



Cabinet

Special Meeting

Date:	Wednesday, 17 December 2014
Time:	6.15 pm
Venue:	Committee Room 1 - Wallasey Town Hall

Contact Officer: Lyndzay Roberts
Tel: 0151 691 8262
e-mail: lyndzayroberts@wirral.gov.uk
Website: <http://www.wirral.gov.uk>

AGENDA

1. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Cabinet are asked to consider whether they have any disclosable pecuniary or non pecuniary interests in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

2. MINUTES

The minutes of the last meeting have been printed and published. Any matters called in will be reported at the meeting.

RECOMMENDATION: That the minutes be approved and adopted.

CHILDREN AND FAMILY SERVICES

3. REPORT DETAILING THE OUTCOME OF THE REPRESENTATION PERIOD REGARDING THE PROPOSED CLOSURE OF THE LYNDAL SCHOOL (Pages 1 - 222)

SUPPORT SERVICES

4. TRANMERE ROVERS' TRAINING GROUND PROPOSALS (Pages 223 - 234)

5. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR (PART 1)

To consider any other business that the Chair accepts as being urgent.

6. EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC

The following items contain exempt information.

RECOMMENDATION: That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined by the relevant paragraphs of Part I of Schedule 12A (as amended) to that Act. The Public Interest test has been applied and favours exclusion.

7. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR (PART 2)

To consider any other business that the Chair accepts as being urgent.

WIRRAL COUNCIL

CABINET

17TH DECEMBER 2014

SUBJECT:	<i>REPORT DETAILING THE OUTCOME OF THE REPRESENTATION PERIOD REGARDING THE PROPOSED CLOSURE OF THE LYNDALDE SCHOOL</i>
WARD/S AFFECTED:	ALL
REPORT OF:	DIRECTOR OF CHILDREN'S SERVICES
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR TONY SMITH
KEY DECISION?	YES

1.0 EXECUTIVE SUMMARY

- 1.1 In January 2014 Cabinet agreed to undertake a consultation on the closure of The Lyndale School. Following the consultation, which closed in June 2014, Cabinet agreed on the 4th September 2014 to publish formal statutory notices advising the public of the proposed closure of The Lyndale School.
- 1.2 In accordance with the statutory guidance, **the statutory notice (Appendix 1)** and **statutory proposal (Appendix 2)** were published on 22nd October 2014. The process allows a four week period for representations to be made on the proposals, during which time any person may make comments or objections on the proposals.
- 1.3 This report and the appendices set out all the relevant information that should be considered in making a decision on the proposal to close The Lyndale School. There is also reference to an Equalities Impact Assessment which has been undertaken and is available as **Appendix 6** and on-line. Measures required to mitigate the effect of the proposal, if agreed, are also outlined.
- 1.4 The Council is the decision maker in respect of the published proposal. The proposal can be approved, rejected, approved with modification or approved subject to meeting specific condition(s). **The statutory guidance is attached as Appendix 3.**
- 1.5 The closure of The Lyndale School is being considered because the viability of the school is compromised by its small size and falling roll. There are also two other primary schools in Wirral providing good and outstanding provision for children with complex learning difficulties.
- 1.6 This report recommends that Cabinet approves the proposal to close The Lyndale School with a modification to the closure date to 31st August 2016.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 The Lyndale School is a special school for primary aged children with Complex Learning Difficulties (CLD). The school is located in Eastham and serves the whole of Wirral. Most of the children currently attending the school have Profound and Multiple Learning Difficulties (PMLD). Ofsted's most recent inspection of the school in November 2012, judged that The Lyndale School was a good school, with outstanding features.
- 2.2 The future of The Lyndale School has been the subject of discussion for a number of years. This has created a degree of uncertainty for parents, pupils, staff and governors.
- 2.3 The Council has a statutory duty to ensure that there are sufficient school places in the area with fair access to educational opportunity to promote the fulfilment of every child's potential (Education Act 1996). Across all Councils in England over a period of years the range, number and needs of children and young people with special educational needs will change, so too will the resources to support the provision required to meet children and young people's needs. Therefore, it is important that our local schools change to meet changing needs, and changes in the numbers of children and young people. Consideration about how to meet the special educational needs of children and young people forms part of the Wirral Children and Young People's Plan 2014 – 16. This Plan sets out the Council's commitment to provide the very best outcomes for Wirral's children and young people.
- 2.4 The closure of The Lyndale School is being considered because the viability of the school is compromised by its small size and falling roll. There are also two other primary schools in Wirral providing good and outstanding provision for children with complex learning difficulties.
- 2.5 In January 2014, Cabinet agreed to undertake a consultation on the closure of The Lyndale School. In February 2014 this decision was referred to the Coordinating Committee which upheld the Cabinet's decision, and stated that the consultation should be meaningful, informed and transparent.
- 2.6 Following the consultation, which closed in June 2014, Cabinet decided on the 4th September 2014 to publish formal statutory notices advising the public of the proposal to close The Lyndale School. In October 2014 this decision was referred to the Coordinating Committee which resolved that the Cabinet minute 44 – 4 September 2014 (Outcome of The Lyndale School Consultation) be upheld.
- 2.7 The statutory notice (Appendix 1) and statutory proposal (Appendix 2) were published on 22nd October 2014. The process allowed a four week period for representations to be made on the proposal which closed on 19th November 2014.
- 2.8 21 responses were sent - 20 by electronic means (e-mail), 1 by post (written).

Responses	Total	Parent	Staff	Governor	Others
Elleray Park	0	0	0	0	0
Lyndale	6	3	0	1	2
Stanley	1	0	0	0	1
Other person	14	1	0	0	13

Breakdown of representations received by relationship to the three schools. "Other person" indicates respondent with a relationship to a different school or with no expressed direct relationship to any particular school.

- 2.9 The objections to the closure of The Lyndale School have a number of common themes. Section 3 below summarises the main points raised. Many points have been considered previously in the Cabinet Report dated the 4th September 2014. **A list of the issues raised is attached as Appendix 4.**

3.0 KEY THEMES WHICH HAVE EMERGED DURING THE REPRESENTATION PERIOD

Overall funding issues

- 3.1 Views were expressed that the financial arguments for the closure of the school are not convincing, that the high cost of educating the children who attend The Lyndale School will always be there regardless of the setting they attend and that additional funding could be used to support the school
- 3.2 *These and other issues have been responded to previously by the Council. Whilst it is acknowledged that the cost of supporting children with PMLD is high, the Council has demonstrated that continuing provision at The Lyndale School is not a viable option. The Council has reassured parents and carers that children will be supported in other appropriate CLD provision.*
- 3.3 *The Lyndale School is funded from the Schools' Budget. Any move to provide additional funding to The Lyndale School would need to be approved by the Schools Forum in the first instance. Supporting the school with additional funding, given the quality of alternative provision, would divert resources away from other special school / high needs provision in the borough.*
- 3.4 *Further details of viability and cost effectiveness is provided at paragraphs 4.14 to 4.19.*

Health and safety of pupils of The Lyndale School

- 3.5 Concerns have been expressed about the risk to the children of The Lyndale School, who are more vulnerable, mixing with more able children in a different school.
- 3.6 *The Council has given an assurance that the two primary schools for children with CLD would meet the needs of the children and that they would be as safe and protected as they currently are. Any gap in staff skills identified will be addressed by the two schools. Parents will be able to discuss their child's individual needs, and make sure there are thorough plans to support their child attending a different school or provision.*

Future of the staff at The Lyndale School

- 3.7 Concern was expressed about staffing ratios at the new schools, the future of the staff currently at The Lyndale School, and the loss of good parent/staff relationships at the school.
- 3.8 *Where possible, the Council will support the staff of The Lyndale School but it recognises that school governing bodies are ultimately responsible for the employment of staff. Should the other special schools require additional staff, and with the agreement of other governing bodies, staff may be given prior consideration for posts and/or consideration alongside other applicants received. Staffing ratios are a matter for the governing body of the school, taking account of the individual needs of the children and statutory requirements, including their Education, Health and Care Plans and Statements of Special Educational Needs.*

Assessment of children

- 3.9 Some concerns have been expressed about the current process to convert Statements of Special Educational Needs to Education, Health and Care Plans (EHCPs). These concerns were about the complexity of the childrens' medical needs and the new processes for EHCP assessments.
- 3.10 *EHCPs not only cover education but also health and social care needs. Work is ongoing with each individual family to convert their child's statement to EHCPs. It is recognised that both schools and families are working with new processes introduced by the Children and Families Act 2014 which came into force on the 1st September 2014. Some plans may take longer to be finalised as the Council wants to ensure that the plans reflect the needs of each child. Those details contained in EHCPs must be delivered by the agencies identified for all children regardless of the school or setting.*

Physical environment

- 3.11 The amount of available internal and external space at the other two primary schools for children with CLD has been raised as a concern.
- 3.12 *The Council and the receiving schools have given their assurance that pupils of The Lyndale School will have their needs appropriately met at their new school. Elleray Park School already has an agreement to expand, with work due to start on site shortly. Stanley School is a new school with generous space. The Council is in discussion with the school about the usage of the current facilities and the potential for further enhancements. Accommodation at both receiving schools will be ready for the children at the time they transfer. Both schools are accessible.*
- 3.13 *The organisation of the school is the responsibility of the head teacher.*
- 3.14 *In the Cabinet Report of 4th September 2014 a commitment was made that every effort would be made to relocate / recreate the sensory garden.*

Pupil numbers

- 3.15 Concerns have been expressed that The Lyndale School has been in a “managed decline” for some time, and that there could potentially be more children with CLD in the future.
- 3.16 *The Lyndale School has always been presented as an option for which parents can express a preference when making their choice. However, the number on roll has been falling for some time. The reducing numbers of children attending The Lyndale School means that it is not a viable option for the future. There is sufficient space in the two alternative schools for all current and projected children with CLD.*
- 3.17 *Classroom size and the organisation of the curriculum is the responsibility of the head teacher and governors.*

SEN Improvement Test

- 3.18 Concern has been expressed about the appointment of the independent consultant and the validity of the SEN improvement test.
- 3.19 *To demonstrate that the Council was taking into account an objective view, an Independent Consultant was engaged to apply the criteria of the SEN Improvement Test. The independent consultant engaged has considerable experience of both mainstream and special schools including children with PMLD. The consultant was recruited through a nationally recognised consultancy with a great deal of experience in special educational needs. The consultant was commissioned for 18 days to look at the options presented to Cabinet in January 2014 and to further consider any new options or variations to options which emerged throughout the consultation period.*
- 3.20 *Both Stanley School and Elleray Park School can cater for children with PMLD.*
- 3.21 *Section 4 of this report outlines how the proposal meets the SEN Improvement Test.*

The Consultation

- 3.22 Issues were raised about the consultation being too long and that responses provided were not taken seriously.
- 3.23 *The consultation was designed to ensure that it gave both those directly related to the school, and the wider community, every opportunity to respond. Officers of the Council attended each consultation meeting to listen to and note all comments and concerns raised, providing answers where it was possible to do so. Written responses were also considered, and responded to. A detailed account of the consultation process and a summary of responses were reported to Cabinet on the 4th September 2014. Members of the Cabinet were also provided with copies of the responses and the submitted petition.*

Comments on the proposal to close The Lyndale School

- 3.24 The key points raised were about parental choice of school if The Lyndale School were to close and the timing of the proposed closure of the school.
- 3.25 *If the decision to close the school is made, families will be invited to look at all the options available to meet the needs of their child. Every child will have an EHCP coordinator to support their move to another school and to ensure that all the specialist support for each child continues at their new school.*
- 3.26 *Following further concerns raised about the timing of the closure of the school, it is recommended that if the decision is taken to approve the proposal, **a modification is made so that the school closes on 31st August 2016.** This would mean that children currently in Year 5 would not transfer twice in one year.*

4.0 DECISION MAKERS GUIDANCE

- 4.1 The statutory guidance at **Appendix 3** requires Cabinet as the decision-maker in respect of the closure of The Lyndale School to have regard to a number of factors where relevant. The paragraphs below address the relevant sections in the statutory guidance which could be grounds for rejecting the proposal.

The Consultation and Statutory Process

- 4.2 A public consultation on the proposal to close The Lyndale School began on the 2nd April 2014 and ended on the 25th June 2014. Copies of the consultation document were distributed to the parents/carers, teachers and governors of the three primary schools for children with CLD. All Wirral head teachers and governing bodies were sent copies along with Trade Unions, Wirral MPs and Councillors, neighbouring Councils, diocesan bodies, Council departments and other interested persons. The document was also published on the Council's website for residents to gain access. In addition a series of six public meetings were held.
- 4.3 Officers also had meetings with Alison McGovern MP and the parent governors of The Lyndale School to explore the feasibility of options.
- 4.4 Meetings were held separately with the staff and governors of each of the three primary schools for children with CLD and also with the five head teachers of the five schools, both primary and secondary, for children with CLD.
- 4.5 Members of the Council also took an opportunity to visit the special schools for children with CLD over a period of two days (16th and 17th June 2014), and some members visited on other occasions.
- 4.6 The statutory notice was published on 22nd October 2014. The representation period ran for the required 4 weeks and the published Statutory Notice (**Appendix 1**) and Statutory Proposal (**Appendix 2**) contained all the required information.
- 4.7 Representations received are outlined above and copies of the representations have been provided to Members. A redacted copy of the responses was placed in the Members Room on 5th December 2014.

- 4.8 The consultation, statutory notice, proposal, and representation period meets statutory requirements. This is not grounds to reject the proposal.

Considering views expressed during the Consultation

- 4.9 The responses received during the consultation were analysed and reported to Cabinet on 4th September 2014, Cabinet also received full copies of the responses and the petition that were submitted as part of the consultation. The report of 4th September 2014 also detailed how the various options were assessed against the SEN Improvement Test.
- 4.10 The views expressed in the consultation period and throughout the process have been taken into account. This is not grounds to reject the proposal.

Education Standards and diversity of schools

- 4.11 Should the decision be taken to approve the proposal, there are two other primary schools in Wirral with good and outstanding provision for children with complex learning difficulties.
- 4.12 The table on page 6 of the Statutory Proposal (**Appendix 2**) details the most recent Ofsted judgments of the primary schools for children with CLD within Wirral.
- 4.13 There is good quality alternative provision for children with CLD within Wirral. There are also other primary special schools in the wider region, providing a diverse range of good quality provision. This is not grounds to reject the proposal.

Viability and cost effectiveness

- 4.14 The closure of The Lyndale School is being considered because the viability of the school is compromised by its small size and falling roll which impacts on its sustainability for the future.
- 4.15 A new national system of funding was introduced by the Department for Education in 2013 for the funding of pupils with High Needs in schools. Under the new system, each school receives an amount of £10,000 per place, with an additional “top-up” based on the needs of the individual pupil. This is called “Place Plus” funding.
- 4.16 The new funding arrangements apply to all schools, including the three existing primary special schools for children with CLD in the Wirral area. However, the impact on The Lyndale School will be significantly greater than the other two schools, Elleray Park School and Stanley School. This is because there is a greater difference at The Lyndale School between the number of places and the number of pupils, and because it is a small school.
- 4.17 For the 2014-15 financial year The Lyndale School set a balanced budget of £743,345 based on funding for 40 places, when it had 23 pupils on roll at January 2014 Census. Any single place reduction will represent a loss of £10,000 to the base budget for the school. Therefore any future reduction in place funding to 23 pupils

(the number of pupils on roll), would result in the school receiving a budget which is £170,000 less than currently.

- 4.18 Taking into account these figures the school's budget shortfall would increase by a similar amount each year, unless action was taken to reduce costs. Staffing costs are the highest proportion of the school's budget and reductions would need to be made where possible; this is likely to impact on the effective running of the school.
- 4.19 The issues around viability and cost effectiveness are not grounds to reject the proposal.

Equality Duty and Community Cohesion

- 4.20 An equality impact assessment has been completed and details the measures that will be taken to ensure that the Council pays due regard to the Public Sector Equality Duty (PSED). This is available on the Council's website. Community users of the school have been identified and if the proposal is approved the Council will work with the community users to help them find suitable facilities.
- 4.21 There are two other primary schools serving the Wirral community providing good and outstanding provision for children with complex learning difficulties. This is not grounds to reject the proposal.

Travel arrangements

- 4.22 The Council provides free home to school transport to children attending The Lyndale School, based on an assessment of the child's needs. If the proposal to close the school is approved, children will continue to be provided with free home to school transport to their alternative school placement. The proposal is unlikely to result in any increase in car use overall.
- 4.23 The travel section on page 7 of the Statutory Proposal (**Appendix 2**) provides further anonymised details of the current and potential journeys undertaken by the children currently on roll at The Lyndale School. This is not grounds to reject the proposal.

Land and buildings

- 4.24 Ellaray Park and Stanley Schools both provide suitable outdoor space. As part of any transfer process, the possibility of relocating / recreating the sensory garden currently at The Lyndale School will be evaluated. This is not grounds to reject the proposal.

Range of provision and the SEN improvement test

- 4.25 When considering any reorganisation of provision that the Council considers to be reserved for pupils with special educational needs, including that which might lead to children being displaced, it is necessary to demonstrate how the proposed alternative arrangements are likely to lead to improvements in the standard, quality and/or range of educational provision for those children.

- 4.26 Both Stanley and Elleray Park Schools are schools which cater for children with CLD including children with PMLD and provide full time education provision. As the Independent Consultant's report states both schools have received good or outstanding Ofsted inspections and Ofsted would suggest that the standard and quality they provide is at least as good if not better than The Lyndale School. The provision at both schools provides for a range of special needs and PMLD is part of that provision. Both schools can provide flexible and individual provision to their pupils depending on their needs at any given time. The high quality of provision at these schools covers a range of areas including, achievement of pupils, quality of teaching, behaviour and safety of pupils, leadership and management of the schools and overall effectiveness. These are key national areas of judgement which Ofsted recognise as good or outstanding. These Ofsted judgements also recognise that both schools offer a broad and balanced curriculum for all their children.
- 4.27 Families expressing an interest in these schools will be offered an opportunity to visit the schools to see for themselves what is on offer. Both schools offer Foundation 1 places and extended school provision in terms of after school and holiday clubs. Families can also consider alternative educational provision that is available in the wider area. Each child will have an EHCP coordinator to support their move to another school and to ensure that all the specialist support for each child continues at their new school.
- 4.28 Both schools have very experienced and trained staff and where there are training needs identified in the support of the children of The Lyndale School both schools and the Council have given their commitment to meet these training needs. The governing bodies of both schools will ensure that any training needs gaps are closed as part of any transition to the school should the decision to close The Lyndale School be taken.
- 4.29 Independently of the proposal to close The Lyndale School, capital works are currently being planned for Elleray Park School to further enhance the existing provision there. Stanley School is a newly built school with generous space and facilities to cater for all the needs of children with CLD, including children with PMLD. The Council is in discussion with the school about the usage of the current facilities and the potential for further enhancements.
- 4.30 Work is underway with the families of The Lyndale School to convert the children's statements of special educational needs to the new Education, Health and Care Plans. Should the decision be made to close the school further work will be undertaken to name an appropriate school in the individual plans of each child.
- 4.31 The proposal is about primary provision. Secondary school and 14-19 provision is already available through other schools and providers.
- 4.32 The SEN Improvement Test has been met. The provision described is likely to lead to the standard and quality of education provision. These are not grounds to reject the proposal.

School capacity

- 4.33 There is alternative specialist Wirral provision for primary aged children with CLD at Stanley School, Pensby and at Elleray Park School, Wallasey. Pages 2, 3 and 4 of the Statutory Proposal (**Appendix 2**) provide further details about pupil numbers and capacity at the schools.
- 4.34 Taken together, the capacity of Elleray Park and Stanley School would give sufficient places across the two schools to meet the needs of all existing and future projected Wirral children with CLD. This is not grounds to reject the proposal.

Successful / Popular Schools presumption for approval

- 4.35 Should the proposal be agreed, there are two popular and successful primary special schools for children with CLD in Wirral.

5.0 RELEVANT RISKS

- 5.1 If The Lyndale School's future is not determined there is a danger that its financial position would worsen as a consequence of its small roll and ultimately impact on the quality of education available at the school.
- 5.2 If a decision is not made by Cabinet by 14th January 2015 then the decision on the proposal will revert to the Schools Adjudicator.

6.0 OTHER OPTIONS CONSIDERED

- 6.1 Under the Department for Education (DfE) guidance a proposal can be approved, rejected, approved with modification or approved subject to meeting specific condition(s).
- 6.2 The statutory notice proposed a closure date of 31st December 2015 for The Lyndale School. Considering the representations made during this period, it is now recommended that a modification is made to the proposal to close the school on the 31st August 2016.

7.0 CONSULTATION

- 7.1 A public consultation on the proposal to close The Lyndale School began on the 2nd April 2014 and ended on the 25th June 2014. Copies of the consultation document were distributed to the parents/carers, teachers and governors of the three primary schools for children with Complex Learning Difficulties (CLD). All Wirral head teachers and governing bodies were sent copies along with Trade Unions, Wirral MPs and Councillors, neighbouring Councils, diocesan bodies, Council departments and other interested persons. The document was also published on the Council's website for residents to gain access.

- 7.2 Cabinet decided on 4th September 2014 to publish formal statutory notices advising the public of the proposed closure of The Lyndale School.
- 7.3 In accordance with the statutory requirements, a four week representation period ran from 22nd October 2014 until 19th November 2014. During this period the views of all interested parties were sought. A review of key points made in the representations can be found in section 2 of this report. A set of redacted representations are provided as Appendix 5. An set of unredacted representations has been provided to Members of the Cabinet.

8.0 OUTSTANDING PREVIOUSLY APPROVED ACTIONS

- 8.1 The Coordinating Committee dated the 2nd October 2014 agreed that the Director of Children's Services ensure that Education, Health and Care Plans for all pupils at The Lyndale School are completed by 31st October 2014.

9.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 9.1 Groups have been identified as community users of The Lyndale School that may be affected by this proposal if it is approved. These are set out on page 4 of the Proposal.
- 9.2 If the proposal to close the school is approved following the completion of the statutory processes, the Council will work together with community users of the building to help them find alternative facilities to meet their needs.

10.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 10.1 The Lyndale School is funded from the Schools' Budget.
- 10.2 In 2014-15 The Lyndale School has set a balanced budget based on funding for 40 places and 23 pupils on the school roll. A future reduction in place funding to 23 pupils would result in the school receiving a budget which is £170,000 less than the current budget. In future years, if the school did not reduce expenditure its deficit would increase year on year. The position when this is introduced is not sustainable without additional resources being identified or impacting on the remaining special schools.
- 10.3 Staffing: The Lyndale School currently employs 30 staff (21.21 FTE) teachers, teaching assistants and support. If the school closes their employment would cease. It is likely that successor schools would need to recruit additional staff to accommodate the needs of pupils transferring. Where possible the Council will support the staff in seeking employment.
- 10.4 Assets: If the school closed the site would be declared surplus and would be considered for other purposes.

11.0 LEGAL IMPLICATIONS

- 11.1 The representation process has been designed to meet the necessary statutory requirements.
- 11.2 The Cabinet is the “Decision-Maker” in respect of the closure proposal for The Lyndale School. The Decision-Maker has to take account of the statutory guidance issued by the Secretary of State before reaching a decision.
- 11.3 All determinations (rejected and approved – with or without modifications) must give reasons for such a decision being made. Within one week of making a determination the decision-maker must arrange for the decision and the reasons behind it to be published on the website where the original proposal was published and arrange for statutory bodies to be notified as detailed in the guidance.

12.0 EQUALITIES IMPLICATIONS

- 12.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?
 - (a) Yes and impact review can be found as **Appendix 6** and via the following link:

<https://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-april-2014/eias-families-wellbeing>

13.0 CARBON REDUCTION AND ENVIRONMENTAL IMPLICATIONS

- 13.1 If a school closes or there is an amalgamation of schools the relocation of pupils to other existing schools is likely to reduce the energy consumption of the whole school estate across the borough.

14.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

- 14.1 Any alteration or addition to school premises would require relevant planning permissions and building control approval.

15.0 RECOMMENDATION/S

- 15.1 The Director of Children’s Services recommends that:

Following careful consideration of all relevant representations, information, details and matters arising in respect of the proposal, which includes but is not limited to the:

- a. Council's statutory duty to ensure that there are sufficient school places in Wirral with fair access to educational opportunity to promote the fulfilment of every child's potential;
- b. statutory guidance (which includes grounds for rejecting the proposal);
- c. statutory process that has been followed;
- d. SEN Improvement Test;
- e. Equality Impact Assessment;
- f. size and falling roll of The Lyndale School;
- g. provision of two other primary schools in Wirral providing good and outstanding provision for children with complex learning difficulties;
- h. representations and responses received to the consultation;
- i. financial issues, implications and representations; and
- j. information, details, implications and issues set out within this report and its appendices,

Cabinet approves the proposal to close The Lyndale School with a modification to the closure date to 31st August 2016.

16.0 REASON / S FOR RECOMMENDATION/S

- 16.1 The Council has a responsibility to manage resources effectively for all schools and the school population. We would like to affirm our continued intention to work positively with the children and families affected by any recommendations, and reassure parents of our continued commitment to their child's wellbeing and education.
- 16.2 The closure of The Lyndale School is being approved with a modification to its closure date because the viability of the school is compromised by its small size and falling roll. There are also two other primary schools in Wirral providing good and outstanding provision for children with complex learning difficulties.
- 16.3 The proposal has met the requirements of the SEN Improvement Test as outlined in the report to Cabinet on the 4th September 2014.

REPORT AUTHOR: **Julia Hassall**
 Director of Children's Services
 Telephone (0151 666 4288)
 email: juliahassall@wirral.gov.uk

APPENDICES

- Appendix 1** – The Statutory Notice.
- Appendix 2** – The Statutory Proposal.
- Appendix 3** – Statutory Guidance
- Appendix 4** – A detailed list of the issues raised during the representation period
- Appendix 5** – Redacted Representations
- Appendix 6** – Equality Impact Assessment

BACKGROUND PAPERS/REFERENCE MATERIAL

No additional reference material has been used in the construction of this report.

BRIEFING NOTES HISTORY

Briefing Note	Date

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet	16th January 2014
Coordinating Committee	27th February 2014
Cabinet	4th September 2014
Coordinating Committee	2nd October 2014

WIRRAL COUNCIL
EDUCATION AND INSPECTIONS ACT 2006

PROPOSAL TO CEASE TO MAINTAIN THE LYNDALE SCHOOL

Notice is given in accordance with section 15(1) of the Education and Inspections Act 2006 that Wirral Council as the local education authority ("the Authority"), Town Hall, Brighton Street, Wallasey, Wirral, CH44 8ED proposes to discontinue the Lyndale School, Lyndale Avenue, Eastham, Wirral, CH62 8DE on 31st December 2015.

Parents of pupils on roll at the Lyndale School at 31st December 2015 will be given an early opportunity to express a preference for an alternative school. There is alternative provision for primary aged children with Complex Learning Difficulties at Stanley School, Pensby and at Elleray Park School, Wallasey. Parents may also wish to consider a place at other schools where this is appropriate. Each family would work closely with a key worker to ensure that transition to the child's new school is as smooth as possible.

The Council provides home to school transport for Wirral pupils attending the Lyndale School and this will continue to their new school. The proposal is unlikely to result in any increase in car use.

This Notice is an extract from the complete proposal. Copies of the complete proposal can be obtained from: the Council's website; or on paper or CD-ROM by writing to the address below.

Within four weeks from the date of publication of this proposal, i.e. by 19th November 2014, any person may object to or make comments on the proposal by sending them to Julia Hassall, Director of Children's Services, Hamilton Building, Conway Street, Birkenhead, CH41 4FD.

Signed:



Publication Date: 22nd October 2014

Explanatory Notes

- 1) The purpose of this notice is to notify interested parties of the proposal to close the Lyndale School and to advise parents of pupils who attend the Lyndale School of alternative schools where their children may be educated.
- 2) The Authority's information booklets for parents are available on request from the Children and Young People's Department by calling 0151 606 2020 during office hours, or on-line at: www.wirral.gov.uk/schooladmissions
- 3) The complete proposal is available on-line at www.wirral.gov.uk/my-services/council-and-democracy/have-your-say/consultations/current-consultations/lyndale-school
- 4) The outcome of the four week representation period will be reported to Council's Cabinet, who are the decision makers on the proposal.

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Proposal to cease to maintain The Lyndale School Complete Proposal

Name and contact details of the Local Authority or governing body publishing the proposal

Wirral Council, Town Hall, Brighton Street, Wallasey, Wirral, CH44 8ED

Name, address and category of the school proposed for closure

The Lyndale School, Lyndale Avenue, Eastham, Wirral, CH62 8DE.
This is a Community Special school.

Proposed closure date

Proposed date of closure is 31 December 2015.

Objectives, reason for closure and why closure of the school is considered necessary

The proposal is to close The Lyndale School with effect from 31 December 2015.

The Lyndale School is a community special school for primary aged boys and girls with Complex Learning Difficulties (CLD). CLD includes Profound and Multiple Learning Difficulties (PMLD).

The school is located in Eastham and serves the whole of Wirral. Ofsted's most recent inspection of the school in November 2012, judged that The Lyndale School was a good school, with outstanding features.

The closure of The Lyndale School is being considered because the viability of the school is compromised by its small size and falling roll which impacts on its sustainability for the future.

A new national system of funding was introduced by the Department for Education in 2013 for the funding of High Needs pupils in schools. Under the new system, each school receives an amount of £10,000 per place, with an additional "top-up" based on the needs of the individual pupil. This is called "Place Plus" funding.

The new funding arrangements apply to all schools, including the three existing primary special schools for children with CLD in the Wirral area. However, the impact on The Lyndale School will be significantly greater than the other two schools, Elleray Park School and Stanley School.

This is because there is a greater difference at The Lyndale School between the number of places and the number of pupils, and because it is a small school.

	Elleray Park		Lyndale		Stanley		Total	
	Places	Pupils	Places	Pupils	Places	Pupils	Places	Pupils
2011/12	75	85	45	28	90	86	210	199
2012/13	75	91	45	25	90	91	210	207
2013/14	85	92	40	23	90	98	210	213
2014/15	90		40		90		220	

January School Census Pupil Numbers and Places for the last three years

For the 2014-15 financial year The Lyndale School set a balanced budget of £743,345 based on funding for 40 places, when it had 23 pupils on roll at January 2014 Census. Any single place reduction will represent a loss of £10,000 to the base budget of specialist SEN provision for the school. Therefore any future reduction in place funding to 23 pupils (the number of pupils on roll), would result in the school receiving a budget which is £170,000 less than currently. This is not sustainable.

Taking into account these figures the school's budget shortfall would increase by a similar amount each year thereafter.

It is also the case that there are two other primary schools in Wirral, namely Elleray Park School and Stanley School, providing good and outstanding provision for children with complex learning difficulties (CLD).

Pupil numbers and admissions

	F1	F2	Y1	Y2	Y3	Y4	Y5	Y6	Total
October 2014	3	1	3	2	3	1	6	2	21
Boys	2	0	1	2	3	1	2	1	12
Girls	1	1	2	0	0	0	4	1	9
December 2015	0	3	1	3	2	3	1	6	19
Boys	-	2	0	1	2	3	1	2	11
Girls	-	1	1	2	0	0	0	4	8

Number in each year group in December 2015 assumes that all current pupils remain on roll, that no new children are admitted to F1 (Nursery) in September 2015, and that no further children join or leave other year groups from October 2014 onwards.

Details of the schools at which displaced pupils will be offered places

If the proposal is approved following the completion of the statutory process, parents of pupils who will be on roll at The Lyndale School at the time the school is due to close will be given an early opportunity to express a preference for an alternative school. The Council considers that the need for school places for children with CLD can be met by other schools in the area (as referred to below) which have the capacity to accommodate any displaced pupils from The Lyndale School.

There is alternative specialist provision for primary aged children with CLD at Stanley School, Pensby and at Elleray Park School, Wallasey.

Elleray Park School

Elleray Park School in Wallasey will be able to accommodate up to 110 pupils through already agreed building work to address sufficiency and suitability issues at the school. This is due to commence on-site in Spring 2015 and be completed by September 2015. The school caters for primary aged children with CLD. The school has some potential to expand further if required in future.

Stanley School

In September 2013 Stanley School moved into a new purpose built premises co-located with Pensby Primary School. All access issues from the former building have been resolved and the school can accommodate children with a full range of CLD. Stanley School can accommodate at least 110-120 pupils and the school has some potential to expand further if required in future.

School	NOR Oct 2014	Estimated NOR Dec 2015*	Capacity Dec 2015
Elleray Park	93	99	110
Stanley	98	99	110-120

*Actual number on roll (NOR) at December 2015 may differ as pupils may leave and join schools during the academic year.

Taken together, the capacity of Elleray Park and Stanley School would give sufficient places across the two schools to meet the needs of all existing and future projected Wirral children with CLD.

If the proposal is approved after the statutory processes have been followed, children on roll at The Lyndale School would be assigned a designated key worker, from the point the decision is made, to work with the family to ensure that transition to an alternative school is as smooth as possible. Parents may also wish to consider a place at other schools where this is appropriate. No interim arrangements would be required if the proposal to close the school is approved.

Schools in other areas

In addition to the schools named above, there are maintained special schools in nearby authorities for primary aged children with a range of Complex Learning Difficulties (CLD).

Abbot's Lea School, Beaconsfield Road, Woolton, Liverpool, L25 6EE
Bluebell Park School, Cawthorne Walks, Southdene, Liverpool, L32 3XP
Dee Banks School, Dee Banks, Sandy Lane, Chester, Cheshire, CH3 5UX
Dorin Park School and Specialist SEN College, Wealstone Lane, Upton, Cheshire, CH2 1HD
Hebden Green Community School, Woodford Lane West, Winsford, Cheshire, CW7 4EJ
Hinderton School, Capenhurst Lane, Whitby, Cheshire, CH65 7AQ
Merefield School, Westminster Drive, Southport, PR8 2QZ
Millstead School, Old Mill Lane, Liverpool, L15 8LW
Peterhouse School, Preston New Road, Churchtown, Southport, PR9 8PA

Princes School, Selbourne Street, Liverpool, L8 1YQ
Rosebank School, Townfield Lane, Barnton, Northwich, Cheshire, CW8 4QP
Rowan Park School, Sterrix Lane, Litherland, Bootle, L21 0DB
The Russett School, Middlehurst Avenue, Weaverham, Northwich, Cheshire, CW8 3BW

Parental choice

The Council aims to meet parental preferences for a Community or Voluntary Controlled school as far as possible provided that there are vacant places in the preferred school. In the case of Voluntary Aided schools and Academies, the governing body of those types of school decides the criteria for admission to their particular school, and applications for such schools will be co-ordinated by the Council, however the decision as to whether a place can be offered will be made by the relevant governing body and not the Council.

Impact on the community

Community (non-school) use of The Lyndale School

The following groups have been identified as community users of The Lyndale School that may be affected by this proposal if it is approved.

The Mulberry Centre - A Cheshire-based day care centre for adults with learning difficulties. Uses the hydrotherapy pool between 12 and 1pm, two days a week in term time, 2 service users and approximately four staff in attendance.

Eastway - A Cheshire-based NHS Trust unit for adults with learning difficulties. Uses the hydrotherapy pool between 12 and 1pm two days a week in term-time. 3 service users and approximately four staff in attendance.

Eastham Day Centre - A Wirral-based day centre for adults with learning difficulties. Uses the hydrotherapy pool between 12 and 1pm one day a week in term-time. 2 service users and approximately 4 staff in attendance. Centre has on-loan use of The Lyndale School specialist bikes during summer holidays. Service users attend school drama productions.

Aquababies Swimming Club - Use the hydrotherapy pool outside school hours in term-time only.

Wirral Autistic Society (Raby Hall) – Carries out gardening work at the school as part of their programme for autistic adults.

Wirral Livewell Partnership – Have held a “health and well being” day during the summer holidays.

South Wirral High School - Students in Y10 to Y13 on a Health and Social Care course visit the school, one afternoon, twice a month to obtain course-related experience of communication and activities with children with learning difficulties. Up to 8 students, accompanied by a teaching assistant.

If the proposal to close the school is approved following the completion of the statutory processes, the Council will work together with community users of the building to help them find alternative facilities to meet their needs.

Extended school use of The Lyndale School

Early Years and Preschool

The age range of the Lyndale school includes Foundation 1 (nursery) places. Ellera Park and Stanley Schools also offer places for children in this age group.

Afterschool and holiday clubs

The Lyndale School operates an afterschool club one day a week in term-time. A playscheme operates for three weeks in the summer holidays.

At the alternative schools it is suggested that children may attend if the proposal to close the school is approved, Ellera Park School has after-school clubs three days a week in term-time. A playscheme operates for three weeks in the summer holidays. Stanley School has after-school clubs on two days a week in term-time. A playscheme operates for two weeks in the summer holidays, and usually also for one week in the Spring break (Easter).

An Equality Impact Assessment is available on-line at www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-april-2014/eias-families-wellbeing

Balance of denominational provision

Not applicable as the school does not have a religious character.

Rural primary schools

Not applicable as the school is not a rural primary school.

Maintained nursery schools

Not applicable as the school is not a maintained nursery school.

Provision for 16-19 year olds

Not applicable as the school is a primary school.

Special educational needs (SEN) provision

Both the alternative primary schools (Ellera Park and Stanley School) can cater for children with CLD and have received good or outstanding in their most recent Ofsted inspection reports in relation to their educational provision.

