

COUNCIL – 22 NOVEMBER 2012

REPORT OF THE LEADER OF THE COUNCIL

COUNCIL CONSTITUTION – URGENCY AND CALL-IN PROVISIONS

I wish to report that the Chair of the relevant Overview and Scrutiny Committee gave his consent, under Rule 28 of the Access to Information Procedure Rules and Rule 46 of the Overview and Scrutiny Procedure Rules set out in the Council Constitution to the following issues being dealt with, on the basis that the decision could not be reasonably deferred, and not subject to call-in.

CABINET – 13 SEPTEMBER 2012

(The Chair agreed that the following item be considered as an urgent item under Section 100B (4) (b) of the Local Government Act 1972 (as amended by the Local Government (Access to Information) Act 1985 to enable the Council to instigate High Court proceedings as soon as is practicable).

58. HAWTHORNES' FREE SCHOOL - UPDATE

The Cabinet considered the report of the Director of Corporate Support Services and the Director of Young People and Families which provided details of the action been taken by Council officers to resolve the position relating to the former staff from St George of England and St Wilfrid's High Schools who do not have a job in the Hawthorne's Free School . The report also provided Counsel's advice and to sought the views of the Cabinet on whether steps should be taken to seek a High Court Declaration.

Prior to commencing deliberations on the matter a leaflet was distributed to Members that had been submitted by the Pals of St. Georges relating to request for hardship loans.

RESOLVED: That:

- (1) the legal advice provided by Counsel (dated 29 August 2012) appended to this report and in particular the 'on balance' conclusion reached by Counsel with respect to an application of TUPE law and to the application to the High Court seeking a Declaration be noted;
- (2) following consideration of Counsel's advice, the Head of Corporate Legal Services be authorised to apply to the High Court for a Declaration as to the applicability of TUPE to the former staff of both St Wilfrid's Catholic High School and St George of England Specialist Engineering College;

- (3) consistent with the Council's belief that TUPE applies, the Cabinet's view was that it is not appropriate to grant hardship loans in these circumstances;
- (4) the Cabinet notes the difficult circumstances that the staff are in and the dignified manner in which they are conducting themselves in relation to the matters raised;
- (5) it be noted that the proposal is a Key Decision but it has not been included in the Council's Forward Plan of Key Decisions. Consequently, the Leader of the Council and the Chair of the Overview and Scrutiny Committee (Children's Services) had given his consent under Rule 28 of the Access to Information Procedure Rules for these decisions to be treated as urgent on the basis that they cannot be reasonable deferred because the Council needs to instigate High Court proceedings as soon as is practicable; and
- (6) It be noted that the Leader of the Council and the Chair of the Overview and Scrutiny Committee (Children's Services) had given his consent under Rule 46 of the Overview and Scrutiny Procedure Rules for these decisions to be treated as urgent and not subject to "call in" on the basis that they cannot be reasonably deferred because they cannot be reasonable deferred because the Council needs to instigate High Court proceedings as soon as is practicable.

Councillor Peter Dowd
Leader of the Council