

	<p>Children, Education, Libraries and Safeguarding Committee</p> <p>6 January 2016</p>
<p style="text-align: right;">Title</p>	<p>Proposal to establish Menorah High School for Girls, 105 Brook Road, London, NW2 7BZ as a Barnet maintained voluntary aided school.</p>
<p style="text-align: right;">Report of</p>	<p>Chairman of the Children’s, Education, Libraries and Safeguarding Committee</p>
<p style="text-align: right;">Wards</p>	<p>All</p>
<p style="text-align: right;">Status</p>	<p>Public with accompanying exempt report and appendix</p>
<p style="text-align: right;">Urgent</p>	<p>No</p>
<p style="text-align: right;">Key</p>	<p>Yes</p>
<p style="text-align: right;">Enclosures</p>	<p><i>Appendix Ai: Proposal to Establish Menorah High School for Girls as a Voluntary Aided School</i> <i>Appendix Aii: Consultation document</i> <i>Appendix B: Document submission</i> <i>Appendix C: Financial information (exempt)</i> <i>Appendix D: Barnet’s framework for assessing applications</i> <i>Appendix Ei: Consultation responses</i> <i>Appendix Eii: Consultation meeting with members of staff</i> <i>Appendix Eiii: Consultation meeting with parents</i> <i>Appendix Eiv: Consultation meeting with the public</i> <i>Appendix Ev: Summary of representation responses</i></p>
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Summary

This report sets out a proposal by Menorah High School for Girls, an independent faith school, to move into the maintained sector through the establishment of a voluntary aided

school with effect from the 1st April 2016. On the 9th March 2015, the Children, Education, Libraries and Safeguarding Committee approved a framework for considering proposals from independent faith schools seeking to move into the maintained sector. This report sets out the evidence submitted by the school proposer in relation to the framework.

Recommendations

1. That the Children, Education, Libraries and Safeguarding Committee consider the proposal by Menorah High School for Girls, 105 Brook Road, London, NW2 7BZ an independent faith school to establish the school as a Barnet maintained voluntary aided secondary school with effect from the 1st April 2016 and make a decision to either:

- (a) approve the proposal without modification;**
- (b) approve the proposal with specific modifications as set out in paragraph 5.5.2**
- (c) refuse the proposal.**

1. WHY THIS REPORT IS NEEDED

1.1 On the 9th March 2015, the Children, Education, Libraries and Safeguarding Committee approved a framework for considering proposals from independent faith schools seeking to move into the maintained sector. The framework is designed to assist the council in reaching a decision on such proposals. It is based on guidance published by the Department for Education (DfE) which states that decision makers must ensure that the decision to proceed with such a proposal is clearly based on value for money and that the school is able to meet the high standards expected of state-funded educational provision. In particular, the DfE expects decision-makers to consider the following points:

- that there is genuine demand/need for this type of school place in the local community;
- that the current and projected financial health of the proposer is strong;
- that the proposal represents long term value for money for the taxpayer;
- that the school will be able to deliver the whole of the national curriculum to the expected high standard;
- that all aspects of due diligence have been considered and undertaken; and
- that the school building is appropriate for the delivery of a high standard of education and in good condition throughout, or can be improved to meet such standards.

- 1.2 Menorah High School for Girls is an independent girls' secondary school (including sixth form) located at 105 Brook Road, London, NW2 7BZ. The school opened in October 2001. It caters for 250 girls and currently has 209 Year 7-11 pupils. It serves the Orthodox Jewish community in Barnet. Whilst located within Brent, it predominantly serves the Orthodox Jewish community in Barnet.
- 1.3 Menorah High School for Girls has consulted on a proposal (Appendix A) to establish a voluntary aided maintained school, in order to move the current independent faith school into the maintained sector. Following the end of the consultation period, the Council is required to reach a decision. Despite its location over the border in Brent, the proposer is requesting determination of its proposal by London Borough of Barnet. This is driven by the home address of its pupils, nearly all of whom live in Barnet.

About the proposal

- 1.4 The proposal is for the establishment of a voluntary aided school for up girls aged 11-18 pupils, serving the Orthodox Jewish community, to be operated from 105 Brook Road, London, NW2 7BZ.
- 1.5 The school has submitted a proposal to implement a revised governance arrangement for the new voluntary aided school. The current independent school is governed and managed through three companies. The proposal is to streamline the current arrangements with a Foundation Trust which owns the land and the buildings, granting a 125 year lease to the Governing Body at a peppercorn rent.
- 1.6 The school itself will be governed by the statutory body known as The Governing Body of the Menorah High School for Girls ("The Governing Body"). The Governing Body will employ the staff (other than potentially those employed to teach Jewish Studies who may be employed by the Foundation Trust) and will be the relevant admissions authority for the school. The Governing Body will be constituted in accordance with the School Governance (Constitution) (England) Regulations 2012.
- 1.7 The Governing Body will comprise up to 12 governors, with as required for a VA school, a majority of the governors being appointed by the Foundation Trust. The Foundation Trust will be able to appoint 7 Foundation Governors. The proposed Governors include a number of Governors with substantial experience of governor roles within maintained schools and the proposer intends to appoint a new Clerk to the Governing Body.
- 1.8 Following the consultation period, the proposer has modified the proposed admission number. Appendix A contains a proposal to provide for 220 girls of the ages of 11-16 with the admission number of 44 in the year of opening. The revised proposal is for the published admission number for the year of entry into the school in the first instance to be 51, rising to 60 in 2017/18. The intention is to grow the school as set out in the table below.