	Elleray Park School	The Lyndale School	Stanley School
Date of inspection	December 2010	November 2012	April 2013
Achievement of pupils	Outstanding	Good	Good
Quality of teaching	Outstanding	Good	Good
Behaviour and safety of pupils	Outstanding	Outstanding	Outstanding
Leadership and management	Outstanding	Good	Outstanding
Overall effectiveness	Outstanding	Good	Good

If the proposal to close the school is approved following the completion of the statutory processes, children will continue to have access to an educational, therapeutic and developmental environment that will meet their specific needs. Children and their families will have access to a range of multi-agency staff, including teachers, learning support staff, therapists and social work support to maximise each child's development.

Holistic, multi-agency assessments/meetings have been held at the Lyndale School for all the children whose parents would like them. The purpose of these meetings was to collate the information available from different sources, i.e. Education, Health and Social Care, to ensure both parents and the Council have a clear up-to-date picture of the needs of each child. The Council's Principal Educational Psychologist and members of the Council's SEN Team have met with the headteacher and parents along with NHS Continuing Care staff as appropriate. The assessment information is being collated into draft Education, Health and Care Plans (EHCPs) under the new SEND Regulations which came into force from 1st September 2014. The EHCPs will contain the most current information about each child and will, over time, replace the current SEN statement provided by the Council. The EHCPs will be updated as necessary using the annual review process.

An independent Consultants report was commissioned to consider the following in relation to the possible options of change in relation to the Lyndale School. The report takes into account:

- Viability and sustainability
- Quality and standards
- Diversity and pattern of parental preference
- Pupil numbers
- Financial implications and value for money
- SEN Improvement Test

The independent Consultants report is part of the complete proposal.

Both Elleray Park School and Stanley School are able to meet the needs of the range of children with CLD. The schools have very good relationships with all their parents working alongside them in promoting their children's welfare

and education. The schools can cater for the recreational needs of children particularly in relation to swimming and outdoor space. Elleray Park and Stanley Schools both provide excellent nursing support and any additional support required is provided to each child according to their individual needs. Both schools have the capacity to expand further if required to meet new demand in the future and like all good special schools have the ability and capacity to offer a flexible curriculum in terms of learning, environment, social mobility and health support. The schools will offer, by virtue of their size and future sustainability, a greater opportunity for children to mix with their peers and to experience a broad and balanced educational offer.

Travel

The Council provides free home to school transport to children attending The Lyndale School, based on an assessment of the child's needs. If the proposal to close the school is approved after the statutory processes have been followed, children will continue to be provided with free home to school transport for children to their alternative school placement. The proposal is unlikely to result in any increase in car use overall.

	The Lyndale School	Elleray Park School	Stanley School
A	6.8	2.9	6.1
B	5.8	4.5	5.0
C	10.2	2.1	6.8
D	12.8	8.9	5.2
E	5.1	5.1	5.5
F	8.6	1.2	6.8
G	6.7	5.3	3.6
H	5.4	4.9	5.0
I	10.6	4.3	5.3
J	7.7	4.4	4.6
K	0.8	10.3	8.4
L	7.3	12.1	4.0
M	11.7	7.8	4.6
N	10.1	3.7	5.3
O	7.9	3.7	5.0
P	2.1	7.6	8.4
Q	6.6	5.5	3.9
R	0.9	9.6	9.1
S	4.1	5.7	6.8

	Under 3 miles
	3 to 6 miles
	More than 6 miles

Anonymised home to school distances for children currently on roll at The Lyndale School at October 2014 and are expected to still be on roll in December 2015 (e.g. excludes children currently educated in Year 6). Distances are in miles and are measured using the Council's mapping system which uses Ordnance Survey Address Point™ and Ordnance Survey Integrated Transport Network™ data to calculate the shortest route along approved roads and footpaths to the nearest approved school entrance. Home to school distances have been colour coded into distance ranges as shown.

Consultation

The Council has complied with all applicable statutory requirements in relation to the proposal.

The public consultation on the proposal to close The Lyndale School began on the 2nd April 2014 and ended on the 25th June 2014. Copies of the consultation document were distributed to the parents/carers, teachers and governors of the three primary schools for children with Complex Learning Difficulties (CLD). All Wirral head teachers and governing bodies were sent copies along with Trade Unions, Wirral MPs and Councillors, neighbouring Councils, diocesan bodies, Council departments and other interested persons. The document was also published on the Council's website for residents to gain access.

Six public meetings were arranged at five different venues and at different times to allow as many people as possible to attend.

The consultation document is part of the complete proposal document.

In brief, key themes that emerged from the consultation were in relation to:

- funding arrangements for children with special needs and special schools
- concern about health and safety of children
- concern about the future of staff
- importance of meeting children's individual needs
- hydrotherapy pools and facilities at other schools
- current and future pupil numbers and trends
- retaining the Lyndale ethos
- the SEN improvement test
- a 2 to 19 school for children with Profound and Multiple Learning Difficulties (PMLD)

A summary of points raised during the consultation and notes taken at the public meetings held as part of the consultation process are provided as an appendix to the Cabinet report of 4th September 2014, which is part of the complete proposal.

Related proposals

None.

Procedure for making representations (objections and comments)

Within four weeks from the date of publication of this proposal, i.e. by 19th November 2014, any person may object to or make comments on the proposal by sending them to:

Julia Hassall, Director of Children's Services, Children and Young People's Department, Wirral Council, Hamilton Building, Conway Street, Birkenhead, CH41 4FD or to specialreview@wirral.gov.uk by Wednesday 19th November 2014.

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Department
for Education

School Organisation

Maintained Schools

Guidance for proposers and decision-makers

January 2014

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[Annex A](#): Further information for proposers

[Annex B](#): Guidance for Decision-makers

[Annex C](#): Foundation and Trust proposals

Chapter 1: Summary

About this guidance

This guidance accompanies new School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 and (Establishment and Discontinuance of Schools) Regulations 2013 that came into force on 28 January 2014. It provides information on the processes involved in making significant changes to maintained schools (e.g. expansion), establishing new provision and school closure. Three annexes give further information for proposers, guidance for decision-makers and, guidance on foundation and Trust proposals.

A governing body, local authority (LA) or the Schools Adjudicator must have regard to this guidance when exercising functions under the Prescribed Alterations Regulations and the Establishment and Discontinuance Regulations. There are also a number of provisions in the Education and Inspections Act 2006 requiring bodies to have regard to guidance. Where bodies are so required, this guidance sets out (either in the paragraph or footnote) the requirement.

The new School Organisation regulations support the government's aim of increasing school autonomy and reducing bureaucracy. They allow schools to have more control when making decisions about their size and composition and therefore enable them to be more responsive to the needs of parents and local communities.

This guidance is relevant to all categories of maintained schools unless explicitly stated. Separate advice is available on making significant changes to an academy at:

<https://www.gov.uk/government/publications/making-significant-changes-to-an-existing-academy>.

Review date

This guidance will be reviewed in January 2015.

Who is this guidance for?

This guidance is for those proposing to open, close or make changes to schools (e.g. governing bodies and LAs), decision-makers (LAs, the Schools Adjudicator and governing bodies), and for information purposes for those affected by a proposal (dioceses, trustees, parents etc.).

What legislation does this guidance refer to?

This guidance primarily relates to the 2013 School Organisation Regulations (which replace the 2007 Regulations of the same name):

- [The School Organisation \(Prescribed Alterations to Maintained Schools\) \(England\) Regulations 2013](#) (“Prescribed Alterations Regulations”); and
- [The School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013](#) (“Establishment and Discontinuance Regulations”).

It also relates to:

- [The Education and Inspections Act 2006](#), as amended by the [Education Act 2011](#) (“EIA 2006”) and (“Education Act 2011”);
- [The School Standards and Framework Act 1998](#), as amended by the [Education Act 2002](#) (“SSFA 1998”) and (“Education Act 2002”);
- [The School Organisation \(Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations 2007](#) (“Removal Regulations”);
- [The School Organisation \(Requirements as to Foundations\) \(England\) Regulations 2007](#) (“Requirements Regulations”);
- [School Governance \(Constitution\) \(England\) Regulations 2012](#) (“Constitution Regulations”);
- [School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013](#) (“Procedures Regulations”); and
- [School Premises \(England\) Regulations 2012](#) (“School Premises Regulations”).

What previous guidance does this replace?

This guidance replaces the following departmental documents:

- Making Changes to a Maintained Mainstream School;
- Closing a Maintained Mainstream School;
- Expanding a Maintained Mainstream School by Enlargement or Adding a Sixth Form;
- Changing School Category to Foundation;
- Removal of a school’s Trust and reduction in the number of governors appointed by the Trust;
- Trust School Proposals;

- Deciding Statutory Proposals for Maintained Schools;
- Changing to a Foundation School - Decision Makers Guidance; and
- Changing to a Trust School - Decision Makers Guidance.

Related guidance

The following advice relates to this guidance:

- [Making Significant Changes to an Existing Academy \(2014\)](#);
- [Academy/Free School Presumption – departmental advice \(2013\)](#); and
- [Establishing New Maintained Schools – departmental advice for local authorities and new school proposers \(2013\)](#).

Transitional arrangements

Proposals published after the 28 January 2014 should follow the requirements and process set out in the new 2013 Regulations. Proposers who have published proposals before 28 January 2014 will need to continue the process set out in the 2007 Prescribed Alterations Regulations and Establishment and Discontinuance Regulations until they have been implemented unless the proposal has been withdrawn or revoked (as the case may be).

Chapter 2: Significant changes: expansion, age range changes and adding boarding provision

Governing Bodies

1. As a consequence of the changes introduced by the 2013 Regulations, governing bodies of all categories of mainstream school can now make the following changes to their schools without following a formal statutory process:

- Expansion (enlargement of premises);
- Alteration of upper or lower age limit by up to two years (except for adding or removing a sixth-form); and
- Adding boarding provision¹.

2. Before making any changes governing bodies should ensure that:

- they have secured any necessary capital funding;
- they have identified suitable accommodation and sites;
- they have secured planning permission and/or agreement on the transfer of land where necessary²;
- they have the consent of the site trustees or, other land owner where the land is not owned by the governing body;
- they have the consent of the relevant religious authority (as required); and
- the admissions authority is content for the published admissions number (PAN) to be changed where this forms part of expansion plans, in accordance with the School Admissions Code.

3. Although governing bodies are no longer required to follow a statutory process for the alterations set out in paragraph 1, they are nevertheless required to adhere to the usual principles of public law: they must act rationally; they must take into account all relevant considerations; and they must follow a fair procedure. The department expects that in making the changes set out in paragraph 1 governing bodies will:

- liaise with the LA and trustees/diocese (if any) to ensure that, where possible, a proposal is aligned with wider place planning/organisational arrangements, and that any necessary consents have been gained; and

¹ Governing bodies will need to ensure that boarding schools comply with other relevant legislation – see paragraph 10 of [Annex A.1](#).

² Including, where necessary, approval from the Secretary of State for change to the use of playing field land under Section 77(1) of the SSFA 1998.

- ensure effective consultation with parents and other interested parties to gauge demand for their proposed change(s) and to provide them with sufficient opportunity to give their views.

4. **Once proposed changes have been implemented, the governing body must³ inform the Secretary of State by ensuring that the department's Register of Educational Establishments (EduBase) is updated. Guidance on how schools and LAs can update EduBase is available at:**

<http://www.education.gov.uk/edubase/faq.xhtml>

Local Authorities

5. Local authorities have a duty⁴ to ensure sufficiency of school places. They can also propose all of the changes outlined in paragraph 1 for community schools, and can propose expansion for foundation and voluntary schools. When doing so they must follow a streamlined statutory process as set out in the Prescribed Alterations Regulations (see chapter 3 for further information).

6. Expansions at a mainstream school that do not require a physical enlargement to the premises of the school are not covered by the Prescribed Alterations Regulations. An increase in pupil numbers may be achieved solely by increasing the PAN in line with the School Admissions Code.

Expanding onto an additional site ('satellite schools'/split site schools)

7. Where proposers seek to expand onto an additional site they will need to ensure that the new provision is genuinely a change to an existing school and not a new school. Decisions will need to be taken on a case-by-case basis, but proposers will need to consider this non-exhaustive list of factors:

- The reasons for the expansion
 - What is the rationale for this approach and this particular site?
- Admission and curriculum arrangements
 - How will the new site be used (e.g. which age groups/pupils will it serve)?
 - What will the admission arrangements be?
 - Will there be movement of pupils between sites?

3 Section 538 of the Education Act 1996 imposes an obligation on governing bodies of maintained schools to provide information to the Secretary of State that he may require for the purpose of the exercise of his education functions. Section 29(5) of the Education Act 1996 requires LAs to publish information at such times and in such manner as may be required by regulations in respect of their arrangements relating to primary or secondary education.

4 Under section 14 of the Education Act 1996.

- Governance and administration
 - How will whole school activities be managed?
 - Will staff be employed on contracts to work on both sites? How frequently will they do so?
 - What governance, leadership and management arrangements will be put in place to oversee the new site (e.g. will the new site be governed by the same governing body and the same school leadership team)?
- Physical characteristics of the school
 - How will facilities across the two sites be used (e.g. sharing of the facilities and resources available at the two sites, such as playing fields)?
 - Is the new site in an area that is easily accessible to the community that the current school serves?

The purpose of considering these factors is to determine the level of integration between the two sites; the more integration, the more likely the change can be considered as an expansion. Where a LA considers there is a need for a new school to address a basic need for school places it must⁵ seek proposals to establish an academy/free school under the academy presumption (see chapter 4).

⁵ Under section 6A of the Education Act 2006.

Chapter 3: Significant changes: prescribed alterations

8. The other significant changes that governing bodies and LAs may propose by following a statutory process are the following prescribed alterations⁶:

- Alteration of upper or lower age limit by 3 years or more;
- Adding/removing a sixth-form;
- Removing boarding provision;
- Single sex school becoming co-educational or vice versa;
- Transferring to a new site;
- Closure of one site in a split site school;
- Removing selective admission arrangements at a grammar school;
- Changes of category (excluding changes of category to foundation⁷);
- Establishing/removing/altering SEN provision at a mainstream school;
- Alteration of upper or lower age limit at a special school;
- Increasing/decreasing pupil numbers at a special school; and
- Changing the types of needs catered for by a special school

Further information on these categories of changes can be found at [Annex A.1](#). The 'Who Can Do What?' table at [Annex A.5](#) shows exactly which changes can be proposed by LAs and governing bodies at each type of school.

⁶ Regulations 4 and 5 of the Prescribed Alterations Regulations set out which alterations can be made by governing bodies and LAs in respect of each type of school.

⁷ Changes of category to foundation follow a different process (see [Annex C](#)).

Statutory process

9. The statutory process for making significant changes to schools has four stages:

Stage 1	Publication	Statutory proposal published – 1 day.
Stage 2	Representation (formal consultation)	Must be 4 weeks, as prescribed in regulations.
Stage 3	Decision	The decision-maker (usually the LA) must decide proposals within 2 months of the end of the representation period or decision defaults to Schools Adjudicator (OSA) ⁸ . Any appeal to the adjudicator must be made within 4 weeks of the decision.
Stage 4	Implementation	No prescribed timescale, but must be as specified in the published statutory notice, subject to any modifications agreed by the decision-maker.

10. Although there is no longer a prescribed ‘pre-publication’ consultation period for prescribed alterations, there is a strong expectation on schools and LAs to consult interested parties in developing their proposal prior to publication as part of their duty under public law to act rationally and take into account all relevant considerations. Schools will also need to ensure that they have the consent of the site trustees and other relevant religious authorities⁹ (where necessary).

11. It is best practice to take timing into account when considering a significant change or prescribed alteration to a school. For example, by holding consultations and public meetings – either formal or informal – during term time, rather than school holidays. The location of any public and stakeholder meetings should also be planned to maximise response. The admissions cycle should also be taken into account, for changes that will impact on the school’s admission arrangements.

Publication

12. A statutory proposal must contain sufficient information for interested parties to make a decision on whether to support or challenge the proposed change. [Annex A.2](#) sets out the minimum that this should include. The proposal should be accessible to all interested parties and should therefore use ‘plain English’.

⁸ For further information on the Schools Adjudicator see: <http://www.education.gov.uk/schoolsadjudicator>

⁹ Including under the CofE Diocesan Board of Education (DBE) Measure 1991.

13. Where the proposal for one change is linked to another, this should be made clear in any notices published. Where a proposal by a LA is 'related' to a proposal by other proposers (e.g. where one school is to be enlarged because another is being closed) a single notice could be published.

14. The full proposal must be published on a website (e.g. the school or LA's website) along with a statement setting out:

- how copies of the proposal may be obtained;
- that anybody can object to, or comment on, the proposal;
- the date that the representation period ends; and
- the address to which comments (objections or support) should be submitted.

15. A brief notice (including details on how the full proposal can be accessed e.g. the website address) must be published in a local newspaper and in a conspicuous place on the school premises and at all of the entrances to the school.

16. Within one week of the date of publication on the website, the proposer must send a copy of the proposal and the information set out at paragraph 14 to:

- the governing body/LA (as appropriate);
- the parents of every registered pupil at the school - where the school is a special school;
- if it involves or is likely to affect a school which has a religious character:
 - the local Church of England diocese;
 - the local Roman Catholic diocese; or
 - the relevant faith group in relation to the school; and
- any other body or person that the proposer thinks is appropriate.

Within one week of receiving a request for a copy of the proposal the proposer must send a copy to the person requesting it.

17. There is no maximum limit on the time between the publication of a proposal and its proposed date of implementation. However, proposers will be expected to show good reason (for example an authority-wide reorganisation) if they propose a timescale longer than three years.

Representation (consultation)

18. The representation period starts on the date of the publication of the proposal and must last four weeks. During this period, any person or organisation can submit comments on the proposal to the LA to be taken into account by the decision-maker. It is

also good practice for representations to be forwarded to the proposer to ensure that they are aware of local opinion.

Decision

19. The LA will be the decision-maker for all proposals outlined in paragraph 8 except where a proposal is 'related' to another proposal that must be decided by the Schools Adjudicator¹⁰.

20. Decisions must be made within a period of two months of the end of the representation period or they must be referred to the Schools Adjudicator.

21. The department does not prescribe the exact process by which a decision-maker carries out their decision-making function. However, the body or individual that takes the decision must have regard to the statutory 'Decision-makers Guidance' (at [Annex B](#)).

22. When issuing a decision, the decision-maker can:

- reject the proposal;
- approve the proposal without modification;
- approve the proposal with modifications, having consulted the LA and/or governing body (as appropriate); or
- approve the proposal – with or without modification – subject to certain prescribed events¹¹ (such as the granting of planning permission) being met.

23. A proposal can be withdrawn by the proposer at any point before a decision is taken. When doing so the proposer must send written notice to the LA and the governing body (as appropriate) and the Schools Adjudicator (if the proposal has been sent to them). A notice must also be placed on the website where the original proposal was published.

24. Within one week of making a determination the decision-maker must arrange (via the proposer as necessary) for their decision and the reasons for it to be published on the website where the original proposal was published. They must arrange for notification of the decision and reasons for it to be sent to:

- the LA (where the Schools Adjudicator is the decision-maker);
- the governing body/proposers (as appropriate);
- the trustees of the school (if any);
- the local Church of England diocese;
- the local Roman Catholic diocese;

¹⁰ For example where a change is conditional on the establishment of a new school under section 10 or 11 of the EIA 2006 (where the Schools Adjudicator may be the default decision maker).

¹¹ The prescribed events are those listed in paragraph 8 of Schedule 3 to the Prescribed Alterations Regulations.

- the parents of every registered pupil at the school – where the school is a special school; and
- any other body that they think is appropriate (e.g. other relevant faith organisation).

Rights of appeal against a decision

25. The following bodies may appeal to the Schools Adjudicator against a decision made by a LA decision-maker, within four weeks of the decision being made:

- the local Church of England diocese;
- the local Roman Catholic diocese; and
- the governors and trustees of a foundation, foundation special or voluntary school that is subject to the proposal.

On receipt of an appeal, a LA decision-maker must then send the proposal, representations received and the reasons for its decision to the Schools Adjudicator within one week of receipt. There is no right of appeal on determinations made by the Schools Adjudicator.

Implementation

26. The proposer must implement a proposal in the form approved, taking into account any modifications made by the decision-maker.

27. **Once proposed changes have been implemented, the proposer must¹² inform the Secretary of State by ensuring that the department's Register of Educational Establishments (EduBase) is updated. Guidance on how schools and LAs can update EduBase is available at: www.education.gov.uk/edubase/faq.xhtml.**

Modification post determination

28. If it proves impossible to implement a proposal as approved, the proposer can seek modifications (e.g. to the implementation date) from the decision-maker before the approved implementation date. However, proposals cannot be modified to the extent that new proposals are substituted for those that have been published.

Revocation

29. If the proposer cannot implement an approved proposal because circumstances have changed so that implementation would be inappropriate or implementation of the proposal would be unreasonably difficult, the proposer must publish a revocation

¹² Under paragraph 13(2) of Schedule 3 to the Prescribed Alternations Regulations.

proposal, to be determined by the decision-maker, to be relieved of the duty to implement. A revocation proposal must contain:

- a description of the original proposal as published;
- the date of the publication of the original proposal; and
- a statement as to why the duty to implement the original proposal should not apply.

The department does not prescribe any further details on the exact content of a revocation proposal.

30. The proposer must publish the revocation proposal on the website and a brief notice of the proposal in a local newspaper. Details of what must be included in this notice are the same as in paragraph 15.

31. Where the proposer is the governing body it must send the revocation proposal to the LA within one week of the date of publication on the website. Where the original proposal was decided by the Schools Adjudicator the LA must refer the revocation proposal together with any comments or objections within two weeks of the end of the representation period to the Schools Adjudicator.

32. The LA decision-maker must determine the revocation proposal within two months of the end of the representation period. It must then arrange for the revocation determination to be published on the website where the original proposal and revocation proposal were published. The LA decision-maker must also arrange for the following persons to be notified of the revocation decision together with reasons:

- the local Church of England diocese;
- the local Roman Catholic diocese; and
- the governors and trustees of a foundation, foundation special or voluntary school that is subject to the proposal.

The same persons also have the right of appeal to the Schools Adjudicator (within four weeks of determination of the revocation proposal) if they disagree with the decision to revoke the original proposal.

Chapter 4: Establishment of new provision

Academy presumption

33. Where a LA considers there is a need for a new school¹³ in its area it must¹⁴ seek proposals to establish an academy/free school (or act in accordance with paragraph 36 below). The LA is responsible for providing the site for the new school and meeting all associated capital and pre-/post-opening costs. All new academy/free school proposals require the Secretary of State's approval and it is the Secretary of State who will enter into a funding agreement with the academy trust/sponsor.

34. In deciding the proposer with whom he will enter into a funding agreement, the Secretary of State will consider the assessments and preferences of the LA carefully. However, he reserves the right to put in place a sponsor of his own choice. The intention is to ensure that the school is always established by the best proposer possible. This is intended as a summary only – full guidance on the academy presumption process can be found in: '[Academy/Free School Presumption – Departmental Advice \(2013\)](#)'.

New maintained schools

35. If the academy presumption does not result in a suitable academy/free school proposal, a statutory competition can be held with the consent of the Secretary of State (known as a section 7 case¹⁵). This will not require a separate application for consent, since the Secretary of State will indicate to the LA that a competition can be held. Academy/free school proposals and proposals for foundation, voluntary-controlled, voluntary-aided and foundation special schools can be submitted into the competition. Where an academy/free school proposal is entered into a competition by the specified deadline, the Secretary of State must consider these proposals first. If an academy/free school proposal is deemed suitable, the competition ends and the proposer works with the department and local authority to progress its proposal. If an academy/free school proposal is not considered suitable, or no academy/free school proposal is received, the competition continues and it is for the local authority to decide which maintained school proposal wins (unless they are involved in the Trust of a proposed foundation school). For competitions there is no right of appeal.

36. It is also possible to publish a proposal for new schools outside of academy presumption and competitions in a limited number of circumstances¹⁶. The Secretary of

¹³ In considering the need for a new school LAs should factor in any free school projects that are due to open.

¹⁴ Under section 6A of the EIA 2006.

¹⁵ Under section 7(1) of the EIA 2006.

¹⁶ This will require a five-stage statutory process as set out in the Establishment and Discontinuance Regulations and the EIA 2006.

State's consent is required for this to happen (section 10 cases)¹⁷, except in a very limited number of special cases (known as section 11 cases)¹⁸. The special cases are:

- a new community or foundation primary school to replace a maintained infant and a maintained junior school;
- a new voluntary-aided school;
- a new foundation or voluntary school resulting from the reorganisation of existing faith schools in an area, including an existing faith school losing or changing its religious designation;
- a new foundation or community school, where suitable academy/free school proposals have not been identified and a competition has been held but did not identify a suitable provider;
- a former independent school wishing to join the maintained sector; and
- a new LA maintained nursery school.

37. For section 10 and 11 cases the Schools Adjudicator will decide LA proposals (and cases where the LA are involved in the Trust of a proposed foundation school). The LA will decide proposals from other proposers.

38. Further information on section 7, 10 and 11 proposals can be found in the Decision-makers Guidance (at [Annex B](#)) and '[Establishing New Maintained Schools - departmental advice for LAs and new school proposers \(2013\)](#)'.

¹⁷ Under section 10 of the EIA 2006.

¹⁸ Under section 11 of EIA the 2006.

Chapter 5: School closure

39. Local authorities are under a statutory duty to ensure that there are sufficient school places in their area, promote high educational standards, ensure fair access to educational opportunity and promote the fulfilment of every child's educational potential. To help them meet these duties and restructure local provision they have the power to close all categories of maintained schools.

40. Where a LA publishes proposals to close a school the department has no direct role in the decision-making process. All decisions related to school closures are taken locally following a statutory process to allow those directly affected by the proposals to feed in their comments.

41. The department recognises that school closure is a sensitive issue and the School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2013 therefore retain the established five-stage statutory process for closing a school.

42. All determinations on school closure proposals must be based on the factors outlined in the Decision-makers Guidance (at [Annex B](#)).

Who can close a school?

43. A LA can propose the closure of any category of maintained school, including community, community special, foundation, foundation special, voluntary-aided, voluntary-controlled and nursery schools, following a five-stage statutory process.

44. The governing body of a voluntary, foundation, or foundation special school may also publish proposals to close its own school following a statutory process. Alternatively, it may¹⁹ give at least two years' notice of its intention to close the school to the Secretary of State and the LA (see paragraph 68 and 69).

45. The Secretary of State may direct a LA to close a maintained school requiring special measures (under section 68 of EIA 2006). This will usually be done only where there is no prospect of the school making sufficient improvements and where there is a sufficient supply of alternative school places in the area. Prior to making the direction, the Secretary of State must consult with the LA, the governing body, and – in the case of a voluntary or foundation school – the diocese or other appointing authority. Such a direction will not require the publication of a statutory proposal for the school's closure but a proposal may be required for the opening of a new school²⁰ or for alterations to an existing school as a consequence of the directed closure.

46. Reasons for closing a maintained mainstream school include where:

¹⁹ Under section 30 of the SSFA 1998.

²⁰ See guidance on the academy/free school presumption in chapter 4.

- it is surplus to requirements (e.g. as a result of an area-wide reorganisation and/or there are sufficient places in neighbouring schools to accommodate displaced pupils);
- it is to be ‘amalgamated’/‘merged’ with another school (see paragraph 66);
- it is failing and there is no viable sponsored academy solution;
- it is to acquire, lose or change religious character (see paragraph 67); or
- it is being replaced by a new school.

47. Where a school will temporarily cease operations on a site due to a rebuild a proposal to close the school is not required. Where a school operating over multiple split sites seeks to cease operations on one (or more) of its sites the proposal will be for a prescribed alteration and not a school closure (see paragraph 21 of [Annex A.1](#)).

Statutory process

48. The statutory process for closing a school has five stages:

Stage 1	Consultation	No prescribed timescale (minimum of 6 weeks recommended; school holidays should be taken into consideration and avoided where possible). Likely to be no longer than 12 months.
Stage 2	Publication	1 day
Stage 3	Representation	Must be 4 weeks (this is prescribed in legislation and cannot be shortened or lengthened).
Stage 4	Decision	LA should decide a proposal within 2 months otherwise it will fall to the Schools Adjudicator. Where permitted appeals must be made within 4 weeks of the decision.
Stage 5	Implementation	No prescribed timescale – but must be as specified in the published notice, subject to any modifications agreed by the decision-maker.

Consultation

49. Except where the school is a rural school or a special school where there are prescribed consultees (as set out at [Annex A.3](#)), proposers of a school closure must²¹ consult bodies they feel to be appropriate. In doing so they must have regard to the Secretary of State's statutory guidance on school closure consultations which is contained at [Annex A.3](#) and [A.4](#) to this guidance. The information that must be included in a closure proposal is set out at [Annex A.4](#).

50. Where a LA or governing body carries out preliminary (informal) consultation to consider a range of options for a possible reorganisation, this would not be regarded as a statutory consultation as set out in legislation²². The statutory consultation would need to cover the specific closure proposal of the school in question.

51. How statutory consultation is carried out is not prescribed in regulations and it is for the proposer to determine the nature of the consultation and its length (although a minimum of six weeks is recommended). It is best practice for consultations to be carried out in term time to allow the maximum amount of people to respond.

52. If the need for the closure arises from an area-wide reorganisation (e.g. as a result of long-term LA planning), any related proposal should be consulted on at the same time. Notices for related proposals should be published at the same time and specified as 'related' so that they are decided together.

Publication

53. A proposal should be published within 12 months of consultation being concluded so that it can be informed by up-to-date feedback. A proposal must contain the information specified in Schedule 2 of the Establishment and Discontinuance Regulations (see [Annex A.4](#) for further details).

54. The full proposal must be published on a website (e.g. the school or LA's website) along with a statement setting out:

- how copies of the proposal may be obtained;
- that anybody can object to, or comment on, the proposal;
- the date that the representation period ends; and
- the address to which objections or comments should be submitted.

55. On the day of publication the proposer must send a copy of the proposal to the governing body/LA (as appropriate), and a brief notice (including details on how the full proposal can be accessed e.g. a website address) must be published in a local newspaper.

²¹ Under section 16(2) of the EIA 2006.

²² Under section 16(2) of the EIA 2006.

56. Within one week of the date of publication on the website, the proposer must send a copy of the proposal and the information set out at paragraph 54 to:

- the Secretary of State (via: schoolorganisation.notifications@education.gsi.gov.uk);
- the parents of every registered pupil at the school - where the school is a special school;
- the local Church of England diocese;
- the local Roman Catholic diocese; and
- any other body or person that the proposer thinks is appropriate (e.g. relevant faith group).

Within one week of receiving a request for a copy of the proposal the proposer must send a copy to the person requesting it.

Representation

57. The representation period is identical to that for making significant changes as outlined in paragraph 18. The representation period is set at four weeks.

Decision

58. The LA will be the decision-maker on a school closure proposal, unless the closure proposal is 'related' to another proposal that is to be decided by the Schools Adjudicator²³.

59. The decision-making process for school closure is the same as that for making significant changes (as outlined in paragraphs 20 to 24) with two exceptions:

- the prescribed events upon which the decision-maker can grant a conditional approval for school closures are different from the events for conditional approvals for other types of changes²⁴; and
- the Secretary of State must be notified of decisions in addition to the persons listed in paragraph 24(via: schoolorganisation.notifications@education.gsi.gov.uk).

Rights of appeal against a decision

60. The process for appealing a decision is the same as that outlined in paragraph 25 for significant changes.

²³ For example the establishment of a new school under section 10 or 11 of the EIA 2006.

²⁴ The events relevant to closure proposals are listed in regulation 16 of the Establishment and Discontinuance Regulations.

Implementation

61. The implementation (including modification and revocation) process for school closure is the same as that for making significant changes (as outlined in paragraphs 26 to 32) except that, in addition to the bodies listed in paragraphs 32, revocation proposals and decisions on them must also be sent to the Secretary of State (via: schoolorganisation.notifications@education.gsi.gov.uk).

Closure of rural schools

62. There is a presumption against the closure of rural schools. This does not mean that a rural school will never close, but the case for closure should be strong and a proposal clearly in the best interests of educational provision in the area.

63. When formulating a proposal, the proposer must carefully consider²⁵:

- the likely effect of the closure of the school on the local community;
- educational standards at the school and the likely effect on standards at neighbouring schools;
- the availability, and likely cost to the LA, of transport to other schools;
- any increase in the use of motor vehicles which is likely to result from the closure of the school, and the likely effects of any such increase; and
- any alternatives to the closure of the school.

64. When deciding a proposal for the closure of a rural primary school, the decision-maker must refer to the [Designation of Rural Primary Schools \(England\) Order](#) to confirm that the school is a rural school. It is for the decision-maker to determine whether or not a *secondary school* should be considered as rural. The academy presumption (as outlined in Chapter 4) will not apply in cases where a rural infant and junior school on the same site are being closed to establish a new primary school²⁶.

65. In order to assist the decision-maker, the proposer of a rural school closure should provide evidence to the decision-maker to show that it has carefully considered:

- alternatives to closure including the potential for federation with another local school or conversion to academy status and joining a multi-academy trust or umbrella trust to increase the school's viability; the scope for an extended school to provide local community services; and facilities e.g. child care facilities, family and adult learning, healthcare, community internet access etc.;
- transport implications; and
- the overall and long term impact on local people and the community of closure of the village school and of the loss of the building as a community facility.

²⁵ Under section 15(4) of the EIA 2006.

²⁶ This is a section 11 special case under the EIA 2006.

‘Amalgamations/mergers’

66. There are two ways to 'merge' or 'amalgamate' two or more existing maintained schools²⁷:

- The LA or governing body (depending on school category) can publish a proposal to close two (or more) schools and the LA or a proposer other than the LA (e.g. diocese, faith or parent group, Trust) depending on category, can publish a proposal to open a new school or academy (see chapter 4 - Establishment of new provision). This results in a new school number being issued.
- The LA and/or governing body (depending on school category) can publish a proposal to close one school (or more) and enlarge/change the age range/transfer site (following a statutory process as/when necessary) of an existing school, to accommodate the displaced pupils. The remaining school would retain its original school number, as it is not a new school, even if its phase has changed.

Schools wishing to acquire, change or lose a Religious Character

67. It is not possible²⁸ to make any change in the religious character of a school. To make such a change the LA or governing body would need to publish a proposal to close the school, and a faith organisation (as proposers) would need to bring forward a 'related' proposal to establish a new voluntary school with a religious character – either after gaining the Secretary of State's approval under section 10 or as a special case under section 11 of EIA 2006.

Two years notice of closure – voluntary and foundation schools

68. Instead of following the statutory process for closure as outlined above, the governing body of a voluntary or foundation school may (subject to specified provisions²⁹ give at least two years' notice of their intention to close the school, to the Secretary of State (via: schoolorganisation.notifications@education.gsi.gov.uk) and the LA.

69. The trustees of a foundation or voluntary school must give their governing body at least two years notice if they intend to terminate the school's occupation of its site. The minimum two years' notice allows the LA and/or governing body time to make alternative arrangements for pupils.

²⁷ Federation cannot be used to merge/amalgamate schools.

²⁸ Under section 18(4) of the EIA 2006.

²⁹ As outlined in section 30 of the SSFA 1998, and including those in the DBE Measure 1991.



Department
for Education

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Department
for Education

School Organisation

Maintained Schools

Annex A: Further information for proposers

January 2014

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Annex A.1: Prescribed Alterations

1. Regulations 4 and 5 of the Prescribed Alterations Regulations 2013 set out the prescribed alterations that can be made by governing bodies and LAs in respect of each type of school. The alterations are:

Expansion (enlargement to premises)

2. Governing bodies seeking to expand a school do not have to follow a statutory process.

3. LAs must follow a statutory process if:

- the proposed enlargement to the premises of the school is permanent (longer than three years) and would increase the capacity of the school by:
 - more than 30 pupils; and
 - 25% or 200 pupils (whichever is the lesser)¹;
- the proposal involves the making permanent of any temporary enlargement (that meets the above threshold).

4. An expansion without a physical enlargement to the premises of the school does not require a statutory proposal. Increases in pupil numbers may be achieved through an increase in the Published Admission Number under the School Admissions Code.

5. Changes in the size of special schools are dependent on the number of pupils (see prescribed alteration: '[Changes in number of pupils at a special school](#)').

Changes to age range

6. Governing bodies seeking to alter the upper or lower age range of a school by up to two years do not have to follow a statutory process (except when adding or removing a sixth-form). Alterations of three years or more will require a statutory process when proposed by governing bodies of foundation and voluntary schools.

7. LAs must follow a statutory process to make a change to age range if:

- the proposed age range change is permanent (longer than two years); or
- the proposal involves the making permanent of any temporary change.

8. The 'Who Can do What?' table ([Annex A.5](#)) gives further information on the different types of prescribed age range changes and who can propose which changes.

¹ As an example: if the proposal is to increase a five-form of entry school with a net capacity of 750 to a six-form of entry school with a capacity of 900 pupils then no proposal is required as although the increase is by more than 30 pupils, it is less than 25% of the current capacity.

9. For special schools, any proposer seeking to alter the upper or lower age limit by a year or more must follow a statutory process (except where it is a temporary change for less than two years).

Boarding provision

10. Governing bodies may seek to add boarding provision to all categories of mainstream school – they do not have to follow a statutory process to do so. Governing bodies will, however, need to ensure that schools comply with other legislation covering health and safety, fire or planning regulations, as well as meeting the National Minimum Standards for Boarding Schools².

11. Governing bodies of foundation and voluntary schools may also seek to remove or decrease boarding provision at their schools. When removing, or decreasing by more than 50% or 50 pupils (whichever is greater) they must follow a statutory process.

12. LAs must follow a statutory process when seeking to add, remove or decrease (by more than 50% or 50 pupils – whichever is greater) boarding provision at community schools.

13. For special schools, the LA must follow a statutory process when seeking to add, remove or decrease (by five pupils or more) boarding provision at a community special school. Governing bodies must do the same for community special and foundation special schools.

