

North Tyneside Council

Report to Cabinet

Date: 26 May 2020

Title: Statutory consultation on changes to provision at the Melrose Centre, Longbenton High School and to Southlands School

Portfolio(s):	Children, Young People and Learning	Cabinet Member(s):	Councillor Peter Earley
Report from Service Area:		Health, Education, Care and Safeguarding	
Responsible Officer:		Jacqui Old, Head of Health, Education, Care and Safeguarding	Tel: (0191) 643 7317
Wards affected:		All	

PART 1

1.1 Executive Summary:

The purpose of this report is to inform Cabinet about the outcome of the statutory consultation on the proposed changes to provision at the Melrose Centre, Longbenton High School and to Southlands School and to seek permission to implement the proposal. The proposal is that the leadership of the Melrose Centre, currently the responsibility of Longbenton High School, should transfer to Southlands School. The location of the Melrose Centre would remain at the existing site at Longbenton High School. Southlands School would also increasingly offer places to children with autism at the main Southlands site, increasing the number of places available for these children in North Tyneside. These arrangements are proposed to be in place for September 2020.

1.2 Recommendation(s):

It is recommended that Cabinet:

- (1) note and endorse the outcome of the statutory consultation on changes to provision at the Melrose Centre, Longbenton High School and to Southlands School;
- (2) approve the proposal that that leadership of the Melrose Centre, currently the responsibility of Longbenton High School, should transfer to Southlands School; and that Southlands School should increasingly offer places to children with autism at the main Southlands site, gradually increasing the number of autism places available.

1.3 Forward Plan:

Twenty-eight days' notice of this report has been given and it first appeared on the Forward Plan that was published on 3 April 2020.

1.4 Council Plan and Policy Framework

This report relates to the following priority in the 2020-2024 Our North Tyneside Plan:

- Be ready for work and life.

1.5 Information:

1.5.1 Background

On 29 July 2019 Cabinet received an update on the education system in North Tyneside. The report described the need for change arising from the increase in the numbers of children with Special Educational Needs and Disabilities (SEND) and particularly children with autism. Cabinet agreed that the Authority should enter pre-publication consultation in relation to the amendment of the structure of provision for pupils with Special Educational Needs (minute CAB 31/07/19 refers).

Following Cabinet's decision in July 2019 an initial (non-statutory) consultation on the proposed changes was undertaken with school governing bodies, staff, parents and carers. The consultation ran from 13 November to 13 December 2019. On 20 January 2020 Cabinet received a report about the initial (non-statutory) consultation.

The January Cabinet report described the background to the Melrose Centre, why the proposal was being made, the pressure on places and the broader context of the proposal, including other measures being taken to respond to the increase in the need for educational places for children with SEND. Cabinet noted and endorsed the outcome of the initial consultation; approved the next phase of consultation and the publication of statutory notices; and requested a further report on completion of the statutory consultation (minute CAB 95/20 refers).

1.5.2 Statutory consultation

The Department for Education's guidance, 'Making significant changes ('prescribed alterations') to maintained schools: Statutory guidance for proposers and decision-makers' (see section 1.10), indicates that a statutory consultation period of a minimum of 4 weeks is required and that the period should avoid, as far as is possible, school holiday periods. The statutory consultation opened on 27 February and closed on 2 April 2020, avoiding the Easter school holiday. While the consultation closed after the national restrictions were introduced in response to COVID-19, the consultation materials were issued well in advance. Combined with the previous engagement work, the officer team are satisfied that the national restrictions did not preclude engagement from interested parties.

The statutory notice (Appendix 1, Section 1.8) was published in the press, posted on the Local Offer website and displayed outside Longbenton High School and Southlands School. Unlike the initial (non-statutory) consultation it is not appropriate to hold consultation sessions during a statutory consultation. Respondents were invited to offer written comments either by e-mail or by letter.

