

## **CABINET**

**15 JANUARY 2019**

# **STATUTORY PROPOSALS TO MAKE PRESCRIBED ALTERATIONS TO MERGE LUTON INFANT AND LUTON JUNIOR SCHOOLS**

Portfolio Holder:	Councillor Andrew Mackness, Children's Services (Lead Member) Councillor Martin Potter, Educational Attainment and Improvement
Report from:	Ian Sutherland, Director of People – Children and Adults Services
Author:	Paul Clarke, Programme Lead School Organisation and Capital Services

### **Summary**

This report outlines the Council's proposals and processes to amalgamate Luton Infant and Junior Schools by way of statutory prescribed alterations, and requests approval to commence the statutory consultation period.

## **1. Budget and policy framework**

- 1.1 The proposals to make prescribed alterations to Luton Infant and Luton Junior Schools are consistent with the provisions of the School Place Planning Strategy 2018-22, and with the Council Plan outcome of 'All children achieving their potential in schools' and are within budget. Therefore this is a matter for the Cabinet.

## **2. Background**

- 2.1 Luton Infant School is a maintained community school, which currently provides education for pupils aged 3 to 7. At the last full Ofsted inspection in October 2018 the school was rated as 'Requires Improvement'. This is the third 'Requires Improvement' rating in a row since March 2014.
- 2.2 Luton Junior School is a maintained community school, which currently provides Key Stage 2 education for pupils aged 7-11. At its most recent Ofsted inspection in September 2017 the school was rated as 'Outstanding'.

2.3 The options available under these circumstances are:

- 1) To federate the schools, which means that the the schools retain their individual status, their ofsted rating and their budgets whilst agreeing to formally work collaboratively to benefit from shared best practice, utilising funding from both schools for the benefit of all pupils and smoothing the transition processes between the schools. There would be a single governing body overseeing both schools, which would determine the most appropriate staffing structure for the schools, how the overall site was managed, consolidating policies and contracts to provide consistency and economies of scale. Federation is a decision for the schools' governing bodies, which would lead on the process with support from the Local Authority.
- 2) To amalgamate the schools into one formal establishment; the amalgamation would provide the benefits outlined in 1) but under a more formal arrangement of a single establishment. Amalgamation is a process proposed and led by the Local Authority who would be the decision makers.
- 3) To make no change and leave the schools as they currently are. As there is currently little collaboration between the schools, retaining the staus quo does not provide any benefit to the pupils who attend and results in a fragmented educational journey through the schools with little consistency or continuity. Furthermore, it does not address the financial frailties of the schools.

2.4 Officers' recommendation is for option 2, to amalgamate the two schools, for the reasons set out in section 4 of the report.

### **3. The Proposals**

3.1 The proposals are, by way of statutory prescribed alterations:

- To change of the lower age range at Luton Junior School from 7 to 3 years old, to enable them to admit the younger children from the infant school and nursery.
- The enlargement of the premises at Luton Junior School to enable it to incorporate the buildings currently occupied by Luton Infant School.
- The closure of Luton Infant School.

3.2 These are prescribed alterations which the governing body cannot propose. It falls to the Council to undertake the statutory process to make these changes. The Council is also the decision maker for the proposals. It is noted that both Chairs of Governors are supportive of more collaboration and partnership between the two schools.

3.3 It is proposed, subject to the outcome of the period of statutory representation, to formally implement the changes on 1 September 2019, when the school will become known as Luton Primary School and Nursery.

3.4 A period of informal consultation will be held before the formal statutory representation process. Whilst there is no statutory requirement for this informal phase, the guidance from the Department for Education states "*there is a strong expectation that schools and LAs will 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".* Given the nature of these proposals it is recommended that a period of informal consultation is held to gauge views. The comments received at the informal stage are used to develop the proposals into the statutory representation period.

- 3.5 Following the 4 week informal consultation period the next stage in the statutory process will be the publication of a notice in the Medway Messenger newspaper. This would alert the public to the formal consultation, and direct them to the Council website, where a copy of the proposals would be available. The proposal would also be placed on the Luton Schools' websites. The notice and proposals would also give contact details so the public can comment on the proposals, either by post or electronically.