The proposer has confirmed that by 2020/21 there will 300 pupil places available in Years 7-11.

	Pupil Admission Number 2015/16	Pupil Admission Number 2016/17	Pupil Admission Number 2017/18	Pupil Admission Number 2018/19	Pupil Admission Number 2019/20
Year 7	51	50	60	60	60
Year 8	40	51	50	60	60
Year 9	41	40	51	50	60
Year 10	36	41	40	51	50
Year 11	40	36	41	40	51
TOTAL	208	218	242	261	281

- 1.9 On becoming state maintained, the school's admission arrangements will be required to comply with the Schools Admissions Code. The proposer has confirmed that any faith based priority for admissions will be measured through '*independently verifiable criteria, including Synagogue attendance, commitment to Jewish learning and volunteering within the Jewish Community*'.

Evidence to support the proposal

- 1.10 Appendix B sets out a list of evidence that the school has submitted as part of its proposal to become Voluntary Aided. To supplement this evidence, on the advice of the local authority, the proposer commissioned a local-authority led review of the school's effectiveness through the council's Barnet Partnership School Improvement (BPSI) service in May 2015. This review was led by an Ofsted trained inspector who visited the school and reviewed data and other information. This review is referred to in the report as the 'BPSI review'.

In turn, as part of its due diligence, the Council commissioned independent external educational advice and assistance from a serving non-Barnet headteacher. The educational advisor visited the school with one of the council's Learning Network Inspectors to meet the headteacher, governors, staff and pupils. This is referred to in the report as the 'educational advisor visit'.

- 1.11 The council also engaged independent technical advice from Price Waterhouse Coopers advisory service and from HB Public Law who worked with the school's governing body representatives to review financial and property related data and documents. In turn, the school proposer engaged lawyers, Stone King, to assist in developing the new proposed governance arrangements set out above.
- 1.12 In addition, the evidence submitted as part of the proposal was reviewed by council officers with expertise in school admissions, school

governance, special educational needs, schools accountancy, school improvement, and school premises.

Demand/need for this type of school in the local area

1.13 Menorah High School for Girls is located in London Borough of Brent. The school opened in 2001. The proposer advises that the school was opened in Brent only because of the inability to find a site in Barnet. Until 2015/16, 100% of pupils were Barnet residents and in 2015/16, one non-Barnet resident is enrolled.

1.14 The table below sets out the number of pupils on roll in each year group over the last four years.

	2013/14	2014/15	2015/16
Years 7-11			
Year 7	41	40	51
Year 8	36	42	40
Year 9	40	37	41
Year 10	14	40	36
Year 11	43	14	40
Total years 7-11	174	173	208
Sixth form			
Year 12	12	29	8
Year 13	19	12	25
Total sixth form	31	41	33
Total on roll	205	214	241

1.15 With 208 pupils currently in Years 7 – 11, the number of pupils in the school is very small for a secondary school. The proposal is to move towards 300 pupils in Years 7-11. In comparison, the lowest number in an existing Barnet maintained secondary school for Years 7-11 is 480 at St Michael’s and the highest number is 1,200 at Mill Hill . A comparison with other Jewish faith schools in Barnet are 750 pupils in Year 7-11 at Hasmonean and 900 at JCoSS.

1.16 The school proposes to admit 50 pupils to Year 7 in September 2016/17 rising to 60 pupils in 2016/17 and subsequent years. The school has admitted at least 40 pupils in Year 7 for the past three years. In relation to Year 8 the number has fluctuated around 40 for the past three years, the lowest being 37 in 2013/14 and the highest being 43 in 2014/15. The school has provided information on the number of parents applying for the last 4 years for Year 7 places and the number of pupils actually admitted into year 7. As with all schools, a higher number of applications than places does not always lead to the school being fully subscribed. For example, in 2012/13, although 55 families applied for a place, 38 pupils actually enrolled. However, 2015/16 saw a significant increase in demand for the school and as a consequence the school admitted an extra 10 students leading to an in-take of 50 girls. It is not yet clear whether this is

a sustained increase in demand for the school rather than a 'one-off bulge in demand.

