Harrow COUNCIL LONDON

# LICENSING AND GENERAL PURPOSES COMMITTEE

# MINUTES

# 17 MAY 2011

**Chairman:** * Councillor Mano Dharmarajah

**Councillors:**

| | |
|---|---|
| * Husain Akhtar | † Chris Mote |
| † Ramji Chauhan | * John Nickolay |
| * David Gawn | * Varsha Parmar |
| * Susan Hall | * Bill Phillips (7) |
| * Krishna James (8) | * William Stoodley |
| † Manji Kara | * Yogesh Teli |
| * Ajay Maru | * Ben Wealthy |

* Denotes Member present
(7) and (8) Denote category of Reserve Members
† Denotes apologies received

## 50. Attendance by Reserve Members

**RESOLVED:** To note the attendance at this meeting of the following duly appointed Reserve Members:-

| Ordinary Member | Reserve Member |
|---|---|
| Councillor Thaya Idaikkadar | Councillor Bill Phillips |
| Councillor Krishna Suresh | Councillor Krishna James |

**51. Declarations of Interest**

**RESOLVED:** To note that the following interests were declared:

Agenda Item 4 – Academies - Employer Contribution Rates
Councillor Bill Phillips declared a prejudicial interest in that he was a governor at Harrow High School. He would leave the room whilst the matter was considered and voted upon.

Councillor John Nickolay declared a personal interest in that he was a member of the Aldgate Homes Association. He would remain in the room whilst the matter was considered and voted upon.

**52. Deputations**

**RESOLVED:** To note that no deputations were received.

## RESOLVED ITEMS

**53. Academies - Employer Contribution Rates**

The Committee received a report of the Assistant Chief Executive which requested that Members consider the implications of the decision made in respect of Academies at the special Licensing and General Purposes Committees held on 11 and 19 April 2011. In particular, the Committee was asked to reconsider the decision made in relation to the deficit recovery period and the way in which the deficit would be calculated.

The Chairman informed Members that headteachers had contacted the Council following the meetings in April and had raised concerns that the decision taken by the Committee would limit the ability of schools to achieve academy status. The headteachers were particularly concerned that the Committee had decided upon a seven year deficit recovery period and the inclusion of deferred and current pensioners, as well as active members, in the calculation of employer contribution rates.

The Council's Principal Laywer stated that the seven schools seeking academy status had formally requested that the Committee reconsider its decision and that the Chairman had agreed to this request. She stated that the Committee now had access to new information and that a representative of the Council's actuary, Hymans Robertson, was in attendance to help Members better understand the financial implications of any potential decision.

The Interim Director of Finance stated that the Committee had previously been concerned that the Secretary of State would only guarantee academy funding for 7 years. However, it was now understood that the funding agreement with the Department for Education (DfE) was a rolling contract, with a 7 year notice termination clause.

Members agreed that it would be beneficial for the representative of Hymans Robertson to outline the key issues. The representative outlined the following key points:

- the concept of academies had been introduced by the coalition government and subsequently set out in the Academies Act (2010). Unlike community schools, academies were financially autonomous and not subject to local authority control. Significantly, academies were responsible for their own pension arrangements;

- teaching staff were not covered by the Local Government Pension Scheme (LGPS) and therefore any decision made in relation to the deficit recovery period or calculation of employer contribution rates for academies was only applicable to non-teaching staff;

- the DfE briefing note had stated that each academy would have a separate employer contribution rate set by the administrating pension authority and would have responsibility for a share of the LGPS deficit, however it did not state how this share should be calculated;

- when calculating employer contribution rates, actuaries had to take into account both accrued benefits and future service rates;

- there were two different approaches that could be used to determine the share of the deficit contribution. The first approach was to make academies only responsible for a share of the deficit that applied to LGPS staff that transferred to the academy. The second approach was to make the academies responsible for a share of the whole Council deficit and attributable to deferred and pensioner members;

- the current officer recommendation was to utilise the second approach and apply a share of the whole Council deficit to academies. Due to the fact that a proportion of the Council's employer contribution rate went towards payments of current and future liabilities for deferred and pensioner members, it was reasonable to allocate a share of these liabilities to the academies. This approach recognised that the Council would lose funding in respect of the provision of education services but would remain responsible for the pension liabilities of former education staff whose benefits would not transfer to an academy.

Following questions from Members, the Hymans Robertson representative clarified the following points:

- when a member of the LGPS died, death benefits would be paid to the surviving family. Up until 1 August 2011, all ex-employee benefits would remain the responsibility of the Council. If an employee died after this date, these benefits would be the responsibility of the academy;

- assets were valued using market rates;

- whilst external economic and political factors had the potential to impact on the actuarial calculations, spreading the deficit repayments over a 20 year period would help smooth out any variances. Whilst the private sector normally used a spread period of 7 or 8 years, public sector organisations would continue to exist in some form and there was therefore less risk of spreading repayments over a longer period. A spread period of 20 years was therefore common. There would be a revaluation of the fund every 3 years to reassess the size of the deficit and performance of the fund;

- contribution rate to be set by the Committee related to the employer's contribution only. Employee contribution rates were set out in regulations and would not be affected by any decision;

- if an academy or the DfE instigated the 7 year termination clause, the Council could reassess the contribution rate and shorten the deficit recovery period, thereby increasing the contribution rate. Although unlikely, if an academy simply ceased to operate the Council would have to absorb any outstanding deficit. However, before this occurred, it was likely that the Secretary of State would attempt to address any management deficiencies to prevent a financial collapse. If the academy was taken over by another operator, the new operator would take over responsibility for payment of the deficit.

A Member stated that it was unlikely that the schools would dissolve, he thanked the actuary for a very comprehensive presentation and stated that a 20 year spread period seemed to be a good proposition. A Member stated that academies were likely to find the first few years quite challenging and that the Council had a duty to ensure they were supported. Spreading the deficit recovery period over 20 years would give new academies the opportunity to develop their business model without added financial pressure.

The Hymans Robertson representative clarified the impact on the Council if all schools decided to convert to academies. If only active members' liabilities were used to calculate the deficit share, the Council's theoretical employer contribution rate would increase by 0.25% of pay. However, if all schools converted on this basis, this rate would increase to 1% of pay. The Hymans Robertson representative stated that, for the sake of consistency, it might be prudent to consider this impact now.

The Interim Director of Finance referred to each of the points raised in the letter from the schools and the responses addressed in the report. In particular, she referred to the additional information Members had in relation to affordability, the reasons for including deferred and pensioner liabilities in the calculation of the share of the deficit and the justification for a 7 or 20 year spread period.

**RESOLVED:** That

(1) a deficit recovery period of 20 years be used to recover the share of deficit allocated to each academy;

(2) the 20 year recovery period only be applicable for as long as the academy or DfE does not give notice of exiting its status;

(3) on receiving 7 years notice of exiting academy status, the outstanding deficit be spread over the remainder of the notice period and the contribution rate be recalculated with effect from the start of the following financial year;

(4) the Committee reserve its position regarding the actuarial basis to be used for the recalculation;

(5) the share of the deficit to be transferred to the schools be calculated based on the liabilities of current LGPS staff who transfer to the academy and the estimated liability for deferred and pensioner members formally employed by the former maintained school;

(6) resolutions 1, 2, 3 and 7 from the previous Licensing and General Purposes Committee meeting held on 11 and 19 April remain the same.

(Note: The meeting, having commenced at 7.30 pm, closed at 8.50 pm).

(Signed) COUNCILLOR MANO DHARMARAJAH
Chairman