose a 7 year deficit recovery period given that the Funding Agreement is a rolling contract and that future funding risk to the academy is not greater than to the Council overall or FE Colleges. While we recognise that the Committee felt that it was protecting the pension fund with this decision, the Committee also recognised that the risk of default was very low, yet the impact of the decision is very significant indeed, and highly disproportionate, for any academy –

there is c£750k a year difference between the Committee decision and recommendations for the high schools exploring academy status.

We are grateful that the Council has recognised the urgency of this decision and reconvened the Committee in good faith in the knowledge that this letter would be forthcoming.

While we hope that the LGPC will reach a decision that is more equitable and reasonable, the schools formally reserve their right to challenge the decision if necessary. In this regard, we trust that you will take steps to preserve the minute taker's note book as this would have to be disclosed in the event that proceedings have to be issued.

Given the concerns that we have identified in this letter, the schools would like the opportunity to send a representative to attend the Committee meeting. Please would you confirm the arrangements.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Emlyn Lumley'. The signature is fluid and cursive, with the first name 'Emlyn' being more prominent than the last name 'Lumley'.

Emlyn Lumley

Headteacher, Park High School

Sent on behalf of the Headteachers of Bentley Wood High School, Canons High School, Harrow High School, Hatch End High School, Nower Hill High School and Rooks Heath College.

Cc: Headteachers of each named High School