- 1.17 Whilst it is not uncommon in newly established independent faith schools or newly established free schools for numbers to fluctuate while a school is established, the school has been operating since 2001. It could be argued that compared to other Barnet's schools which tend to operate at full capacity within each year group where there is strong parental demand, the pattern of enrolment at Menorah High School for Girls is less secure as an evidential basis of sustained demand. However, balanced against this, the pupil population in Barnet is rising and by 2019/20 the borough requires at least an additional 20 forms of entry at year 7, suggesting that demographic growth alone, will help sustain the school. The current independent school is fee paying whereas as a state maintained voluntary aided school, it is state funded. It is difficult to predict demand for a faith voluntary aided school, by looking at historical data for the former fee-paying independent school.

Ability to meet the high standards expected of state funded educational provision

- 1.18 The school was registered as an independent school with the DfE in 2002. Menorah High School for Girls is a high performing independent school. In 2014, 44% of A level students achieved A levels at grades AAB or higher in at least two facilitating subjects¹ which compares well with the 2014 average for schools in Barnet (23.3%). In 2014, 82% of GCSE students achieved 5+ GCSEs at grade A*-C including English and Maths GCSEs compared to a Barnet average of 67.5%. The school was overall judged to be 'good' by Ofsted at its last inspection in 2010, with the behaviour of pupils and quality of provision for pupils' spiritual, moral, social and cultural development judged as 'outstanding'.
- 1.19 The BPSI review, commissioned in view of the length of time that has elapsed since the last Ofsted inspection, concluded that the overall effectiveness of the school remains good, and noted many outstanding features. The review reported that the senior leadership is 'secure, dynamic, outward-looking and ambitious for further success' and is 'capable of leading the school to Outstanding'. The review also concluded that the Leadership and Management of the school, including governance is good and was considered a strength of the school. It was noted that leaders 'have a strong vision and commitment to providing the highest possible standards of education for the pupils...[leaders] know the school well and their thorough and accurate self-evaluation and carefully planned actions have resulted in tangible evidence of ongoing improvements in teaching, learning and achievement over time'. Although located in Brent, any future Ofsted inspection of the voluntary aided school will form part of

¹ Facilitating subjects include: Maths and further maths; Physics; Biology; Chemistry; History; Geography; Modern and classical languages; English Literature

the overall position for the proportion of Barnet schools in each Ofsted category.

- 1.20 The school's governing body undertook four governor training sessions earlier in the year and has provided an appropriate instrument of governance as part of its body of evidence.

Current Financial health of the proposer

- 1.22 The current financial arrangements of the proposer are set out in Appendix C (Exempt). This sets out a number of financial issues in the current arrangements. However, the proposer states that under the new proposed governance structure, any of the financial risks associated with the current arrangements will fall to the Foundation Trust. The proposer confirms that;

'No actual or potential liabilities of the present operating company will pass to the Governing Body but all assets owned and used by the present independent school will be transferred without cost to the Governing Body of the VA school. The Assets include all the school furniture and a suite of brand new computers. The existing contracts of the operating company shall be terminated immediately prior to the transfer to VA status, at the cost of the operating company. The Governing Body shall enter into any new contractual arrangements with existing contractors on the basis that the Governing Body is not liable for any historic liabilities of the operating company.'

- 1.23 The proposer also states that as the Foundation Trust will be granting a 125 year lease at a peppercorn rent to the Governing Body, the current arrangements and risks will not compromise the integrity of the future arrangement or impact on the future day to day operation of the school.

Projected financial health of the new voluntary aided school

- 1.24 A secondary school comprising of 240 or even 300 pupils would be unique in Barnet's experience of local authority maintained schools. According to information on the Department for Education website, there are not many secondary schools currently operating in England of the size proposed by Menorah High Schools for Girls. As school funding is based primarily on the number of pupils, ensuring that the school has a robust projected revenue budget has therefore been a particular focus of assessing this proposal.
- 1.25 The proposer has developed a 5 year projected revenue budget for the future operation of the voluntary aided school and the delivery of the core national curriculum. The submitted budget excludes the cost of staff employed to deliver Jewish Studies who will be employed by, and funded through the Foundation Trust. The submitted budget is based on the school's plan to grow slowly over the next four years with the aim having 281 pupils in Years 7-11 in the school by 2019/20 and 300 pupils in Years 7-11 by 2020/21.