Changes in the number of pupils or types of need at a special school

14. Governing bodies of all categories of special school may seek to decrease the number of pupils and change the types of needs provided for by their school. LAs may seek to decrease the number of pupils at a community special school and to change the types of need provided for at all categories of special school. All such changes require a statutory process.

15. Governing bodies and LAs may seek to increase the number of places at any category of special school however, they must follow a statutory process if the increase is by:

- 10%; or
- 20 pupils (5 for all boarding special schools) (whichever is the lesser).

² Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180948/DFE-00126-2012.pdf

Changes to special educational need provision at mainstream schools

16. For special education need (SEN) provision in a mainstream school, proposers must follow a statutory process when:

- establishing new provision;
- changing the type(s) of special educational provision; or
- ending provision.

17. Governing bodies may seek to make all three of these changes at voluntary and foundation schools. LAs may seek to make all three of these changes at community schools and to establish or end such provision at voluntary and foundation schools.

Grammar school admission arrangements

18. The governing body of a designated grammar school must³ follow a statutory process if seeking to remove selective criteria from their admission arrangements⁴.

Change of co-educational to single sex provision and vice-versa

19. Governing bodies of voluntary, foundation and community special schools and LAs (for community and community special schools) may seek to change single sex schools⁵ to co-educational and vice versa. They must follow a statutory process to do so.

Transfer to a new site

20. Governing bodies of voluntary and foundation schools (including special schools) and community special schools, and LAs (for community and community special schools) may seek to transfer a school to a new site. A statutory proposal is required if:

- the new site is further than two miles⁶ from the existing site; or
- the transfer is to a location within a different LA (regardless of distance).

³ Under section 109(1) of the SSFA 1998.

⁴ Proposals to remove selection will fall if the LA is notified that a petition, which will trigger a ballot, has been received before the proposals are due to be implemented.

⁵ Schools that let a comparatively small number of pupils of the other sex into a sixth-form may still be designated as single sex.

⁶ Distance should be measured in a straight line between the main entrances of the existing and proposed sites.

Closure of one of multiple sites

21. Governing bodies of voluntary and foundation schools and LAs (for community schools) seeking to close one site (where a school occupies more than one site) must follow a statutory process unless the straight line distance between the main entrances of the sites is less than one mile.

Changes of category

22. Governing bodies must follow a statutory process for a proposal to make a change of category⁷ from a:

- voluntary-controlled school to a voluntary-aided school;
- voluntary-aided school to a voluntary-controlled school;
- foundation school to a voluntary-controlled school;
- foundation school to a voluntary-aided school;
- community school to a voluntary-controlled school; or
- community school to a voluntary-aided school.

⁷ It is not possible for any school to gain, lose or change religious character through a change of category. Changes of category to foundation follow a different process and are covered in [Annex C](#) of this guidance.

Annex A.2: Statutory proposals for prescribed alterations

23. A statutory proposal for making significant changes to schools must contain sufficient information for interested parties to make a decision on whether to support the proposed change. A proposal should be accessible to all interested parties and therefore use 'plain English'.

24. Proposers will need to be mindful of the factors that will inform the decision-maker's assessment when determining the proposal (see: Decision-makers Guidance at [Annex B](#)).

25. As a minimum, the department would expect a proposal to include:

- School and LA details;
- Description of alteration and evidence of demand;
- Objectives (including how the proposal would increase educational standards and parental choice);
- The effect on other schools, academies and educational institutions within the area;
- Project costs and indication of how these will be met, including how long term value for money will be achieved;
- Implementation and any proposed stages for implementation; and
- A statement explaining the procedure for responses: support; objections and comments.

Annex A.3: School closure consultations

26. Under section 16(3) of the EIA 2006 a proposer of a school closure must have regard to any guidance issued by the Secretary of State.

27. In the case of the closure of a rural primary school or a community or foundation special school proposers must⁸ consult:

- LA (as appropriate);
- parents of pupils;
- where the LA is a county council the local district or parish council where the school that is the subject to the proposal is situated; and
- in the case of a special school – any LA which maintains a statement of special educational needs in respect of a registered pupil at the school.

28. The Secretary of State considers that these bodies, along with those listed below should be consulted in the case of the proposed closure of all schools:

- the governing body (as appropriate);
- pupils at the school⁹;
- (if a proposal involves, or is likely to affect a school which has a particular religious character) the appropriate diocese or relevant faith group¹⁰;
- the trustees of the school (if any);
- teachers and other staff at the school;
- any LA likely to be affected by the proposal, in particular neighbouring authorities where there may be significant cross-border movement of pupils;
- the governing bodies, teachers and other staff of any other school that may be affected;
- parents of any pupils at other schools who may be affected by the proposal including where appropriate families of pupils at feeder primary schools;
- any trade unions who represent staff at the school; and representatives of any trade union of staff at other schools who may be affected by the proposal;
- MPs whose constituencies include the school that is the subject of the proposal or whose constituents are likely to be affected by the proposal; and
- any other interested body/person that the proposer thinks is appropriate.

⁸ Under section 16(1) of EIA 2006.

⁹ Under section 176 of the Education Act 2002.

¹⁰ Under the DBE Measure 1991 Church of England schools must consult with their diocese before making closure proposals.

Annex A.4: Statutory proposals for school closures

29. The information below must¹¹ be included in a proposal to close a school:

Contact details

30. The name and contact details of the LA or governing body publishing the proposal and the name, address and category of the school proposed for closure.

Implementation

31. The proposed closure date or, where it is proposed that the closure be implemented in stages, the dates of, and information about, each stage.

Objectives and reason for closure

32. The objectives of the proposal and the reason why closure of the school is considered necessary.

33. Decision-makers will look to proposals to set out how the proposal will impact on the educational standards and parental choice in the community. Where the proposal is related to another proposal this should be made clear, for example in the case of an area wide reorganisation.

Pupil numbers and admissions

34. Information on the numbers, age range, sex and special educational needs of pupils (distinguishing between boarding and day pupils) for whom provision is currently made at the school.

Displaced pupils

35. Details of the schools at which displaced pupils will be offered places, including:

- any interim arrangements;
- the alternative provision for children recognised by the LA as reserved for children with special educational needs; and
- in the case of special schools, the alternative provision made by LAs other than the LA which maintains the school.

Impact on the community

36. A statement and supporting evidence about the impact on the community and any measures proposed to mitigate any adverse impact, including details of the extended

¹¹ Under Schedule 2 to the Establishment and Discontinuance Regulations.

services the school offered and what is proposed for these services once the school has closed.

Balance of denominational provision

37. Where the school has a designated religious character, a statement about the impact of the proposed closure on the balance of denominational provision and impact on parental choice in the area.

Rural primary schools

38. Where a proposal relates to a rural primary school, a statement¹² that the LA or the governing body (as the case may be) has considered:

- the likely effect of closure of the school on the local community;
- the availability and likely cost to the LA, of transport to other schools;
- any increase in the use of motor vehicles which is likely to result from the closure of the school, and the likely effects of any such increase; and
- any alternatives to the closure of the school.

Maintained nursery schools

39. Where a proposal relates to the closure of a maintained nursery school, a statement setting out:

- the LA's assessment of the quality and quantity of the alternative provision compared to the school proposed to be closed and the proposed arrangements to ensure the expertise and specialism continues to be available; and
- the accessibility and convenience of replacement provision for local parents.

Provision for 16-19 year olds

40. Where the school proposed for closure provides sixth-form education, how the proposal will impact on:

- the educational or training achievements;
- participation in education or training; and
- the range of educational or training opportunities for 16-19 year olds in the area.

¹² As required by section 15(4) of the EIA 2006.

Special educational needs (SEN) provision

41. Where existing provision that is recognised by the LA as reserved for pupils with special educational needs is being closed, a statement as to how the LA or the governing body (as the case may be) believes a proposal is likely to lead to improvements in the standard, quality and/or range of the educational provision for these children.

Travel

42. The proposed arrangements for travel of displaced pupils to other schools including how the proposed arrangements will work to limit increased car use.

Consultation

43. Decision-makers will need to be assured that consultation has taken place, and that the statutory process has been adhered to. Therefore proposals should include evidence that the period of statutory consultation took place, and the results of that consultation.

Annex A.5: 'Who can do what?' table

Proposer	Type of proposal	Decision-maker	Right of appeal to the Adjudicator?
Local Authority	Community Schools (following a statutory process): <ul style="list-style-type: none"> - Expansion (enlargement of premises) - Alteration of upper or lower age limit including the addition or removal of a nursery or sixth-form - Addition, removal or change of SEN provision - Co-ed or single sex provision - Addition, removal or change of boarding provision - Transfer to a new site - Closure of one of multiple sites - Closure 	LA (Schools Adjudicator ¹³)	CofE Diocese RC Diocese
	Community Special Schools (following a statutory process): <ul style="list-style-type: none"> - Alteration of upper or lower age limit - Increase or decrease in the number of pupils - Change in the types of SEN - Addition, removal or change of boarding provision - Co-ed or single sex provision - Transfer to a new site - Closure 	LA (Schools Adjudicator ¹³)	CofE Diocese RC Diocese
	Foundation and Voluntary Schools (following a statutory process): <ul style="list-style-type: none"> - Expansion (enlargement of premises) - Addition of a sixth-form - Addition and removal of SEN provision - Closure 	LA (Schools Adjudicator ¹³)	CofE Diocese RC Diocese GB Trustees
	Foundation Special Schools (following a statutory process): <ul style="list-style-type: none"> - Change in the types of SEN - Increase in the number of pupils - Closure 	LA (Schools Adjudicator ¹³)	CofE Diocese RC Diocese GB Trustees
	Maintained Nursery Schools (following a statutory process): <ul style="list-style-type: none"> - Transfer to a new site - Closure 	LA (Schools Adjudicator ¹³)	CofE Diocese RC Diocese

¹³ Only where it relates to a proposal to be decided by them or where the LA has not made a decision within 2 months of the end of the representation period.

Proposer	Type of proposal	Decision-maker	Right of appeal to the Adjudicator?
Governors of Voluntary Schools	(without a statutory process): <ul style="list-style-type: none"> - Expansion (enlargement of premises) - Alteration of upper or lower age limit by up to 2 years (excluding the addition/removal of a sixth-form) - Addition of boarding provision 	n/a	n/a
	(following a statutory process): <ul style="list-style-type: none"> - Alteration of upper or lower age limit by 3 years or more - Addition or removal of a sixth-form - Addition, removal or change of SEN provision - Removal of selection (grammar schools) - Co-ed or single sex provision - Removal or alteration of boarding provision - Transfer to a new site - Closure of one of multiple sites - Change of category (VC to VA and VA to VC) - Closure 	LA (Schools Adjudicator ¹³)	CofE Diocese RC Diocese GB Trustees
	Foundation Proposals: <ul style="list-style-type: none"> - VC or VA to foundation - VC or VA to foundation and acquire a Foundation (Trust) - VC or VA to foundation and acquire a Foundation (Trust) and acquire a majority of Foundation governors on the governing body 	GB (Schools Adjudicator ¹⁴)	For proposals at a VA school when decided by the GB: LA CofE Diocese RC Diocese
Governors of Foundat. Schools	(without a statutory process): <ul style="list-style-type: none"> - Expansion (enlargement of premises) - Alteration of upper or lower age limit by up to 2 years (excluding the addition/removal of a sixth-form) - Addition of boarding provision 	n/a	n/a
	(following a statutory process): <ul style="list-style-type: none"> - Alteration of upper or lower age limit by 3 years or more - Addition or removal of a sixth-form - Addition, removal or change of SEN provision - Removal of selection (grammar schools) - Co-ed or single sex provision - Removal or alteration of boarding provision - Transfer to a new site - Closure of one of multiple sites - Change of category (Foundation to VC or VA) - Closure 	LA (Schools Adjudicator ¹³)	CofE Diocese RC Diocese GB Trustees
	Foundation Proposals: <ul style="list-style-type: none"> - Acquire a Foundation (Trust) - Acquire a majority of Foundation governors on the governing body 	GB (Schools Adjudicator ¹⁴)	n/a

¹⁴ Under certain circumstances set out in paragraph 8 of Schedule 1 to the Prescribed Alterations Regulations, the LA may require that the proposal to acquire a Trust or majority of foundation governors is referred to the Schools Adjudicator during the representation period.

Proposer	Type of proposal	Decision-maker	Right of appeal to the Adjudicator?
	Removal Proposals¹⁵: <ul style="list-style-type: none"> - Removal of a Foundation and/or reduction in a majority of Foundation governors on the governing body 	GB	n/a
Governors of Comm. Schools	(without a statutory process): <ul style="list-style-type: none"> - Expansion (enlargement of premises) - Alteration of upper or lower age limit by up to 2 years (excluding the addition/removal of a sixth-form) - Addition of boarding provision 	n/a	n/a
	(following a statutory process): <ul style="list-style-type: none"> - Addition of a sixth-form - Removal of selection (grammar schools) - Change of category from community to VC or VA 	LA (Schools Adjudicator ¹³)	CofE Diocese RC Diocese
	Foundation Proposals: <ul style="list-style-type: none"> - Community to foundation - Community to foundation and acquire a Foundation (Trust) - Community to foundation and acquire a Foundation (Trust) and acquire a majority of Foundation governors on the governing body 	GB (Schools Adjudicator ¹⁴)	n/a
Governors of Foundat. Special Schools	(following a statutory process): <ul style="list-style-type: none"> - Alteration of upper or lower age limit by 1 year or more - Increase or decrease in the number of pupils - Change in the types of SEN - Co-ed or single sex provision - Addition, removal or change of boarding provision - Transfer to a new site 	LA (Schools Adjudicator ¹³)	CofE Diocese RC Diocese GB Trustees
	Removal Proposals: <ul style="list-style-type: none"> - Removal of a Foundation and/or reduce a majority of Foundation governors on the governing body 	GB	n/a
Governors of Comm. Special Schools	(following a statutory process): <ul style="list-style-type: none"> - Alteration of upper or lower age limit by 1 year or more - Increase or decrease in the number of pupils - Change in the types of SEN - Co-ed or single sex provision - Addition, removal or change of boarding provision - Transfer to a new site 	LA (Schools Adjudicator ¹³)	CofE Diocese RC Diocese

¹⁵ Under section 25 of the EIA 2006 and the School Organisation (Removal of Foundation, Reduction in Numbers of Foundation Governors and Ability of Foundation to Pay Debts) (England) Regulations 2007.

Proposer	Type of proposal	Decision-maker	Right of appeal to the Adjudicator?
Other Proposers	<p>- Establish a new school under section 7 (in a competition)</p> <p>(Following the approval of the Secretary of State where academy presumption has gained no suitable proposals).</p>	<p><u>1. Academy proposals</u></p> <p>Secretary of State</p>	n/a
		<p><u>2. Non-academy proposals by proposers other than the LA</u> (where no academy bid is deemed suitable)</p> <p>LA</p> <p>(Schools Adjudicator¹⁶)</p> <p>Where no suitable bid is received at this stage the LA may propose a new foundation or community school (inc. special school) under section 11. It does not need further consent from the Secretary of State to do so. See below.</p>	n/a
	Establish a new school under section 10 or 11	<p>Schools Adjudicator decides LA proposals and where the LA is involved in the Trust of a Foundation school.</p> <p>The LA decides proposals from other proposers.</p>	<p>CofE Diocese</p> <p>RC Diocese</p> <p>The proposers (where the LA is the decision-maker)¹⁷</p>

¹⁶ Only where the LA is involved in the Trust of a proposed foundation school, or where the LA is required to refer proposals to them.

¹⁷ See paragraph 14 of Schedule 2 to the EIA 2006.



Department
for Education

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Department
for Education

School Organisation

Maintained Schools

Annex B: Guidance for Decision-makers

January 2014

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Summary

Key points

1. This Annex is for local authorities, the Schools Adjudicator and governing bodies in their roles as decision-makers. It is relevant to the 2013 School Organisation Regulations¹. Decisions on proposals published before 28 January 2014 must be made with regard to the previous Decision-makers Guidance.
2. The table in [Annex A.5](#) sets out the decision-maker for each type of school organisation proposal. The department does not prescribe the exact process by which a decision-maker carries out their decision-making function; however, decision-makers must have regard² to this guidance when making a decision.
3. The decision-maker should consider the views of those affected by a proposal or who have an interest in it, including cross-LA border interests. The decision-maker should not simply take account of the numbers of people expressing a particular view. Instead, they should give the greatest weight to responses from those stakeholders likely to be most directly affected by a proposal – especially parents of children at the affected school(s).

Related proposals

4. Any proposal that is ‘related’ to another proposal must be considered together. A proposal should be regarded as ‘related’ if its implementation (or non-implementation) would prevent or undermine the effective implementation of another proposal. Where proposals are ‘related’, the decisions should be compatible.
5. Where a proposal is ‘related’ to another proposal to be decided by the Secretary of State (e.g. for the establishment of a new academy) the decision-maker should defer taking a decision until the Secretary of State has taken a decision on the proposal, or where appropriate, grant a conditional approval for the proposal.

Conditional approval

6. Decision-makers may give conditional approval for a proposal subject to certain prescribed events³. The decision-maker must set a date by which the condition should be met but can modify the date if the proposer confirms, before the date expires, that the condition will be met later than originally thought.

¹ In the case of the removal of a Foundation or Foundation majority this guidance is relevant to The School Organisation (Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts) (England) Regulations 2007.

² Under paragraphs 8(6) and 17 of Schedule 2 to the EIA 2006 and regulation 7 of the Prescribed Alterations Regulations.

³ The prescribed events are those listed under paragraph 8 of Schedule 3 to the Prescribed Alterations Regulations (for prescribed alterations), regulation 16 of the Establishment and Discontinuance Regulations (for closures and new schools) and paragraph 16 of Schedule 1 to the Prescribed Alterations Regulations (for foundation and trust proposals).

7. The proposer should inform the decision-maker (and the Secretary of State via schoolorganisation.notifications@education.gsi.gov.uk in the case of school closures) when a condition is modified or met. If a condition is not met by the date specified, the proposal should be referred back to the decision-maker for fresh consideration.

Publishing decisions

8. All determinations (rejected and approved – with or without modifications) must give reasons for such a decision being made. Within one week of making a determination the decision-maker must arrange (via the proposer as necessary) for the decision and the reasons behind it to be published on the website where the original proposal was published. The decision-maker must also arrange for the bodies below to be notified of the decision and reasons⁴:

- the LA (where the Schools Adjudicator or governing body is the decision-maker);
- the governing body/proposers (as appropriate);
- the trustees of the school (if any);
- the local Church of England diocese;
- the local Roman Catholic diocese;
- the parents of every registered pupil at the school – where the school is a special school;
- any other body that they think is appropriate; and
- the Secretary of State via schoolorganisation.notifications@education.gsi.gov.uk (in school opening and closure cases only).

Factors to consider

9. Paragraphs [10](#) to [78](#) of this annex set out some the factors that decision-makers should consider when deciding a proposal. Paragraphs [10](#) to [29](#) are relevant to all types of proposals. Paragraphs [30](#) to [78](#) are more relevant to certain types of proposals (as specified). These factors are not exhaustive and the importance of each will vary depending on the type and circumstances of the proposal. All proposals must be considered on their individual merits.

⁴ In the case of proposals to change category to foundation, acquire/remove a Trust and/or acquire/remove a Foundation majority the only bodies the decision-maker must notify are the LA and the governing body (where the Schools Adjudicator is the decision-maker).

Factors relevant to all types of proposals

Consideration of consultation and representation period

10. The decision-maker will need to be satisfied that the appropriate consultation and/or representation period has been carried out and that the proposer has had regard to the responses received. If the proposer has failed to meet the statutory requirements, a proposal may be deemed invalid and therefore should be rejected. The decision-maker must consider all the views submitted, including all support for, objections to and comments on the proposal.

Education standards and diversity of provision

11. Decision-makers should consider the quality and diversity of schools in the relevant area and whether the proposal will meet or affect the aspirations of parents, raise local standards and narrow attainment gaps.

12. The decision-maker should also take into account the extent to which the proposal is consistent with the government's policy on academies as set out on the department's website.

Demand

13. In assessing the demand for new school places the decision-maker should consider the evidence presented for any projected increase in pupil population (such as planned housing developments) and any new provision opening in the area (including free schools).

14. The decision-maker should take into account the quality and popularity of the schools in which spare capacity exists and evidence of parents' aspirations for a new school or for places in a school proposed for expansion. The existence of surplus capacity in neighbouring less popular schools should not in itself prevent the addition of new places.

15. Reducing surplus places is not a priority (unless running at very high levels). For parental choice to work effectively there may be some surplus capacity in the system as a whole. Competition from additional schools and places in the system will lead to pressure on existing schools to improve standards.

School size

16. Decision-makers should not make blanket assumptions that schools should be of a certain size to be good schools, although the viability and cost-effectiveness of a proposal is an important factor for consideration. The decision-maker should also

consider the impact on the LA's budget of the need to provide additional funding to a small school to compensate for its size.

Proposed admission arrangements (including post-16 provision)

17. In assessing demand the decision-maker should consider all expected admission applications, not only those from the area of the LA in which the school is situated.

18. Before approving a proposal that is likely to affect admissions to the school the decision-maker should confirm that the admission arrangements of the school are compliant with the School Admissions Code. Although the decision-maker cannot modify proposed admission arrangements, the decision-maker should inform the proposer where arrangements seem unsatisfactory and the admission authority should be given the opportunity to revise them.

National Curriculum

19. All maintained schools must follow the National Curriculum unless they have secured an exemption for groups of pupils or the school community⁵.

Equal opportunity issues

20. The decision-maker must have regard to the Public Sector Equality Duty (PSED) of LAs/governing bodies, which requires them to have 'due regard' to the need to:

- eliminate discrimination;
- advance equality of opportunity; and
- foster good relations.

21. The decision-maker should consider whether there are any sex, race or disability discrimination issues that arise from the changes being proposed, for example that where there is a proposed change to single sex provision in an area, there is equal access to single sex provision for the other sex to meet parental demand. Similarly there should be a commitment to provide access to a range of opportunities which reflect the ethnic and cultural mix of the area, while ensuring that such opportunities are open to all.

⁵ Under sections: 90, 91,92 and 93 of the of the Education Act 2002.

Community cohesion

22. Schools have a key part to play in providing opportunities for young people from different backgrounds to learn with, from and about each other; by encouraging, through their teaching, an understanding of, and respect for, other cultures, faiths and communities. When considering a proposal, the decision-maker must consider its impact on community cohesion. This will need to be considered on a case-by-case basis, taking account of the community served by the school and the views of different sections within the community.

Travel and accessibility

23. Decision-makers should satisfy themselves that accessibility planning has been properly taken into account and the proposed changes should not adversely impact on disadvantaged groups.

24. The decision-maker should bear in mind that a proposal should not unreasonably extend journey times or increase transport costs, or result in too many children being prevented from travelling sustainably due to unsuitable walking or cycling routes.

25. A proposal should also be considered on the basis of how it will support and contribute to the LA's duty to promote the use of sustainable travel and transport to school.

Capital

26. The decision-maker should be satisfied that any land, premises or capital required to implement the proposal will be available and that all relevant local parties (e.g. trustees or religious authority) have given their agreement. A proposal cannot be approved conditionally upon funding being made available.

27. Where proposers are relying on the department as the source of capital funding, there can be no assumption that the approval of a proposal will trigger the release of capital funds from the department, unless the department has previously confirmed in writing that such resources will be available; nor can any allocation 'in principle' be increased. In such circumstances the proposal should be rejected, or consideration deferred until it is clear that the capital necessary to implement the proposal will be provided.

School premises and playing fields

28. Under the School Premises Regulations all schools are required to provide suitable outdoor space in order to enable physical education to be provided to pupils in accordance with the school curriculum; and for pupils to play outside safely.
29. [Guidelines](#) setting out suggested areas for pitches and games courts are in place although the department has been clear that these are non-statutory.

Factors relevant to certain types of proposals:

Expansion

30. When deciding on a proposal for an expansion on an additional site (a 'satellite school'), decision-makers will need to consider whether the new provision is genuinely a change to an existing school or is in effect a new school (which would trigger the academy presumption in circumstances where there is a need for a new school in the area⁶). Decisions will need to be taken on a case-by-case basis, but decision-makers will need to consider the following non-exhaustive list of factors which are intended to expose the extent to which the new site is integrated with the existing site, and to ensure that it will serve the same community as the existing site:

- The reasons for the expansion
 - What is the rationale for this approach and this particular site?
- Admission and curriculum arrangements
 - How will the new site be used (e.g. which age groups/pupils will it serve)?
 - What will the admission arrangements be?
 - Will there be movement of pupils between sites?
- Governance and administration
 - How will whole school activities be managed?
 - Will staff be employed on contracts to work on both sites? How frequently will they do so?
 - What governance, leadership and management arrangements will be put in place to oversee the new site (e.g. will the new site be governed by the same governing body and the same school leadership team)?
- Physical characteristics of the school
 - How will facilities across the two sites be used (e.g. sharing of the facilities and resources available at the two sites, such as playing fields)?
 - Is the new site in an area that is easily accessible to the community that the current school serves?

⁶ Or require an proposal under section 11 of the EIA 2006 for a new maintained school.

Expansion of existing grammar schools

31. Legislation prohibits the establishment of new grammar schools⁷. Expansion of any existing grammar school onto a satellite site can only happen if it is a genuine continuance of the same school. Decision-makers must consider the factors listed in paragraph [30](#) on 'expansions' when deciding if an expansion is a legitimate enlargement of an existing school.

Changes to boarding provision

32. In making a decision on a proposal to close a school that has boarding provision, or to remove boarding provision from a school that is not closing, the decision-maker should consider whether there is a state maintained boarding school within reasonable distance from the school. The decision-maker should consider whether there are satisfactory alternative boarding arrangements for those currently in the school and those who may need boarding places in the foreseeable future, including the children of service families.

Addition of post-16 provision

33. In assessing a proposal to add post-16 provision, decision-makers should look for evidence that the proposal will improve, extend the range, and increase participation in high quality educational or training opportunities for post-16 pupils within the LA or local area.

34. The decision-maker should also look for evidence on how new places will fit within the 16-19 organisation in an area and that schools have collaborated with other local providers in drawing up a proposal.

35. The decision-maker may turn down a proposal to add post-16 provision if there is compelling and objective evidence that the expansion would undermine the viability, given the lagged funding arrangements, of an existing high quality post-16 provider.

36. Decision-makers should consider the viability of a proposal bearing in mind the formulaic approach to funding; that the school will have to bear any potential diseconomies of scale; and the impact of future demographic trends.

37. A proposal should take account of the timeline for agreeing 16-19 funding which will be available in the most recent guidance on the department's website. Decision-makers should note that post-16 funding runs on an August – July academic year cycle.

⁷ Except where a grammar school is replacing one of more existing grammar schools. See [paragraph 53](#).

Changes of category to voluntary-aided

38. For a proposal to change the category of a school to voluntary-aided, the decision-maker must be satisfied that the governing body and/or the Foundation are able and willing to meet their financial responsibilities for building work. The decision-maker may wish to consider whether the governing body has access to sufficient funds to enable it to meet 10% of its capital expenditure for at least five years from the date of implementation, taking into account anticipated building projects.

Changes to special educational need provision – the SEN improvement test

39. In planning and commissioning SEN provision or considering a proposal for change, LAs should aim for a flexible range of provision and support that can respond to the needs of individual pupils and parental preferences. This is favourable to establishing broad categories of provision according to special educational need or disability.

Decision-makers should ensure that proposals:

- take account of parental preferences for particular styles of provision or education settings;
- take account of any relevant local offer for children and young people with SEN and disabilities and the views expressed on it;
- offer a range of provision to respond to the needs of individual children and young people, taking account of collaborative arrangements (including between special and mainstream), extended school and Children's Centre provision; regional centres (of expertise) and regional and sub-regional provision; out of LA day and residential special provision;
- take full account of educational considerations, in particular the need to ensure a broad and balanced curriculum, within a learning environment where children can be healthy and stay safe;
- support the LA's strategy for making schools and settings more accessible to disabled children and young people and their scheme for promoting equality of opportunity for disabled people;
- provide access to appropriately trained staff and access to specialist support and advice, so that individual pupils can have the fullest possible opportunities to make progress in their learning and participate in their school and community;
- ensure appropriate provision for 14-19 year-olds; and
- ensure that appropriate full-time education will be available to all displaced pupils. Their statements of special educational needs must be amended and all parental rights must be ensured. Other interested partners, such as the Health Authority

should be involved. Pupils should not be placed long-term or permanently in a Pupil Referral Unit (PRU) if a special school place is what they need.

40. When considering any reorganisation of provision that the LA considers to be reserved for pupils with special educational needs, including that which might lead to children being displaced, proposers will need to demonstrate how the proposed alternative arrangements are likely to lead to improvements in the standard, quality and/or range of educational provision for those children. Decision-makers should make clear how they are satisfied that this SEN improvement test has been met, including how they have taken account of parental or independent representations which question the proposer's assessment.

Additional factors relevant to proposals for new maintained schools

Suitability

41. When considering a proposal for a new maintained school, the decision-maker should consider each proposal on its merits, and take into account all matters relevant to the proposal. Any proposals put forward by organisations which advocate violence or other illegal activity must be rejected. In order to be approved, a proposal should demonstrate that they would support UK democratic values including respect for the basis on which UK laws are made and applied; respect for democracy; support for individual liberties within the law; and mutual tolerance and respect.

Competitions (under section 7 EIA 2006)

42. Where a LA considers that there is a need for a new school in its area it must first seek proposals to establish an academy/free school under section 6A of EIA 2006 (though proposals may also be made under section 10 and 11 of the EIA 2006). In such cases the Secretary of State is the decision-maker. However, in exceptional circumstances where no academy/free school proposals are received (or are received but are deemed unsuitable) a statutory competition under section 7 of the EIA 2006 may be held. Where there is demand for faith places the LA may seek to establish a new faith VA school (see paragraphs [47-51](#)).

43. Where two or more proposals are complementary, and together meet the requirements for the new school, the decision-maker may approve all the proposals.

44. The specification for the new school is only the minimum requirement; a proposal may go beyond this. Where a proposal is not in line with the specification, the decision-maker must consider the potential impact of the difference to the specification.

45. Where additional provision is proposed (e.g. early years or a sixth-form) the decision-maker should first judge the merits of the main proposal against the others. If the proposal is judged to be superior, the decision-maker should consider the additional elements and whether they should be approved. If the decision-maker considers they cannot be approved, they may consider a modification to the proposal, but will need to first consult the proposers and - if the proposal includes provision for 14-19 year olds - the Education Funding Agency (EFA).

Capital in competitions

46. For competitions the LA will be expected to provide premises and meet the capital costs of implementing the winning proposal, and must include a statement to this effect in

the notice inviting proposals. Where the estimated premises requirements and/or capital costs of a proposal submitted in response to a competition exceed the initial cost estimate made by the LA, the decision-maker should consider the reasons for the additional requirements and/or costs, as set out in the proposal and whether there is agreement to their provision.

New voluntary-aided schools (under section 11 of EIA 2006)

47. Section 11 of the EIA 2006 permits a new VA school to be proposed without the requirement for the Secretary of State's approval. Such a school must be proposed following the required statutory process and may be for a school with or without a designated religious character.

48. Many VA schools are schools with a religious character. The department recognises the important contribution that faith schools make to the education system and that 'faith need' (demand for faith places on choice grounds) may be viewed as separate from 'basic need' (demand for new school places).

49. When assessing basic need, LAs need to look at the general demand for places and if a new school is needed to address basic need, must go down the academy presumption route. Where there is a demand for faith places, the law allows for LAs to seek to establish a new academy with religious designation, or for other proposers to establish new VA schools outside the presumption process.

50. The approval of a new school to meet local demand for faith places may also meet the demand (or some of the demand) for basic need.

51. Legislation allows maintained schools to seek to convert to academy status.

Independent faith schools joining the maintained sector

52. Legislation allows an independent faith school to move into the maintained sector. However, 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. The department would expect the decision-maker 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 easily be improved to meet such standards.

Replacement grammar schools

53. A new school can only be designated as a grammar school by the Secretary of State where it is being established in place of one or more closing grammar schools⁸. Decision-makers should therefore satisfy themselves that if a new school is proposed as a grammar school it is eligible for designation. Where an existing grammar school is expanding the proposer and decision maker must consider the points listed in paragraph [30](#).

⁸ Under section 104 of the SSFA 1998.

Additional factors relevant to closure proposals

Closure proposals (under s15 EIA 2006)

54. The decision-maker should be satisfied that there is sufficient capacity to accommodate displaced pupils in the area, taking into account the overall quality of provision, the likely supply and future demand for places. The decision-maker should consider the popularity with parents of the schools in which spare capacity exists and evidence of parents' aspirations for those schools.

Schools to be replaced by provision in a more successful/popular school

55. Such proposals should normally be approved, subject to evidence provided.

Schools causing concern

56. For all closure proposals involving schools causing concern, copies of the Ofsted monitoring letters for the relevant schools should be made available. Decision-makers should have regard to the length of time the school has been in special measures, requiring improvement or otherwise causing concern. The decision-maker should also have regard to the progress the school has made, the prognosis for improvement, and the availability of places at other existing or proposed schools within a reasonable travelling distance. There is a presumption that these proposals should be approved, subject to checking that there are sufficient accessible places of an acceptable standard available to accommodate displaced pupils and to meet foreseeable future demand for places in the area.

Rural schools

57. There is a presumption against the closure of rural schools. This does not mean that a rural school will never close, but the case for closure should be strong and the proposal clearly in the best interests of educational provision in the area⁹. Those proposing closure should provide evidence to show that they have carefully considered the following:

- alternatives to closure including the potential for federation with another local school or conversion to academy status and joining a multi-academy trust or umbrella trust to increase the school's viability;

⁹ Not applicable where a rural infant and junior school on the same site are closing to establish a new primary school on the same site(s).

- the scope for an extended school to provide local community services; and facilities e.g. child care facilities, family and adult learning, healthcare, community internet access etc.;
- the transport implications; and
- the overall and long term impact on local people and the community of closure of the village school and of the loss of the building as a community facility.

58. When deciding a proposal for the closure of a rural primary school the decision-maker must refer to the [Designation of Rural Primary Schools Order](#) to confirm that the school is a rural school.

59. For *secondary schools*, the decision-maker must decide whether a school is to be regarded as rural for the purpose of considering a proposal. In doing so the decision-maker should have regard to the department's register of schools – EduBase¹⁰ which includes a rural/urban indicator for each school in England. Where a school is not recorded as rural on Edubase, the decision-maker can consider evidence provided by interested parties, that a particular school should be regarded as rural.

Early years provision

60. In considering a proposal to close a school which currently includes early years provision, the decision-maker should consider whether the alternative provision will integrate pre-school education with childcare services and/or with other services for young children and their families; and should have particular regard to the views of the Early Years Development and Childcare Partnership.

61. The decision-maker should also consider whether the new, alternative/extended early years provision will maintain or enhance the standard of educational provision for early years and flexibility of access for parents. Alternative provision could be with providers in the private, voluntary or independent sector.

Nursery school closures

62. There is a presumption against the closure of nursery schools. This does not mean that a nursery school will never close, but the case for closure should be strong and the proposal should demonstrate that:

- plans to develop alternative provision clearly demonstrate that it will be at least as equal in terms of the quantity as the provision provided by the nursery school with no loss of expertise and specialism; and
- replacement provision is more accessible and more convenient for local parents.

¹⁰ Any school classed as urban will have a rural/urban indicator of either 'Urban>10K – less sparse' or 'Urban>10K – sparse' – all other descriptions refer to rural schools.

Balance of denominational provision

63. In deciding a proposal to close a school with religious character, decision-makers should consider the effect that this will have on the balance of denominational provision in the area.

64. The decision-maker should not normally approve the closure of a school with a religious character where the proposal would result in a reduction in the proportion of relevant denominational places in the area. However, this guidance does not apply in cases where the school concerned is severely under-subscribed, standards have been consistently low or where an infant and junior school (at least one of which has a religious character) are to be replaced by a new all-through primary school with the same religious character on the site of one or both of the predecessor schools.

Community Services

65. Some schools may be a focal point for family and community activity, providing extended services for a range of users, and its closure may have wider social consequences. In considering proposals for the closure of such schools, the effect on families and the community should be considered. Where the school is providing access to extended services, provision should be made for the pupils and their families to access similar services through their new schools or other means.

Additional factors relevant to proposals to change category to foundation, acquire/remove¹¹ a Trust¹² and acquire/remove a foundation majority governing body

Standards

66. Decision Makers should consider the impact of changing category to foundation and acquiring or removing a Trust on educational standards at the school. Factors to consider include:

- the impact of the proposals on the quality, range and diversity of educational provision in the school;
- the impact of the proposals on the curriculum offered by the school, including, if appropriate, the development of the school's specialism;
- the experience and track record of the Trust members, including any educational experience and expertise of the proposed trustees;
- how the Trust might raise/has raised pupils' aspirations and contributes to the ethos and culture of the school;
- whether and how the proposals advance/have advanced national and local transformation strategies;
- the particular expertise and background of Trust members. For example, a school seeking to better prepare its pupils for higher education might have a higher education institution as a partner.

67. In assessing standards at the school, the decision-maker should take account of recent reports from Ofsted or other inspectorates and a range of performance data. Recent trends in applications for places at the school (as a measure of popularity) and the local reputation of the school may also be relevant context for a decision.

68. The government wants to see more schools benefit from the freedom to control their own assets, employ their own staff and set their own admissions criteria. However, if a proposal is not considered strong enough to significantly improve standards at a school that requires it, the decision maker should consider rejecting the proposal.

¹¹ Regulation 19 of The School Organisation (Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts) (England) Regulations 2007 requires the governing body, LA, trustees and Schools Adjudicator to have regard to guidance when exercising their functions in relation to the removal of: a foundation, a Trust, or a Foundation majority.

