

SEN Prescribed Alterations – approval to issue statutory notices

Lead Director: Trevor Pringle

Timeline:

Directorate Management Team: 08 August 2013

Lead Member Briefing: 20 August 2013

Scrutiny Commission: 17 September 2013

Assistant Mayor Decision to proceed: 19 September 2013

Useful information

- Ward(s) affected: all (special schools and Designated Special Provision within mainstream schools serve all wards in the city)
- Report author: Rob Thomas (School Organisation Manager)
- Author contact details: Rob Thomas – 0116 3737469
- Report version number: 1.2

1. Summary

On 26 April 2013 the Assistant City Mayor agreed for the Council to consult on changes to three special schools (Ellesmere College, Keyham Lodge and Millgate) and to the establishment of Designated Special Provision at Babington Community College and Hamilton Community College. This report seeks approval to proceed to the statutory notice stage of the process.

The prescribed alterations which were consulted on for each school are summarised below:

Ellesmere College

- Alteration of lower age limit (change from 11 – 19 to 10 – 19)

Keyham Lodge

- Alteration of lower age limit (change from 11 – 16 to 9 – 16)
- Change of gender (change from boys only to co-educational)
- Increase capacity from 53 to 126

Millgate

- Change of gender (change from boys only to co-educational)
- Increase capacity from 50 to 75

Babington Community College

- Establishment of a 10 place Designated Special Provision for children with Communication and Interaction Difficulties

Hamilton Community College

- Establishment of a 10 place Designated Special Provision for children with Communication and Interaction Difficulties

2. Recommendations

Following the consultation it is recommended that the proposal for Ellesmere College is amended in order to lower the age range from the current 11 – 19 to 4 – 19. This would allow the school to become an all through school (primary and secondary provision).

It is recommended that approval is given to proceed to issue statutory notices in regard to the prescribed alterations outlined in section 3 below.

An indicative timeline is included in section 3 below which would ensure that approval for the prescribed alterations is achieved by the end of December 2013.

3. Background information

The consultation process

- The consultation commenced on 3 June 2013 and closed on 14 July 2013.
- The consultation involved the distribution of consultation leaflets to a wide range of stakeholders including pupils, parents/carers, staff and their representatives, governors, diocesan authorities, all city schools and independent special schools where city pupils are currently placed.
- Responses to the consultation were also sought from Leicestershire County Council, Leicester City Clinical Commissioning Group, University Hospitals of Leicester and local Members of Parliament.
- The consultation was available on the council's website which allowed for online responses to be submitted.
- To support the consultation process meetings were held for each school with staff and their representatives, governors and parents/carers (a combined meeting was arranged for Keyham Lodge and Millgate). At each meeting the proposals were explained and those in attendance had the opportunity to ask questions.
- Those who were consulted were advised that this was not a vote or a referendum, but a chance to make their views known so that they could be taken into account when a decision was made.

Results of the consultation

- In total the Council received 32 responses to the consultation; 29 respondents replied using the response form supplied. In addition, letters were received from Leicestershire County Council, the Governing Body of Ellesmere College and the head teacher of Hamilton Community College.
- Analysis of the responses shows support for the majority of the proposals.
- Four respondents out of eleven, who commented on the Keyham Lodge/Millgate proposals, were opposed to the change from boys only to co-educational at Millgate School.
- Out of the 17 responses in regard to Ellesmere College, 16 were in support of the proposal to lower the age range.
- The governors of Ellesmere College have requested that the council considers lowering the age range from the current 11 – 19 to 8 – 19 to allow the school to admit Key Stage 2 children. (The council consulted on lowering the age range to 10 – 19). This proposal was also supported by staff and students who responded to the consultation.
- Appendix 1 provides a summary of all responses received to the consultation.

Conclusions and next steps

- The outcome of the consultation shows support for the majority of the proposals.
- The suggestion by the Governing Body of Ellesmere College to lower the age range to 8 – 19 was also supported by comments from staff, students and parents/carers who responded to the consultation. Since the conclusion of the consultation and following further discussion between the governors and senior officers from the council, it is proposed to lower the age range to 4 – 19 in order to provide an all through school (primary and secondary). It is proposed that there will be 45 primary places and 202 secondary places. This can be accommodated within the current design specification for the new school and will only require modifications to toilet facilities, fittings and furniture. As the school will have reception age pupils there will need to be an outdoor covered area and access to an outdoor play area for the younger children included into the design specification.
- There has been an increase in the birth rate and an increase in the rate of inward migration to the city which is causing pressure on primary school places. Extending the provision at Ellesmere to include primary places will increase flexibility of choice for parents and also alleviate the pressure on places in this specialist area.
- All statutory consultees will be informed of the changes to the original proposals for Ellesmere College when they are notified of the issue of the statutory notices.
- Following the outcomes of the consultation it is proposed to proceed to the next stage which requires the publication of a statutory notice followed by a six week period for statutory representations. At the end of the 6 week period a further decision will need to be taken by the Council to determine whether to implement the proposals or not.