- 1.26 From the information submitted by the proposer, the operation of the school and the delivery of the proposed secular and faith curriculum is dependent on a significant amount of voluntary donations (outlined below), a source of income that is not guaranteed.
- 1.27 The amount of voluntary donations assumed each year is £690k. This comprises of a £250k recharge to the submitted budget for activity related to Jewish Studies and £440k to fund Jewish Studies that will be provided through the Foundation Trust. In the submitted budget, the £250k recharge to be covered by voluntary donations balances the budget for the delivery of the national curriculum and school running costs. It amounts to between 12% and 14% of the submitted budget. The recharge assumes that an element of the cost of administrative and premises staff, premises costs, administrative supplies, professional services etc are attributable to the delivery of Jewish Studies.
- 1.28 In addition to the level of donation required to cover the recharge, the Foundation Trust will need to raise the £440k per year to fund Jewish Studies within the school timetable. Jewish Studies amounts to around 40% of the school timetable.
- 1.29 The amount of voluntary donations required to offer the full school timetable is a high risk. Unlike school funding through central government grant, voluntary donations, by their nature are not guaranteed income. Maintained schools cannot charge for **education within the school hours** (including the supply of material etc.) unless this falls within very limited prescribed conditions eg. Individual music lessons where parental consent has been obtained. DfE guidance '*Charging for school activities, Departmental advice for governing bodies, school leaders, school staff and local authorities October 2014* sets out the very limited circumstances under which maintained schools may charge and gives guidance on voluntary contributions. Nothing in legislation prevents a school governing body from asking for voluntary contributions for the benefit of the school or any school activities as long as no child is excluded from an activity simply because his or her parents are unwilling or unable to pay and parents are pressurised or harassed into paying these contributions.
- 1.30 The proposer has provided a copy of its charging policy which clearly sets out the school may not charge for education provided during school hours (including the supply of any materials, books, instruments or other equipment) or education provided outside school hours if it is part of the National Curriculum or part of Jewish Studies education. The Governing Body may ask parents/guardians of students at the School for voluntary contributions for the benefit of the school generally or to fund any specific school activities, including school visits. Furthermore the policy clearly sets that out that when making requests for voluntary contributions, the school must ensure that parents are not made to feel pressurised into paying, as any contributions are voluntary and not compulsory. No student should be treated differently or excluded from an activity or visit simply because his or

her parents/guardians are unwilling or unable to pay a voluntary contribution. This should be made clear to parents/guardians when any request for voluntary contributions is made.

- 1.31 Whilst the school's current experience of receiving parental, governor and other donations offers some reassurance, the school would, in future, be operating as a voluntary aided state maintained school. The proposer perceives that the risk of parents or other donors no longer wishing to donate once the school is state-maintained is low and is confident that the growth in pupil numbers required to generate the projected budget is realistic.
- 1.32 Unlike many of Barnet's existing faith schools that receive voluntary donations, there is no comparator two form entry non-faith based secondary school to offer reassurance that a full broad and balanced curriculum can be offered should donations not be received.
- 1.33 However, in Barnet, a small number of faith based voluntary aided schools are currently in, or at risk of, financial deficit after failing to secure sufficient voluntary donations and are undergoing restructuring to bring their budget into balance. The Council has had to financially assist some schools to meet redundancy costs to ensure they stand the best chance of remaining viable. Sensitivity analysis undertaken by the council's internal auditor demonstrates that small fluctuations in the level of donations has a significant impact on the outcome of the submitted budget forecast. For example, a 10% reduction in anticipated donations will begin to lead the submitted budget into deficit.
- 1.34 In response to these concerns, the proposer has set out a number of measures that would be taken or developed should donations not be as high as anticipated including a staff restructure and developing accommodation that could raise additional revenue through hall hire and lettings etc. The proposer has also confirmed that

'(the proposer) are conscious that should we find the Jewish Studies budget in deficit, we alone are responsible to reduce the overspend and implement any restructuring plan necessary. This means that the school has no expectation on the council to financially support any restricting/redundancies for a period of the at least 5 years from the point of transfer. The (independent charitable trust) commits to underwriting this risk.'
- 1.35 No legal documentation for a commitment has yet been received (see recommendation 2).
- 1.36 The proposer also has an ambition to potentially federate with other schools of a similar ethos that would, in future, enable to the school to share costs, such as administrative costs to increase the long term value for money.
- 1.37 Based on the Council's experience of funding a large number of schools via central government funding over many years, it is felt that the size, location and staffing structure of the school potentially pose significant financial

challenges in moving to voluntary aided status. Once a voluntary aided school, the school will have to provide for full time education for its pupils, based on a minimum number of school sessions and ensure it covers the basic curriculum, which includes covering the national curriculum. Growing to 300 pupils will help mitigate some of the financial risk.

Long term value for money

- 1.38 A comparison has been made between the potential cost of a pupil at Menorah High School for Girls to Barnet's Dedicated Schools Grant with the average cost per pupil across Barnet's existing secondary schools. The potential per pupil cost falls within the current range demonstrating that, despite its smaller size, on a cost per pupil place, Menorah High School for Girls is within local expectations. This, however, excludes those costs that would be met from voluntary contributions.
- 1.39 The school will diversify the local educational offer for parents and its intention to expand the number of places will contribute towards the growing need for additional secondary school places.
- 1.40 The main risk in relation to the long term value for money is reliance on voluntary donations to deliver the educational offer as described above.