¹² A 'Trust school' is a foundation school with a charitable foundation complying with the requirements set out in section 23A of the SSFA 1998. These include that the Trust must have a charitable purpose of advancing education and must promote community cohesion.

Community Cohesion

69. Trusts have a duty¹³ to promote community cohesion. In addition to the factors outlined in paragraph 22, the decision-maker should also carefully consider the Trust's plans for partnership working with other schools, agencies or voluntary bodies.

General points on acquiring a Trust

70. For new Trust schools (foundation schools with a charitable foundation) the decision-maker must be satisfied that the following criteria are met for the proposal to be approved:

- the proposal is not seeking to alter the religious character of a school or for a school to acquire or lose a religious character. These alterations cannot be made simply by acquiring a Trust;
- the necessary work is underway to establish the Trust as a charity and as a corporate body; and
- that none of the trustees are disqualified from exercising the function of trustee, either by virtue of:
 - disqualifications under company or charity law;
 - disqualifications from working with children or young people;
 - not having obtained a criminal record check certificate¹⁴; or
 - the Requirements Regulations which disqualify certain persons from acting as charity trustees.

Other points on Trust proposals

71. Additionally, there are a number of other factors which should be considered when adding or removing a Trust:

- whether the Trust acts as the Trust for any other schools and/or any of the members are already part of an existing Trust;
- if the proposed Trust partners already have a relationship with the school or other schools, how those schools perform (although the absence of a track record should not in itself be grounds for regarding proposals less favourably);
- how the partners propose to identify and appoint governors. What, if any, support would the Trust/foundation give to governors?

¹³ Under section 23(A)6 of the EIA 2006.

¹⁴ Under section 113A of the Police Act 1997.

- to what extent the proposed Trust partners have knowledge of the local community and the specific needs of the school/area and to what extent the proposal addresses these; and
- the particular expertise and background of Trust members.

General point on removing a Trust

72. If a proposal is for the removal of a Trust, the governing body should consider the proposal in the context of the original proposal to acquire the Trust, and consider whether the Trust has fulfilled its expectations. Where new information has come to light regarding the suitability of Trust partners, this should be considered.

Suitability of partners

73. Decision-makers will need to be satisfied of the suitability of Trust partners and members. They should use their own discretion and judgement in determining on a case-by-case basis what circumstances might prevent the reputation of a Trust partner being in keeping with the charitable objectives of a Trust, or could bring the school into disrepute. However, the decision-maker should seek to come to a balanced judgement, considering the suitability and reputation of the current/potential Trust. Decision-makers should seek to assure themselves that:

- the Trust members and proposed trustees (where the trustees are specified in the proposals) are not involved in illegal activities and/or activities which could bring the school into disrepute;
- the Trust partners are not involved in activities that may be considered inappropriate for children and young people (e.g. tobacco, gambling, adult entertainment, alcohol).

74. The following sources may provide information on the history of potential Trust partners:

- [The Health and Safety Executive Public Register of Convictions](#)¹⁵;
- [The Charity Commission's Register of Charities](#); and
- [The Companies House web check service](#).

¹⁵ Appearance on this database should not automatically disqualify a potential Trust member; decision-makers will wish to consider each case on its merits.

Land and Assets, when removing a Trust/foundation majority

75. When removing a Trust, the governing body is required to resolve all issues relating to land and assets before the publication of proposals, including any consideration or compensation that may be due to any of the parties. Where the parties cannot agree, the issues may be referred to the Schools Adjudicator to determine.

76. The Schools Adjudicator will take account of a governing body's ability to pay when determining any compensation. Therefore, all of these issues must be resolved by the point at which the decision is made and the amount of compensation due to either party may be a factor in deciding proposals to remove a Trust.

Finance - when removing a Trust/foundation majority

77. Trusts are under no obligation to provide financial assistance to a school, but there may be instances where the Trust does provide investment. The well-being and educational opportunities of pupils at the school should be paramount, and no governing body should feel financial obligations prevent the removal of a Trust where this is in the best interests of pupils and parents.

Other services provided by the Trust - when removing a Trust/foundation majority

78. Trusts may offer a variety of services to the school, such as careers advice, work experience placements, strategic partnerships with other schools, access to higher education resources and so on. The damage to relationships and/or loss of any of these advantages should be weighed up against the improvements envisaged by a change in governance or the removal of the Trust.



Department
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Department
for Education

School Organisation

Maintained Schools

Annex C: Foundation and Trust Proposals

**(Including: changing school category to foundation,
acquiring/removing a Trust and acquiring/removing a
Foundation majority governing body)**

January 2014

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Key Points

1. The guidance in this annex relates to Schedule 1 to [The School Organisation \(Prescribed Alterations to Maintained Schools\) \(England\) Regulations 2013](#) and the [School Organisation \(Removal of Foundation, Reduction in the Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations \(2007\)](#).
2. The statutory purpose of a foundation is to hold land on trust for one or more schools; they may also appoint foundation governors to those schools where the instrument of government allows.
3. A 'Trust school' is a foundation school with a charitable foundation complying with the requirements set out in section 23A of the SSFA 1998. These include that the Trust must have a charitable purpose of advancing education and must promote community cohesion.
4. This guidance will use the term 'acquire a foundation majority' to mean acquiring an instrument of government whereby the school's Trust has the power to appoint a majority of governors on the governing body.
5. While a voluntary or foundation school may be initially established with a religious character, it is not possible for any school to gain, lose or change religious character through a change of category.
6. It is possible for the governing body of a school to complete the statutory process to change category to foundation at the same time as the statutory process to acquire a Trust and/or give the Trust the power to appoint a majority of governors.

Foundation Proposals: Changing category to foundation, acquiring a Trust and/or acquiring a foundation majority

The statutory process

7. Where a school's governing body considers changing category from community, voluntary-aided or voluntary-controlled to foundation or, from community special to foundation special, acquiring a Trust and/or acquiring a foundation majority on the school's governing body, the following five-stage statutory process must be followed:

Stage 1	Initiation	The governing body considers a change of category to foundation/acquisition of a trust/acquisition of a foundation majority.
Stage 2	Publication	1 day (having gained consent where appropriate).
Stage 3	Representation (formal consultation)	Must be 4 weeks (as prescribed in regulations). (The LA may refer a Trust proposal to the Schools Adjudicator during this period if it considers the proposal to have a negative effect on standards at the school).
Stage 4	Decision	The governing body must decide within 12 months of the date of publication (unless the LA has referred the proposal to Schools Adjudicator at Stage 3).
Stage 5	Implementation	No prescribed timescale. Must be as specified in the statutory notice, subject to any modifications agreed by the decision-maker.

Stage 1 - Initiation

8. In the case of a proposal to change the category of a school to foundation, the governing body should inform the LA in writing, at least seven days in advance of a meeting, if a motion to consult on a change of category proposal is to be discussed.

9. The existing trustees and whoever appoints the foundation governors must¹ give consent before the governing body can publish a proposal to change category from a voluntary-school to a foundation school or acquire a foundation majority.

Stage 2 - Publication

10. Part 1 of Schedule 1 to the Prescribed Alterations Regulations specifies the information that the statutory proposal must contain. When drafting a proposal the proposer will need to be mindful of the factors that will inform the decision-maker's assessment when determining the proposal (see Decision-makers Guidance at [Annex B](#)).

11. Part 2 of Schedule 1 to the Prescribed Alterations Regulations specifies which bodies must be sent copies of the proposal and where a brief notice of the proposal must be published.

12. Where a proposal is 'related' to another proposal, details of this should be made clear in the notice.

Stage 3 - Representation Period

13. The representation period starts on the date of the publication of the proposal and must last four weeks. During this period, any person or organisation can submit comments on the proposal to the governing body to be taken into account when the decision is made.

14. During the representation period, the LA has the power² to require the referral of a proposal to acquire a Trust/foundation majority to the Schools Adjudicator for decision if they consider it will have a negative impact on standards at the school. The specific circumstances in which a referral can be made are prescribed in paragraph 8(2) and paragraph 10 of Schedule 1 to the Prescribed Alterations Regulations. The LA does not have this power in respect of a proposal solely to change category to foundation³.

15. Where a proposal is referred to the Schools Adjudicator, the governing body must forward any objections or comments it has received to the Schools Adjudicator within 1 week of the end of the representation period.

Stage 4 - Decision

16. Paragraphs 13 to 16 of Schedule 1 to the Prescribed Alterations Regulations prescribe the decision-making process.

17. Where a proposal to acquire a Trust or a foundation majority is linked to a proposal to change category to foundation, they will fall to be decided together.

¹ Under section 20 of the EIA 2006.

² Under section 23 of the EIA 2006 and paragraphs 8 to 11 of Schedule 1 to the Prescribed Alterations Regulations.

³ However, where such a proposal is related to a proposal to acquire a Trust, then the whole set of proposals will be referred to the Schools Adjudicator.

18. Unless a proposal has been referred to the Schools Adjudicator (see paragraph 14), the governing body will be the decision-maker. Decisions must be taken in accordance with the 'Decision-makers Guidance' (at [Annex B](#)). The governing body must determine the proposal within 12 months of the date of publication of the proposal.

19. When issuing a decision, the decision-maker can:

- reject the proposal;
- approve the proposal without modification; or
- approve the proposal with modifications, having consulted the LA.

20. Where the LA has referred a proposal to acquire a Trust/foundation majority to the Schools Adjudicator for decision, any related proposal(s) (including a change of category to foundation) will also fall to be decided by the Schools Adjudicator.

21. The decision-maker may conditionally approve a proposal subject to a prescribed event⁴. When doing so it must set a date by which the event must occur, but this can be modified if required. This date must be before the proposed implementation date of the proposal. If the event has not occurred by the date specified, the proposal must be referred back to the decision-maker for re-consideration.

22. Decision-makers must give reasons for their decision irrespective of whether the proposal was rejected or approved. They must also arrange for a copy of the decision (together with reasons) to be posted on the website where the original proposal was published and for it to be forwarded to the bodies specified in paragraph 17 of Schedule 1 to the Prescribed Alterations Regulations.

23. Where a proposal has been decided by the governing body and is to change the category of a VA school to foundation (with or without the acquisition of a Trust/foundation majority), the following bodies have the right of appeal to the Schools Adjudicator⁵:

- the LA;
- the local Church of England diocese; and
- the local Roman Catholic diocese.

Stage 5 - Implementation

24. The governing body is under a statutory duty to implement any approved proposal by the approved implementation date, taking into account any modifications made by the decision-maker.

⁴ The events are those listed in paragraph 16 of Schedule 1 to the Prescribed Alterations Regulations.

⁵ The specific circumstances in which a referral can be made are prescribed under paragraphs 15 of Schedule 1 to the Prescribed Alterations Regulations.

25. Modifications can be made to a proposal by the governing body after determination but before implementation (see paragraph 20 of Schedule 1 to the Prescribed Alterations Regulations).

26. There is no limit on the time between the publication of a proposal and its date of implementation⁶ but circumstances may change significantly if a long period passes. If the proposer cannot implement an approved proposal because circumstances have changed so that implementation would be inappropriate or implementation of the proposal would be unreasonably difficult, they must publish a revocation proposal to be relieved of the duty to (see paragraph 19 of Schedule 1 to the Prescribed Alterations Regulations).

27. **Once proposed changes have been implemented, the proposer must⁷ inform the Secretary of State by ensuring that the department's Register of Educational Establishments (EduBase) is updated. Guidance on how schools and LAs can update EduBase is available at: www.education.gov.uk/edubase/faq.xhtml.**

28. Requirements as to the revision or replacement of the school's instrument of government, reconstitution or replacement of the governing body, transfer of staff and transitional admission arrangements are prescribed in Schedule 4 to the Prescribed Alterations Regulations.

29. Requirements as to land transfers, when a school changes category or acquires a Trust, are prescribed in Schedule 5 to the Prescribed Alterations Regulations.

⁶ For a proposal to acquire a foundation majority, proposers should build in enough time for a new instrument of government to be made (where required).

⁷ Under paragraph 18(2) of Schedule 1 to the Prescribed Alterations Regulations.

Removal Proposals: Proposals for removing a Trust and/or removing a foundation majority

The statutory process

30. There are five or six statutory stages (depending on the proposal and circumstances) to remove a Trust and/or to reduce a Trust majority. It may be triggered in two different ways – either by a majority or a minority of the governing body:

Stage 1	Initiation	<p>Majority</p> <p>A majority of governors considers publishing a proposal to remove a Trust/reduce the number of governors appointed by the Trust.</p> <p>or</p> <p>Minority</p> <p>A minority (of not less than a third of the governors) notify the clerk of the governing body of their wish to publish a proposal to remove a Trust/reduce the number of governors appointed by the Trust.</p>
Stage 2	<p>Land Issues</p> <p>(applicable only to removal of Trusts)</p>	<p>In cases of removing Trusts, the governing body, Trustees and the LA must resolve issues related to land and assets before a proposal is published.</p> <p>If not resolved within 3 months, disputes must be referred to the Schools Adjudicator.</p>
Stage 3	Consultation	<p>Majority</p> <p>It is for the governing body to determine the length of consultation (a minimum of 4 weeks is recommended).</p> <p>or</p> <p>Minority</p> <p>No consultation required.</p>

Stage 4	Publication and representation	<p>Majority</p> <p>No specified timescale by which to publish – followed by a 6 week representation period.</p> <p>or</p> <p>Minority</p> <p>Where there are no land or asset issues – publish within 3 months of receipt of notice by governing body clerk – followed by a 6-week representation period.</p> <p>Where there are land issues, publish within 1 month of receipt of School Adjudicator’s determination – followed by a 6-week representation period.</p>
Stage 5	Decision	<p>The governing body must decide within 3 months.</p> <p>(A proposal initiated by a minority of governors may not be rejected unless at least two-thirds of the governing body are in favour of the rejection).</p>
Stage 6	Implementation	<p>No prescribed timescale, but must be as specified in the statutory notice, subject to any modifications agreed by the decision-maker.</p>

Stage 1 - Initiation of Statutory Process

31. A proposal for removing a Trust and/or removing a foundation majority can be triggered by a (a) majority or (b) minority of the governing body:

a) under regulation 4 of the Removal Regulations, by a simple majority of the governing body or a committee deciding to publish a proposal. The decision to publish must be confirmed by the whole governing body at a meeting held at least 28 days after the meeting at which the initial decision was made; or

b) under regulation 5 of the Removal Regulations, by at least one-third of the governors requesting in writing to the clerk of the governing body, that a proposal be published. No vote of the governing body is required as they are obliged to publish a proposal. To prevent on-going challenges there are a number of prescribed

circumstances in which there is no obligation to follow the wishes of the minority of governors⁸.

32. All decisions must be taken in accordance with the processes prescribed in Procedures Regulations⁹.

Stage 2 - Where a proposal is to remove the school's Trust - resolution of issues relating to land and assets

33. Once the decision has been taken to initiate the process of removing the school's Trust (whether triggered by a majority or a minority of governors), the governing body must¹⁰ reach agreement with the Trust and LA on issues relating to the school's land and assets. Where such issues remain unresolved within 3 months of the initial decision (majority) or receipt of notice by the clerk (minority), they must be referred to the Schools Adjudicator for determination.

34. On the removal of the Trust, all publicly provided land held by the Trust for the purposes of the school will transfer to the governing body¹¹. Where the land originated from private sources (for example, where land was gifted on trust), the land will transfer to the governing body in accordance with a transfer agreement, providing for consideration to be paid by the governing body to the Trust where appropriate. However, there may be land which has benefited from investment from public funds which remains with the trustees under the transfer agreement.

35. Alternatively, there may have been investment by trustees in the publicly provided land or from public funding in the land provided by the trustees. In either of these cases, it may be appropriate for either the trustees or the public purse to be compensated. The possibility of stamp duty land tax may also need to be taken into account.

36. The Schools Adjudicator will announce its determination in writing to both parties.

Stage 3 - Consultation

37. Where a minority of governors initiated the process, this stage does not apply.

38. Where a majority of governors initiated the process, before publishing a proposal the governing body must consult local stakeholders as prescribed in regulation 7 of the Removal Regulations.

Stage 4 - Publication and representation period

39. Where the decision to publish a proposal was made by a majority of governors, the governing body at this stage must decide whether to go ahead with publishing the proposal.

⁸ See regulation 5(4) of the Removal Regulations for further details.

⁹ Except as otherwise provided by the Removal Regulations.

¹⁰ Under regulation 6 of the Removal Regulations.

¹¹ By virtue of regulation 17(1) of the Removal Regulations

40. Where the decision to publish a proposal was made by a minority of governors and there are no land issues to be determined, the governing body must publish the proposal within 3 months of the receipt of the notice by the clerk. If land issues were referred to the Schools Adjudicator, the proposal must be published within 1 month of receipt of its determination.
41. Regulations 8 and 9 and Schedules 1 and 2 of the Removal Regulations specify the information that the statutory notice must contain, where it must be published and the bodies to whom the proposal must be sent.
42. The representation period starts on the date of the publication of the proposal and must last six weeks. During this period, any person or organisation can submit comments on the proposal to the governing body to be taken into account when the decision is made.
43. Unlike the Trust acquisition process there is no power for the LA to refer to the Schools Adjudicator a proposal to remove a school's Trust or to reduce the number of governors appointed by the Trust. However, governing bodies must bear in mind that failure to follow the requirements of the statutory process could lead to a complaint to the Secretary of State under Section 496/497 of the Education Act 1996, and/or ultimately be challenged through judicial review.

Stage 5 - Decision

44. The governing body is the decision-maker for a removal proposal and must determine the proposal within 3 months of the date of its publication. Decisions must be taken in accordance with the Decision-makers Guidance (at [Annex B](#)).
45. If a proposal was brought forward by a majority of governors, then it may be determined by a majority vote of those governors present¹².
46. If a proposal was brought forward by a minority of governors, then the governing body may not reject the proposal unless two thirds or more of the governors indicate that they are in favour of its rejection¹³.
47. The governing body must notify the relevant LA and Trustees of their decision.

Stage 6 – Implementation

48. The governing body is under a statutory duty to implement any approved proposal, as published, by the approved implementation date, taking into account any modifications made.
49. Modifications can only be made to the implementation date and the proposed constitution of the governing body. This can only be done in line with paragraph 12(2) of the Removal Regulations.

¹² As per the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013.

¹³ As per regulation 11(2) of the Removal Regulations.

50. Removal of a Trust must be implemented in accordance with regulations 14-18, and reconstitution of the governing body must be implemented as per regulation 14-16 of the Removal Regulations.

51. **Once proposed changes have been implemented, the governing body must¹⁴ inform the Secretary of State by ensuring that the department's Register of Educational Establishments (EduBase) is updated. Guidance on how schools and LAs can update EduBase is available at:**
<http://www.education.gov.uk/edubase/faq.xhtml>.

¹⁴ Section 538 of the Education Act 1996 imposes an obligation on governing bodies of maintained schools to provide information to the Secretary of State that he may require for the purpose of the exercise of his education functions. Section 29(5) of the Education Act 1996 requires LAs to publish information at such times and in such manner as may be required by regulations in respect of their arrangements relating to primary or secondary education.

Further guidance on the implementation of foundation and Trust proposals

Reconstitution of the governing body

52. In changing category, an implementation period begins when the proposal is decided and ends on the date the proposal is implemented. During this period the LA and governing body are required to make a new instrument of government for the school, so enough time must be built into the timeframe for this to happen. The governing body must then be reconstituted in a form appropriate to the school's new category and also in accordance with the appropriate instrument of government taking into account the School Governance (Constitution) (England) Regulations 2012.

53. When removing a Trust or a Trust majority, a governor may continue as a governor in the corresponding category (e.g. staff governor, parent governor) if that category remains under the new instrument of government. A member of a current governing body who continues as a governor on these grounds holds office for the remainder of the term for which he or she was originally appointed or elected. Where a school with a religious character has no foundation, the governing body must appoint partnership governors with a view to ensuring that the religious character of the school is preserved and developed in accordance with the School Governance (Constitution) (England) Regulations 2012. There is nothing to prevent the appointment of a former foundation governor being reappointed by the governing body as a partnership governor.

Variation of foundation and voluntary school Trusts

54. The Trust of a voluntary or foundation school often makes very specific provisions regarding the conduct of the school and the use of any fund held by the Trust for the use of the school and premises. In bringing forward a proposal to change category, proposers will need to consider whether the school's current Trust allows for the change in category proposed. If in doubt, or if a variation in the Trust is clearly necessary, promoters and the relevant site trustees are advised to make early contact with the Charity Commission to apply for the trust to be varied under the relevant trust law.



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Summary of representations

Overall funding issues

- The financial argument is not convincing
- The dedicated schools grant is ring fenced so closing the school doesn't save any money for the Council, it is merely redistributed
- There is no reason to close the school on financial grounds
- The Council has considerable financial reserves which should be used to support the school
- These children will always be expensive due to their physical and medical needs and will be equally expensive at another school
- The books have always balanced despite small numbers, it is only the funding drop that will cause the school to go into deficit
- School has only had £30-£40k capital investment since 1999 whereas the others have had 100s of thousands
- Surplus funding in the schools budget should be used to keep the school open
- What would the cost be if the children from Lyndale chose to go to out of borough schools?

Funding bands

- Wirral has chosen a particular model of top-up funding for children with special needs which does not reflect the full cost of the provision at the Lyndale school
- Clarification requested on funding bands - Why has my child been placed in Band 4 and not Band 5?
- Funding bands can be reviewed again
- A contingency fund could be used to support specialist provision experiencing financial difficulties
- Croydon funding arrangements are an example of how SEN funding should work
- Funding bands were devised as a deliberate attempt to put Lyndale into deficit
- Funding bands should recognise that different settings have different costs, not one banding system across all settings
- Banding should be based on need not budgets
- The "out of borough" band is uncapped
- West Kirby Residential is 5 to 16 - Why can't the West Kirby Residential children go to Stanley?

Health and Safety of the Lyndale pupils

Appendix 4 – Representations summary

- Lyndale children would be more vulnerable in Elleray Park and Stanley which is an unsafe environment
- The needs of the children in Elleray and Stanley are different and incompatible in many cases
- Children would have to be segregated in one or two rooms
- How would children be safe when transferring to and from transport?
- Moving school would be disruptive for children
- Children's health is very fragile and many have life-limiting conditions
- Many children can do nothing for themselves and need the constant attention of an adult 24 hours a day
- Children develop in an environment where they feel safe and secure
- Concerns about mixing able bodied children and children with disabilities
- There have been reports of children being injured at other schools

Future of the Lyndale staff

- Staff are highly professional and provide valuable care, support, compassion and assistance
- What would the staffing ratio be? Will children still get the same one to one?
- Would the staffing ratio allow children to still get trips and outings at other schools?
- Do not want to see the teamwork and expertise of teaching and support staff fragmented and broken up
- No redeployment policy in place for staff
- If TUPE does not apply, can the Council ask the governing bodies of the other schools to apply the TUPE principles where individual staff can be identified as having specific relationships with certain children
- Staff have built up good relationships with parents and pupils and families are very thankful for the help staff provide
- Would want the staff to move with the children as much as possible to give parents some security and ensure care needs are met
- All three schools offer a fantastic service but Lyndale is unique
- Ofsted said Lyndale was a good school with outstanding features in 2012
- Ofsted report on Elleray Park is four years old
- Wonderful school
- Atmosphere of welcome, care and serene concern for each child
- Staff have developed a specialism in PMLD

Appendix 4 – Representations summary

- Closing the school midyear will make it harder for staff to find other jobs

Assessment of children

- Concerns about new EHCP process
- All children at Lyndale have complex and profound medical conditions
- Children's needs are not all the same and they should be treated as individuals
- Children will need the same high quality support in any setting
- The individual assessments carried out by the educational psychologists have not been used in anyway in relation to the consultation
- Parents do not dictate the level of care, the school and experts make those decisions

Physical environment

- Children with PMLD benefit from a bright stimulating environment while children with CLD benefit from subdued calming environments
- Unique and special facility that should be preserved and safeguarded
- Accessible sensory garden at Lyndale
- Abundance of outside space at Lyndale
- There is only a wire fence between Stanley and Pensby
- With more children, breaktimes would be exceedingly noisy and noise could trigger seizures
- Stanley has very little outside space and no sensory outdoor space
- Classrooms need to be spacious
- Would children be mixed in with the Stanley/Elleray Park children or segregated in separate classrooms?
- There can be a maximum of six children in wheelchairs in one classroom, not 10 per class
- Extensions would have to be built to accommodate the children from Lyndale as there is not enough room in the other two schools

Pupil numbers

- School has been in managed decline for 8 years with uncertainty and rumours about its future
- Council should have promoted the school as a choice for parents but have failed to do so
- Parents have not been told Lyndale was an option or have been discouraged from coming here
- More special schools will be needed in future

Appendix 4 – Representations summary

- Lyndale is designated for CLD but over the years has become a school for children with PMLD
- No evidence that larger schools are better than smaller schools
- Secondary special schools do not provide the same level of education as the Lyndale school
- A report said that the school should only have 28 children with the current staffing levels

SEN Improvement test

- Not convinced the SEN improvement test has been met
- The independent consultant did not do an in-depth analysis of individual children's needs
- EHCPs should have been completed before any decision is made
- Stanley has never had any PMLD pupils and Elleray Park has limited experience with pupils on Band 4 or 5
- The independent consultant's report was published after the consultation ended so there was insufficient time to scrutinise it's findings
- The independent consultant was appointed by the Council with no consultation with governors or parents
- The independent consultant has no background in PMLD, only in school reorganisation and funding
- The independent consultant only spent two hours with parents at Lyndale and did not speak to any governors
- Cannot compare the three schools as they take very different children

The Consultation

- Parents questions raised during the consultation have not been fully answered or taken seriously
- How were responses to the consultation made available?
- Different closure date was consulted on to the one in the statutory notice
- Consultation has been long winded, repetitive and stressful
- No detailed answers were given at the consultation meetings
- Chair of the consultation meeting told me to be quiet when I tried to describe my daughters needs
- Consultation lacked clear plan or focus
- Over 7000 people signed a petition

Comments on the proposal

- Disruptive to close the school mid-year, why not close in July 2016 at the end of the academic year otherwise - some children would start the year in one school, transfer to another, then again to go to secondary school
- Some parents will not want their child to go to Ellera Park or Stanley
- Should transfer all the children and staff to another site as one unit, this option was broached in a half-hearted manner in the consultation
- A school survey of parents of Lyndale children indicates that about half would be interested in a unit at Foxfield
- Will there still be places available for children with autism at Stanley School?
- Stanley and Ellera do not have space for the children from Lyndale
- Concern about the impact of change on working families
- Has not clearly indicated what alternative provision is available if Lyndale closes, just a list of schools
- Parents preference is clearly for Lyndale – this has not been taken into account
- Staff at the new schools would not be trained in time for the transfer
- A survey of parents of Lyndale children carried out by parents indicates that most would not want their child to go to Stanley or Ellera Park if the school were to close
- Stanley takes only children with ASD and behaviour problems

Other Comments

- There has been a wealth of national adverse publicity associated with social services and vulnerable children
- Moral obligation to keep the school open
- In 2011 it was recommended to close Kingsway Primary as a small school but it is still open so officers were incorrect to recommend closure and are incorrect now
- Beggars belief that this statutory notice has been issued at all
- A society is judged on how it treats those who are less able to look after themselves
- Insensitive and cruel

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From:
Sent: 18 November 2014 13:29
To: Hassall, Julia E.
Cc: CYPD-Special Review;
Subject: RE: The Lyndale School

Response to Statutory Notice- The Lyndale School.

I have visited The Lyndale School during the consultation period; I have also visited Ellera Park School and Stanley School.

While they all offer a fantastic service The Lyndale School is unique in that all of the children that attend The Lyndale School have complex and profound medical conditions, and many will not reach their teenage years.

I believe Wirral Council have a morale obligation for the children, parents and carers of The Stanley School and this can only be achieved by Wirral Council continuing their education at this exceptional school.

Wirral Council needs to re-invest in The Lyndale School rather than manage its decline, as they have over a number of years. The DSG is ring fenced so therefore no savings can be made by closure.

If The Lyndale School were to close the proposal is that children will transfer to either Ellera Park School or Stanley School, making vulnerable children even more so by placing them in an unsafe environment, the parents from all three schools have expressed their concerns over this because the needs of the children in these schools are different and in many cases incompatible. This would see children having to be segregated for their own safety.

The independent consultants report was flawed due to the fact it was published once the consultation had closed, therefore leaving insufficient time to scrutinise its findings.

Having looked at all of the information available I am not convinced that the alternative proposals can and do meet the SEN improvement test.

In conclusion I would urge Wirral Council to reconsider its decision to close this much valued and outstanding facility for our most vulnerable children of Wirral.

Yours Sincerely.

Conservative Councillor

From:
Sent: Tue 18/11/2014 23:43
To: Hassall, Julia E.
Cc: CYPD-Special Review
Subject: The Lyndale School

Response to the Statutory Notice – Lyndale School

The Lyndale School provides education, judged by OFSTED to be good with outstanding features as recently as November 2012. The Lyndale School is an incredible setting which is unique.

This is a small school which deals with the needs of a number of children with very significant challenges, and it provides them with a safe and yet stimulating environment which is suited to their particular needs. The nature of their medical conditions means that the school loses pupils to death as well as those who reach the appropriate age to transfer off the roll to secondary school. The parents of these special children understandably wish to retain the unique character of the Lyndale School.

At a time of change in schools funding Wirral has chosen a particular model of funding for the top-ups which are paid to schools with pupils who have special needs. The DSG is ring-fenced and so there are no savings to be made, merely a re-distribution of funds.

I remain unconvinced that the SEN Improvement Test is met by moving children to schools which parents do not believe meet their child's needs. The children with PMLD benefit from bright and stimulating environments while children with CLD arising from (eg autistic spectrum disorder) benefit from subdued, calming environments. A Wirral which believes in protecting the vulnerable should not be putting some of the most vulnerable children in an environment where they have to be segregated for their own safety.

I submit that The Lyndale School should remain open to provide the special care which these vulnerable children need.

The contents of this email are the personal view of the author and should in no way be considered the view of Wirral Metropolitan Borough Council

From:
Sent: 17 November 2014 10:35
To: Hassall, Julia E.
Cc:
Subject: Statutory Notice - The Lyndale School

Dear Julia

Response to Statutory Notice – The Lyndale School.

As a member of the call in committee that considered the proposed closure of Lyndale School – I was greatly and overwhelmingly impressed by the witnesses who spoke up for the excellent work undertaken by the school.

- **It was also very clear from the contributions of witnesses - and the tone of the debate - that there is absolutely no reason to close this school on financial grounds.**
- **So one has to ask – why has closure become an imperative for the council to undertake against such cogent, considered and well founded opposition?**
- The facility - and the highly professional staff running the school - provides very valuable and potentially irreplaceable – care, support, compassion and assistance for very vulnerable children.
- This is supposed to be a major aim of local authorities to provide as an associated part of their statutory obligations – particularly in view of the wealth of national, recent adverse publicity associated with social services and vulnerable children.

IN SUMMARY

The Lyndale School is a unique and incredibly special facility. It is incumbent upon the Council to do all that it can to protect, preserve and safeguard this exceptional facility.

All the children that attend The Lyndale School have complex and profound medical conditions. A significant number have life limiting conditions and will not reach their teenage years. Therefore

the Council has substantially more than merely a moral obligation to meet the wishes and needs of the children, their parents and carers in continuing their education at The Lyndale School.

Finally, as the Dedicated Schools Grant (DSG) is a ring-fenced grant – there are absolutely no ‘savings’ to be made from closing The Lyndale School.

CONCLUSION

In view of the above, I see absolutely no cogent, just or financial reason to close the school at this time. It should remain open to continue to provide the unquestioned excellent service that it has undoubtedly been shown to provide over recent years.

I do hope that the above unambiguously clarifies my position on this matter.

Kind regards

Sent: Wednesday, 12 November 2014 14:42

Dear

My name is _____ and my _____, attends the Lyndale School. I am contacting yourself to express my feelings on how we have been treated throughout the consultation to close Lyndale but also of my very deep concerns.

I attended most of the consultation meetings and raised several concerns to the officers present and did not receive a satisfactory answer to any, in fact most of my concerns and questions were either dismissed completely by _____ or met with the response "well we will have to look into that". Particular concerns were with regards to safety, were our children going to be segregated from children with behavioural problems, would the Lyndale children be in locked classrooms for their own safety for the whole of the school day? If our children were to be integrated or moved through the school how would this be achieved? What staffing ratio would there be to ensure safe passage through the school. At the beginning and end of the school day how would the safety of the children be met when transferring to and from transport?

Another concern I have is over space. Currently at Lyndale the children are able to access all areas and all the classes can integrate without any fear for the children's safety. They also have an abundance of outside space and a beautiful sensory garden too. I fear that this cannot be replicated at either Elleray Park or Stanley School. The outside space at The Stanley School is of particular concern as there is only a wire fence between Stanley and Pensby Juniors. Break times for our children in those areas would be exceedingly noisy, which in the case of

14/11/2014

could trigger seizures. This would then mean that being outside would not be suitable and constitute another "loss" for [redacted]. From the very beginning of the consultation we were told by Julia Hassall that Lyndale could not close if the other provisions did not meet the SEN Improvement Test which she said would mean that they would have to be equal to or better than what they currently receive at Lyndale. Surely the other provisions can't be deemed to have passed that requirement based on an Ofsted report, of which Elleray Park's was 4 years old but also bearing in mind that Stanley has never had any PMLD children there and Elleray Park has very limited experience with PMLD children with a funding band of 4 and 5. [redacted] also enjoys many trips out into the community, they visit shops to purchase items for particular topics they are discussing in class, they visit garden centres and libraries too and these are possible due to Lyndale being a small school and having a healthy teacher/pupil ratio. I fear that due to cuts that ratio will be affected in another provision especially as those provisions are already struggling with their own present budgets meaning that these frequent excursions will cease and [redacted] again will lose something that he gets an enormous amount of pleasure from.

Another concern I am facing now is the transfer of [redacted] Education Statement to an EHCP. Firstly I felt I was being "bulldozed" into it but was assured by [redacted] that it would go at my pace and if I needed 10 meetings then I could have 10 meetings. It now seems I've been allocated just 3 meetings, my 3rd meeting was last week and still not all the reports needed for the plan had been gathered for me to review so I have had to request another meeting but I'm not sure yet whether this will be granted. There also seems to be an unwillingness to put provisions for [redacted] into EHCP, things like 1-1 support, 2-1 support for hand over hand activities as [redacted] is tactile defensive and time out of [redacted] wheelchair. I was told that only things specified in his existing statement could be put into [redacted] plan yet [redacted] original statement is 6 years old and not completely relevant anymore. These plans, so we were informed, are supposed to be more specific than the statements yet how can they be if they won't add anything that is not already in the statement? Yet more confusion for the Lyndale parents! Lastly the plans have to be "SMART" which means Specific, Measureable, Achievable, Realistic and Timebound, unfortunately, so far, none of my copies of [redacted] EHCP are achieving this requirement.

I am imploring you, as a constituent, to please look into this further on my behalf.

Regards

Sent from Windows Mail

From:

Sent: Wednesday, 12 November 2014 14:42

To:

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14/11/2014

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I am imploring you, as a constituent, to please look into this further on my behalf.

Regards

Sent from Windows Mail

Dear Councillors,

Further to my previous email I feel there are more points that need to be made.

After discussing with some of the other Lyndale parents we would be grateful if you could perhaps look into some issues we have surrounding both the consultation, the EHCP process and also hopefully to help us get real concrete answers to some of our concerns.

In March 2014 parents of Lyndale made a document of our concerns surrounding the closure of the school and also a long list of questions and queries of how our children's needs would be met if indeed Lyndale should close. This document was handed in person to Julia Hassall, to date we have still not received a satisfactory response to our questions.

These are not minor issues we need clarification on but serious issues surrounding not only the education of our children moving forward but also how their complex medical needs are going to be catered for, as well as how our children are going to be kept safe.

I am sure you can appreciate we are all extremely anxious for our children's wellbeing and we don't feel that any effort at all has been made to allay our fears and concerns, indeed we feel totally let down and ignored.

The first document at the end of this email is the document mentioned above.

In September 2014 a letter was sent home from school from the Head-Teacher and [redacted], this letter says that the Education, health care plan process is underway, we were never told of this.

According to Children's and Families Act and the new SEND Code of Practice we should have been informed the process was starting 2 weeks prior to it commencing. This never happened, in fact, the letter states that a meeting we had in June 2014 with [redacted] and her team (which we were specifically told was information gathering for the Lyndale consultation) was going to be used as part of the EHCP process.

This letter also stated that the next step in the process (we weren't aware we were already in the process) was to have a second meeting to agree the plan.

We discovered at a parent/carer meeting that the LA have a statutory obligation to inform parents going through the EHCP process that they are legally entitled to an Independent Supporter, we were never informed on this by the LA. We found this information out by ourselves. A letter was later sent home to parents on 26th September from the school governors explaining our rights to such independent support.

As parents we feel that we have been bulldozed into this process when we were already feeling high levels of stress and anxiety due to the Lyndale consultation and proposed closure. The EHCP process has only and still is adding to our anxieties.

The culture surrounding the new reforms is trying to achieve the child with their identified needs being at the centre of the process with parents being equal partners in the process.

The Children and Families Act 2014 did not come into law until the 1st September 2014, how then were we in the process of an EHCP back in June 2014 without our knowledge or consent?

The government's statutory guidance on transfer from a Statement to an EHCP published in August 2014 states:

6.4 In line with the notice period for an annual review under the Children and Families Act 2014, to initiate a 'transfer review' (an EHC needs assessment), the local authority **must** notify the child's parent or the young person and the head teacher of the school attended by the child or young person at least two weeks before it starts when the

'transfer review' will commence. The notification should also set out the parent's/young person's rights of appeal.