A letter dated 12 February 2020 (Appendix 2, Section 1.8) went to parents and carers of all children currently at the Melrose Centre; parents and carers of children in Years 7 to 10 at Southlands School; and parents and carers of children in Years 3 to 6 (Key Stage 2) at Benton Dene. This letter explained the duration of the statutory consultation, how parents could respond and informed them that the statutory notice to consult upon the

change to the status of the Melrose Centre and to the types of needs of pupils at Southlands School, could be found on the Local Offer website. The letter also offered the opportunity to request a hard copy of the Statutory Notice which could be posted out to them. It also informed them that a further letter would be sent to update them when the statutory consultation period had ended. This letter dated 8 April 2020 (Appendix 3, Section 1.8) informed parents and carers that Cabinet will consider a report recommending approval of the proposal on 26 May 2020 and that a further letter would be sent in June to inform them of Cabinet's decision.

Three written responses to the statutory consultation were received by e-mail. One from a parent, one on behalf of the governing body at Southlands School and one on behalf of the Governing Body at Longbenton High School.

Comments in the parental response included:

- A request that the same uniform be retained for pupils at the Melrose Centre. A question was asked about when the decision concerning the uniform would be made and a request that this information be shared in the Frequently Asked Questions which are posted on the Local Offer website;
- A request that no change should be made when a pupil is already in the right setting at the Melrose Centre and that there should continue to be access to mainstream GCSE provision and post-16 provision at Longbenton High School;
- A request that there should be no extra travel for pupils already at the Melrose Centre due to shuttling to the main Southlands School site and that the danger of having a fragmented school campus should be avoided;
- A request for no change to be made to the staff teaching children at the Melrose Centre; and
- Clarity was also requested about changes to the wording of Education Health and Care plans (EHC plans) should the proposal be approved and when this would happen. The point was made that any changes to EHC plans would need to follow the statutory process.

The respondent also asked for information about how parental feedback from the informal (non-statutory) consultation had been reported. They also asked about options for communication during the statutory consultation and whether there would be further one-to-one meetings or school level consultation events. This consultation response has been acknowledged and answers were given to the two preceding points.

The response on behalf of the governing body of Southlands school confirmed their ongoing support of the proposal to designate Southland as a school for children with autism and moderate learning difficulties and to see the Melrose Centre become part of the Southlands offer. Governors qualified this support with a request that North Tyneside Council offer an undertaking that, in adopting the Melrose Centre, Southlands would not suffer a financial deficit as a result of incurring additional costs associated with the transfer, or from undertaking essential work required at Southlands school to enable the needs of young people with autism to be met in a safe environment. This assurance has been given to the governors through agreement to continue the existing funding model for the Melrose Centre during the remainder of the current financial year as a transitional arrangement. From April 2021 the standard arrangements for funding places in special schools will apply.

The governing body of Longbenton High School have confirmed their full support for the proposed changes to take effect from 1st September 2020. If the proposal is approved, Governors and school leaders at Longbenton have confirmed that they will work with

Southlands governors and school leaders to ensure there is a smooth transition for both pupils and staff on 1st September 2020.

The parental response and the responses from the two schools have not identified any problems which would prevent the proposal from being implemented.

Both schools have continued to work with their Human Resources Business Partner to consult staff at the Melrose Centre who would transfer to Southlands School under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) should the proposal be approved. The consultation has not raised any problems relating to the transfer of staff which would prevent implementing the proposal.

The Parent Carer Forum has played, and will continue to play, a key role in the co-production of educational provision and services for children and young people aged up to 25.

To avoid creating unnecessary uncertainty or anxiety amongst the pupils already at the Melrose Centre while the proposal has been at the consultation stage, no formal discussions have taken place. This approach has been agreed by the Participation Team as being in the best interest of young people. Where individual pupils have raised concerns with a member of staff, reassurance has been given that there is nothing to worry about and that the same staff will be working with them. How children could potentially be engaged, should the proposal be approved, is also being discussed with the Authority's Participation and Engagement Team and with the schools. This will form part of the implementation plan which would be rolled-out from June.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

Approve the request for the proposal to be approved

Option 2

Reject the request for the proposal to be approved

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reasons:

It provides an appropriate curriculum offer and clarity to parents, stability and certainty about the future offer for pupils with autism. It provides clarity about the future for the staff involved. It enables the change to be implemented by September 2020 with no disruption to pupil's education. It allows the Authority to comply with the statutory EHC plan process in advance of September 2020. It allows the number of educational places for children with autism to increase over time, under appropriate special school leadership.