Delivering the whole of the national curriculum to the expected high standard

- 1.41 The high attainment of its pupils demonstrates the strong educational offer that is currently being provided within the independent school structure. However, there are particular requirements of maintained schools including the requirement for teaching staff to be qualified and the statutory nature of the national curriculum that needs to be delivered within the budget envelope provided through state funds. The educational advisor visit identified a number of real strengths of the school and also some issues for the school to consider in relation to the ability to deliver the national curriculum within the budget provided through central government funds.
- 1.42 The staffing structure currently comprises of a very significant proportion of part-time staff which the school values as a significant strength of its ethos and is confident provides a secure base from which to offer the core curriculum. However, the educational advisor visit advised that this arrangement could potentially make timetabling for the delivery of the national curriculum unduly onerous as the school expands. The school has pledged to consider a balanced approach to seeking to appoint more full time staff moving forward.
- 1.43 The school's staffing structure relies on a number of unqualified teacher posts. There are 14 unqualified teachers among the school's teaching staff, representing around 30%. The school has submitted a plan and timetable for all unqualified teachers to become qualified– a requirement of maintained schools. For some staff, this will take several years to achieve. In the meantime, the propose has confirmed that the school's current governing body is satisfied as to the teaching competence and experience of all unqualified teachers. The school understands that there is a risk that

Ofsted may query the unqualified nature of some of the school's staff but believe that the educational outcomes achieved by its pupils and the quality assurance processes in relation to teaching and learning help to mitigate this risk in the short term whilst staff are qualifying.

1.45 The educational advisor visit recommended that the school undertakes a review of its staffing structure to more clearly articulate positions of responsibility and ensure lines of accountability are clear, and the ratio of numbers of staff to pupils is set at its optimum level.

1.46 The BPSI review and the subsequent visit found that the curriculum was broad and balanced with a few areas for development:

- Music – the school is preparing to expand its music offer once it becomes voluntary aided and the proposer confirms that the school will fully meet the national curriculum requirements for music.
- PE – provision is partly delivered in the lunch hour and currently, there is not enough evidence to demonstrate that pupils have sufficient opportunities for PE in line with the national curriculum. Students reported to local authority officers that they would appreciate better PE facilities. Improving PE provision was an action point in the last Ofsted inspection. However, the governors and staff are committed to increasing PE provision and have made good progress in this area since its last Ofsted inspection. The proposer has confirmed its intention to arrange 17 sessions of PE per week from January 2016 which will increase (to 20) from September 2016. The school has also recently purchased new equipment to establish more clubs etc for students.
- ICT for staff is less well developed and the school proposer has confirmed that some resources have been allocated within the budget projections to enable a phased investment as the school expands.

1.47 The requirement for the school to be able to deliver the breadth of the national curriculum to the expected high standard is closely linked with the financial health of the proposer see above. The submitted budget for the operation of the school (excluding Jewish Studies) funds the delivery of between 17 and 20 hours of lesson time to cover the national curriculum requirements. The remaining 9-11 hours a week relate solely to Jewish Studies, funded through the Foundation Trust. Should the £250k donations contained within the submitted budget and/or if the Foundation Trust does not receive sufficient donations to support the Jewish Studies, the submitted budget would provide for around 22 hours of schooling a week including break times. This would be significantly below other secondary schools in Barnet. However, if sufficient donations are received to support the current timetable, the school would be delivering 34 hours a week, in line with other schools.

- 1.48 There are no regulations in relation to the length of a school day although there is an expectation that children are offered a full time education. The only requirement for maintained schools, including voluntary aided schools is to offer 380 sessions a year over 190 days.
- 1.49 Within the state maintained sector, school improvement is increasingly delivered through school to school support. Through working within the Barnet partnership, the new voluntary aided school would benefit from experience and support of other good and outstanding Barnet secondary schools. And the school has much to offer to the Barnet partnership of schools itself and has expressed its intention to work in partnership with other Barnet schools to offer experience in Art from its outstanding Art department, offer support in pastoral care and behaviour and safety, and share guidance in distributed leadership.

Suitability: British Values

- 1.50 The BPSI review judged that the school demonstrates that it complies with the requirements as set out in the DfE's publication '*Promoting fundamental British values as part of spiritual, moral, social and cultural development. Departmental advice for maintained schools*'. The school, as an existing independent school is already required to comply with the British Values agenda by virtue of the Independent Schools Standards Regulations 2014.
- 1.51 However, there is much national debate about this aspect of Government policy and there is an increasing emphasis by Ofsted on British Values within school inspections. The Department for Education has confirmed that Ministers are in discussion with some representatives of the Charedi (strictly Orthodox) community who are concerned that meeting stricter accountability standards around issues like fundamental British values makes it difficult from them to provide education in line with the tenets of their faith. This matter has been discussed with the school proposer who is very clear that this does not represent the view of the school which has pledged to work with those who have been recognised by Ofsted for their excellent practice. The proposer has pointed to examples of schools with a Charedi character (e.g. Haskel school) which have achieved excellence in complying with the British Values agenda and has confirmed that the Governing Body will work with similar schools to ensure that the teaching and curriculum content conforms to best practice in the sector. Both the BPSI review and the educational advisor visit found the leadership team and governors to be a strength of the school.

Equalities Act

- 1.52 The proposer confirms that the school is compliant with the duties of schools as identified in the Equalities Act and that the school positively promotes equality of opportunity for all pupils. The school proposer confirms that complying with the duty to promote respect for all, irrespective of beliefs and attitudes is fundamental to the school's aims and ethos '*to enable students to becoming outstanding citizens within the Jewish and wider community*'.