We have not had these notifications.

As part of the EHCP process reports are used to populate the plan, these reports should not have been written more than 6 months prior to the plan being written. Parents have a legal right according to the Code of Practice to view any reports that are to be used prior to their use in the EHCP. With the exception of the Speech and Language reports I have not had sight of any other reports that have been used.

My child's specialists have not been asked to provide new reports, all the specialist reports I have are more than 12 months old. I have asked as have other parents for copies of the reports that have been used to formulate the plan, we are still waiting.

The legal timeframe for a transfer to an EHCP is 14 weeks, if you count the meeting with back in June we are seriously over the time limit.

The first couple of meetings for the EHCP with [redacted] seemed to go well and the plans were starting to look good, we were happy that they offered a much better overview of our children's needs, they were more detailed than the statements had been. This last 2 weeks have seen a huge change in what the LA are and aren't going to allow in the plans.

Some of the plans have had large amounts of provision removed that had previously been added, for example the need for 2-1 to transfer a child from a wheelchair had been removed and also the amount of times per day our children needed to have their pads changed.

We have been told that the LA cannot put anything in the EHCP that is not currently in the statement, please bear in mind that most of the statements are several years old and are likely not fit for purpose.

During all of the EHCP meetings we have found that funding is being discussed, although we are very aware of the costs that come with a child with PMLD it is very uncomfortable as a parent to have this discussed, especially when you are told that there are no longer enough resources to continue to provide certain services.

We have asked for clarification around the banding being used to categorise the children and we have not had a response other than there is no means to appeal the banding the LA has given our child.

According to the Children's and Families Act 2014 local authorities must be open and transparent, anything but is happening.

One of the mum's has been keeping a document logging week by week what she has experienced and I have her permission to attach this document to my email.

Also, we feel as a Labour controlled Council, that you would have a priority to look after the most vulnerable in our society and we are asking you, no we are imploring you to follow through on that promise.

Yours sincerely

Sent from Windows Mail

Consultation RE: The Closure of The Lyndale School - March 2014

The following document is a list of the points that have been raised thus far by the parents of the children currently attending the Lyndale School.

The document contains a number of concerns and a list of questions that we would like to have answers to. A number of these questions have been asked in the past and we have received what have purported to be answers to them. We have considered the answers, and feel that they do not in any way address the points that have been raised. We have therefore prepared this document to clarify the questions that we would like answered as well as giving more detail for the avoidance of any doubt. As you are aware, we as parents, need to ensure that our children have the same standard of care and education as they have currently. We need to make sure that they have the same level of access to both inside and outside space, that they are safe at all times. We need to ensure that they enjoy the same freedoms and inclusion that they currently have. We do not believe that this is possible in any environment other than their current school. These questions have been put together due to those concerns.

1.1. The Consultation Process

- - As you are aware, we have grave concerns

regarding the consultation process as a whole. There are a number of questions in relation to the process as follows

a. a) When will we be provided with a named council officer to assist us with procedural as well as other queries. We were promised council staff time and resources at the first Cabinet meeting and are still waiting for that help.

b. b) Funding-

For band 4 and 5 top up, please clarify the following:-

- i. i) How many teachers per child have been allocated?
- ii. ii) How many TA's per child have been allocated?
- iii. iii) Does nursing care come with this budget?
- iv. iv) Does Physio care come within this budget?
- v. v) Does Equipment come within this budget?
- vi. vi) How will the schools fund the additional equipment and capital expenditure which will be required for preparation of the school for our children eg changes within the school layout, decoration, provision of suitable outside space including sensory areas?

a. c) Cross Funding - The funding cuts brought in by place lead funding represent a loss of £7000 per child. How exactly do they propose the saving to be met per child?

b. d) If the children move schools, they will still be underfunded. Please confirm that the deficit will be met by cross funding from other pupils? This has been suggested on a number of occasions.

a. e) SEN Improvement Test –

i. i) Please confirm the exact procedure and process and confirm that this will look at not only Education, but also Safety, our childrens general well Being including Physiotherapy, Nursing, Sensory experience, Feeding, Space, and Toileting.

ii. ii) We have been told that the test must be passed but have yet to be told who makes that decision as to whether the test is passed? It is clearly a very specialist area and the local authority will need the input of suitably experienced personnel. We wish to know who that will be and their level of qualification and expertise.

- iii. iii) We have been told that a needs assessment will be carried out on our children, as above, who will this be done by?
- iv. iv) Will there will be agreement between the local authority and ourselves as to the suitability of the person engaged to carry out the report?
- v. v) Please confirm that we will be asked to give permission for that person to access not only our children but their medical records?
- vi. vi) We also feel that it will be necessary for the parents and or carers of each child to be interviewed as the children are unable to communicate and the parents/ carers are best placed to advise on their own childs needs, please confirm that this will be done.
- vii. vii) We have been informed by Julia Hassall that each Medic involved with each child will be consulted, please confirm by whom and how this will take place.
- a. f) If when the SEN Report is done, it states that the SEN improvement test has not been met, what are the contingency plans? Does this mean Lyndale will stay open? Clearly any further period of uncertainty will be detrimental to the children and the parents/ carers as well as the staff and the school as a

whole. We anticipate that the local authority will have contingency funds available to ensure that the school can remain open in the long term should the SEN improvement test not be met.

b. g) Please confirm what will actually happen during the consultation? We are not knowledgeable nor experienced in local authority practice or procedure and need to have a clear picture of both including the timescale and dates of any proposed meetings and decisions.

a. h) Please confirm we will be sent copies of any paperwork in relation to the consultation forwarding to us via paper copy or mail.

b. i) We want assurance that all Councillors are looking at this from a Non Political and Non Personal view. We note from the Call In that all Councillors Labour voted - FOR and Conservative - AGAINST. We are firmly of the view that this is a political decision and want to be assured that it will be a decision based entirely on the needs of the children. I have to say that we were also quite alarmed that one of the Councillors at the call in mentioned that he personally knew the local authority witnesses and assured us that they were

nice people ! We do not feel that that was at all appropriate to say and do not feel that that councillor was impartial and in fact he should not have been involved in that or any decision involving our school.

c. j) Has there been an equality impact assessment done for:-

i. i) SEN funding changes

ii. ii) Lyndale Closure

iii. iii) Schools Budget 2014/15

If there has, can we have a copy of the paperwork.

1.2. The Options to be Considered

a. a) How will the other options mentioned in the initial document provided by the Local Authority be assessed?

b. b) Will the local authority look at the possibility of us becoming an academy as they would not then be involved in the running of the school?

c. c) Will the 2-19 or in fact 2-23 be revisited. The last time this was looked at the reasoning behind the decision not to go ahead was flawed. The current trend in other boroughs is to make schools 2-19 and

in fact in Cheshire its 2-23. Will the local authority look in detail at this proposal?

- d. d) At the call in it was mentioned a number of times that the consultation would look at options that had not yet been thought of, how will this be done? Will the local authority bring in expert help in looking at these options?

1.3. The Closure of The Lyndale School and moving the children to Stanley and Elleray Park schools

If The Lyndale School should close:-

- a. a) How will the children be allocated to each school?
- b. b) Will allocation be on geography?
- c. c) Will allocation be on ability?
- d. d) Will allocation be on age?
- e. e) If the decision is based on choice, what if there is not an equal division? What if all parents want their children to go to the same school?

- f. f) What if parents decide that neither school is suitable? Will the LA fund out of borough schooling?
- g. g) Will each of the parents be able visit the respective schools once the new provisions are in place in order to assess them?
- h. h) At the time our children were allocated to The Lyndale School, neither Elleray nor Stanley School was considered suitable. What has changed?
- i. i) Are each of these schools going to cater for children aged 2-11 in just 2 groups or is the plan to integrate our children with the existing children in both Stanley and Elleray? It would clearly be very difficult to cater for such a large age range with, for example, only two small classes of children, it would mean that a child would potentially be in the same class and therefore the same class room for up to nine years.
- j. j) We have requested the incident reports from Meadowside, Elleray, Stanley and Foxfield Schools. These are necessary to look at any potential safety issues with our children both now and if they go through transition to secondary school. We have received inadequate information. Please confirm that these records will be obtained and provided to

us. We do not want any details that would identify any of the children involved so there should be no data protection issues.

1.4. STANLEY SCHOOL SPECIFIC QUESTIONS

Stanley School currently has 97-100 pupils and we are told that there will be 110 there within a very short space of time. It also has a waiting list. The school capacity is listed as 90_ (Information taken from letter from Julia Hassall dated 7 March 2014 – answer to question 8, table 2).

- a. a) Where are the spaces for our children?
- b. b) We have been told the capacity will be increased to 110. How will this be achieved?
- c. c) What if Stanley is already at 110 pupils when the consultation is in progress?
- d. d) If spaces are created somehow for our children, what happens to the children on the waiting list for Stanley school?

- a. e) Everyone knows the number of ASD and behavioral children is increasing, how will you cope with this if Stanley school is full and / or over capacity,

where will the additional capacity be for any future increase in either ASD/ behavioural or PMLD children.

- b. f) On our Governors visit to Stanley School they had one spare classroom, however, they were told that once this school is at capacity this would be full. Where exactly are our children's classrooms going to be and how many classes will they have? For example, for 10 children, we would need at least 2 classrooms, there are no spare classrooms in this school. We were told categorically that there was no plans to expend Stanley school however at the call in meeting Julia Hassle mentioned something about an extension, please clarify.
- c. g) During our meeting with the Headmaster of Stanley and Julia Hassall, the Head informed us that he would have to stop their intake of children now, to accommodate our children in July 2015. Julia Hassall said at the call in that this is not the case, please clarify how this space is going to be freed up at this school?
- d. h) Stanley school is low arousal. The Headmaster acknowledged that this environment would not be suitable for our children, as our children need constant stimulation. How is Stanley school going to create a stimulating, vibrant, colorful environment in and out of the classroom without impacting on

existing children?

- e. i) How do they propose to get our children into school in the morning safely? Stanley has one door and one arrival point at present. This will be busy and noisy and a lengthy process. How can our children be offloaded quickly, quietly and safely whilst not coming into contact with the children who could potentially stress or injure them.
- f. j) How do they propose to get our children safely through the school during the day, will the school ensure enough staff to have one pushing the wheelchair and one walking with the child to ensure that they are safe?
- g. k) Stanley does not have communal lunch or assemblies. Our children do, on a regular basis, which they enjoy and which is an essential part of their development as it allows them a sensory and stimulating experience whilst allowing them to mix with the other children. How will this be replicated in Stanley?
- h. l) Outside space at Stanley is currently one open space sectioned off by green mesh fencing, there is no quiet area, no sensory area, nowhere suitable for wheelchair bikes. It is going to be an extremely noisy, unsafe and stressful environment. Our children

currently spend a lot of time outdoors, especially during the warmer months, outside, enjoying the environment. How is this going to be replicated?

- i. m) Stanley does not have or as far as we are aware have never had any severely physically disabled and highly vulnerable children like ours. Are they proposing that our staff move with our children or that they take on new staff ?
- j. n) We as parents believe that Stanley was built with our children in mind and that the local authority were always minded to close our school. If that was not the case why was Stanley built with specific classrooms containing expensive and extensive hoisting equipment in one of their class rooms and in other communal rooms. They did not and still do not have any children needing them? (if any children did need them, they could be catered for via a portable hoist).
- k. o) If it is a case of the local authority complying with equality regulations then please confirm why the Lyndale school has not been provided with such equipment and in fact has outdated and insufficient hoisting for their children .
- l. p) Nurses - Please confirm how many full time nursing staff will be at each school for the children? Stanley currently have no full time nursing care. This

is clearly insufficient, if our children were to join the school due to their high medical needs. They currently have two nurses.

- m. q) Please confirm that the children will have a warm and cosy nursing room with a suitable nursing bed if they need nursing care and are unwell during the day. The current room does not have a suitable bed and is cold and unwelcoming.

1.5. ELLERAY SCHOOL SPECIFIC QUESTIONS

Elleray currently has 92 pupils, their capacity (as per the same document referred to above) is 75.

- a. a) Why aren't suitable children currently attending Stanley and Elleray being referred to The Lyndale School? We are aware of suitable children who have been told that they must go to Elleray.
- b. b) Elleray is currently oversubscribed by 17 children. We have been told that the extension is for the current population of children. Can you confirm that this is the case? If this is the case, where will the space be for our children?
- c. c) During a meeting with the head teacher and Julia

Hassle we were told that if our children go to Elleray that the planned Library would not go ahead and would in fact be changed to provide new classrooms for our children. Surely this would be detrimental to the existing children? Are the Elleray parents aware of this fact?

d. d) Elleray currently has no suitable outdoor space, no quiet area, and no outdoor sensory area. The outside area is very cramped and will be taken up further by the proposed extension. Where could this required outside space be created without taking space from the current children? How would the school ensure that this would be a quiet and safe area?

a. e) How do they propose to get our children into school in the morning safely? Elleray has one door and one arrival point at present. This would be busy, noisy and time consuming with all children arriving on buses at the same time. Currently, the childrens Escorts are not allowed into the School to do the handover of the children to the classroom? How can they ensure a speedy, safe handover? Our Escorts play an extremely important part of our child's transport and they convey a lot of important information to the staff. How can they ensure this

would continue? How would the school ensure a safe journey into and through the school at the beginning and end of the day and in fact throughout the day?

- b. f) Whilst our parent governors were there a child was seen running unrestrained up the corridor being chased by a member of staff, this would obviously be a potential danger to one of our children. How would the school ensure that our children were protected and safe at all times and still had access to the school as a whole?
- c. g) Ellera does not have an open door policy to parents, this is vital. Please confirm that this will be changed as this is vital for parent's confidence.
- d. h) Hydrotherapy - The pool is very small, this will be unsuitable for our children. There is no hoist from the changing area straight into the pool. The current method of transfer would not be suitable for our children who all have temperature regulation issues. The transfer takes far too long. Also, confirm how many hydrotherapy sessions our children will get per week? They currently get 2 per week. We were told that the children have class swims, how can the school manage this when each of our children need two staff in the water with them and some of our children have to stay in class due

to medical issues, how will the school cater for the number of staff needed?

- e. i) Nurses - Please confirm how many full time nursing staff will be at each school for the children? Stanley currently have no nursing care and Elleray currently have 1. This is clearly insufficient, if our children were to join the school due to their high medical needs. They currently have two nurses.
- f. j) Elleray Park currently have a communal lunch and assembly, this is a very noisy and potentially stressful and dangerous experience for our children. How will our children be integrated safely into this or will they have to be confined to their classroom?
- g. k) How will the school ensure that they have sufficient staff to look after our children?
- h. l) Will the staff be taken from The Lyndale School?
- i. m) How many teachers and TA's will be allocated per each child?
- j. n) How will the school ensure that they have enough staff for eg toileting – when needed, dependent on the child's needs, each child can require changing between 3 and 8 times a day, 2 staff are required for each change and the

appropriate number of staff are required to remain in the classroom with the remaining children. The Head Teacher at Elleray seemed to be under the impression that the children had staff from continuing care to look after these needs, the majority do not.

- k. o) How will the school ensure that there are staff available and trained to feed each child and administer water and vent gastrostomy tubes?
- l. p) How will the school fund the additional equipment needed for our children ie hoisting?
- m. q) Will the school ensure that they have a nurses room where a child can go if they are needing nursing assistance and "time out" due to feeling unwell during the day? Lyndale currently have this provision and Elleray do not.

We appreciate that these questions are numerous and detailed but this information should be readily available as part of the consultation and therefore expect a detailed answer to the same.

TRANSFER FROM STATEMENT TO EHCP

18 June 2014 Meeting at Lyndale at 1.30pm with and

I was never informed this meeting was a Multi-Agency Meeting, it was a meeting to gather all of needs and get them down on paper to help collate her EHCP. Also, if it was a Multi-Agency Meeting why weren't all professionals involved with invited eg SALT, Vision. had asked me at a meeting I had with him on Monday 3 November 2014, when was the Multi Agency Meeting as he was not invited.

15 September 2014 Letter sent home from Lyndale School signed by and

FROM NOW UNTIL MY FIRST MEETING ON 10 OCTOBER 2014 I MADE NUMEROUS TELEPHONE CALLS TO ASKING VARIOUS QUESTIONS ABOUT THE EHCP PROCESS. IN ALL OF THESE TELEPHONE CONVERSATIONS SHE ADVISED I COULD HAVE AS MANY MEETINGS AS WAS NECESSARY TO GET EHCP RIGHT.

26 September 2014 Lettter sent home from Lyndale School from the Parent Governors advising parents of their rights and about PSS.

30 September 214 Letter sent home from Lyndale School signed by and advising the date of Transfer Review Meeting - Friday 10 October 2014 at 9.30am.

3 October 2014 Letter sent home from enclosing "the first draft of EHCP". This letter also refers to "the multi-agency meeting with in June".

6 October 2014 First meeting at home with and from PSS going through first copy of her EHCP making any necessary amendments.

10 October 2014 First EHCP Meeting at school with , myself, PSS, - Social Worker.

In this meeting apologised for called the first copy of EHCP "a draft", this was a mistake and it is just a copy not a draft.

17 October 2014 Meeting at home with PSS to go through EHCP and work on some Aspirations.

20/21 October 2014 2nd copy of her EHCP sent home from school in School Bag.

22 October 2014 Second EHCP meeting at school with PSS, - Social Worker, - SALT, - Vision.

Got very frustrated and upset in this meeting due to lack of support from Vision Support. I asked how often would be seen, to which she

replied once a week, so I told [redacted] to put this in [redacted] EHCP, to which [redacted] replied, you cannot put that in the EHCP incase Vision do not have the resources. At this point I refused to discuss Vision any further during this meeting.

During this meeting, which was 1 hour, [redacted] was constantly clock watching and we did not have enough time to go through everything that needed to be gone through. I still had things on [redacted] Statement I had highlighted, that I wanted to discuss about putting them into [redacted] EHCP, but the meeting was finished after 1 hour.

A 3rd meeting was arranged, however, before I confirmed a date for this I asked [redacted] when I would be receiving the updated EHCP, as she was not being fair, giving me 24 hours to read through it and make any amendments. [redacted] confirmed I would receive the updated EHCP on Tuesday 4 November and she would send it home in [redacted] School Bag. I then arranged my next meeting, which would be on Tuesday 11 November at 11.30am. Originally this was booked in for 1 hour, but [redacted] PSS emailed [redacted] saying 1 hour was not long enough, therefore the meeting was booked in for 2 hours.

24 October 2014	I emailed [redacted] asking her to leave The Lyndale School named on [redacted] EHCP and also can there be no further mention of resources and the fact there may not be the resources available in any future meetings.
24 October 2014	[redacted] emailed me confirming she will add The Lyndale School back in to [redacted] EHCP.
24 October 2014	I emailed [redacted] Head of Sensory about my concerns over the support [redacted] is receiving from Vision Support in [redacted] EHCP.
31 October 2014	[redacted] emailed me his response.
3 November 2014	Meeting at home with [redacted] Head of Sensory. In this meeting he confirmed I will receive an updated Report from Vision detailing the new figures for the amount of support and I also said I need a personalised programme for [redacted] for [redacted] EHCP.
4 November 2014	Went to School to collect [redacted] updated 3rd copy of the EHCP from [redacted]
6 November 2014	Meeting at home with [redacted] PSS to go through [redacted] 3rd copy of her EHCP.
11 November 2014	Third EHCP meeting at School with [redacted], myself, [redacted] PSS, [redacted] - Social Worker, At the start of the meeting [redacted] handed me another copy of [redacted] EHCP as further updates had been added. Certain things were underlined in this copy,

things like 1 to1 support for all aspects of the school day, 1 to1 for drinks, time out of wheelchair, mid morning, lunchtime and midafternoon no less than 20 minutes at a time. Most of which has had to be taken out, some of which has been reworded. I didn't make specific notes, so will see what it shows in next updated copy of EHCP which I've been told I will receive no later than Friday 21 November 2014. The reason given for taking these things out, was, there were no reports detailing this and it was not on original Statement. At this meeting I also asked for copies of the reports she had used to collate EHCP, she said these were all school documents.

After my meeting I went to see School Nurse and asked her for a copy of Care Plan, this needs updating, which has now been done and I am awaiting an updated copy to sign off. I also asked for copies of the report herself and had used for the EHCP, she didn't have any only the Care Plan. She said had been using hospital notes from Arrowe Park.

I am a little concerned over what I am being allowed to put into the EHCP, as needs are not being documented in detail. 1 to 1 support is extremely important and I am not allowed to put it in, Nothing is being quantified and it has to be.

- 12 November 2014 Emailed asking her to update the Speech and Language part of the EHCP to ensure all the should and will to show as MUST. Attached to email photographs of amendments needed.
- 12 November 2014 Email response from confirming I was referring to the Provision section of the EHCP and not the reports, so to consider it done.
- 12 November 2014 Further email to attaching photographs of the Speech and Language Report and the Speech and Language part of the EHCP, advising her where I have circled on red, the wording is different and incorrect, so can this be updated to show the correct wording.

From:
Sent: Tue 18/11/2014 14:39
To: Hassall, Julia E.
Cc: CYPD-Special Review;
Subject: The Lyndale School

Response to Statutory Notice – The Lyndale School

The Lyndale School is a unique and incredibly special facility. It is incumbent that the Council does all that it can to protect, preserve and safeguard this exceptional setting.

All the children that attend The Lyndale School have complex and profound medical conditions. A significant number have life limiting conditions and will not reach their teenage years. Therefore the Council has a moral obligation to meet the wishes and needs of the children, their parents and carers in continuing their education at The Lyndale School.

The Dedicated Schools Grant (DSG) is a ring-fenced grant – there are no ‘savings’ to be made from closing The Lyndale School, rather the money will be redistributed around the Schools system.

The School has been in a state of ‘managed decline’ for over eight years with uncertainty over its future and rumours of its imminent closure circulating for years. This has resulted in a fall in role numbers. Council Officers should have and could have worked to promote the school as a choice for parents whose children have complex learning difficulties (CLD). This was evidenced during the ‘Call-in’ meeting held on 27th February 2014 when two parents informed the Committee that when deciding where to send their children to school, neither had been given the option of The Lyndale School. Both subsequently fought for this option as they believed their children’s needs could not be met in another setting. (One of the children had previously attended another special school in Wirral and their needs could not be met).

Within the consultation document it is clear that should The Lyndale School close, the expectation is that children will transfer to either Elleray Park School or Stanley School. Parents from all three schools have expressed concern over this because the needs of all the children at these schools are so very different and in many cases, incompatible. For example children on the autistic spectrum benefit from subdued, calming environments while children with CLD and profound and multiple learning difficulties (PMLD) benefit from bright, stimulating environments. Children attending these schools are some of the most vulnerable in Wirral and it would be an absolute dereliction of duty to place them in an unsafe environment or to create a situation whereby they have to be segregated for either their own safety or the safety of others.

Moving to the ‘independent’ consultant’s report which evaluated the options for The Lyndale School it must be noted that this individual was appointed by the Local Authority, with no consultation with the Governors or Parents of The Lyndale School. The report was not commissioned prior the consultation and

was published once the consultation had closed, therefore there was insufficient time to scrutinise its findings.

Given the Council's duty to ensure the SEN Improvement Test is met all Education and Health Care Plans for children who attend The Lyndale School should have been completed prior to any decision being made. In fact, I am still to be convinced that the Council can demonstrate that the alternative proposals can meet the SEN Improvement Test. This, I believe, is not only a travesty to some of the Borough's most vulnerable children but also exposes the Council to a level of risk which is unacceptable.

In closing I wish to remind Council Officers about the last school they 'recommended' for closure. Council Officers recommended the closure of Kingsway Primary School in January 2011. It was termed a 'small' school like The Lyndale School. At its meeting on 3rd February 2011 a proposal was put forward by myself as the then Leader of the Council to keep the school open and it has stayed open. The school's most recent OFSTED inspection was outstanding. It would appear Officers were incorrect in recommending closure in the case of Kingsway then and I submit they are incorrect in proposing the closure of The Lyndale School now.

Conservative Councillor

From

I object to the closure of The Lyndale School.

The Cabinet adopted funding arrangements which could be re-visited if there was a willingness to address the financial constraints imposed on the school. The report to Cabinet (Agenda Item 13 of 16th January 2014) included a number of comments that foresaw and helped create the financial straitjacket for the Lyndale School.

Section 2.5 made it clear that there was a need for any banded approach to..
'recognise the resource intensive nature of making provision for those with the most profound and multiple difficulties'

The Cabinet report promised that the changes.
'will be kept under review with regular reports to the Schools Forum'

Section 2.5 also raised the prospect that there would be.
..'a contingency fund which would be used to support specialist provision experiencing financial difficulties whilst future options are considered'

Section 2.7 described the Wirral banding model as seen by respondents to the consultation as... *'a reasonable starting point for development'*

The aforementioned paragraphs suggested that there was a recognition that the authority was creating a system which needed reviewing and developing.

It was clearly reported that..
'One respondent argued for a school specific top up significantly higher than the banding proposed because without it the school will not be financially viable next year.' (2.7)

Instead of heeding the concerns raised the Cabinet adopted a funding arrangement which did not fully reflect the costs of providing the specialist provision valued by the parents of children at The Lyndale School..

During the consultation process covering the options for the future of The Lyndale School the parents made it clear that the school was meeting the needs of their children..

They did not wish to see the teamwork, the expertise of teaching staff and of the support staff at The Lyndale School fragmented and broken up. They made this point throughout.

There was an opportunity to 'replicate' the provision at The Lyndale, to plan and develop a modern unit that would have achieved this, but it was broached in a half hearted manner. The local authority seems determined to break up The Lyndale's centre of expertise by sending the children to other schools.

The children will need the same high quality support in any new setting. The parents have remained unconvinced that this will be the case. They have put the needs of their children first and the authority should do likewise.

18th Nov 2014

From: [redacted]

Sent: 18 November 2014 21:39

To: Hassall, Julia E. [redacted]

Subject: Enquiry re Lyndale Feedback form

I have been re-reading the Lyndale Consultation booklet.

On Page 20 it was reported that...

Please note: To make sure the Consultation is fully open and transparent, all the responses to this consultation will be made available for inspection.

On Page 21 this was re-stated..

Please note: In order to ensure that this process is fully open and transparent, other people will be able to read all the responses to this consultation.

Could you advise what arrangements were made for the responses to be inspected?
Thank you for your assistance.

From:
Sent: Fri 14/11/2014 13:02
To: Hassall, Julia E.
Cc: CYPD-Special Review;
Subject: RE: The Lyndale School

Response to Statutory Notice – The Lyndale School

The Lyndale School is a unique and incredibly special facility. It is incumbent that the Council does all that it can to protect, preserve and safeguard this exceptional setting.

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The School has been in a state of ‘managed decline’ for over eight years with uncertainty over its future and rumours of its imminent closure circulating for years. This has resulted in a fall in role numbers. Council Officers should have and could have worked to promote the school as a choice for parents whose children have complex learning difficulties (CLD). This was evidenced during the ‘Call-in’ meeting held on 27th February 2014 when two parents informed the Committee that when deciding where to send their children to school, neither had been given the option of The Lyndale School. Both subsequently fought for this option as they believed their children’s needs could not be met in another setting. (One of the children had previously attended another special school in Wirral and their needs could not be met).

Within the consultation document it is clear that should The Lyndale School close, the expectation is that children will transfer to either Elleray Park School or Stanley School. Parents from all three schools have expressed concern over this because the needs of all the children at these schools are so very different and in many cases, incompatible. For example children on the autistic spectrum benefit from subdued, calming environments while children with CLD and profound and multiple learning difficulties (PMLD) benefit from bright, stimulating environments. Children attending these schools are some of the most vulnerable in Wirral and it would be an absolute dereliction of duty to place them in an unsafe environment or to create a situation whereby they have to be segregated for either their own safety or the safety of others.

Moving to the ‘independent’ consultant’s report which evaluated the options for The Lyndale School it must be noted that this individual was appointed by the Local Authority, with no consultation with the Governors or Parents of The Lyndale School. The report was not commissioned prior the consultation and was published once the consultation had closed, therefore there was insufficient time to scrutinise its findings.

Given the Council's duty to ensure the SEN Improvement Test is met all Education and Health Care Plans for children who attend The Lyndale School should have been completed prior to any decision being made. In fact, I am still to be convinced that the Council can demonstrate that the alternative proposals can meet the SEN Improvement Test. This, I believe, is not only a travesty to some of the Borough's most vulnerable children but also exposes the Council to a level of risk which is unacceptable.

In closing I wish to remind Council Officers about the last school they 'recommended' for closure. Council Officers recommended the closure of Kingsway Primary School in January 2011. It was termed a 'small' school like The Lyndale School. At its meeting on 3rd February 2011 a proposal was put forward by myself as the then Leader of the Council to keep the school open and it has stayed open. The school's most recent OFSTED inspection was outstanding. It would appear Officers were incorrect in recommending closure in the case of Kingsway then and I submit they are incorrect in proposing the closure of The Lyndale School now.

Ward Councillor for

The Lyndale School – Response to Statutory Notice

I wish to register my total opposition to the proposed closure of The Lyndale School.

It is completely nonsensical to close this school given the fact that this facility provides such excellent care and comfort to some of the Borough's most vulnerable children. When you consider that there are no savings to be made from shutting the school and given the level opposition to this proposal not only from parents but the wider Wirral community it beggars belief that this statutory notice has been issued at all.

The school has an excellent reputation; it cares for children who have complex and profound medical needs and many parents have spoken about the level of reassurance and comfort they receive from the whole school community at The Lyndale School. It should also be noted that some of the children who attend The Lyndale School have life-limiting conditions and I find it particularly cruel and perverse that the Council is not doing all in its power to protect, preserve and safeguard this unique school.

It should also be noted that the Council has a statutory duty to ensure that the SEN Improvement Test for The Lyndale children has been met. Neither I, nor the parents, believe that the Council can demonstrate the SEN Improvement Test has been met. If correct this exposes the Council to an unacceptable level of risk and is a complete disservice to the children from The Lyndale School and their parents.

Therefore for the reasons outline above I would urge that the process to close this school is reversed and the school should remain open.

Yours sincerely

Councillor for

Julia Hassall,
Director of Children's Services

Dear Julia,

Following our meeting I am writing to ask you to clarify the suggestion that I should seek legal advice about whether TUPE applies in the event that The Lyndale School closes.

I have to say that the Governors had considered that part of the Cabinet's resolution of 4th September charged you, "in acknowledgement of the close relationships that exist between staff and pupils..." to investigate "if staff could be employed, where possible, at receiving schools, subject to legal practice and the approval of governing bodies" and that such an investigation of legal practice would include specialist advice on TUPE. We know that in general circumstances TUPE does not apply to school closures but we also believe that the Transfer of Undertakings (Protection of Employment) Regulations 2006 lay down complex rules dealing with enhanced unfair dismissal rights under certain conditions and have been interpreted by the courts to apply in circumstances which were not initially thought by parties to involve its application. The Governors believe that in order to investigate the "legal practice" you will need to seek independent specialist legal advice and we would seek your assurance either that you will do so; in which case we would ask you to agree with the Governors a description of the precise circumstances that will be the subject of this legal opinion; or, on the other hand if you wish, you allow the Governors to seek specialist legal advice and share with you the terms of our instruction to solicitors and the advice we receive.

In the event that specialist legal advice supports the view that the Regulations do not apply we would seek your assurance that, in terms of the "approval of governing bodies", you ask the governing bodies involved to apply the principles of TUPE where individual staff can be identified as having specific relationships with certain transferring children.

Yours sincerely,

From:
Sent: Wed 19/11/2014 20:43
To: CYPD-Special Review
Cc:
Subject: The Lyndale School

Dear Julia,

We are objecting to the proposed closure of The Lyndale School on the following grounds

1. The failure of the LA properly to apply the SEN improvement test as set out in paragraphs 39 and 40 of School Organisation: Maintained Schools Annex B. Guidance for decision makers January 2014 DfE 2014
2. The consultation process carried out by the LA lacked any clear plan or focus. Information promised to parents was not given in a timely fashion or not given at all.
3. The LA failed to analyse the needs of the particular group of children in The Lyndale School.
4. The LA failed to give a clear indication of the alternative provision available to the children if The Lyndale School closed.
5. The attached Guidance for Schools from Croydon LBC illustrates the details need in any system. The LA continues to fail to provide this in Wirral.

With best wishes

Attachments

1. SEN improvement test – comment
2. Parent questionnaire page 1
3. ditto page 2
4. Parent views
5. View of Lyndale curriculum issues
6. Croydon as exemplar of high needs policy
5. Typical staff in service training schedule

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The Lyndale School

The SEN improvement test

(School organisation. Maintained schools. Annex B: Guidance for decision makers
DfE January 2014, paragraphs 39, 40)

In view of the failure of Wirral LA to properly apply the SEN improvement test to the proposal to close the school, we give here an analysis of the proposal based on the needs of the children and the views of the parents.

The Lyndale School is a primary school which is designated a school for children with Complex Learning difficulties. In Wirral Complex Learning Difficulties means the children on the autistic spectrum and children with profound and multiple learning difficulties. Profound and multiple learning difficulties does not have a nationally agreed definition. However over the years the LA has created a school at The Lyndale for children with what might be described as high dependency profound and multiple learning difficulties. They are children with severe communication problems. This means that assessing their cognitive abilities is always difficult. The knowledge and experience of parents and staff is vital to read the facial expressions, body language of a child to tell whether the child is happy, distressed, bored and so on. All staff are able to build a good knowledge of all children. This is a vital strength of the school.

The Lyndale School is able to plan the school around the needs of a group of children who have clear needs. Most have a variety of medical needs. Perhaps oxygen to help them to breathe, the inability to eat food in the normal way, the frequency of fits and so on. When children need to be changed they need at least two adults in view of the lifting and so on involved. This means there has to be a high staff pupil ratio.

The calculation of the number of staff needed, and therefore their cost is not difficult, but has not been presented by the LA. The number of children in wheelchairs, that is most of them, determines the number of children who can safely fit in a classroom. This has been calculated in a report by to be a maximum of six. This has not featured in the reports by the LA.

Reference in 2014 DfE guidance	Has the test been passed- our evidence	Local Authority expert evidence
<p>In planning and commissioning SEN provision or considering a proposal for change, LAs should aim for a flexible range of provision and support that can respond to the needs of individual pupils and parental preferences. This is favourable to establishing broad categories of provision according to special educational need or disability.</p>	<p>The Lyndale School clearly provides a flexible, and in fact an individualised range of provision and support that can respond to the needs of individual pupils and parental preferences.</p>	<p>No mention of this is made at all in relation to this option. The expert interprets parental choice as parents having the choice of more than one school. At no point does she actually consider our preferences as parents and no mention is made of our detailed and objections to the proposals</p>

<p>. take account of parental preferences for particular styles of provision or education settings;</p>	<p>In our view parental preference is just that. We have expressed our views in relation to the proposal to place the children in Stanley or Elleray Park and have raised valid and numerous concerns and questions. The questions submitted prior to the start of the consultation were not answered in the main until after the end of the consultation and none of the questions was answered to our satisfaction. We have not had the opportunity to gain this further information due to the end of the consultation. The views of the parents were expressed clearly in the parental questionnaire submitted to the cabinet in September. At no point have the LA shown how they have taken into account ours or independent representations which question this assessment as per the Government guidance.</p>	<p>No mention of this is made at all in relation to this option. The expert interprets parental choice as parents having the choice of more than one school. At no point does she actually consider our preferences as parents and no mention is made of our detailed and objections to the proposals</p>
<p>. take account of any relevant local offer for children and young people with SEN and disabilities and the views expressed on it;</p>	<p>This has no relevance that we can see, the local offer is at this time merely a list of schools .</p>	
<p>. offer a range of provision to respond to the needs of individual children and young people, taking account of collaborative arrangements (including between special and mainstream),</p>	<p>Our school has been recently assessed by Ofsted and had received an excellent report. It does therefore offer the relevant range of provision and responds brilliantly to the needs of the children. Our children's needs are primarily medical and care based, the Ofsted report commends the school in relation to these aspects. The report of</p>	<p>The report states that the positive finances of the proposal are likely to lead to improvements in the standard, quality etc etc . it does not give any detail as to HOW and WHY this is the case, there is no evidence that a small school is a bad school and no evidence that a larger</p>

extended school and Children's Centre provision; regional centres (of expertise) and regional and sub-regional provision; out of LA day and residential special provision;	also confirms that we provide a school that meets the needs of the children and therefore offers the range of provision to respond to their needs. We already have collaborative arrangements with other schools both special and mainstream and these are valuable to the school .There is no evidence that a move to Stanley of Elleray would improve this or any other aspects of this part of the test.	school would lead to improvements. The test only mentions finance and nothing else, there is no mention of the provision, experience and expertise , facilities and space for the children in these schools. In fact the numbers quoted are based on ten children per class and there is no way at all that this can be the case for our children. There is no detail at all regarding the details of the provision and the space both inside and outside.
. take full account of educational considerations, in particular the need to ensure a broad and balanced curriculum, within a learning environment where children can be healthy and stay safe;	This is a fundamental part of our child's education. There is no substitute for experience and there is no indication as to how the new schools are going to ensure that their staff have the appropriate level of experience and training in the timescale. The proposal is that the children will be moved in December 2015, we have no idea at this stage of the arrangements for the children in terms of space, staffing, nursing support or in fact any arrangements. We have raised many questions regarding the proposals, none of which have been answered.	The LA has totally failed to consider the needs of the children on the autistic spectrum who, according to LA plans
. support the LA's strategy for making schools and settings more accessible to disabled children and young people and their	All of the schools are accessible however they are not all equal in terms of accessibility. In both of the other schools our children will have to be confined to a part of the school. They will not have the same access to the whole school that they have now.	This is not mentioned at all by the LA

scheme for promoting equality of opportunity for disabled people;	They will also be limited in terms of outside space, neither school has the equivalent suitable outside space.	
. provide access to appropriately trained staff and access to specialist support and advice, so that individual pupils can have the fullest possible opportunities to make progress in their learning and participate in their school and community;	This is a fundamental part of our child's education. There is no substitute for experience and there is no indication as to how the new schools are going to ensure that their staff have the appropriate level of experience and training in the timescale. The proposal is that the children will be moved in December 2015, we have no idea at this stage of the arrangements for the children in terms of space, staffing, nursing support or in fact any arrangements. We have raised many questions regarding the proposals, none of which have been answered.	the LA have given no indication of how this issue has been dealt with, once again the LA have failed to follow the guidance issued by the DFE in explaining how they have dealt with the concerns and views.
. ensure appropriate provision for 14-19 year-olds; and • ensure that appropriate full-time education will be available to all displaced pupils. Their statements of special educational needs must be amended and all parental rights must be ensured. Other interested partners, such as the Health Authority should be involved. Pupils should not be placed long-term or permanently in a Pupil Referral Unit (PRU) if a	There is currently no equivalent schooling available for our children aged 14-19. None of the secondary schools available offer the same level of education for our children as provided at the Lyndale school	Not mentioned by LA

special school place is what they need.		
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Parent questionnaire

As a result of the conversations that we were having, as parent governors, with the Local Authority we decided to canvass views of the other parents of children in The Lyndale School as to their school preference.

