

Cabinet

20 November 2008



Funding Agreement Between Durham County Council and Park View Community Association

Joint Report of Lesley Davies, Acting Director of Corporate Services and David Williams, Corporate Director, Children and Young People's Services [Cabinet Portfolio Member for Children's Services, Councillor Claire Vasey and Cabinet Portfolio Member for Corporate Resources, Councillor Michele Hodgson].

Purpose of the Report

1. To inform the Cabinet of the replacement of the original Shared Use Trust Deed associated with Park View Community School and Park View Community Association (PVCA) with a Transfer of Control Agreement (TOCA) and to seek an extension of the term of the current Funding Agreement associated with the TOCA from two to seven years.

Background

2. In 2005, the Charity Commission served PVCA with a notice to improve the status of its management arrangements under its Shared Use Trust Deed established on 5th March 1981.
3. The Trust Deed provided for the establishment of two Committees; a Joint Shared Use Liaison Committee (JSULC); and a Community Association Committee (CAC). The JSULC would act as Trustees of the Trust with the CAC being responsible for the administration of the shared use facilities.
4. Whilst the Charity Commissioners were satisfied that PVCA was acting in an independent manner, they felt that its autonomy was not given legal force by the current Trust Deed. The Commissioners advised that if PVCA's position was not renegotiated in conjunction with the Local Authority and the school Governors, the future operation of the Charity was in jeopardy. This would have a detrimental impact upon community use at the school.
5. Government is keen to promote community use of schools. The preferred legal model for this is a "Transfer of Control Agreement" (TOCA) which allows school Governors, who have "control" of school premises to permit a third party to use parts of school for specified times.
6. A TOCA would establish the duties and responsibilities of the parties, satisfy the Charity Commission's demands, put community use at the School on a proper footing and give priority to school use when required. TOCAs have been used successfully in other schools and are also acceptable to a wide variety of external funding bodies.

7. After long and complex negotiations, the County Council, PVCA's Management Committee, school governors and the head teacher have reached agreement on the terms of a TOCA. The TOCA which describes the arrangements for the community use of the school premises and replaces the earlier contentious Trust Deed, was signed by all parties in September 2008.
8. The TOCA is between the County Council, the Governing Body of the School and PVCA. PVCA will establish itself independently following the dismantling of the original Trust.

The Funding Agreement

9. The initial Funding Agreement which ensures the continued resourcing of community use of Park View Community School under the TOCA was agreed by Cabinet on 13 September 2007. The funding term for the agreement was indicated as two years.
10. During formal negotiations regarding the Funding Agreement, PVCA's Management Committee has asked for the two year funding period to be reconsidered in favour of a seven year term which the committee feel would constitute a more reasonable funding period.
11. The Funding Agreement does not reduce the County Council's commitment to the level of finance required to fund the Shared Use Scheme per annum, but does substantially reduce the period of the Council's overall funding commitment under the previous Shared Use Trust Deed.

Recommendation

12. Cabinet is asked to receive this report and to agree the extension of the Funding Agreement with PVCA from two to seven years from 1st April 2009.

Background Paper

Transfer of Control Agreement

Contact: David Emmerson

Tel: 3833259

Appendix 1: Implications

Local Government Reorganisation (Does the decision impact upon a future Unitary Council?)

None

Finance

The Funding Agreement does not reduce the County Council's commitment to the level of finance required to fund the Shared Use Scheme per annum, but does substantially reduce the period of the Council's overall funding commitment under the previous Shared Use Trust Deed.

Staffing

The Funding agreement maintains the Education in the Community Worker's post at Park View Community Association as well as hourly paid tutors and ancillary staff.

Equality and Diversity

The Funding agreement maintains community use of school facilities by all of the community.

Crime and Disorder

None

Sustainability

Park view Community Association is one of the biggest and most successful Shared Use Schemes in the County and as a consequence has always generated considerable reserves that have ensured the organisations sustainability.

Human Rights

See comment above regarding equality and diversity.

Localities and Rurality

None

Young People

Access to facilities for young people is maintained.

Consultation

The Transfer of Control Agreement and Funding Agreement have been subject to full consultation.

Health

Park View Community Association's social, recreational and educational programme helps to maintain the health of many of its members, especially older people.

**Risk
Description
Potential Impacts Treatment Risk Owner**

As this is a continuation of current arrangements, no new risks are envisaged at Park View and the threat from the Charity Commissioners is removed.

Risk Description	Potential Impacts	Treatment	Risk Owner
1. Transfer of Control Agreements may need to be rolled out across the 21 other Shared Use Schemes	1. Negotiations take significant amounts of officer/ Elected Member time.	Set up a rolling programme of consultation with Shared Use Schemes	Education In the Community
2. The County Council decides not to continue the Funding Agreements beyond the first term of 7 years	i. Significant damage is done to the community use of schools infrastructure; and ii. the County Council's image as a supporter of community governance of local faculties is damaged.	Evaluate the ability to fund two years before the end of the Funding Agreement and communicate the outcome to the Community Association; and maintain support for extended Funding Agreements.	The County Council The County Council