1.8 Appendices:

Appendix 1: Statutory Notice

Appendix 2: Letter to parents and carers informing them about the statutory consultation.

Appendix 3: Letter to parents and carers following the statutory consultation period.

1.9 Contact officers:

Jacqui Old, Head of Health, Education, Care and Safeguarding, tel. (0191) 6437317
Mark Longstaff, Head of Commissioning and Asset Management, tel. (0191) 6438089
Diane Buckle, Assistant Director for Education, Learning & Skills, tel. (0191) 643 8581
Kevin Burns, School Improvement Officer, tel. (0191) 643 8543
Mark Mirfin, Assistant Director, Whole Life Disability and SEND, tel. (0191) 643 7706
Mark Taylor, Strategic Commissioning Manager, Children and Families, tel. (0191) 643 8755
Michael Johnston, Commissioning Manager, tel. (0191) 643 8681
Claire Emmerson, Senior Manager Financial Strategy & Planning, tel. (0191) 643 8109

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- Cabinet report, Education for North Tyneside, 29th July 2019
- Cabinet report, Consultation on changes to provision at the Melrose Centre, Longbenton High School and to Southlands School, 20 January 2020
- Cabinet Agenda and Minutes, 20 January 2020
- Equality Impact Assessment

DfE Guidance

- Making significant changes ('prescribed alterations') to maintained schools' Statutory guidance for proposers and decision-makers, October 2018
- Area guidelines for SEND and alternative provision: Including special schools, alternative provision, specially resourced provision and units, December 2015

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The sources of revenue funding are the Dedicated Schools Grant and High Needs Block of the Dedicated School Grant. Revenue funding will be subject to the usual process for commissioning places and allocating resources to mainstream and special schools as part of the annual cycle through Schools Forum.

The transitional funding arrangement agreed with Southlands School will enable the current funding model for the Melrose Centre to continue for the remainder of the 2019/20 financial year. This provides for £10k per place plus a proportion of the annual top-up grant of £200k. Thereafter places at the Melrose Centre will be funded through the standard methodology for special school places.

There are no immediate plans for capital funding. Any requirement for capital arising from increasing need over time would be taken through the Investment Programme Board.

2.2 Legal

Staff at the Melrose Centre would transfer to Southlands School under TUPE arrangements. TUPE refers to the Transfer of Undertakings (Protection of Employment) Regulations 2006, as amended.

TUPE gives an employee the legal right to transfer to a new employer with their existing terms and conditions of employment and with all their existing employment rights and liabilities intact. In basic terms the new employer steps into the shoes of the old employer. As the new employer is required to take on the employees on their existing terms and conditions of employment, it is prohibited from making any changes to the terms and conditions of employment of the transferred employees if the sole or principal reason for the variation is the transfer.

Longbenton High School and Southlands School are following the guidance on TUPE issued to schools by the School's HR unit and are being guided by their respective HR Business Partners and underpinned by advice from the Authority's Legal Service. As both Southlands and Longbenton schools are maintained schools and members of the Learning Trust staff will operate under current terms and conditions of employment were a transfer to take place.

There is a firm commitment by both schools to working together. This will be formalised through a legal operating agreement between the two schools.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

The Cabinet member for Children, Young People and Learning has been fully consulted in relation to the proposal.

2.3.2 External Consultation/Engagement

Consultation has been undertaken with parents and carers and with the schools and their Governing Bodies as set out in section 1.5.2.

2.4 Human rights

There are no human rights issues directly arising from this report.

2.5 Equalities and diversity

An Equality Impact Assessment (EIA) has been completed on the proposed changes to the Melrose Centre at Longbenton High School and Southlands School. The EIA has not identified any negative impacts that cannot be removed or reduced.

2.6 Risk management

Any risks identified in implementing the proposal will be monitored and appropriate steps will be taken to safeguard against those risks.

2.7 Crime and disorder

There are no crime and disorder issues directly arising from this report.

2.8 Environment and sustainability

There are no environment and sustainability issues directly arising from this report.

PART 3 - SIGN OFF

- Chief Executive
- Head(s) of Service
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Head of Corporate Strategy
and Customer Service