We have been told now on many occasions and it is referred to in documentation (including the consultation document), that parental choice is a large part of this consultation.

We therefore took it upon ourselves to find out exactly what our parents think about the alternatives on offer. We sent out questionnaires to all of the parents and received replies from of them, one of the parents was of a child who has already left. This is over 90% . The responses can be summarised as follows:-

Question 1- which primary school do you feel suits your child's needs best from Lyndale, Stanley or Elleray Park schools.

100 % of parents stated that Lyndale was their choice

Question 2- when your child reaches secondary school age which school would you prefer your child to go to out of Meadowside, Lyndale or to remain at Lyndale until 19.

All of the parents aside from the one whose child has left (who said the question was non applicable) stated that they wished their child to remain in Lyndale School until the age of 19

Question 3- if Lyndale were to close would you be happy to send your child to either Stanley or Elleray Park School

15 parents said no to both

One failed to answer stating that they did not have enough information about the provision in the other schools

One did not answer at all

One stated that they would be happy for their child to attend Elleray park but stated that they "wished that the Lyndale School would not close "

One stated that they would send their child to Stanley school but stated that " Lyndale is the best school and always will be "

In summary all of the parents that answered indicated that Lyndale was the best school for their child and they wished them to remain there.

Question 4 addressed the option of the children moving to Foxfield and Pacific becoming a 7-12 school. This would most likely be without the current staff and without Lyndale retaining its own identity.

I said they were not interested, mostly due to lack of information and a lack of guarantee that the staff would move with the children and that the Lyndale "ethos" would be maintained.

I was asked to answer stating that they needed more information.

One father to answer stating that they wanted Lyndale to remain open.

Seven stated that they were interested but only on the basis that the staff move with the children and that they remain in the same kind of environment as they are in now.

In essence, the parents expressed a strong view that they would like further information with regard to all of the options, particularly the Foxfield option, along with assurances that any move to Foxfield would involve the children moving with the staff.

There was then a box for further comments.

Attached are copies of any comments made.

Previous points raised regarding the proposed closure of The Lyndale school .

These are the points that we raised at the call in and at the cabinet meeting where the decision was made. They are not all within the original response document prepared by the parents as this was sent in early on in the proceedings and before the Local Authority consultation document was published.

1.The Lyndale School has balanced its books for many years despite the small number of pupils. It is only a drop in funding that has led to the school moving into a financial deficit in the next 12 months.

2. the school has been funded for 45 and 40 pupils for a considerable period of time, at least the last ten years, and there have not been that many pupils for at least eight years.

The Local Authority have consistently sent the most vulnerable PMLD children to the school, therefore discouraging the school from taking children with challenging behaviour. The capacity of the school, taking into account the nature of the children is about 5 children per classroom, this means that with the majority of children being high needs PMLD there is not enough room to cater for other children- Reference can be made the work of Eric Craven, commissioned by the Local Authority (LA).

Due to the fact that the most vulnerable children were sent by the LA to the school, a specialism in their needs has developed making it even more appealing to the parents of high needs PMLD children.

The funding has been set at 40 pupils to reflect the high costs of the small number of children in the school. This is a theoretical figure based on need and not numbers.

3. When the new place plus system was introduced the LA along with the schools forum devised a banded system as per government direction.

When calculating the funding however they followed the government recommended calculation but used the figure of 40

children rather than the 23 that were actually there. This meant that the new budget for the school fell far short of that previously.

We will say that that was a deliberate act intended to put the school into deficit as there have been plans to close for eight years.

The government guidance on the new funding also states that the level of funding must be based on need and it is anticipated that there will be differing costs in differing settings, the LA here have one banding system across all schools that does not allow for variations in cost of different settings.

We have also been told that funding bands cannot be changed for our school as this would impact on the other schools IE would lead to an increase in their equivalent funding. This does not have to be the case.

4. We have officially been told that the banding system was based on schools current budgets and no account was taken of the needs of the children, this again is contrary to the government guidance which states that banding must be based on need.

5. The LA have based their decision to look at closure on this financial instability along with falling rolls, we have produced evidence that parents have been steered away from the school in favour of other schools and this has certainly added to falling roles along with the fact that there have been moves to close for eight years. We also know that The Lyndale has fallen woefully behind re capital investment having only 30-40k since 1999 whereas all the other schools have had hundreds of thousands. We have pointed out that it's a testament to the school that there are in fact any children at all there. This is also coupled with the fact that over time 14 of the Children have passed away, four in the last two years. This further reflects the high level of need of the children that the school specializes in.

6. at the recent call in the LA accountant acknowledged that the schools budgets are ring fenced ie the LA are receiving the same amount of money for the schools that they were, they also acknowledged that there is a significant surplus in the budget from previous years and that some of this was used to bridge a PFI funding gap (600k). They acknowledged that they did have the

funds to keep the school open but they've chosen not to allocate it. The LA also acknowledged that they were due to review the banding system and that they could in fact raise the amount of funding if they chosen to. The further admitted that they had a further uncapped band used to pay for children "out of borough". There is a school, in West Kirby which is on our doorstep which is classed as put of borough as it is private. Wirral LA send 44 pupils there at a costs of £36k per pupil approx. These are children with ASD and behavioural problems. This is a 5-16 school. At the call in the LA stated that there were mainly secondary age children and that they were not ASD, both of these statements are untrue, we have been round the school and seen for ourselves the children that go there. The reason we raised this is that one of the schools that the LA want our children to go to takes solely ASD and behavioural children and has done for many years. They are specialists in this area. Our question was why the children at west Kirby residential cannot go there (they attend West Kirby as day pupils not residents).

7. the second big issue that came up was the expert that the LA instructed. There was a meeting at the start of the consultation when were discussed this and said that we did not have faith in the LA to make the decision on the SEN improvement test themselves. They agreed that an expert would be instructed to look at the situation in detail. We stated that we wanted to be involved in the interview to make sure that this person was someone we were all happy with. This was agreed by the LA. The LA also promised to get an up to date detailed picture of each of the children in order to ensure that the expert knew all about their needs. We were told that this information was for the purposes of the SEN improvement test to make sure the new provision would meet their current needs. What actually happened was the LA instructed someone unilaterally, they initially refused to give us her CV and when they did (after the end of the consultation and after the report was published) we discovered that she had no background in PMLD and that her background was one of school reorganization and funding. The LA employed her at a cost of 10k for 18 days. At The Lyndale, she spent two hours with a handful of parents that could make the meeting (none of the parent governors or in fact any of the governors, were spoken to). She spent an equivalent time in each of the other schools. When we saw her report it was clear that she had not taken into account any of the info collated about each child. The chief educational psychologist was employed to

meet with each child, parent and relevant school staff to produce an up to date picture. This commenced late on in the summer term and in fact was not finished until after the end of the consultation, the information gained has not as yet been put onto any kind of format and was not used in any way for the consultation. What now transpires is that the LA plan to use this info for the children's new EHC plans. This is not what we were promised. We don't see how someone who knows nothing about our children can assess whether another school is suitable for their needs.

8. the expert states that the proposed new schools are as good as or better than The Lyndale as they did well with Ofsted, we cannot see the relevance of this as the schools take very different types of children, this is like comparing a mainstream primary with a good ofstead with our school and stating that our children could attend there.

The expert also stated that "parents expect one to one and sometimes even two to one care" the parents do not dictate the level of care for the children, this is done by the school in conjunction with experts involved in our child's care. This comment shows a complete lack of understanding of our children and the care they require.

The LA instructed an expert by the name of _____ who looked at our staffing levels and the needs of our children and concluded that they're sufficient and not overstaffed. He also concluded that the school could only take 28 pupils without rises in staffing and therefore cost.

The expert was asked questions at the call-in particularly about mixing differing ability children. We feel that it's dangerous to mix very able children with behavioural problems and very medically vulnerable children. The schools we have seen that do this (including Foxfield, one of our secondary schools) keep the types of children away from each other. In fact in Foxfield the PMLD children have historically been kept in one room, never leaving it during the day). The expert stated that it was not a problem to mix types of children and in fact some children in wheelchairs like to have friend who is different and more able than them. This kind of statement we found deeply offensive and it made us realise that she has no idea whatsoever about our children!

9. there were other issues raised over the suitability of the proposed new schools. One of them has not dealt with children like ours for many years, their parents have said that they are scared of the changes to the school as their whole school ethos will have to change. They take only ASD and behavioural children, they have no space for our children and the current staff do not have the skills to deal with them. An extension will have to be built (ball park 500-750k) to accommodate them. The plans for the building, curriculum, outside space etc etc do not exist, the head teacher of this school has not been given a full picture of our children's needs or requirements.

The other school takes a small number of children like ours but is currently full, they are in the process of building an extension which we were told from the start was needed for their own children this has now miraculously been put aside for ours. They will need further extensions at a similar cost to accommodate any rise in numbers. There is no mention of any plans for any outside or sensory space and all parents have consistently stated that they don't like the ethos of that school nor the school itself and that this why they did not send their children there in the first place.

Note that we have had reports from parents at this school of their children being injured on many occasions, this makes our parents even more reluctant to send our children there, we did ask for incident reports to try and find out for ourselves but were refused this information.

In any event the provision for our children does not exist there either.

10. a further issue that we have raised that has had no comment made on it whatsoever is how the LA propose to ensure the continuity and the quality of the education of our children once the final decision to close is made. No one could expect staff to remain in post and then be out of a job mid term this time next year. Any member of staff could be expected to look for an apply for new jobs immediately and commence that employment September 2015. How can the LA ensure that our children have continuity of care until December 2015 ? how also can they expect a school not to stagnate over a twelve month period waiting to close ?

In summary we cannot see how the SEN improvement test can be met with no concrete plans in place. The LA have missed out the section of the test that states that the LA must show how they have taken into account parents views, they state that they have but we can see no evidence of that at all. We have sent detailed questions regarding the provisions in the new schools and have been given no detailed information whatsoever, we have had no evidence given to us that a small school is a bad school and so the closure decision can only be based on finance.

Time and time again we have asked for a detailed picture of the provision in the new school and are told that its in hand and that most of the points we raised are "management issues". No one would send a child to a school on the basis of promises let alone a vulnerable one whose wellbeing and in fact life can depend on those around them having the knowledge and experience to deal with their needs.

We have showed that the LA have erred in their calculation of the banding system and therefore in our view the decision to close has no basis.

There are lots of issues with the conduct of the consultation and fairness or otherwise of it, essentially if there had been a fair consultation taking into account the needs of the children and of our views and those of the wider public , raised in the consultation, had been taken into consideration we would not be complaining. If we also felt that the two other schools would actually offer the same as or better than Lyndale then we are not so blinkered as to still be arguing. Its become a political issue and the children have been lost as the focus. We also know that we were refused permission to speak to the Labour group, We know that we have no right to address them but we also know that the LA have done so, what happened to parity and fairness?!

We have raised the issue time and time again that this is a political issue and we submit that this can be clearly seen by the split in voting every time this matter comes up at a cabinet meeting, it is denied time and time again but the facts speak for themselves.

A BROAD AND BALANCED CURRICULUM

The Lyndale School offers the appropriate range of the Foundation Curriculum and National Curriculum together with Religious Education and these are supported by a developmental programme and multi sensory approach and delivery. Strategies for delivery include:

- A concrete, contextual approach to learning.
- Low pupil ratios- pupils are often totally dependent for all their needs and need one to one support.
- Skills development through meaningful activities.
- Activities focused on the individual needs of each pupil.
- Individual education programmes for every pupil.
- Individual age differentiation.
- Individual development access to health authority support.
- A multisensory environment in all areas of the curriculum and regular opportunities using the school minibus to undertake field trips.

The Lyndale School provides:-

- Relevance.
 - Breadth.
 - Differentiation by age and ability.
 - Progression for individuals and groups.
 - Individual teaching programmes.
 - Effective monitoring and evaluation.
 - Regular, clear reporting to parents and an open door policy where parents can contact/ visit the school when needed.
 - A high staffing ratio appropriate to the needs of the children.
 - Staff with specialist medical skills to maintain the pupil's health needs throughout the day without disruption to their learning.
 - Staff have skill and experience in supporting the pupils when they are ill and have the support of the Nursing and Therapist team where needed.
 - A safe environment where pupils can learning and grow without the need for segregation and where pupils can move around freely.
- Questionnaires completed by parents indicate that parents consider their children to be extremely safe and well cared for in school.

School Funding Arrangements for Pupils with SEN



Guidance for Schools

April 2014

This guidance links the mechanism by which schools are funded for pupils with special educational needs with the management of the statutory assessment and statementing process (due to be replaced from September 2014 by Education Health and Care plans following publication in April 2014 of new statutory guidance).

The content has been updated to reflect the views of schools following consultation in the autumn term 2013 and more recently to reflect the second draft of the SEN Code of Practice published on 16th April 2014. Further revisions may need to be made when the final version of the Code of Practice is published.

Both the guidance and the methodology will be kept under review by the Schools Forum High Needs working group as the new approach is implemented. Any changes to the methodology that may be required to improve implementation of the local funding approach will be presented to the Schools Forum for decision.

Contents

1. Introduction
2. How the High Needs Funding Scheme works
3. Mainstream school funding arrangements for pupils with SEN – a one page summary
4. The new approach in Croydon
5. Funding Values
6. The framework of descriptors

1 INTRODUCTION

- 1.1 The Government introduced a new system for funding schools and academies, early years settings and colleges, from April 2013, through its School Funding Reform programme. Funding goes to schools and early years settings through the Local Authority, and to academies and colleges through the Education Funding Agency (EFA). The EFA takes account of the Local Authority funding scheme and its requirement for specialist places in special schools, enhanced learning provisions, and colleges.
- 1.2 The Children and Families Act (2014) requires all Local Authorities to publish their Local Offer for special educational needs (SEN) provision from September 2014. Local arrangements for funding SEN will be an integral component of the Local Offer.
- 1.3 The following extract from the draft SEN code of practice April 2014 sets out statutory requirements on the use of funding to support pupils with SEN:

All mainstream schools are provided with resources to support those with additional needs, including pupils with SEN and disabilities. Most of these resources are determined by a local funding formula, discussed with the local schools forum, which is also applied to local academies. School and academy sixth forms receive an allocation based on a national funding formula.

Schools have an amount identified within their overall budget, called the notional SEN budget. This is not a ring-fenced amount, and it is for the school to provide high quality appropriate support from the whole of its budget.

It is for schools, as part of their normal budget planning, to determine their approach to using their resources to support the progress of pupils with SEN. The SENCO, headteacher and governing body or proprietor should establish a clear picture of the resources that are available to the school. They should consider their strategic approach to meeting SEN in the context of the total resources available, including any resources targeted at particular groups, such as the pupil premium.

This will enable schools to provide a clear description of the types of special educational provision they normally provide and will help parents and others to understand what they can normally expect the school to provide for pupils with SEN.

Schools are not expected to meet the full costs of more expensive special educational provision from their core funding. They are expected to provide additional support which costs up to a nationally prescribed threshold per pupil per year. The responsible local authority, usually the authority where the child or young person lives, should provide additional top-up funding where the cost of the special educational provision required to meet the needs of an individual pupil exceeds the nationally prescribed threshold.

2. HOW THE HIGH NEEDS FUNDING SCHEME WORKS

- 2.1 The key features of the new High Needs Funding Scheme are:

- Responsiveness to the needs of individual learners
- Supported by a clear local offer from schools, colleges and other providers
- Covers children and young people 0-25 years

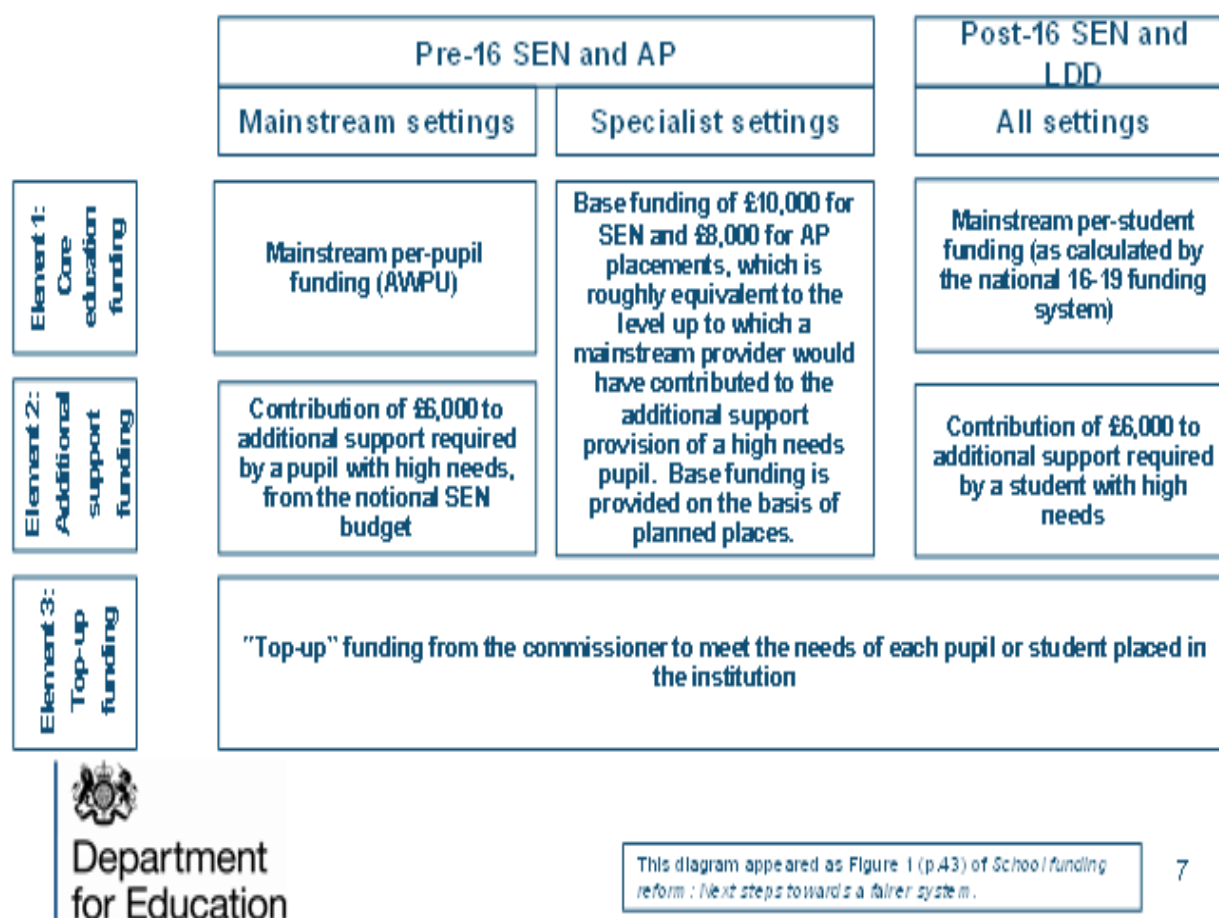
- Incorporates funding methodology for Post-16 students in schools and Further Education (FE) colleges
- Ensures consistent funding between maintained schools and academies / free schools
- Encourages dialogue between commissioner and providers
- Establishes comparable funding rates across settings based on actual costs of provision

2.2 The funding model which applies across **all** sectors is referred to as **place-plus approach** and is made up of 3 elements.

Element 1 Core education funding	The funding available for all pupils based on the total number of pupils. This is the Basic Entitlement for 5-16yrs, or the national funding rate for post-16. For schools this is the AWPU (Age Weighted Pupil Unit Value)
Element 2 Additional support funding.	This is the amount that is contributed by providers from their overall delegated budgets towards the cost of each High Need pupil. This is the school's notional SEN budget . The range of provision funded in this way by the school is what we have described as 'ordinarily available and is the core of the school's local offer to pupils with SEN .
Element 3 Top-Up funding.	This is the additional funding provided by commissioners for individual high needs children based on assessed needs as described in a statement or education, health and care plan

2.3 The diagram overleaf shows how the different elements of funding work together to provide a total funding package for an individual learner across the full age range 0-25 years.

Overview: Reform of high needs funding



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- 2.4 Funding to meet the needs of pupils with SEN is drawn from all three funding blocks (schools, high needs and early years).
- 2.5 **The Schools' Block** provides for the majority of funding for schools. The distribution of funding is mostly driven by formula indicators, for example the number of pupils and their age.
- 2.6 **The High Needs Block** provides:
- targeted 'top up' funding for individual pupils with SEN according to the level of provision required (element 3)
 - funding for all special school and enhanced learning provision places
 - support costs of pupils with statements of SEN or Education, Health and Care (EHC) Plan who are Croydon resident, or who are Looked After by Croydon, and whose statements / EHCP name mainstream schools in other Local Authorities

- support costs of Croydon resident or Looked After pupils whose statements/EHCP name non-maintained or independent special schools.
- the cost of places in Pupil Referral Units and other alternative provision, including the Springboard tuition service and education for long-stay school aged patients at Croydon University Hospital.¹
- specialist early years support
- post 16 learning, specialist teaching services and hospital education (at hospitals outside Croydon)
- a range of inclusion support services
- additional funding for small schools with high numbers of statements/EHC plans

2.7 The Local Authority decides annually how many places to commission in PRUs (at £8,000 per place) and in special schools and enhanced learning provisions (at £10,000 per place). These numbers are based on current demand data and are given to the EFA annually (in December) in advance of the start of each financial year. The EFA removes any place funding for academies and free schools offering specialist provision (in Croydon this relates to the enhanced learning provisions) as these are funded directly by the EFA. It then informs the borough in March of its high needs funding allocation for the financial year. The local distribution of the high needs funding allocation is subject to annual agreement by the Schools Forum.

2.8 **The Early Years' Block** provides for the majority of funding for children between 2 years old and statutory school age, according to their eligibility for early years education.

2.9 The Early Years Block includes funding for educational provision for most of the pupils with special educational needs. The description of ordinarily available provision that will be developed for Early Years settings describes the types of arrangements that settings should put in place.

2.10 Some younger children may receive additional support and this is through the High \Needs Block. This is currently available for children in designated specialist provision and will be extended to support individual children with complex SEN in a range of mainstream settings.

¹ N.B. Schools can also use their budgets to fund places and top-up costs in PRUs and alternative provision.

3. Mainstream School Funding Arrangements for Pupils with SEN

“Schools **must** use their best endeavours to make sure that a child with SEN gets the support they need. “(Draft Special Educational Needs Code of Practice – April 2014)

School funding is allocated to schools in three components. Elements 1 and 2 represent the Schools’ Block, funding delegated directly to schools.

Element 1 - Core Budget:

- Based on the total number of pupils attending a school
- Every pupil attracts an amount of money (AWPU- age weighted pupil value unit)
- Value varies from one LA to another, primary schools receive at least £2000 and secondary schools at least £3000

This covers all aspects of general provision, including SEN provision

This allocation should provide for enhanced differentiated learning in the classroom --- ‘high quality provision for all.’

Element 2- Notional SEN Budget

- Additional funding to provide support which is ‘additional to and different from’ that made for all pupils
- Each school’s allocation is based on a locally agreed formula agreed by schools and the local authority
- Indicators used to inform the formula include
 - Level of free school meals
 - Numbers of Looked After Children
 - Historic levels of lower attainment for English and mathematics
 - School mobility

These indicators provide a guide to how many children with SEN a school is likely to have.

This funding should cover costs of providing appropriate provision and resources for the majority of pupils with SEN in each school

It should pay for up to £6000 worth of provision to meet a child’s SEN.

The range of provision funded in this way should form the core of the school offer for pupils with SEN. It should also reflect the expectations of the range and level of support that should be ordinarily available in all Croydon schools.

Each school can decide on how funding is allocated for provision to meet needs of groups and individual pupils. There is no expectation that higher levels of need should equate to an increased allocation of teaching assistant hours.

Element 3- Top Up SEN Funding (This is funding from the High Needs Block which is retained and allocated by the LA):

- This allocation of funding is set aside for pupils with the greatest complexity and severity of needs where the cost of provision is higher than can be funded by the value of each school’s AWPU and the £6000 from element 2.
- If the school can show that a pupil with SEN needs more than £6,000 worth of special educational provision, it can ask the local authority to provide top-up funding to meet the cost of that provision.
- The usual process to access this top funding will be through the request for a statement or Education Health and Care (EHC plan).

In order to access this funding schools will have to demonstrate:

- Evidence of increased specialist provision through a graduated response reflected in the nature and level of interventions and resource allocation (reflecting what should be ordinarily available) up to a value of £6000
- Involvement of external, specialist agencies

In mainstream schools for pupils who have or require a Statement or EHC Plan additional funding will be allocated depending on nature and level of provision required to appropriately meet each child’s needs.

The range of funding will be expressed through a banding scale showing increased levels of ‘exceptionality’

3. THE NEW APPROACH IN CROYDON

- 3.1 Support and Aspiration, the SEN Green paper (2011) referred to school funding frameworks, suggesting that more transparency was necessary for parents and others to understand how funding schemes might secure greater coherence. It also referred to the over-identification of children with SENs, and the need to focus on those pupils with the more severe and complex SEN.

“A national banded funding framework might set out high-level descriptions of the different types of provision for children with more severe and complex SEN or who are disabled, including, for example, additional curriculum support, therapy services, physical requirements, equipment, home-to-school transport, and family support (including short breaks).”

- 3.2 No such national framework of descriptors and bands has been developed and Local Authorities are expected to determine a local methodology for allocating high needs funding within the new national funding system.
- 3.3 A working group of the Schools Forum and officers has supported the development of the new approach, which has also been the subject of consultation with headteachers and SENCOs. It is based on a framework of descriptors of provision that sets out what provision should be available in mainstream schools for children with SENs, before an education, health and care plan is considered. The framework of descriptors is set out in section 7 of this guidance.

What is ordinarily available provision?

- 3.4 The descriptors relate to provision that should be normally or ordinarily available for pupils with special educational needs from within schools' delegated budget share (elements 1 and 2). This is typically provision currently available to support pupils at School Action and School Action Plus, although this classification will cease when the new SEN code of practice is implemented in September 2014. The High Needs Funding Scheme provides top up funding for a small minority of pupils who need provision over and above provision that which is ordinarily available.

- 3.5 The draft code of practice (April 2014) states that:

‘The majority of children and young people with SEN or disabilities will have their needs met within local mainstream early years settings, schools or colleges ... Some children and young people may require an EHC needs assessment in order for the local authority to decide whether it is necessary for it to make provision in accordance with an EHC plan.

The purpose of an EHC plan is to make special educational provision to meet the special educational needs of the child or young person, to secure improved outcomes for them across education, health and social care and, as they get older, prepare them for adulthood.

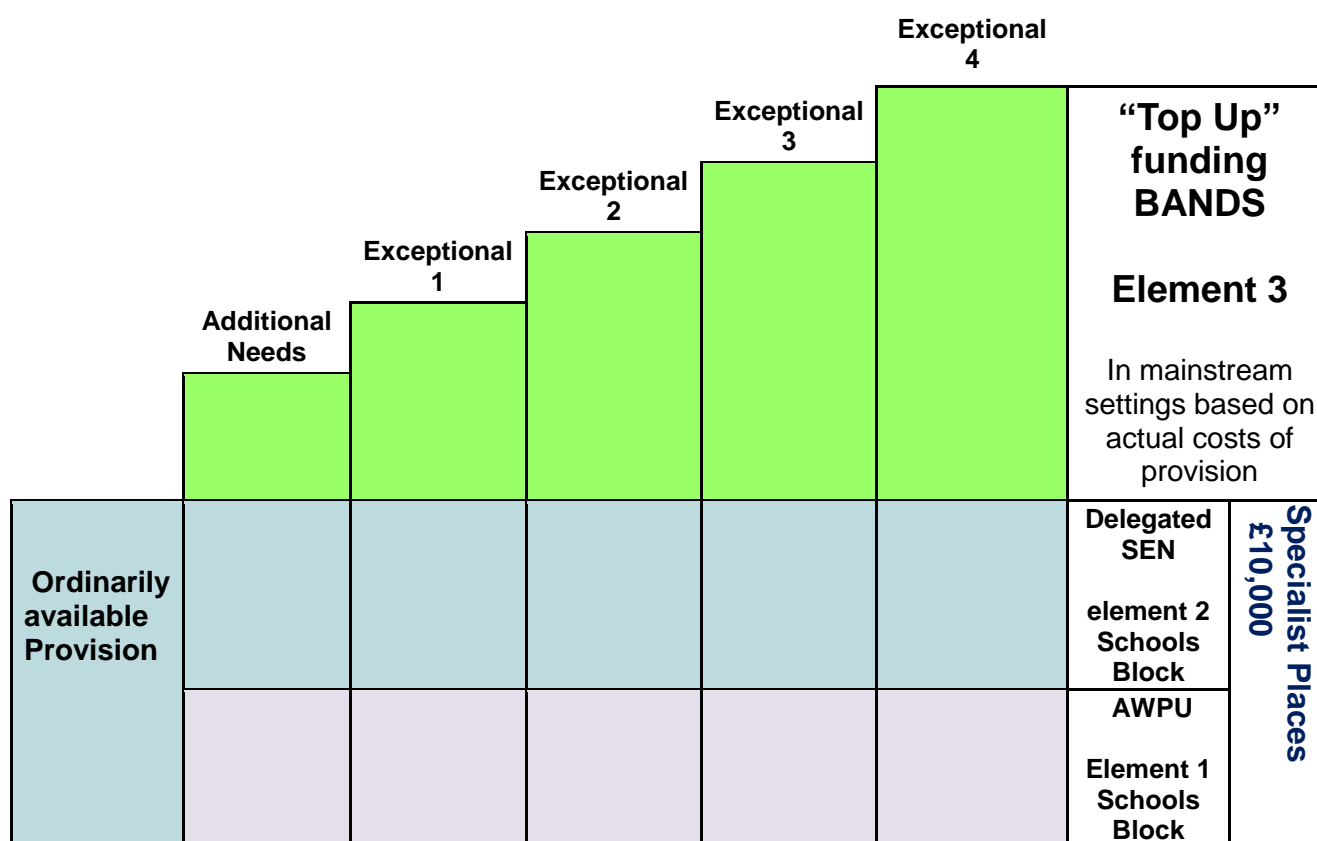
A local authority must conduct an assessment of education, health and care needs when it considers that it may be necessary for special educational provision to be made for the child or young person in accordance with the EHC plan. This is likely to be where the special educational provision required to meet the child or young person's needs cannot reasonably be provided from within the resources normally available to mainstream early years providers, schools and post-16 institutions. This needs assessment should not normally be the first step in the process, rather it should follow on from planning already undertaken with parents and young people in conjunction with an early years provider, school, post-16 institution or other provider. In a very small minority of cases children may demonstrate such significant difficulties that a school

may consider it impossible or inappropriate to carry out its full chosen assessment procedure. For example, where its concerns may have led to a further diagnostic assessment or examination which shows the child to have severe sensory impairment or other impairment which without immediate specialist intervention beyond the capacity of the school would lead to increased learning difficulties.

EHC plans should be forward-looking documents that help raise aspirations, outline the provision required to meet assessed needs to support the child or young person in achieving their ambitions. EHC plans must specify how services will be delivered as part of a whole package and explain how together the services will deliver improved outcomes across education, health and social care for the child or young person.

An EHC needs assessment will not always lead to an EHC plan. The information gathered during an EHC needs assessment may indicate ways in which the school, college or other provider can meet the child or young person's needs without an EHC plan.'

- 3.6 The descriptors provide the threshold for statutory assessment. Schools will need to demonstrate that the children they are putting forward for statutory assessment require provision significantly outside and beyond the descriptors for normally available provision. Statements/EHC plans will not be issued for pupils who need provision that is normally available.
- 3.7 The diagram overleaf shows the proposed banding model for Croydon. There are 5 bands providing a progressive framework of enhanced provision relating to the individual pupil's / student's needs. It is expected that a range of need will be met within each band, and that this will enable schools, colleges and settings to have some flexibility in determining the appropriate range of interventions. It is based on the assumption that schools, settings and colleges make and plan provision for pupils and students in groups, and that different learners need different types of support according to their needs and the learning activity. The banding framework is designed to be simple, avoid recurrent requests for increased funding, be simple and transparent to administer, and be compatible with the statutory process.



- 3.8 Statements/EHC plans will describe the provision a school should make and the projected cost. The Local Authority will match the provision set out in the statement or EHC plan with the appropriate ‘top up’ band based on actual costs. The difference in value of top up bands will be such that “drifting” from one band to another will not be a common feature of the scheme. Pupils will take their top up band value with them when they change from one school to another. It is not expected that pupils will cost more money when they transfer from one school to another, unless there is robust evidence that the provision they need is so significantly different that a change in banded value is appropriate.
- 3.9 Where a child has a statement or EHC plan, a school will be expected to use the funding allocated from the banded “top-up” to enhance their ordinarily available funding and so make appropriate provision for the learner in a manner that is compatible with the statement/EHC plan.
- 3.10 For existing statements proxy indicators (ranges of teaching assistant hours) will be used to attribute funding bands. With the introduction of EHC plans for new assessments from September 2014 allocation to a funding band will be based on actual costs of provision. The band values will cover a sufficient funding range to ensure that funding for individual pupils does not require constant amendment. Schools will need to maintain records of costs of provision as part of each pupil’s SEN plan. Guidance on costs is being developed for agreement by the Schools Forum in June 2014

- 3.11 The decision about which funding band the learner's provision will be allocated to will be based on the provision requirements set out in the EHC plan with reference to the actual costs, with moderation and review involving head teachers and SENCOs at the Education Placement Panel. The key considerations in determining the top up funding for an individual pupil will be the provision that can be expected from within a school's own budget and what additional or exceptional provision is required to meet the pupil's needs. The focus will be on Teaching Environment, Grouping and Staffing, which are the key cost drivers. Consideration will also be given to additional technical resource requirements.
- 3.12 The "top-up" band funding will be allocated to the school on the learner's first day at school and re-allocated / removed when the learner leaves. The Government requires real-time adjustment in the top-up band funding. Any appeals will be considered by the Education Placement Panel.
- 3.13 For pupils in Enhanced Learning Provision a single level of top up funding is allocated. This is will be reviewed with the schools offering specialist provision and will follow an evaluation of the effectiveness of the current methodology.

What difference will the new approach make?

- 3.13 It is expected that the descriptors of provision will reduce the potential for different thresholds from schools in requesting statements / education, health and care plans, and increase the robustness and transparency of decision making on whether or not an education, health and care plan is agreed.
- 3.14 This new approach will ensure that:
- All pupils with SEN attending Croydon maintained mainstream schools and academies, will have a minimum entitlement to normally available provision, regardless of which school is attended.
 - Schools and Local Authority SEN, Inclusion and School Improvement staff will work within a shared understanding of the provision that should be made within delegated funding, and what provision should be made through enhanced funding.
 - SEN plans at both school and individual pupil level focussed on a variety of interventions and arrangements are in place for monitoring outcomes and evaluating the effectiveness of interventions.
- 3.15 The provision descriptors will:
- assist some schools in developing their provision for pupils with SEN to be more consistent with that in the majority of schools;
 - set expectations so that schools tailor teaching and learning to meet individual needs;
 - reduce the current focus on defining pupil support by teaching assistant hours, and
 - enable greater flexibility and creativity
- 3.16 It is likely that some schools will need to make adaptations to their present practice if they are to meet the ordinarily available provision expectations. Clusters of schools may wish to collaborate by sharing specialist staffing and resources.

A wider range of strategies to improve outcomes for pupils with SEN

3.17 Under the (pre-April 2013) school funding scheme, mainstream schools were expected to provide the first 12 hours of teaching assistant and 3 hours of specialist teacher support from within their delegated budgets. It is not expected that children with SEN in mainstream will be supported for very large parts of their time table with 1:1 support. However, the methodology for distributing SEN funds to schools to support individual pupils has fostered a culture of attaching an hourly worth to a child.

3.18 The good practice guide published in 2012 by Oxford School Improvement provides valuable insight into the effective use of teaching assistants in primary and secondary schools:

Extensive research as part of the Deployment and Impact of Support Staff (DISS) project suggests that the role performed by the majority of TAs has grown in recent years. The study found that many TAs spend much of their day working with lower-attaining pupils and those with special educational needs (SEN). This is not surprising, as increased adult attention in small group and one to-one contexts is largely accepted as necessary to prevent struggling pupils from falling further behind their peers.