- 1.53 The school's admission criteria meet statutory requirements and complies with the School Admissions code. The proposer states that the governing body of the voluntary aided school will ensure that any faith based priority for admission will be measured through **independently verifiable criteria**, including synagogue attendance, commitment to Jewish learning and volunteering with the Jewish community.
- 1.54 The statutory Admissions Code requires that oversubscription criteria is reasonable, clear, objective, procedurally fair and complies with relevant legislation. Criteria should not disadvantage unfairly children from particular social or racial groups or children with a disability or special educational needs. The school can have faith based oversubscription criteria, but its places must be offered to every child who applies, regardless of faith, if there are places available. In addition, the school must give priority to looked after children of the faith, before other children of the faith.
- 1.55 The Council should ensure that it has sufficient school places to meet the needs of its local area. Sufficient includes having a diverse base of schools to meet the diversity needs of its inhabitants.

Staff contracts

- 1.56 Staff employed at the voluntary aided school will be employed by the statutory body known as the Governing body of the Menorah High School for Girls. Staff employed for Jewish Studies will be employed by the Foundation Trust. The school provided a number of policies which are outlined in Appendix B. These policies were reviewed by Local Authority officers.
- 1.57 The proposer has provided example contracts for teachers and support staff that satisfy the requirements of a voluntary aided school. The submitted budget allows for staff to receive inner London weighting due to its location in Brent.

Premises: school buildings

- 1.58 The land and school buildings are owned by a charitable company limited by guarantee (to be known as the Menorah High School for Girls Foundation Trust). In order to provide long term security for the school's occupation, the Foundation Trust propose to grant a 125 year lease to the Governing Body. The rent under the lease will be peppercorn. The form of the lease will be in the style used by the local authority when granting a lease on conversion to an Academy.
- 1.59 The Foundation Trust has previously entered into a number of loan arrangements to fund the development of the school. The amount of such loans is less than the value of the site (see Appendix C Exempt).
- 1.60 The school commissioned an independent condition survey (10 Aug 2015) and report of the premises. The school has provided a costed and active plan of action for building works that equates to between £50k and £75k per annum. The school has provided evidence of a funding source, an

independent charitable trust (see Appendix C Exempt) in place to meet the requirements of the condition report. The independent charitable trust is prepared to enter into a guarantee to fund the planned works. The Council also arranged for its estates advisor to visit the school who was satisfied that the school is well managed and in line with expectations. The estates advisor was satisfied with the documents provided by the school in relation to premises outlined in Appendix B.

- 1.61 The proposal is for the school to accommodate additional pupils, starting in 2017/18. The proposer has submitted plans to provide additional accommodation and again, has confirmed that the costs of the work will be met by an independent charitable trust (Appendix C Exempt)

2 REASONS FOR RECOMMENDATIONS

- 2.1 The Council is required to make a determination of the proposal by Menorah High School for Girls within two months of the end of the statutory consultation by the school.

3 ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The alternative option open to the school proposer was to apply to join the state sector via the Free School route. This option was not pursued by the school.
- 3.2 The options open to the Council are set out in section 5.5 below.

4 POST DECISION IMPLEMENTATION

- 4.1 If the Council agrees the proposal, Menorah High School for Girls will begin the process to join the maintained sector as a Voluntary Aided school. The school would become voluntary aided with effect from 1st April 2016 and begin receiving public funds from that date.

5 IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

The quality of the education offer is at the heart of Barnet's continuing success as a place where people want to live, work and study. It plays a crucial part in making Barnet a popular and desirable place with many families attracted to the area by the good reputation of Barnet's schools. Excellent educational outcomes and ensuring children and young people are equipped to meet the needs of employers are key to deliver the Council's ambition set out in its Corporate Plan 2015-20 for all children to have the best start in life and for Barnet's schools to be amongst the best in the country, with enough places for all, and with all children achieving the best they can.

5.2 Resources (Finance & Value for Money, Staffing, Property, Sustainability)

5.2.1 On becoming a voluntary aided state maintained school, the school would be revenue funded through Barnet's allocation of central government grant (Dedicated Schools Grant - DSG). The Education Funding Agency has confirmed that the pupils at Menorah High Schools for Girls would attract DSG funding on entry to the maintained sector. However, there are two implications on Barnet's DSG that may impact on the overall DSG budget

Within Barnet's school funding formula, Barnet secondary schools are paid a slightly higher per pupil amount than the council receives in the DSG. Therefore for every new secondary school place, there is a slight additional cost to the overall Schools Budget that is not matched by increases in the DSG. This is the case for all new secondary places and is not unique to Menorah High School for Girls.

5.2.2 As any state maintained school grows, the additional pupils are funded through a local 'growth fund' within the DSG which is in effect, top sliced from the overall DSG. This is the case for all newly created school places and would apply to Menorah High School for Girls.