Requirement for Statutory Notices

It is proposed to issue the following three Statutory Notices:

- **Establishment of SEN provision** at Babington Community College and Hamilton Community College. It is proposed that each school will have a 10 place Designated Special Provision for children/young people with Communication and Interaction Difficulties.
- **Alteration of lower age range/change of gender/increased capacity** at Keyham Lodge and Millgate Special Schools. It is proposed that Keyham Lodge lower the age range in order to admit Year 5 and Year 6 children. Both schools to change from single sex (boys only) to co-educational. Keyham Lodge to increase capacity from 53 to 126 and Millgate to increase capacity from 50 to 75.
- **Alteration of the lower age limit** at Ellesmere College. The school currently

provides for children and young people aged 11 – 19. It is proposed to lower the age range to 4 – 19 in order to create an all through school (primary and secondary).

Proposed timeline

19 September - Assistant Mayor Decision to proceed
7 October - issue of Statutory Notices (6 week statutory representation period)
15 November - last day of statutory representation period
26 November - Children, Young People and Schools Scrutiny Commission
13 December - Stage 4 Executive Decision
01 September 2014 - Implementation date (this follows the planned completion date for the new school buildings).

Process

The process to be followed is defined in the DfE documents - “Making Changes to a Maintained Mainstream School (Other than Expansion, Foundation, Discontinuance & Establishment Proposals). A Guide for Local Authorities and Governing Bodies” and “Planning and Developing Special Educational Provision. A Guide for Local Authorities and Other Proposers”.

4. Details of Scrutiny

The requirement for the consultation and the process to be followed was considered and endorsed by the Children, Young People and Schools Scrutiny Commission on 25 April 2013.

This report will be submitted to the Children, Young People and Schools Scrutiny Commission on 17 September 2013. A further report will be submitted to Scrutiny Commission on 26 November 2013 after the statutory notice period and prior to a formal decision by Executive.

5. Financial, legal and other implications

5.1 Financial implications

These expansion works for SEN provision have been included in the BSF work programme and are fully funded.

Martin Judson, Head of Finance (Ext: 397500)

5.2 Legal implications

1. Schedules 2 and 4 of The School Organisation (Prescribed Alterations to maintained Schools)(England) Regulations 2007 set out the alterations that can be made by governing bodies and LAs. At this stage the Local Authority, having conducted a consultation (Stage 1), must decide whether to publish statutory proposals (Stage 2) and thereby trigger the Representations period (Stage 3) before taking a final decision (Stage 4) prior to implementation (Stage 5). We are concerned with the decision prior to Stage 2. The final decision (Stage 4) will follow in December 2013.
2. The proposer must, within one week of the date of publication, send a full copy of the complete proposal to the school's governing body and within one week of the receipt of the request, send a full copy of the complete proposal, to any person who requests a copy. The proposers must also send to the Secretary of State within a week of publication a complete copy of the proposal, excluding all documentation relating to the consultation and a copy of the statutory notice that appeared in the local newspaper, showing the date of publication.
3. Regulation 8 of The Regulations provides that both the LA and schools adjudicator must have regard to guidance issued by the Secretary of State when they take a decision on proposals. This is covered by paragraphs 4.16 to 4.60 of the statutory guidance.
4. If the LA fail to decide proposals within 2 months of the end of the representation period the LA must forward proposals, and any received representations (i.e. not withdrawn in writing), to the schools adjudicator for decision. They must forward the proposals within one week from the end of the 2 month period.
5. There are 4 key issues which the Decision Maker should consider before judging the respective factors and merits of the statutory proposals:
 - Is any information missing? If so, the Decision Maker should write immediately to the proposer specifying a date by which the information should be provided;
 - Does the published notice comply with statutory requirements?
 - Has the statutory consultation been carried out prior to the publication of the notice?
 - Are the proposals "related" to other published proposals?
6. The decision-maker must also comply with the public sector equality duty imposed by the Equality Act 2010 section 149:
 - (1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant

protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Kamal Adatia, City Barrister & Head of Standards (Ext: 296302)

5.3 Climate Change and Carbon Reduction implications

There are no climate change implications associated specifically with altering the legal status of the schools. The overall BSF programme should result in a reduction in secondary school carbon dioxide emissions, but these have been considered in detail elsewhere.

Mark Jeffcote, Environment Team (x372251)

5.4 Equality Impact Assessment

A full equality impact assessment will be completed to inform the decision to be made regarding the proposed alterations of SEN provision to maintained schools and the development of SEN provision within maintained and special schools in the city, once formal consultation and representation period has been completed and its findings considered.

Irene Kszyk, Corporate Equalities Lead (Ext: 296303)

5.5 Other Implications (You will need to have considered other implications in preparing this report. Please indicate which ones apply?)

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6. Background information and other papers:

7. Summary of appendices:

Appendix 1: Summary of responses to the consultation

8. Is this a private report (If so, please indicated the reasons and state why it is not in the public interest to be dealt with publicly)?

No

9. Is this a “key decision”?

No

10. If a key decision please explain reason

11. Not applicable.