Other findings from the DISS project suggest that changes in the way TAs are deployed and trained may be necessary to ensure that they have a consistently positive impact on children's progress. Researchers found that those pupils in the study who received the most support from TAs made less progress over the year compared with similar pupils who received little or no TA support³. This was the case even when key factors known to affect pupil attainment (SEN, EAL, prior attainment and eligibility for free school meals) and the allocation of TA support were accounted for in the analyses.

The DISS project results show that increased time spent with a TA can have unintended consequences – it reduces the overall amount of interaction these pupils have with their teacher, their peers and the mainstream curriculum. In order to help these vulnerable learners, you may wish to consider ways of using TAs to free up the class teacher so he or she can spend more time working with struggling pupils.

3.19 The new funding approach is designed to enable schools to plan support more flexibly to ensure that pupils with EHC plans receive the additional learning support they need. Schools will need to establish arrangements for robust monitoring and review of targeted interventions and deployment of resources, including the effectiveness of teaching assistant support, to be able to evaluate the impact on outcomes for individual pupils.

5. Funding Values

Type of setting	Ordinarily Available	Additional levels of need	Exceptional 1	Exceptional 2	Exceptional 3	Exceptional 4
PVI / Nursery	£6,000	Individual packages of provision				
Mainstream*	£10,000	£1,025	£3,280	£5,300	£7,800	£10,805
Enhanced Learning Provision	£10,000		£6,000 £9,000			
Special Schools	£10,000	£3,584	£8,364	£13,145	£22,705	£32,265
College	£10,000	Individual packages of provision				
*Mainstream schools top up						
Band range - hours	0-12	13-15	15-20	20-25	25-30	>30
Maximum top up at £12.55	£10,000	£1,154	£3,538	£5,923	£8,307	£11,645
Lowest level	£10,000	£200	£1,155	£3,539	£5,924	£8,308
Proposed Band Rates at £13.20	£10,000	£1,025	£3,280	£5,300	£7,800	£10,805

HOW WE HAVE CALCULATED THE PROPOSED ANNUAL BAND RATES

	Ref	Ordinarily available	Additional Levels of Needs	Exceptional 1	Exceptional 2	Exceptional 3	Exceptional 4
Hourly Rate	A	13.2	13.20	13.20	13.20	13.20	13.20
Hours applied to band	B	12.0	14.0	18.5	22.5	27.5	33.5
weeks	C	38	38	38	38	38	38
	D = (A X B X C)	£6,019	£7,022	£9,280	£11,286	£13,794	£16,804
Less delegated funding	E	(£6,000)	(£6,000)	(£6,000)	(£6,000)	(£6,000)	(£6,000)
Add rounding diff	F	(£19)	£3		£14	£6	£1
Proposed annual top up rates	G = D + E + F	£0	£1,025	£3,280	£5,300	£7,800	£10,805

6. THE FRAMEWORK OF DESCRIPTORS

6.1 ORDINARILY AVAILABLE PROVISION (funded from mainstream school budget)

<p style="text-align: center;">Ordinarily Available Descriptors</p> <p>The following descriptors set out expectations on the range of support and resourcing every school should make from within schools' own delegated budgets. This should represent adaptations within quality first teaching as well as more tailored approaches which are 'additional to and different from' provision for all pupils (Draft Code Of Practice for SEN 2014).</p> <p style="text-align: center;">The descriptors have been organised under the four areas of need as defined in the revised Code of Practice for SEN</p>	
<p>Cognition and Learning: (including pupils with Specific Learning Difficulties, dyslexia, dyscalculia and dysgraphia), Severe Learning Difficulties, Profound and Multiple Learning Difficulties</p>	
<p>Assessment, Planning and Review</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 175</p>	<ul style="list-style-type: none"> • Current functioning considered in relation to: <ul style="list-style-type: none"> ○ National Curriculum expected levels and end of Key Stage standardised tests ○ Analysis of outcomes from other screening tools, standardised and diagnostic testing tools to identify key strengths in individuals learning profile and establish key priorities to support progress ○ P level descriptors for pupils working below Level 1 of the national curriculum ○ Observations and dialogue with pupils to identify preferred learning styles • Arrangements in place to support moderation of teacher assessments to support accuracy and consistency • Modified or alternative learning objectives in daily teaching across all curriculum and subject areas. • Short term targets to address progress in core skills identified and recorded in individual or group plans. • Advice and recommendations from external specialists included in normal teaching and personalised provision • Tailored interventions and resources in place for pupils with the greatest need • Established timetable in place to support regular review and evaluate impact of support • Parents and pupils involved in planning and review of personalised plans • Additional access arrangements considered to support active engagement and participation in learning in class lessons and extra-curricular activities • Advice and training available to support planning and delivery of intervention packages from within and beyond school for teaching and support staff • Support arrangements planned to maximise success in formal testing and examinations.
<p>Teaching Environment and Grouping</p>	<p>Flexible groupings used across the curriculum to support independent and good progress including:</p> <ul style="list-style-type: none"> ○ Ability/mixed ability groupings ○ Small group /paired work/ individual supported by a teacher or teaching assistant ○ Peer support <p>Out of hour learning support such as homework club and booster classes</p> <p>Frequency and duration of focused group and individual support responsive to nature and level of specific need of groups or individual pupils</p>

	<p>Balance between withdrawal for catch up support and inclusion in class learning to avoid isolation from peer group and age related curriculum</p> <p>Classroom learning environment organised to facilitate access and promote independence, e.g. resources and equipment labelled with words and symbols.</p>
Curriculum, Teaching Methods and Resources	<ul style="list-style-type: none"> • Curriculum offer and daily lessons reflects range of learning styles across all subjects • Use of language simplified with short and concise instructions • Learning supported by use of practical materials and a range of visual cues and scaffolding. • Work chunked into manageable steps • Use of precision learning techniques, pre and post tutoring to introduce and embed key knowledge and skills. • Where possible learning linked to first hand experiences and personal interests • Use of specific catch up programmes to establish core reading, writing and mathematical skills for groups of pupils working just below age related expectations. • More specialised teaching and individualised learning programmes in place for pupils with the greatest need such as Reading Recovery and Catch up Numeracy and Catch Up Literacy • Alternative methods for written recording in place to facilitate focus on other learning skills and knowledge. • Range of ICT used effectively to promote inclusion and learning
Staffing and Partnerships	<ul style="list-style-type: none"> • Class/subject teacher takes responsibility and accountability for the provision, progress and development of pupils in their class • Additional specialist teaching from teachers or teaching assistants deployed dependent on nature and level of need for groups and individual pupils. • Dedicated time is set aside to support liaison between teachers and staff delivering interventions to evaluate impact and refine provision as required. • Engagement with specialist service to support assessment of needs and guidance on the nature of support and resources to promote good progress including the Education Psychology Service and Croydon Literacy Centre • Utilising support and guidance offered by the Croydon Special Schools Outreach offer • Advice, information and training from local and national voluntary services such as Dyslexia SPLD trust on dyslexia and literacy difficulties.

Communication and Interaction: (including pupils with Speech, Language and Communication Needs (SCLN) and Autism Spectrum Disorders (ASD)).

Assessment, Planning and Review	<ul style="list-style-type: none"> • Screening tools and checklist used to establish baseline skills in speech articulation, expressive language, receptive language and social use of language (e.g. assessment identification and checklists from the IDP Primary and Secondary SLCN e-learning tool). • Review of learning resources to ensure vocabulary and language are accessible and not ambiguous • Use of sensory checklist to determine any potential environmental stresses or intolerances which may impact on learning, especially in relation to pupils on the autistic spectrum • Adjustments to learning environment • Planned time to address specific programmes or recommendations from Speech and Language therapists and other specialist services.
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	<ul style="list-style-type: none"> • Preparation and bank of visual aids, symbols and specialist resources to support access to curriculum and wider aspects of school day. • Personal passports for children with more significant needs to ensure all teaching and support staff are aware of strengths and particular areas of need and intolerances. • Short term learning goals in place to develop key communication skills.
Teaching Environment and Grouping	<ul style="list-style-type: none"> • Classroom layout is created and varied to ensure pupils can hear and see the teacher, for example desks arranged in a horseshoe shape facing the teacher. • If required a pupil(s) has access to a quiet, distraction free zone • Flexible groupings and buddy support to support exposure to good role models to support development of language and vocabulary.
Curriculum, Teaching Methods and Resources	<ul style="list-style-type: none"> • Communication supported by a range of nonverbal and visual cues to support understanding and communication • Staff able to use makaton or other signing support to aid communication and understanding • Language is simplified, avoiding idioms and sarcasm. • Instructions are short and sequential. • Pre and post tutoring used to introduce and embed new vocabulary • Topic word banks • Alternative methods of recording such as mind maps • Use of speech recognition tools, and other ICT utilised. • Use of barrier and other games to develop receptive and expressive language skills • Teachers allow 'take up time' to allow pupils to process question and generate a response • Pupils' responses are supported by offering choices. • Visual timetables used for whole class and individualised to support most needy pupils. • Social stories used to develop understanding of daily school routines and socially appropriate behaviours for pupils with ASD. • Targeted interventions in place to develop social skills and interaction and other recommended programmes such as sensory diet activities. This may include the Talking Partners Oracy Project, supported by Croydon Speech and Language Services. • Frequency and duration of more individualised support is responsive to nature and level of difficulty.
Staffing and Partnerships	<ul style="list-style-type: none"> • Class /subject teachers are well informed about barriers to learning encountered by pupils with a range of SLCN and use strategies and resources within the class to support these areas of difficulties • Specially trained staff within school use their enhanced expertise to support identification of pupils with SLCN and to lead group and individual interventions to address specific needs. • Referrals and on-going assessment and monitoring by Speech and Language Therapy and Croydon Child and Adolescent Health services where appropriate • Utilising support and guidance offered by the Croydon Special Schools Outreach Offer and Enhanced learning Provisions for pupils with SLCN • Advice, information and training from local and national voluntary services such as ICAN, The Communication Trust, and local branch of the national autistic Society.

Social, Emotional and Mental Health Difficulties: (Including pupils who may be withdrawn or isolated or who display challenging, disruptive or disturbing behaviour, pupils who experience problems with mood (anxiety or depression) ,problems of conduct (oppositional problems and more severe conduct problems including aggression), self-harming, substance abuse or eating disorders and pupils with recognised disorders such as Attention Deficit Disorder (ADD), Attention Deficit Hyperactive Disorder (ADHD) or attachment disorder

<p>Assessment, Planning and Review</p>	<p><u>Assessment</u></p> <ul style="list-style-type: none"> • Part of normal school and class assessments. SENCO and or School based specialist staff e.g. Behaviour mentors may be involved in more specific assessment and observation. • Pupil self-assessment –pupil friendly SMART targets set for behaviour/social skills • Records kept to include observations assessment of context, structured, unstructured times, frequency, triggers • Risk assessments of difficult times of the school day • Progress should be a measured change in their behaviour and learning following each review cycle • Individualised programme of support related to assessments implemented. Key worker identified • Parents involved regularly and support targets at home • Pupils involved in setting and monitoring their targets • Pupils response to social/ learning environment informs cycle of IEP/PSP • Use and analysis of assessment tools e.g. Boxall profile • Wider assessments for learning/other SEN • Determine engagement of necessary education/ non-education support services possibly leading to CAF <p><u>Planning and Review</u></p> <ul style="list-style-type: none"> • Curriculum plan reflects levels of achievement and includes individually focused IEP targets e.g. specific behaviour targets related to assessment: consideration of adapted timetable • Additional steps taken to engage pupil and parents as appropriate • Requires effective communication systems enabling all involved to provide consistent support • Review of measurable progress against targets in IEP/PSP • CAF processes determine holistic support plan. CAF Multi-agency planning processes specify contribution of individual services and lead practitioner. Inter-agency communication established and maintained
<p>Teaching Environment and Grouping</p>	<ul style="list-style-type: none"> • Mainstream class with attention paid to organisation and pupil groupings • Opportunities for small group work on identified need e.g. listening/thinking/social skills, emotional literacy work. • Time limited mainstream classroom programme of support, which relates to assessments • Small group work to learn appropriate behaviours and for associated learning difficulties • Individual programme based on specific need : a quiet area in the classroom may be useful for individual work • Create opportunities to work with positive role models • Main provision by class/subject teacher and resources usually available in the classroom. • Additional adults routinely used to support flexible groupings, differentiation and some 1:1 • Close monitoring to identify “hotspots “and support for times identified by risk assessments • Daily opportunities for 1:1 support focused on specific SEBD/learning targets.

	<ul style="list-style-type: none"> • Primary Behaviour Support offers small group support in school. • Opportunities for student to engage in alternative provisions for part or all of the week • Managed move where appropriate
Curriculum, Teaching Methods and Resources	<ul style="list-style-type: none"> • In class differentiation of the curriculum and supporting materials enabling full access to the curriculum • Strategies developed shared with school staff, parent/carer • Simplify level, pace, amount of teacher talk/ instructions • Increased emphasis on identifying and teaching to preferred learning style • Opportunities for skill reinforcement/revision/transfer and generalisation • Some use of specific group or 1:1 programmes • Preparation for any change and the need for clear routines. Teaching approaches should take account of the difficulties in the understanding of social rules and expectations within the classroom. • Short term individual support focusing on listening, concentration, social skills, solution focused approaches • Regular small group work with an increasing emphasis on relationships, emotions, social skills, conflict resolution • Consideration of an alternative, differentiated curriculum that allows flexibility to teach according to emotional needs, not chronological age • Play, creative activities, drama • Targets are monitored with the pupil daily targets • Activities focus on key skills and Social, Emotional, Behaviour al outcomes throughout the school day. SEAL skills embedded in curriculum. <p><u>The use of positive targeted strategies that might include:</u></p> <ul style="list-style-type: none"> • Further learning assessments and support if necessary e.g. Nurture Group; Learning Mentor/ behaviour mentor Programmes • Observation schedules • Reward systems involving regular monitoring and support • Monitoring diaries • Use of behaviour targets within the classroom/playground, prompt cards • Visual systems/timetables • Regular small group work/concentration skills/social skills/listening skills/conflict resolution, emotional literacy • Short-term individual support • Support that use solution focused/restorative/motivational approaches • Circle of friends • Access to additional circle time activities • Access to ICT and specialist equipment • Individual SEBD programme
Staffing and Partnerships	<ul style="list-style-type: none"> • Main provision by class/subject teacher with support from SENCO and advice from education and non-education professional as appropriate • Daily access to staff in school with experience of BESD, e.g. behaviour support worker, lead behaviour professional, SENCO, ELSA

	<ul style="list-style-type: none"> • Additional adult, under the direction of the teacher, supports pupil working on modified curriculum tasks • Engagement with specialist service to support assessment of needs and guidance in support and resources to promote progress including EPS, Primary Behaviour Support, Early Intervention Support Secondary PRU provision • Daily access to staff with experience and training in meeting the needs of students with BESD • Increased access to specialist support for both child/young person and family including CAMHS, Family Resilience Service. Use of Common Assessment Framework to access multi-agency support • Close liaison and common approach with parents/carers
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Sensory and /or Physical Needs: (including pupils with visual impairment, hearing impairment , physical disability and medical needs)

Assessment,
Planning and
Review

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- Specific assessments are referenced or undertaken to establish the degree of impairment/disability and its potential implications for and impact on curriculum access. Assessments may include:
Visual impairment: visual field and acuity, light sensitivity, accessible print size, mobility, independence, communication skills, social interaction.
Hearing impairment: degree of hearing loss, communicative intent, expressive language skills, speech clarity, language comprehension, social communication skills, use of technology.
Physical disability: scope of disability, physical restriction, pain, mobility, independence, self -care, communication, therapy needs
Medical needs: effect of medical condition, impact of medication, level of fatigue, level of attendance, restrictions on certain activities, temperature regulation, triggers likely to prompt an emergency response, self- awareness and regulation, communication skills.
- On-going monitoring and observation to assess the impact of the needs on the pupil's ability to function successfully in the school setting and make progress with learning. Evidence might include:
 - Consideration of progress within the curriculum in relation to age related expectations.
 - Ability to work at the same pace as peers
 - Signs of fatigue or frustrations during different lessons or subjects or at parts of the day or week.
 - Ability to develop positive peer interactions, especially during unstructured times such as the lunch break
 - Effective use of support, technology and equipment
- Personalised plans generated in response to assessments and include as relevant access arrangements, health care plans and risk assessments. Plans may take into account;
 - Supervision arrangements at unstructured times
 - Administration of any medicines
 - Support to address personal needs such as toileting
 - Environmental audit to inform any necessary adjustments (e.g. classroom acoustic)
 - Fire evacuation and medical emergency plans
- Liaison with parents/ carers and appropriate health and specialist services to ensure that the needs are identified and appropriately assessed;

	<p>any plans are shared, owned, monitored and reviewed.</p> <ul style="list-style-type: none"> • Pupils are involved as appropriate in their assessments, plans and reviews to ensure that their voice is fully heard.
Teaching Environment and Grouping	<ul style="list-style-type: none"> • Adaptations to the teaching environment to support access and promote independence. This might include: <ul style="list-style-type: none"> ○ Planning of appropriate use of classrooms to maximise access over time ○ Review of lighting arrangements and use of anti-glare film. ○ Introduction of sound field systems and hearing loops. ○ Introduction of items such as specialist seating, height adjustable work benches to facilitate access ○ Furniture organised to allow ease of wheel chair access and appropriate proximity to technology. ○ Review of pupil seating arrangements to ensure good posture management and easy access to support and teacher input. ○ Careful positioning of specialist equipment and resources to ensure optimal usage. • Flexible grouping arrangements to facilitate both peer and adult support to improve access to the curriculum and encourage independent learning. • Individual or group support in place to assist as required with practical lessons, personal care, therapy programmes and support movement around the school. This could include buddy systems. • Adjustments to teaching style and position to take account of the need for lip reading, verbal and non- verbal prompts and potentially signing to support communication and understanding.
Curriculum, Teaching Methods and Resources	<ul style="list-style-type: none"> • Class and subject teachers adapt teaching style to take into account specific needs of pupils within lessons and across different subjects • Pace of lessons adjusted with rest breaks built in as required. • Additional access to ICT, specialist aids and adaptations to facilitate access to the curriculum • Alternative methods of written recording used as required. • Work and resources modified to support access, for example colour of worksheets, increased font size and double spacing and texts transposed to braille. • Arrangements made to support formal assessments tasks and public exams such as additional time, amanuensis, rest breaks, use of ICT and enlarged papers.
Staffing and Partnerships	<ul style="list-style-type: none"> • All staff fully aware of the specific sensory, physical and medical needs of any pupil and are aware of any plans, protocols and procedures in place to ensure safe and effective education. • Class and subject teachers use this knowledge to adapt their communication, lessons and set tasks. • Key staff have had specialist training and are skilled at meeting needs of particular pupils such as supporting daily testing and functioning of equipment to support hearing access for a pupil with a hearing impairment or training in manual handling for a pupil with significant physical needs. • Input at class and school level to raise peer awareness of the nature of different impairments and the support they can offer • Regular liaison, guidance and support from specialist services to review the impact of interventions and suggest modifications and updates as required. • Pupils and parents are actively engaged in decision making and planning for ongoing provision • Support and guidance is accessed from the Croydon Specialist Teaching Service (Hearing Impairment and Visual Impairment) and via the

- outreach offer from Croydon's Special Schools and Enhanced Learning Provisions.
- Advice, information and training from local support services such as the Educational Psychology Service and the Children with Disabilities Team; via the Learning Without Boundaries training offer; and via the local and national voluntary sector.

6.2 DESCRIPTORS OF PROVISION FOR PUPILS IN SPECIAL SCHOOLS

The descriptors below are those currently used to assign funding based on the complexity and resource intensiveness of provision required for individual pupils. This is subject to an annual moderation exercise. The descriptors have not yet been reviewed against the new Code of Practice.

PANDS	Place Funding	Additional Needs	Exceptional 1	Exceptional 2	Exceptional 3	Exceptional 4
Page 182 Staffing Model	Typically pupils who can manage within the overall organisation and curriculum but who, on occasions require some low level additional supervision and intervention for mothers, over and above the class team e.g. Speech and language Therapy	Typically pupils can manage only within a small group and require close supervision and interventions from staff	Typically pupils need regular, additional time from a range of adults. They may make frequent demands for support because of their learning/behavioural difficulties and/or because of their dependency on adults for their self-help/care needs.	Typically these pupils require constant interventions on a daily basis from a range of adults. They may be unable to interact greatly with other pupils and staff due to learning and/or social difficulties	Typically requires constant 1:1 support throughout the day and individual strategies to support learning. Most pupils will feature in more than one category, with the exception of Emotional, Behavioural and Social Difficulties.	Typically requires constant 1:2 support throughout the day and individual strategies/resources to support learning. Typically has additional diagnosis and involvement from other professionals
Need Group						
Learning Difficulties	Have reasonable understanding of language and limited expressive communication Have moderate learning difficulties	Have severe learning difficulties Have severe communication difficulties but may be verbal	Have a limited understanding of language and limited expressive communication Have very severe learning difficulties	Have very severe learning difficulties Have extremely limited functional communication Need adult support	Have very limited understanding of language and little or no expressive communication Exhibit behaviour on a	Have very limited understanding of language and poor functional communication skills Exhibit behaviour on a

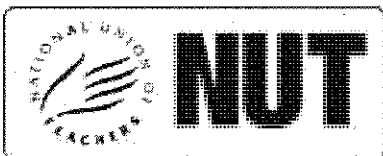
			Have severe learning difficulties and additional needs in one other area e.g. ASD, PD, sensory	to access learning, communication systems (AAC) and social interaction Exhibit frustration which may manifest itself in challenging behaviour and supervision is necessary to maintain safety at all times Be reliant on adults for personal care including eating & drinking Display challenging behaviour which will require physical intervention	daily basis which causes harm to self-others and/or severely damages property Have profound and multiple learning difficulties Have additional needs in one or more other areas e.g. ASD, PD, sensory and may have complex medical needs Pupils may have additional complex health needs.	consistently frequent basis during the day which causes harm to self or others and/or severely damages property Intervention and behaviour programmes require the availability of at least two staff to ensure their safety of all. Have additional needs in one or more areas e.g. ASD, ADHD, PD, sensory and may have complex medical health needs
Autism Spectrum	Have good functional communication Communication may be dependent on lo-tech communication aids, e.g. communication books, PECS Show signs of distress when faced with new people, places or events Exhibit difficulty expressing feelings or needs	Have some functional communication Exhibit some rigid or obsessional behaviours Have difficulties developing relationships with others	Have a limited functional communication Be dependent on a specialist environment with the focus on visual support systems such as PECS & visual timetables Need structure and routine to reduce stress and anxiety Exhibit “acting out “ behaviour or “withdrawn” behaviour	Have extremely limited functional communication Need adult support to access learning, communication systems (AAC) and social interaction Be reliant on adults for personal care including eating & drinking Exhibit frustration which may manifest itself in challenging behaviour and	Have extremely limited expressive communication Exhibit behaviour on a daily basis which causes harm to self-others and/or severely damages property Require 1:1 supervision within playground and social times Display challenging behaviour which will require physical intervention	

				supervision is necessary to maintain safety at all times Display challenging behaviour which will require physical intervention		
Page 184 Physical Difficulties (and Medical)	Independently use a mobility aid to overcome their physical difficulties e.g. walking frame, power chair Need to use a lo-tech communication aid occasionally to support verbal communication	Require some support in moving, positioning, personal care Have some independent mobility e.g. independent transfers Have some communication difficulties associated with their physical difficulties	Be highly reliant on adults for support in moving, positioning, personal care Have some independent mobility e.g. assist with transfers, use a power chair Have a physical disability that creates communication difficulties Need support related to an additional learning need	Be reliant on adults for moving, positioning, personal care including eating and drinking e.g. require hoisting Have a physical disability that creates severe communication difficulties Be communication aid users e.g. 4Talk4 Need adult support to access learning and social interaction Have an additional need in one other area e.g. sensory or LDs	Be totally reliant on 1 or more adults for positioning, Movement, personal care including eating and drinking require hoisting, gastrostomy. Be complex communication aid users e.g. Tellus/Dynavox Need 1:1 specialist adult support to access learning and social Pupils may have severe medical needs e.g. unstable epilepsy	

<p>Social, Emotional and Mental Health Difficulties</p> <p>Page 185</p>	<p>Low level verbal or physical challenging behaviour which causes disruption to other learners and requires regular intervention by an adult</p> <p>Low level challenging behaviour requiring behaviour support plans and regular oversight by adults</p> <p>Emotional needs requiring regular support from an adult</p>	<p>Only manage their behaviour in a small group</p> <p>Have no additional learning needs</p> <p>Pupils may Be involved in incidents which may require physical intervention</p> <p>Emotional needs requiring regular support from the Leadership Team</p>	<p>Often need support to manage their own behaviour and/or reflect on the consequences for others</p> <p>Need support for an additional learning need</p> <p>Pupils may Exhibit aggression</p> <p>Be involved in incidents which may require physical intervention</p> <p>Require occasional interventions by the Leadership Team</p>	<p>Regularly need support to manage their own behaviour and/or reflect on the consequences for others</p> <p>Often exhibit recurring behaviour and will need additional support within playground and social times</p> <p>Be involved in frequent incidents which may require physical intervention</p> <p>Require regular intervention by the Leadership Team</p>	<p>Be unable or unwilling to manage their own behaviour and/or reflect on the consequences for others</p> <p>Exhibit violence on a daily basis and 1:1 supervision is necessary within playground and social times</p> <p>Be involved in daily incidents which may require physical intervention</p> <p>Require frequent interventions by the Leadership Team</p>	
<p>Sensory Difficulties</p>	<p>Have a moderate sensory loss</p> <p>Use aids to overcome sensory loss</p> <p>Medical oversight and interventions by trained staff</p> <p>For diabetes, epilepsy, allergies</p>	<p>Have moderate sensory loss</p> <p>Use aids to overcome their sensory loss</p> <p>Need mediation of the environment at all times</p> <p>Epilepsy requiring support by specialist trained staff</p>	<p>Have a visual impairment or difficulty</p> <p>They require mediation of the visual or auditory environment for a proportion of the day</p> <p>They may have additional needs in one other area E.g. PD, ASD</p>	<p>Have a significant hearing loss</p> <p>They require mediation of the visual or auditory environment for a high proportion of the day</p> <p>They may have additional needs in one other area e.g. PD, ASD</p>	<p>Have a very profound sensory loss necessitating 1:1 specialist adult support</p> <p>Have additional needs in one or more other area e.g. BESD, PD</p>	

This is the training undertaken by one member of staff since 2010 only .

Training Undertaken	Date
Gastrostomy feeding – NHS accredited – renewed annually	Sept 2014
Gastrostomy Site – NHS accredited – renewed annually	Sept 2014
Oral Suction Competence – NHS accredited – renewed annually	March 2014
Enteral feeding pump– NHS accredited – renewed annually	Sept 2014
Gastrostomy feeding – NHS accredited – renewed annually	Sept 2014
First Aid at Work – three day course with exam – renewed every three years	June 2014
Sound Beam training	Nov 2011
Epilepsy Awareness – NHS accredited – renewed annually	Sept 2014
Seizure Management – NHS accredited – renewed annually	Sept 2014
Life Support and Resuscitation - NHS accredited – renewed annually	June 2014
Administration of Buccal Midazolam – NHS accredited – renewed annually	Sept 2014
Oxygen Administration – NHS accredited – renewed annually	Sept 2014
Oxygen Health and Safety – NHS accredited – renewed annually	Sept 2014
PEG Training - NHS accredited – renewed annually	September 2014
Freego pump Level 3 Training - NHS accredited – renewed annually	September 2014
Supporting Young Deaf Children – SALT accredited – three day course	April 2013
Smartboard Training	Nov 2010
SATs monitoring training	June 2014
Catheterisation Theory	Nov 2014



WIRRAL DIVISION

Dear Sir/Madam,

I am writing in relation to The Lyndale School as part of the representation period.

I wish to reaffirm the views I expressed in my letter submitted as part of the original consultation. The National Union of Teachers strongly believes that every child has the fundamental right to high quality education at a good local school. In the case of The Lyndale School this is an even higher priority, as the children who attend this school have a range of complex learning needs and individual barriers to learning.

The staff at Lyndale are highly skilled in addressing the specific needs of the children they teach. They have built up good relationships with parents and pupils and this creates a high degree of trust allowing the pupils to develop in an environment where they feel safe and secure.

In terms of providing a good education and providing the continuity that the pupils at Lyndale require and deserve I believe that it is worth exploring the option of transferring the Lyndale staff and pupils to another site as one unit. This allows the costs to be cut as the current site would close but allows staff and pupils to transfer together ensuring that the individual needs of the children are addressed. This option also helps to reassure parents as they will know that the staff who they have built good relationships with will continue to work with their children.

I am concerned that the closure date seems to be January 2016, this seems an odd date given the academic year would end in July. It is also a concern that the proposed closing date has changed through the consultation period and appears differently in different papers to cabinet.

Closing mid-way through a year is disruptive to pupils, they will start the academic year in one school then after settling have to move to new school, this will impact on their learning. This is a significant issue for the pupils at The Lyndale School.



WIRRAL DIVISION

The NUT firmly believes all children should have access to a good local school. By closing The Lyndale School some of our most vulnerable pupils will be left without access to a local school.

Yours Sincerely,

From:

19/11/2014 16:01

To: CYPD-Special Review**Subject:** Lyndale School

I am writing in response to the consultation. As a Wirral resident, I believe that this school should remain open. I am not convinced that it will be in the best interests of the children of Lyndale or the other two schools for Lyndale to close. Further, I have not seen evidence that the independent consultants report was based on an in depth analysis of the children's needs. The consultant appears to have spent little time with the school staff or parents. These children have really specialist needs and the Council should take into account that the most vulnerable children must be protected the most. This is a matter of humanity. The financial argument is not convincing so why close?

From:

To:

Subject: lyndale closure

Date: Wed, 22 Oct 2014 13:02:27 +0100

Hi

iam writing regarding the closure of lyndale school and ask you please to reconsider the closure as a autistic mum my self i dont understand this closure there are already only a small amount of special schools on the wirral and with autism on the rise i dont see the logic in the closure this will only make it harder for familys to get a good education for our children leaving the

children lacking behind and most probably causing more problems for the future ! Its ok us parents can voice our opinions but what about all the children involved that cant iam sure this is against there human rights as this will truely effect them the change will do them no good ! will hopefully get a place in stanley but with the closure will ? Or even worse will and then the sschool be packed to the hilt causing stress and anxiety for the children already at the school or at the other schools they will be moving to !! So please please reconsider the closure as i feel the need for more special schools in the future will be needed so to loose one would only be more costly thanks for reading

From:
Sent: Tue 18/11/2014 12:50
To: CYPD-Special Review
Subject: llyndale school

My Objection to the closure of Lyndale school.

The funding changes that took place did not give true recognition of the needs the children of this school needed, and the changes taken with the banding system was in my view done to restrict the school moving forward,

In the report to cabinet 16th Jan, stated that changes would be kept under review, what was missing was the points 14,39, and 40 from the SEN improvement document

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/278422/School Organisation Guidance 2014 - Annex B.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/278422/School_Organisation_Guidance_2014_-_Annex_B.pdf)

I have not seen these points show or addressed, especially in the report from expert called in to look into this matter.

The above point raised by _____ and myself in our NOM to Council.

,

I believe good practice should have shown what is in place now, and how it would be improved, the parents showed how this could happen throughout the consultation period, in my view this was ignored

The basic view is the needs of the children comes first, what they have in place now fits the needs, the parents did not want to see the expert teamwork given to them broken up, this will be the case if the children are moved.

As we have heard comments by parents stating other heads who they met either did not know or had a view on how to take the extra costs with each child.

One Question not asked, what cost to the authority if parents decide to move children out of area to get what they have now?

From:

Sent: Thu 30/10/2014 20:00

To: CYPD-Special Review

Subject: Closure

It would be terrible if you closed this wonderful school.it is a place where parents take their special children and know they are safe and so happy. Please don't close it .

Sent from my iPad

From:
Date: 9 October 2014 20:32:28 BST
To:
Subject: Lyndale school

I feel I must voice my concern on the disgusting decision to close lyndale school have councillors involved in this decision no compassion (heart).

The cash strapped authority who spent £5,258 on a trip to Bournemouth , council chief executive Graham Burgess who took part claimed it allowed them to "showcase wirral s achievements some achievement closing lyndale school .

The council also upgraded the lifts in the town hall at a cost of £125,000, the expensive staircase £800,000 is the estimated out lay for that,£25,000 on a new carpet, £17,000 on the toilets.

I am a resident of Eastham I and every body can see the magnificent job these careers do,if the number of councillors was reduced to 44 I am sure this will help to keep Lyndale School open.

Full support and the opportunity of remaining at and near
ones entering that particular school. No other substitute
would be acceptable for those campaigning to
retain Lyndale School.

Please consider all the reasons for maintaining
the present arrangement and give such a worthy
establishment the continuity it deserves.

Yours faithfully,

re PROPOSED CLOSURE OF
LYNDARE SCHOOL, EASTHAM

November 10, 2014

Dear Sir or Madam.

I am writing, as a private individual, to support those
many people who are requesting, most urgently, that
LYNDARE SCHOOL be kept OPEN.

May I draw your attention to two reasons of my
own for supporting the retention of LYNDARE SCHOOL:-

- ① In 2000, I had the privilege of visiting the school,
in a purely local resident capacity, to enquire
if they would welcome a new book on local
history. The atmosphere of welcome, all-pervading
care and serene concern for each individual child
was notable and most memorable.
 - ② Until the family moved to North Wales, last year,
I was aware of a very severely handicapped
who attended Lyndale - I know grandparents well,
and all were so very thankful for the help that
the young received. They were totally reassured
that had the best possible time at the school.
- SUMMARY As Winal Council has considerable financial
reserves, such vulnerable special children need on

From: →
Sent: 13 November 2014 20:33
To:
Subject: THE LYNDAL SCHOOL

Dear Councillor,

I am writing you this email to ask you to reconsider the decision made to close The Lyndale School.

Please look again at all of the facts and figures and more importantly the concerns of parents of children currently attending The Lyndale School and parents whose children, the closure of The Lyndale School will impact on.

As you are aware The Lyndale School is a small community school, which is more of a

14/11/2014

small family. The children in this school are "our world".

My [redacted] and has been attending The Lyndale School for nearly 7 years now. The Lyndale School was named in [redacted] Educational Statement as the most suitable provision for [redacted] is severely disabled, registered blind, has seizures, has severe global developmental delay, is wheelchair bound, unable to talk and unable to do anything for [redacted] so is totally dependent on adults for all of [redacted] care and to enable [redacted] to access education to maximise [redacted] full potential.

At the very beginning of all of this we were told that the whole process would be "open and transparent" and our views, concerns, opinions and feelings were extremely important, as we knew our children best. But why do I feel, none of these have been taken into consideration when making a decision on The Lyndale School. I would have thought that due to the nature of the school and the complex needs and complex medical needs of the children that parents concerns would have been taken more seriously, the fact they haven't points to the Education Department adopting a "we don't care" attitude.

The Consultation has been a very long winded, repetitive and extremely stressful process. I attended several of the meetings, in different venues, to have to ask the same questions over and over again, as no answers were given in detail, if answers were given at all. As we were told, they would have to get back to us, on that one.

During the first Consultation Meeting at Elleray Park, I was actually told to "be quiet", saying I was being personal, when in fact I was giving a description of PMLD, which happened to be my daughters description.

Parents typed up pages and pages of questions, detailing all of our concerns. To date we have never received full detailed answers to these concerns.

Neither Stanley School or Elleray Park as they stand, have the space for the children of The Lyndale School.

Stanley School is a fantastic new build, with enough classrooms for the children they currently have and very little outdoor space.

Elleray Park are planning to extend their building to create more space for the children currently attending the school.

In view of this, where are the children of The Lyndale School going to go?

Where is the sensory outdoor space, like they have already at The Lyndale School?

Where are the sensory, spacious classrooms?

Where is the freedom of the whole school, knowing they are safe without having to be locked away in a classroom for their own safety?

Where are my guarantees that _____ will be educated safely in either of these schools, with the freedom _____ loves, without being segregated for _____ own safety?

We were told that all of these concerns would be taken into consideration and clearly they have been ignored.

Sadly due to my _____ disabilities, _____ incurs a very costly bill to support. Something I have to provide at home on a daily basis, 24 hours a day. Funding is yet another issue. The new Banding System, Bands from 1 to 5. Band 5 being the highest band. Can someone please explain to me, why my _____ has been placed in Band 4, when _____ is as severely disabled as she is and is unable to do absolutely anything for _____

I am constantly told my _____ needs will always be met regardless of what Band is in. Yes, but this will happen at a cost to which ever school _____ is attending and other pupils, as crossfunding would have to take place to ensure there was enough money to cover the cost of my _____ needs.

I am in the process of drawing up my _____ Educational Health Care Plan (EHCP), this again is proving to be an extremely stressful and frustrating process. I feel like I am being bulldozed into getting this complete in the shortest amount of time, it can be done.

Being told, I can only put in the EHCP what is detailed on the Statement. When at our very first meeting, I was told the whole idea of the EHCP was to draw up a detailed document of my _____ and the reason for the EHCP was being brought in was due to the fact that Statements are so vague.

The EHCP has to be "SMART" meaning Specific, Measurable, Achievable. Realistic, Timebound. Up to now, I am finding it extremely difficult to ensure my _____ EHCP is timebound, as I am not being allowed to put specific times in, unless this is supported in a report from a professional, for example her consultant, her physio.

Reports are needed, not less than 6 months old to enable the EHCP to be collated, I am still waiting for certain reports. Again, very frustrating as all the relevant information needed, is not there.

