



Mayor and Cabinet

Report title: Delegated Authority for use of School Premises

Date: 19 July 2023

Key decision: Yes

Class: Part 1

Ward(s) affected: Whole Borough

Contributors: Executive Director for Children and Young People

Outline and recommendations

This report seeks Mayor and Cabinet approval to delegate authority for the use of school premises to the Executive Director for Children and Young People, to enable schools to make best use of spare capacity to derive additional income to support school budgets and the education provision for our children and young people. At present this is reserved to members within the Constitution and would necessitate Mayor and Cabinet decisions. Any fundamental change of use of school premises would still be reserved for members for decision.

The Mayor and Cabinet are recommended:

- To note that Governing Bodies of maintained schools in the Borough have responsibility for lettings and use of their premises by third parties outside of school hours
- To delegate to the Executive Director for Children and Young People the authority to approve the entry by maintained schools into transfer of control agreements during school hours provided that the purpose (or one of the purposes) is to promote community use of school premises and such use does not interfere with the primary activity of the school

Timeline of engagement and decision-making

19 July – Mayor & Cabinet decision

1. Summary

- 1.1 The report outlines the rationale for delegating authority for use of school premises to the Executive Director for Children and Young People and then seeks Mayor and Cabinet approval for this change.

2. Recommendations

- 2.1 The Mayor and Cabinet are recommended:
- 2.2 To note that Governing Bodies of maintained schools in the Borough have responsibility for lettings and use of their premises by third parties outside of school hours
- 2.3 To delegate to the Executive Director for Children and Young People the authority to approve the entry by maintained schools into transfer of control agreements during school hours provided that the purpose (or one of the purposes) is to promote community use of school premises and such use does not interfere with the primary activity of the school

3. Policy Context

- 3.1 The request to delegate authority for the use of school premises to the Executive Director for Children and Young will contribute to the following key priority outcome of Lewisham's Corporate Strategy 2022-2026:
- 3.2 We will continue the fantastic work of the last four years, supporting our schools to improve and increasing the opportunities for young people in Lewisham within our inclusive, comprehensive schools.
- 3.3 Specifically the decision would allow schools to take advantage of spare capacity within their buildings to generate income to bolster budgets that will then be reinvested into the education of Lewisham children and young people.

Education Strategy 2022-27

- 3.4 The Lewisham Education Strategy highlights that School budgets have reduced in recent years as a result of a combination of falling rolls, increasing staffing, energy, building and supplies costs and funding settlements which have not matched these increases. This financial pressure will continue and the financial advice we give to schools will be crucial.
- 3.5 This request will help enable schools to derive income from their schools to supplement their school budgets, and will allow them to do this in a quick and efficient manner, reacting to requests from the local community for access to space and providing other needed services.
- 3.6 Within this the strategy also highlights the need to review the provision we have within the borough that caters for children and young people with special educational needs and disabilities (SEND), to ensure that the correct provision is provided in the right place at the right time.

Constitution

- 3.6 The Lewisham Constitution currently lists the 'Directions as to the occupation and use of school premises' as Executive matters reserved to members. The decision sought from Mayor and Cabinet would delegate authority to the Executive Director for Children and Young People to agree the entry by schools into transfer of control agreements both during school hours, provided that the purpose (or one of the purposes) of the

proposed use is to promote community use of the school premises and the proposed use will not interfere with the primary activity of the school.

4. Background

- 4.1 Schools across the country are currently experiencing pressure on their budgets due to rising inflation which has been exacerbated by falling roll numbers. Lewisham is no different, and indeed both of these factors have been more marked in inner-London.
- 4.2 As such, schools are rightly looking to make best use of their premises to generate income to support budget pressures.
- 4.3 The Lewisham Constitution currently reserves matters relating to the occupation and use of school premises to members, which would mean that for approval of a transfer of control agreement which would give exclusive use of part of the school premises during the school day a report would need to come to Mayor and Cabinet for decision.
- 4.4 Officers are requesting that Mayor and Cabinet delegate these decisions to the Executive Director for Children and Young People, except for when the proposed use interferes with the primary activity of the school, to enable schools to make swifter decisions about maximising the income that they can generate to bolster their budgets.

5. Financial implications

- 5.1 The report strengthens and formalises processes that schools must adhere when considering the sub-letting of the school asset to third parties which must require governing body approval, with a final requirement for approval from the Executive Director of CYP (or their nominated representatives). Where a school is considering this approach, sufficient time must be provided to the LA to consider the request in detail.
- 5.2 As part of local management of schools (LMS), schools are very accustomed to hiring out elements of the school estate outside of school timing for example fitness groups, community groups etc, as a way of supporting the wider community but also as a form of income generation. Where a school makes surplus (after incurring any additional costs), these can be used by the school to support the delivery of the school curriculum. In the event this results in a loss, that too is managed as part of the wider schools budgets.
- 5.3 Equally, in the case of any sub lettings that are agreed, the school will be fully responsible should that result in a loss. There will be no transfer of financial liability to the LA assumed as part of the agreement process.

6. Legal implications

- 6.1 The School Standards and Frameworks Act 1998 provides that the occupation and use of the premises of a maintained school, both during and outside school hours is controlled by the governing body subject to any directions given by the local authority.
- 6.2 A school's standard room hire/licence agreement will suffice for most standard third-party use of school premises (e.g. after-school activities). However, a licence is not possible in all situations, e.g. where a third-party user has exclusive use of part of the school site (for example, a private nursery located on a distinct part of the school site). In most cases, a transfer of control agreement is likely to be the most convenient option because it avoids the requirement for the local authority to be party to the agreement (as landowner of the school site) and therefore the need for secretary of state consent to the disposal.
- 6.3 The School Standards and Frameworks Act 1998 allows governing bodies of

maintained schools to enter into transfer of control agreements with any person if the purpose, or one of their purposes, in doing so is to promote community use of the whole or any part of the school premises. Where the transfer of control agreement relates to use of the school premises during school hours the local authority's consent must first be obtained. The constitution provides that such decisions would be a matter for Mayor and Cabinet. The School Standards and Frameworks Act 1998 sets out the minimum terms that must be included in a transfer of control agreement.

- 6.4 The Governing Body should be satisfied that there is appropriate and up to date insurance cover for any activities carried out on school premises, or otherwise seek an additional charge to be covered by the school's insurance policy.
- 6.5 the Governing Body is responsible for ensuring that the school has effective policies and procedures for safeguarding children (s172 Education Act 2002). Where school premises are let to other organisations, the Governing Body should seek assurance that the hirer has appropriate safeguarding and child protection policies and procedures in place and that there are arrangements for the hirer to liaise with the school on these matters where appropriate.

7. Equalities implications

- 7.1 This report supports the delivery of the Council's Equalities programme by enabling schools to make quick decisions regarding generating additional income from their premises to support their school budget, and therefore the teaching and learning within their school.

8. Climate change and environmental implications

- 8.1 There are no direct climate change and environmental implications of the report.

9. Crime and disorder implications

- 9.1 There are no crime and disorder implications.

10. Health and wellbeing implications

- 10.1 There are no direct health and wellbeing implication of the report.

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