5.2.3 In relation to capital funding, the Council receives an annual allocation for the maintenance programme at state maintained schools. The allocation is not sufficient to remedy or repair Barnet's existing schools and many schools have to wait several years for remedial works. There is a waiting list for capital investment among Barnet's existing schools. Therefore Barnet's framework states that *'the school must demonstrate that it has sufficient financial resources to meet the financial responsibilities of any planned maintenance work for a 5 year period'*.

5.2.4 Please see paragraph 1.58 to 1.61 above in relation to the commitment to fund any planned maintenance and any building works to accommodate additional pupils.

The financial health of the proposer and school are set out above in paragraphs 1.22 and 1.23 above and in Appendix C (Exempt).

5.3 Staffing

There are no staffing implications for the council. Please see paragraphs 1.42 to 1.45, 1.56 and 1.57 for staffing issues in relation to the proposed voluntary aided school.

5.4 Premises

Please see paragraph 1.58 to 1.61 above.

5.5 Legal and Constitutional References

5.5.1 Constitution, Responsibility for Functions, Annex A, sets out the terms of reference of the Children, Education, Libraries and Safeguarding Committee including to be responsible for those powers duties and functions of the Council in relation to Children's Services (including schools)

Section 11(1A) of the Education and Inspections Act 2006 provides for the establishment of a new voluntary aided school without the consent of the Secretary of State. This is classed as a special case permitting a new maintained school against the usual academy presumption.

Schedule 2 of the 2006 Act and the School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 set out the process for establishing a new school. This confirms that the local authority who it is proposed should maintain the school is the decision maker. The Council has three options in relation to this matter, namely:

- (a) reject the proposals;
- (b) approve the proposals without modification, or
- (c) approve the proposals with such modifications as the authority think desirable, after consulting such persons as may be prescribed.

There are only limited circumstances in which the proposal can be made conditional on an event occurring. In relation to this matter, the only relevant conditions relate to the formation of a foundation trust meeting the requirements of s.23A of the School Standards and Framework Act 1998 and the making of any scheme relating to any charity connected with the school.

As part of the prescribed process, the proposer was required to consult such persons as it appears to it to be appropriate, must publish proposals with prescribed information and provide for a representation period. The Council must consider any consultation responses and representations when making its decision. The consultation responses are set out in Appendix E

5.5.2 As a result of the consultation and representation responses, including matters raised by the council, there are a number of modifications to the published proposal as set out in this report. These are

- a) Start date – the proposal contains a start date of 1st January 2016. The start date is now proposed to be 1st April 2016.
- b) Admission number – The proposal states that the Pupil Admission Number on the opening date will be 44. Paragraph 1.8 sets out the revised Pupil Admission Number for each year through to 2019/20.
- c) Admission criteria –the admission criteria has changed slightly from that in proposal – specifically the proposal states that a supplementary information form is required from sibling pupils as well as parents, this is not acceptable;
- d) The proposal refers to a potential federation with Menorah Grammar School for Boys. Menorah Grammar School for Boys is an independent school, and therefore a federation is not possible while this remains the case.
- e) Land arrangements – the proposal now is for the Foundation Trust to grant a 125 year Academy style lease to the Governing Body of the school.

5.6 Risk Management

The process has identified a number of risks associated with the proposal.

a) That the school is unable to sustain the curriculum offer within the resources available

The school's financial health is dependent on growing the number of pupils and continuing the collection of voluntary contributions. The school is confident that the parental and governor community will continue to financially support the school. Paragraph 1.47 sets out the number of school hours that voluntary donations through the Foundation Trust are proposed to fund. Any significant shortfall in donations could potentially have a significant impact on the delivery of the timetable. The school has identified some contingency measures it could take (paragraph 1.34 if the level of donations drops.

However, if despite these contingency measures, the school consistently is not able to deliver a balanced budget the consequences would be:

- The council would consider approving a licenced deficit if the issue was short term and there was a plan of action by the governing body to achieve a balanced budget (eg changes to staffing levels)
- Should a licenced deficit be refused or if a licenced deficit continued for longer than agreed, the council may conclude that there is evidence of poor financial management and the school could be deemed to be a 'school causing concern'. The council may then take action that leads it to exercise its powers under Section 66 of the 2006 Education Act which enables a local authority to suspend the governing body's right to a delegated budget by giving the governing body of the school notice in writing. This applies where a maintained school is eligible for intervention and the school has a delegated budget within the meaning of Part 2 of the School Standards and Framework Act 1998.
- There are a number of interventions available to the local authority and Secretary of State for schools causing concern and ultimately, the Secretary of State may direct a local authority to cease to maintain a school where that school is eligible for intervention other than by virtue of section 60A of the 2006 Act. (non-compliance with teachers pay and conditions). In these circumstances, the cost of redundancy and closure would fall to the local authority.

b) The level of voluntary donation assumed from each parent deters parents from choosing the school

On becoming voluntary aided, the school will cease to be fee paying and the educational offer will be free to all children. The budget assumes a level of voluntary donation from families to support Jewish Studies which

comprises a significant proportion of the curriculum. Whilst contributions/donations are voluntary, there is a risk that some families may be deterred from choosing the school

c) That the parental demand for the school reduces

One impact of a reduction in the number of pupils would initially be a reduction in central government funding. A fall in pupil numbers would result in a reduction in funding to the school and to the local authority. Given the size of the school, it is particularly susceptible to changes in parental demand and is less able than larger schools to withstand some turbulence in demand.