Wanting to be specific about my needing 1 to 1 support for all aspects of care and school day. To be told, I can't put that, as it's not in original statement. My is unable to do anything for so without an adult giving a drink, feeding changing doing action songs, pushing in wheelchair, helping hand over hand to do activities in the classroom, my will just sit there.

The final decision on the future of The Lyndale School should be about doing what is right for the most vulnerable disabled children on the Wirral.

Regards

Parent

Subject: The Lyndale School

Dear Councillor,

I am writing you this email to ask you to reconsider the decision made to close the Lyndale School.

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education to maximise her full potential.

At the very beginning of all of this we were told that the whole process would be "open and transparent" and our views, concerns, opinions and feelings were extremely important, as we knew our children best. But why do I feel, none of these have been taken into consideration when making a decision on The Lyndale School. I would have thought that due to the nature of the school and the complex needs and complex medical needs of the children that parents concerns would have been taken more seriously, the fact they haven't points to the Education Department adopting a "we don't care" attitude.

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Where are my guarantees that [redacted] will be educated safely in either of these schools, with the freedom [redacted] loves, without being segregated for [redacted] own safety?

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Sadly due to [redacted] disabilities, [redacted] incurs a very costly bill to support. Something I have to provide at home on a daily basis, 24 hours a day. Funding is yet another issue. The new Banding System, Bands from 1 to 5, Band 5 being the highest band. Can someone please explain to me, why [redacted] has been placed in Band 4, when [redacted] is as severely disabled as [redacted] is and is unable to do absolutely anything for [redacted]?

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The final decision on the future of The Lyndale School should be about doing what is right for the most vulnerable disabled children on the Wirral.

Regards

Parent

From:
Sent: Tue 11/11/2014 00:59
To: CYPD-Special Review
Subject: Lyndale School

Hi Julia,

I write you this e-mail in good faith and hope it finds you well.

Firstly some background. I am a Wirral native who grew up in, what I considered to be, a quiet, safe and leafy suburb called Eastham. I lived in Eastham until December 2013. Obviously when you grow up in a place like Eastham you learn the names of most of it's residents quickly, and so I know both Staff and Pupils of Lyndale School.

The e-mail is more a matter of heart than anything else as I have no understanding of the finances required to run a school like Lyndale.

I have a Facebook account and I am a 'Facebook friend' of a family with a Child at Lyndale. The child even features in the video that prompted me to write this e-mail. I often see posts from this small family and never are they negative about the card they have been dealt in life. Even after it was confirmed that their main support (aside from family) was to be taken away from them.

My concern is for this family, and the others that attend this school is that the reason they are able to maintain relatively normal lives is about to be snatched away from them. And that happy, functional and inspirational family will break down. And so what you may be left with is a Mother who can no longer work as she fears her Child won't be safe or happy in a new environment. She loses her independence as does the Child. This obviously has an affect on every aspect of someone's life and can rip fragile families apart or put pressure on them so their lives are no longer a life, Just an existence.

That in itself is a powerful phrase. Just an existence. To live is to be part of a community that supports you and considers your needs. Not disregards them because you are a minority and funding has suddenly become unavailable.

I truly believe that we are defined by the choices we make in life. Yourself and the others, who ultimately make this decision, have an opportunity to turn around the overall moral of a small community even if it means bearing the financial strain of that decision in other departments.

I urge to to leave that burden with the stronger, more privileged members of society. Even if it means other community resources should be forced to close. The decision could be a wonderful display of a Government body that actually listened. Rather than give a false platform of hope that will simply be ignored.

Sincerely

From:
Sent: Tue 18/11/2014 17:53
To: CYPD-Special Review
Subject: Statutory Notice - The Lyndale School

I am OPPOSED to the proposal in the STATUTORY NOTICE to close The Lyndale School for the following reasons:-

The Lyndale School is rated as Good with Outstanding features by OFSTED.

Its current small size is a result of failure by Council Officers, over many years, to promote the school to prospective parents and leading to rumours of closure.

Its closure would not result in financial savings, as ring-fenced grant money would still have to be spent elsewhere.

The particular needs of children with complex learning difficulties and profound and multiple learning difficulties, many requiring one-to-one support, would not best be met by placing them in segregated parts of other special schools.

There is overwhelming public support for The Lyndale School as witnessed by a petition of over 7000 names calling for its retention.

From:
Sent: Fri 31/10/2014 10:20
To: CYPD-Special Review
Subject: Lyndale School closure

I do not have any direct link to Lyndale School, however whilst used to go to Claremount School, I do feel great concern and empathy for the children and parents of Lyndale.

I would ask that your reconsider your proposal to close Lyndale, a society is judged upon how it treats those who are less able to look after themselves. If the closure goes ahead I think that the decision will reflect very badly upon those who allowed it and did nothing.

Yes you may say you'll integrate and look after the children but they will not have the same one to one. This decision appears to be for cost or even worse playing politics, what ever the reasons you need to reconsider and think; **WOULD I BE HAPPY IF MY CHILD WAS BEING MOVED?**

Sent from Windows Mail

From:
Sent: 12 November 2014 21:53
To:
Subject: The Lyndale School

attends the Lyndale School, I don't need to tell you what is happening there as you already know since you where one of the councillor to vote to close the school in the last full council meeting.

I am not aware if you personally have been to see the school, so I attached the video so you can see the every day life of our children.

<https://www.youtube.com/watch?v=KnGIGDFir9Y>

was born with rare genetic disorder. is unable to walk, unable to talk and has a development age of a 6 month old baby, However is a fabulous child that loves cuddles and smiles a lot.

This whole process has been the most stressful thing I have ever had to do in my life, Wirral Borough Council have been nothing but insensitive and cruel during the whole thing. They have done everything they can do make this as difficult as possible for us and now right at the end we are being forced to complete the new EHCP's, where yet again they have been very misleading.

Right from the start when we have asked for anything they have either not given it to us or given it to us at the last minute so we have had no time to go through it.

They have no set plans in place for our children or the children currently at Stanley School and Elleray Park whom this will also have a drastic effect on. Everything they say is based on "there word" but there is nothing concrete and "there word" doesn't exactly mean much!

I will say it again as we have said from the beginning, there is no room in those other schools for our children, our children currently have an entire school they can safely go around, in the other schools they will have to be out in one or two rooms all day for their safety or risk them being hurt by one of the able bodied children with behavioural issues. Yes this comes down to money but they are not going to save any money, our children will still cost the same wherever you put them, and thanks to this new banding system, every special school will have a short fall this year as they are not giving enough money to any of them.

We are being advised that you have no choice and you are being told to vote to shut the school, but there is one thing you can do which is refuse to vote!

You became a councillor to stand up for the people where you live, and now the most vulnerable children in this area need your help, so stand up and fight for them.

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Equality Impact Assessment Toolkit

(May 2014)

Section 1: Your details

EIA lead Officer: Julia Hassall

Email address: juliahassall@wirral.gov.uk

Head of Section: Philip Ward (SEND)

Chief Officer: Julia Hassall

Directorate: CYPD

Date: 05th December 2014

Section 2: What Council proposal is being assessed?

The conclusion of the statutory representation period following publication of a statutory notice relating to the closure of The Lyndale School. A final decision has not yet been made.

Section 2a: Will this EIA be submitted to a Cabinet or Policy & Performance Committee?

Yes

If 'yes' please state which meeting and what date

Cabinet 17th December 2014

Please select hyperlink to where your EIA is/will be published on the Council's website ([please select appropriate link & delete those not relevant](#))

Families & Well-Being (Adult Social Services, Children & Young People, Sport & Recreation)

<https://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-april-2014/eias-families-wellbeing>

Section 3: Does the proposal have the potential to affect..... (please tick relevant boxes)

☒ **Services**

☒ **The workforce**

☒ **Communities**

☐ **Other** (please state eg: Partners, Private Sector, Voluntary & Community Sector)

If you have ticked one or more of above, please go to section 4.

☐ **None** (please stop here and email this form to your Chief Officer who needs to email it to engage@wirral.gov.uk for publishing)

Section 4:

Could the proposal have a positive or negative impact on any protected groups (race, gender, disability, gender reassignment, age, pregnancy and maternity, religion and belief, sexual orientation, marriage and civil partnership)?

You may also want to consider socio-economic status of individuals.

Please list in the table below and include actions required to mitigate any potential negative impact.

Which group(s) of people could be affected	Potential positive or negative impact	Action required to mitigate any potential negative impact	Lead person	Timescale	Resource implications
Pupils with special educational needs and disabilities who attend The Lyndale School and the two other CLD primary special schools	<ul style="list-style-type: none"> It is possible that there may be negative impact on existing pupils of the school if the decision is to close the school. A new environment together with new staff for both parents and pupils may have an initial impact as with any transfer to a new school. However, the remaining pupils will be found another school/setting with special educational provision that can cater for each pupil's educational health and care needs by undertaking the relevant statutory processes. This will provide new and different opportunities for the children and families dependent on the organisation 	<p>Should the school close the local authority will discuss with each parent, individually their preferences for other schools. This will be planned with the school and each family over the coming terms in readiness for transfer if closure agreed.</p> <p>Every effort is currently being made to ensure that the needs assessment of each child is maintained by the school, family and the</p>	Phil Ward	During the implementation period if proposal agreed.	From within the schools budget.

	<p>and curriculum delivery of successor schools.</p> <ul style="list-style-type: none"> • The children at The Lyndale School can access provision at Elleray Park School and Stanley School taking into account parental preference. Both schools cater for primary aged children with CLD including PMLD. Both schools and the Council have confirmed that they are able to meet the needs of the children of The Lyndale School. This was reported to Cabinet on the 4th September 2014. • It is recognised that the transfer of pupils during the school year and from one phase to the same phase in another school could disrupt the educational provision for the children of The Lyndale School but every care will be taken by the Council and receiving school to mitigate this. • It is also recognised that children will need to adapt to a new environment and new staff. 	<p>Council via the ongoing work with the statutory assessment team with the support of continuing care and other professionals where appropriate where appropriate.</p> <p>Discussions are being held with each family about transferring from having a statement of special educational needs to having an education, health and care plan. The EHCP will provide greater knowledge and understanding about the needs which will need to be met in a new school setting should this be agreed by Cabinet on the 17th December 2014.</p> <p>Should there be an increase in the numbers attending the other CLD primary special schools for children with CLD any potential negative impact on the children already attending these schools will be mitigated by careful planning by the receiving schools, parents and the Council.</p>			
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<p>The Lyndale parents and others consulted.</p>	<ul style="list-style-type: none"> • During the consultation parents of pupils at the school and others such as teachers, governors and members of the community expressed opposition to the proposal to close the school. • Many concerns were raised about the health and safety of the children should they need to move to another school. Throughout the consultation assurances have been given to the parents and others that health and safety will be paramount in any new provision and the two other schools supporting children with complex learning difficulties have given their assurances about their ability to support the Lyndale children. • It is recognised that some training will need to be provided to receiving schools depending on the specific needs of individual children. The need for further/specific training will be 	<p>This means that the Council and the relevant school will consider issues raised by the school or parent which may take into account the physical environment and staffing related matters which will need resolution.</p> <p>The Council and other primary special schools gave assurance that the children of the Lyndale School would have their needs met and that where training or capital investment was required to support the children this would be provided. Work is currently underway at Elleray Park School and further discussions are taking place about potential additional capital work that may need to be considered. Similar discussions are taking place with Stanley School in relating to potential reconfiguration of existing space at the school</p>	Phil Ward	Dependent on Cabinet decision	Schools budget and capital programme
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Other schools and staff	<p>ascertained during discussions with parents and the receiving schools well in advance of any child's admission to a new school.</p> <ul style="list-style-type: none"> Any receiving school will need to adjust to the additional requirements to meet the needs of the children and any supportive action by the Council and schools will need to be planned for September 2016. 	<p>and potential enhancement to the existing new building.</p> <p>Any potential negative impact in relation to training or suitability of the environment will be addressed by the Council and schools.</p> <p>There will be close collaborative working between the receiving schools and the Council with regard to any adjustments that may need to be carried out in relation to the physical environment and buildings. This will also include skills training for staff where needed.</p>	Council and receiving schools	Dependent on Cabinet decision	Schools Budget
The staff of The Lyndale School	<ul style="list-style-type: none"> Staff of the Lyndale School may not secure employment should the school close. Some staff may be recruited by the receiving schools depending on the 	<p>Governing bodies take decisions about the employment of staff. The Council does not have a</p>	The Council	Dependent on Cabinet decision	School redundancy/ premature retirement

	<p>decision taken by the governing bodies but it is also possible that some staff may become redundant.</p>	<p>redeployment policy in respect of maintained schools.</p> <p>A commitment has been given by the Council to staff at the Lyndale School to help them find suitable alternative employment as far as possible either in Wirral or another Council.</p> <p>Receiving schools will be encouraged to consider the skills and experience of the staff of The Lyndale School in any recruitment process. The Council will consider the most effective way it can support staff in seeking future employment if the decision is made to close the school and this will be communicated to staff.</p>			costs
Community Groups	<ul style="list-style-type: none"> A range of community groups use the facilities of the school in both school hours and out of school hours ranging from gardening to the use of the pool. With the closure of the school there is likely to be an initial negative impact on 	<p>If the proposal to close the school is approved every effort will be made to help staff find alternative facilities to meet their needs.</p> <p>It may be that these groups</p>	Phil Ward	Dependent on Cabinet decision.	

	the groups using the school facilities but every effort will be made to assist these groups to find suitable alternative provision.	will need to access similar facilities but in different venues. There will be a discussion with lead members of individual groups to explore to access to alternative venues.			
Equality Impact on those with a protected characteristic.	<ul style="list-style-type: none"> • Disability: There is likely to be some initial negative impact on pupils of The Lyndale who are disabled, i.e., those with profound and multiple learning difficulties. Children and families will need to become familiar with a new environment. Alternative provision will cater for all the needs of the children. 	<p>The other schools for which parents may express a preference can cater for the needs of the children. The option of (Stanley and Elleray Park Schools) has been assessed by the SEN Improvement Test as <i>likely to lead to improvement in the standard, quality and/or range of education provision for the children (Appendix 1(7.7) Independent's Consultant's Report: Cabinet Report 4th September 2014)</i></p> <p>The Council has given its assurance that every support will be given to receiving schools to support the needs of any child transferring. These</p>			

	<ul style="list-style-type: none"> • Race/Ethnicity: The Council holds no information which indicates that there will be any impact on race or ethnicity. This did not emerge as an issue during the consultation processes or representation period and has not arisen as an issue subsequently. • Gender, gender reassignment, sexual orientation. The Council holds no information which indicates that there will be any impact on gender reassignment or sexual orientation. 	<p>assurances have been given in meetings with the parents, staff and in the public consultation process. The two schools providing for primary aged children with CLD are confident of their ability to ensure a continuing quality of provision. Both schools are experienced in the admission of new children to their schools and any transition arrangements which may need to take place prior to and during early admission to the school.</p>			
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	<p>This did not emerge as an issue during the consultation process or representation period and has not arisen as an issue subsequently.</p> <ul style="list-style-type: none"> • The majority of the staff at The Lyndale School are female. Some members of staff may be employed by receiving schools. However, there may be redundancies. The future of the staff was raised in the public consultations as a concern. The Council has no responsibility in maintaining the employment of staff should the school close. Governing bodies of schools employ their staff. • Religion and belief: The Council holds no information which indicates that there will be any impact on religion and belief. This did not emerge as an issue during the consultation process or representation period and has not arisen as an issue subsequently. • Age, pregnancy and maternity: The Council holds no information which indicates that there will be any impact on age, pregnancy or maternity. This did not emerge as an issue during the consultation process or representation period and has not arisen as an issue subsequently. • Socio-Economic: There will be some 	<p>The Council has given its assurance that should the school close it will support staff in seeking employment if it is requested to do so.</p> <p>The impact may be</p>			
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	<p>impact following any admission of children from The Lyndale School which could be either positive or negative. For example additional travel costs.</p> <ul style="list-style-type: none"> • Marriage and Civil partnership: The Council holds no information which indicates that there will be any impact on marriage and civil partnership. This did not emerge as an issue during the consultation process or representation period and has not arisen as an issue subsequently 	<p>mitigated by the provision of a different and potentially wider curriculum and other activities at alternative schools. It is recognised that every school will have differing approaches to the broader curriculum offer. Children will continue to be provided with free home to school transport.</p>			
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Section 4a: Where and how will the above actions be monitored?

Monitoring will be through an operational group set up to oversee the outcome of the proposal if agreed. This will be chaired in future by the senior SEN Manager.

Any new issues which may emerge during the current representation period which is due to close on the 19th November 2014, which may impact on equality issues, will lead to a further EIA update being produced.

Section 4b: If you think there is no negative impact, what is your reasoning behind this?

N/A

Section 5: What research / data / information have you used in support of this process?

Past, current and future pupil numbers.

Financial/funding data held by the children's department. Employment of an independent consultant to comment on options and the SEN Improvement Test.

Views expressed during the consultation period that took place between 2nd April 2014 and 25th June 2014.

Section 6: Are you intending to carry out any consultation with regard to this Council proposal?

See below. Consultation has already taken place.

(please stop here and email this form to your Chief Officer who needs to email it to engage@wirral.gov.uk for publishing)

Section 7: How will consultation take place and by when?

A public consultation commenced on the 2 April 2014 which complied with all the necessary legislative requirements and ended on the 25th June 2014. A series of six public meetings were held as part of that consultation process. Anyone with questions and views had the

opportunity to contact the Department and express their views by way of on line responses, writing to the Department and completion of response forms provided at the consultation meetings. A full response was made to Cabinet on the 4th September 2014 and to the Coordinating Committee held on the 2nd October 2014.

Before you complete your consultation, please email your preliminary EIA to engage@wirral.gov.uk via your Chief Officer in order for the Council to ensure it is meeting it's legal publishing requirements. The EIA will need to be published with a note saying we are awaiting outcomes from a consultation exercise.

Once you have completed your consultation, please review your actions in section 4. Then email this form to your Chief Officer who needs to email it to engage@wirral.gov.uk for publishing.

Section 8: Have you remembered to:

- a) **Select appropriate directorate hyperlink to where your EIA is/will be published (section 2a)**
- b) **Include any potential positive impacts as well as negative impacts? (section 4)**
- c) **Send this EIA to engage@wirral.gov.uk via your Chief Officer?**
- d) **Review section 4 once consultation has taken place and sent your updated EIA to engage@wirral.gov.uk via your Chief Officer for re-publishing?**

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WIRRAL COUNCIL

CABINET

17 DECEMBER 2014

SUBJECT:	TRANMERE ROVERS FOOTBALL CLUB POTENTIAL RELEASE OF COVENANTS AT INGLEBOROUGH ROAD, TRANMERE, AND PROPOSED LEASE OF LAND AND BUILDINGS AT THE SOLAR CAMPUS, LEASOWE ROAD, LEASOWE
WARDS AFFECTED:	ALL
REPORT OF:	DIRECTOR OF UNIVERSAL & INFRASTRUCTURE SERVICES
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR ADRIAN JONES
KEY DECISION	YES

1.0 EXECUTIVE SUMMARY

- 1.1 This report seeks a decision to release restrictive covenants on land at Ingleborough Road, Tranmere, currently used by Tranmere Rovers Football Club (TRFC) as an Academy training facility.
- 1.2 It also seeks approval to enter into:
 - 1.2.1 A Lease of land at Solar Campus, Leasowe, shown on Plan 1 for identification purposes annexed to this report, for the replacement of pitches.
 - 1.2.2 An Agreement for Lease / Lease of land and buildings, also at Solar Campus, Leasowe, shown on Plan 2 for identification purposes annexed to this report, for the development of a First Team, Football Academy and Community Facility
- 1.3 In addition, approval is required for the land shown on Plan 1 and the land and buildings shown on plan 2 and referred to in paragraphs 1.2.1 and 1.2.2 above to be appropriated for planning purposes under section 237 Town and Country Planning Act 1990. Appropriation occurs where the Council holds land for one particular purpose and it makes a declaration that it is going to hold the land for a different purpose. The relevant land is currently designated as greenfield land but was originally purchased for educational purposes. It is used by the public as open space but is not formally designated as open space. In order to clarify the designation of the land it is considered that the Council should formally appropriate the land in question for planning purposes.

- 1.4 Section 122 of the Local Government Act 1972 requires the Council to advertise the intention to appropriate open space land as shown on Plan 1 for two successive weeks in a newspaper circulating in the area. Section 123 of the Local Government Act requires the Council to similarly advertise any proposed disposal of open space land. Any objections need to be notified to the Council for consideration prior to such appropriation or disposal.
- 1.5 Cabinet is therefore requested, subject to there being no objections as referred to in paragraph 1.4 above to approve the appropriation and disposal of the land as shown on Plan 1 and to approve the appropriation and grant of an Agreement for Lease in respect of the land and buildings shown on Plan 2. It is further requested that any objections be considered by the Director of Universal and Infrastructure Services in consultation with the relevant Portfolio holder who shall then have delegated authority to determine the appropriation and disposal.

2.0 BACKGROUND

2.1 At the Cabinet meeting held on 14 March 2013, the following resolutions were made.

- That Cabinet confirms its support in principle for the relocation of TRFC's training facilities from their current location at Ingleborough Road, on the basis that this will help secure the Club's long term future.
- That the then proposal for investment at Woodchurch Leisure Centre linked to the development of existing playing fields at Ingleborough Road be endorsed in principle subject to the outcome of further investigations in relation to legal, procurement and valuation matters and to the agreement of final terms.
- That officers be instructed to undertake further enquiries and negotiations with TRFC and to report back to the Portfolio Holder for Corporate Resources to enable a final decision to be taken on the release of restrictive covenants at Ingleborough Road and provisionally agreed terms for development at both sites.
- That the Council obtains an independent valuation of the market value of the Ingleborough Road Playing Fields for residential development.
- That the Council obtains an independent valuation in respect of the proposed lease at Woodchurch Sports Centre in accordance with the principles of valuation set out in the technical appendix to the Government's General Consent to the disposal of land for less than the best consideration that can reasonably be obtained.
- That authority is delegated to the Portfolio Holder for Corporate Resources to approve the release of the restrictive covenant at Ingleborough Road and the grant of a lease at Woodchurch Leisure Centre subject to him being satisfied as to the finally negotiated terms.
- That the Head of Legal/Member Services be authorised to prepare and complete the necessary legal documentation.

3.0 CURRENT POSITION

- 3.1 The Club and the Council have discussed an alternative proposal to provide the replacement training facility on Council owned land and buildings at the Solar Campus, Leasowe. Planning approval for this proposal was granted on 21 August 2014. TRFC wish to lease Council land shown on Plan 1 for the construction of replacement pitches and, in addition, to lease buildings and further land within the Campus shown on Plan 2 to provide First Team, Academy, and Community changing rooms, gymnasium, refreshment room, offices, classrooms and ancillary accommodation. The leased area will be accessed by way of a right of way to be granted over the existing access road shown shaded brown on Plan 2.
- 3.2 In light of the above, it will obviously no longer be appropriate to progress the recommendations of the last report which refer to Woodchurch.
- 3.3 TRFC intends to rent the land shown on Plan 1 from the Council on a 99 year lease for which a rental of £10,000 per annum (exclusive of business rates) has provisionally been agreed.
- 3.4 TRFC also intends to enter into an Agreement for Lease of the land and buildings shown on Plan 2. Once the Council has decanted staff, TRFC will be granted a lease co-terminous with the Lease of land shown on Plan 1 for which a rental of £25,000 per annum (exclusive of business rates) has provisionally been agreed. The proportional running costs for utilities in respect of the leased buildings will be reimbursed to the Council by TRFC. Further, the lease will include a condition that should the Council wish to close its buildings in the future and dispose of the retained site, then TRFC would have to 'isolate' their buildings and install separate services and utilities at its own expense within the leased area and the access road.
- 3.5 TRFC will fund the works to create the replacement facility to include building conversion, site clearance, provision of drainage, fencing and landscaping, and provision of five full size pitches, three of which will be capable of subdivision for Academy use. In addition, two further full size pitches and one youth pitch will be created on land immediately adjoining to be retained by the Council.
- 3.6 It is intended that a lease of the land shown on Plan 1 be completed immediately to allow work on the replacement pitches to commence. In respect of the buildings and adjoining land presently within the Solar Campus shown on Plan 2, an Agreement for Lease will be entered into and a lease only granted once the Council has decanted staff from the buildings. The rent for the former will be £10,000 per annum and £25,000 per annum for the latter, and are considered to represent market value. The release of the buildings conforms with the Council's office rationalisation strategy as staff numbers decrease.
- 3.7 It has now been agreed with TRFC that the compensation the Council receives for the release of the covenant at Ingleborough Road will be retained by the Council rather than be paid as a contribution to the new facilities.
- 3.8 In assessing the compensation, the market value of the Ingleborough Road site clear of covenants needs to be quantified and a 'Gross Enhancement Value' arrived at by calculating and deducting the Existing Use Value of the site as a training

ground. This figure then needs to be adjusted to a 'Net Enhancement Value' by calculating and deducting 'admissible costs' such as the costs of the works necessary to comply with the Section 106 Agreement and professional fees. On this basis, the compensation payable to the Council has been provisionally negotiated at £500,000.

- 3.9 The planning approval requires TRFC to enter into a s106 Agreement which will include an obligation that part of the receipt TRFC receives from the sale of the Ingleborough Road site will be paid into an 'escrow' account by TRFC to ensure that the improvement works to the facilities are completed should TRFC default.
- 3.10 Members will recall that the original transfer deed relating to the Ingleborough Road site (in addition to the restrictive covenants) reserves the right for the Council to enter onto the property and remove the plaque which commemorates the loss of former pupils of Birkenhead Institute in the First World War. Agreement has been reached in principle between Tranmere Rovers, the prospective developer of the site and council officers, to work with the Birkenhead Old Boys Association to jointly fund and develop an appropriate memorial at a site to be agreed. A joint fund is to be set aside for this work. Materials recovered from the former pavilion will be retained for re-use in the memorial.

4.0 RELEVANT RISKS

- 4.1 In order to carry out its duty of 'due diligence', the Council will have the market value of the Ingleborough Road site for residential development independently certified. This is required because TRFC do not intend to sell the site by way of competitive open tender, but by way of negotiation. The amount which the Council can negotiate for the release of the covenants is related to the price at which the land is sold.

5.0 OTHER OPTIONS CONSIDERED

- 5.1 Apart from the option to relocate to Woodchurch, which is now discounted, no other options have been considered.

6.0 CONSULTATION

- 6.1 The Council has undertaken no formal consultation on these proposals aside from that required by the planning process.

7.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 7.1 TRFC is to make part of the new and enhanced facilities at the Solar Campus site available for community use, including changing rooms. The Club's Charitable Trust, 'Tranmere Rovers in the Community' (TRIC) runs an extensive programme which currently focuses on four key delivery areas, these being, sports participation, health, education and social inclusion. Aside from the community use to be provided at Solar Campus and on the improved playing pitches on the Council's land adjoining, the relocation of the Academy will free up space and time for community access to the facilities at Prenton Park.

8.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

8.1 Financial

8.1.1 The release of the covenants will result in a £500,000 capital receipt for the Council.

8.1.2 The Council will receive an initial rental of £35,000 for the Leasowe Road site once the works are completed, with index linked rent reviews every ten years.

8.2 IT

8.2.1 None

8.3 Staffing

8.3.1 None

8.4 Assets

8.4.1 Asset implications are dealt with in the body of the report. The Council will receive a capital receipt from the Ingleborough Road site and a rental income from the land and buildings at the Solar Campus.

9.0 LEGAL IMPLICATIONS

9.1 The s106 Agreement contains terms for the use of a proportion of TRFC receipt from the sale of the Ingleborough land towards the development of the improved facilities. These funds will be placed in an escrow account by TRFC to ensure that the improvement works are completed.

9.2 It is necessary that the land shown on Plans 1 and 2 be formally appropriated for planning purposes and that the required notices under s122 of the Local Government Act 1972 be served, and also that notice for the disposal of open space with regards to land shown on Plan 1 be served under s123 of the Local Government Act 1972.

10.0 EQUALITIES IMPLICATIONS

10.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?
(a) Yes an impact review is attached – <https://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-april-2014/eias-chief-executives-d>

11.0 CARBON REDUCTION IMPLICATIONS

11.1 None

12.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

- 12.1 Planning Consent for the proposals at Solar Campus, Leasowe, was granted on 21 August 2014.

13.0 RECOMMENDATIONS

That Cabinet

- 13.1 approves the release of the restrictive covenants in favour of the Council on the Ingleborough Road site on the terms set out in this report subject to the market value of the site for residential development being independently certified.
- 13.2 confirms its support for the relocation of TRFC's training facility to the Solar Campus, Leasowe, rather than Woodchurch.
- 13.3 agrees, subject to there being no objections to the disposal of the land referred to in paragraph 1.4, that a Lease of the land shown on Plan 1 and the Agreement for Lease of the land and buildings shown on Plan 2 be negotiated by the Director of Universal and Infrastructure Services and the Head of Legal Services on terms satisfactory to the Council.
- 13.4 agrees that, subject to there being no objections as referred to in paragraph 1.4 above the land shown edged red on Plan 1 be appropriated for planning purposes and the land and buildings shown edged in red on Plan 2 be appropriated for planning purposes.
- 13.5 Any objections received following public notice of the intended appropriation and disposals shall be considered by the Director of Universal and Infrastructure Services in consultation with the relevant Portfolio holder who shall then have delegated authority to determine the relevant appropriations and disposals.

14.0 REASONS FOR RECOMMENDATIONS

- 14.1 To release the development value from the Ingleborough Road site.
- 14.2 To confirm the Council's support to the relocation to Solar Campus, Leasowe.
- 14.3 To facilitate the improvement works to be undertaken at Solar Campus, Leasowe.
- 14.4 To facilitate the appropriation of land and the lease of land and buildings at Solar Campus, Leasowe.
- 14.5 To delegate authority to the Portfolio holder to determine the relevant appropriations and disposals.

REPORT AUTHOR: **Tony Simpson**
Asset Manager
telephone: (0151) 666 3892
email: tonysimpson@wirral.gov.uk

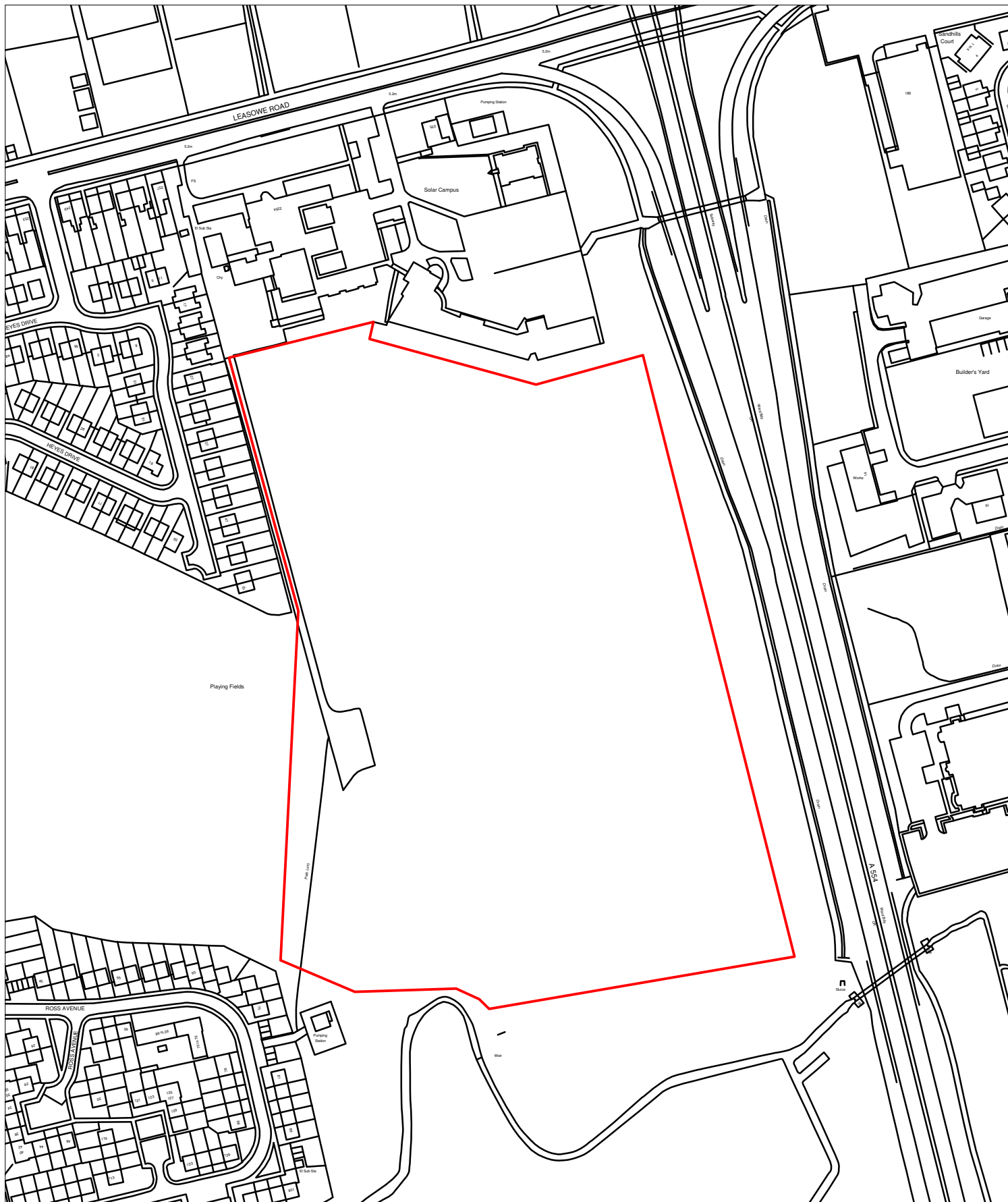
APPENDICES

Location plans (2)

SUBJECT HISTORY (last 3 years)

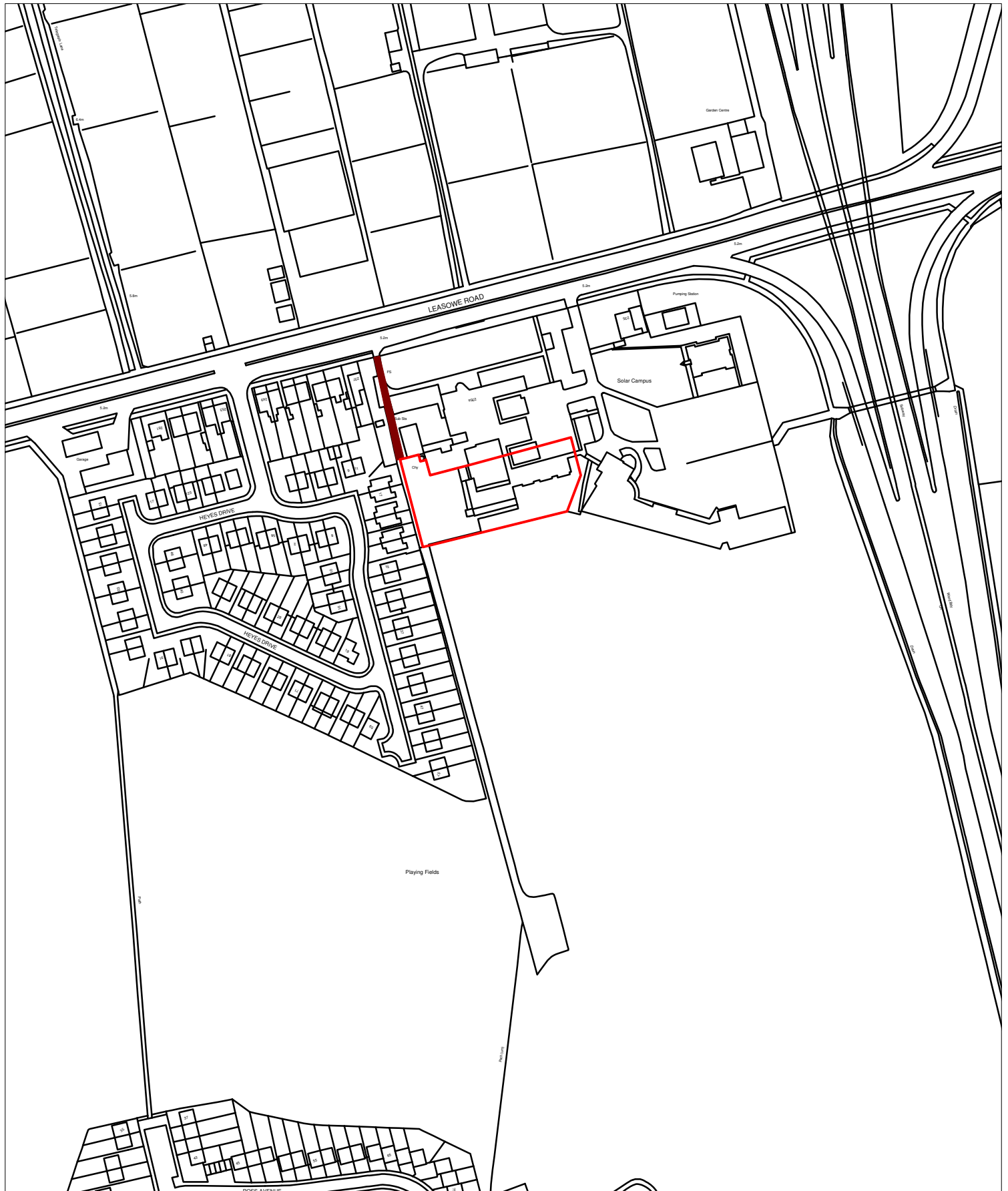
Council Meeting	Date
Planning Committee	25 October 2012
Cabinet	14 March 2013

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title

Plan 2
Tranmere Rovers Football Club
Proposed Training Facilities

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