Across London, overall demand for secondary school places is projected to rise steeply. However, it remains a risk due to the nature of the offer and the specialised ethos of the school.

d) Parental demand in Barnet reduced and parental demand in Brent increases

There is a risk that in the future, should parental demand in Brent increase, that fewer, if any places are available to Barnet children. In these circumstances, Barnet's Dedicated Schools Grant would be financially supporting a school that does not benefit Barnet children.

The school has been operating since 2001 and the pattern of demand in relation to the residential address of pupils has been fairly constant since its opening. The council is not aware of any demographic changes that suggest this pattern would not continue.

e) Unqualified staff do not gain the appropriate qualification

The school has a much higher proportion of unqualified staff than would be expected in a state maintained school and the school has submitted an action plan for staff to become qualified. However there is a risk that staff do not gain the appropriate qualifications that either impacts on the educational offer or presents a potential reputational risk in terms of an adverse Ofsted inspection.

The risk that the school will not seek to support its staff to seek qualification is low. However, there is a remaining risk that the staff may not successfully achieve the necessary qualifications or that the school may require time to address any non-compliance among its staffing establishment.

f) Music and PE

Our assessment has identified that Music and PE are curriculum areas that require development. The proposer has put forward plans to address these aspects. There is a risk that the school fails to adequately address these areas. Music was identified for improvement in its last Ofsted inspection. This would present a potential reputational risk in terms of an adverse Ofsted inspection. The school has confirmed its intention to arrange 17 sessions of PE per week from January 2016 which will

increase (to 20) from September 2016. The school has also confirmed that it will budget appropriately for music.

- g) Insufficient resources available to adequately maintain the building
The proposer has provided evidence of the willingness of an independent charitable trust (Appendix C Exempt) to underwrite the improvements required to the building. There is a risk that this funding is not available or that the condition of the building is worse than specified.
- h) Other financial risk

Appendix C (Exempt) sets out the current financial health of the proposer.

5.7 Equalities and Diversity

Providing additional Jewish primary school places within the state sector will enable the Orthodox Jewish community to have a greater choice of secondary schools. The school is committed to working in partnership with families and the community to develop pupils to become responsible, committed members of the Jewish community and society at large and will work with other local schools to build links with the wider community and promote community cohesion. The school intends to work with schools of faith, different faiths and non-faith schools.

The school adopts an inclusive approach to girls with Special Educational Needs (SEN) and disabilities. The Local Authority inspection review reported that SEN was 'well led, well resourced, and outward-looking, with full commitment from the governors'.

The school is looking to buy in to the Barnet Kosher meal service from January. This will ensure FSM pupils in particular are catered for.

5.8 Consultation and Engagement

- 5.8.1 The school proposer has undertaken a statutory consultation for the period of 23rd June 2015 and the 24th July 2015. This was followed by a four week representation period between 8th October 2015 and the 5th November 2015. Appendix E contains the consultation responses. During the consultation period 106 responses were received by the school to the survey with 92% indicating they agreed with the proposals with 82% strongly agreeing. 6% of respondents disagreed or strongly disagreed (Appendix E i). Two respondents raised concerns over changes to school policy as a result of the school becoming voluntary aided, whilst one response raised a number of concerns in relation to a number of governance and curriculum issues in the current independent school, all of which have been considered within the due diligence process. Meetings were also held with parents, staff and the public (Appendix E ii), Appendix E iii) and Appendix E iv)
- 5.8.2 During the representation period, 59 responses were received in support of the proposal (Appendix E v). Those in support were mainly from parents of children at the school and welcomed the proposal for the school to become voluntary aided. The response against the proposal also came

from a parent and raised concerns in relation to a number of governance and curriculum issues in the current independent school, all of which have been considered within the due diligence process.

5.8.3 The council consulted the Schools Forum. Members of the Schools Forum questioned the reasons for a school located outside of the borough seeking to become a Barnet maintained school and raised concerns about the viability of the size of the school. As the item was seeking views, there was no decision required of the Forum.

5.9 Insight

The council has referred to data which identifies an overall shortfall in secondary school places in Barnet through to the end of the decade.

6 BACKGROUND PAPERS

Children, Education, Libraries and Safeguarding Committee *Framework for considering applications from independent schools applying to move into the maintained sector* 9th March 2015

<http://barnet.moderngov.co.uk/documents/s21699/Framework%20for%20considering%20applications%20from%20Independent%20Schools%20applying%20to%20move%20into%20the%20Maintained.pdf>