#### **4. Advice and analysis**

- 4.1 When a school closes, its Ofsted rating is removed, and when a school expands as Luton Juniors is proposed to do, it retains its Ofsted rating. Therefore, the amalgamated primary school will have the Ofsted rating of the Junior school.
- 4.2 It is not expected that the proposals will have a detrimental impact upon the other schools in the area, as these proposals neither increase nor decrease the number of spaces available at the schools.
- 4.3 No pupils will be displaced and all pupils at the infant and junior schools will be guaranteed a place at the newly created primary school should they want one. The Published Admission Number (PAN) at the new school will remain at 90.
- 4.4 The amalgamation will remove a transition point between key stages 1 and 2, which will mean that the pupils will benefit from a seamless transition through the school, and parents will not need to apply for a place at the junior school as they currently do.
- 4.5 National and local policy states that popular and successful schools will expand wherever possible. Extending the age range and premises at Luton Junior School ensures this policy is supported as the school is an Ofsted rated 'Outstanding' school.
- 4.6 Amalgamation will enable the school to benefit from a single staffing structure, to consolidate contracts, operate a single budget, provide a single pathway through the pupils primary education bringing together policies across the school, providing continuity for parents and pupils, as well as a focussed and consistent education pathway which will enable pupils progress and attainment to be monitored in a consistent way so that appropriate interventions can be put in place at an early stage enabling the pupil to realise their potential to the fullest.
- 4.7 The future of schools that are, or at serious risk of becoming, financially unviable will be reviewed. Luton Infant School is currently in a deficit situation with a recovery plan in place; the junior school, whilst in a healthier position needs to address a potential reduction in reserves predicted for the next two to three years. As a primary school, there is more opportunity for the school to consolidate, re-profile and stabilise its financial status than there is as two individual and smaller schools.

4.8 The Council's School Place Planning Strategy 2018-22 states, within section 6.2.5 – updating the school organisation principles – that infant and junior schools should amalgamate where possible to reduce the number of transition points for pupils within primary education. These proposals provide that outcome.

## **5. Diversity Impact Assessment**

5.1 No Diversity Impact Assessment (DIA) screening form is attached to this report, however one will be completed after the informal consultation and will accompany the outcomes of consultation report.

## **6. Impact of the proposal on arrangements for looked after children**

6.1 Looked after children receive the highest priority for admission to all Medway schools. If necessary, the Admissions Code allows the Council to place looked after children in schools that would otherwise be deemed full. This ensures that the Council can secure appropriate provision for children that are looked after by the Local Authority. This strategy covers both mainstream and special schools and as such includes Luton Infant and Luton Junior Schools.

## **7. Publication of a statutory notice**

7.1 Following the informal period of consultation, which would run from Monday 28 January 2019 to Sunday 17 March 2019, and if Cabinet accepts the recommendation to progress the proposals further, it would be necessary to publish a statutory notice and formal proposals of the proposed changes to Luton Infant and Luton Junior Schools, by way of prescribed alterations, to provide an opportunity for formal objection. This would run for a further four-week period from Monday 22 April to Sunday 19 May 2019. The process would follow the guidelines set out in "Making significant changes ('prescribed alterations') to maintained schools (Statutory guidance for proposers and decision-makers) October 2018", and "The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013".

7.2 Timetable for consultation (indicative and subject to appropriate approvals):

Cabinet – to commence consultation	15 January 2019
Informal Consultation period (6 weeks)	28 January to 17 March 2019
Cabinet – Outcomes of informal consultation	9 April 2019
Period of Statutory Representation	22 April to 19 May 2019
Determination	June/July 2019
Implementation	1 September 2019

## 8. Risk management

8.1 The table below sets out the potential risks and mitigations associated with the proposal to amalgamate Luton Infant and Luton Junior Schools

<b>Risk</b>	<b>Description</b>	<b>Action to avoid or mitigate risk</b>
A risk to the future financial viability of the schools if amalgamation does not take place	Both schools are indicating a potential deficit position, which would impact upon the schools' ability to provide suitable education for the pupils that attend the schools	Amalgamating the schools would enable the opportunity to take advantage of economies of scale
Lack of public support	A number of parents and potentially governing body members may not wish to amalgamate the schools	Undertake a full consultation process to highlight the key benefits of amalgamation on young people and parents/carers

## 9. Financial and Legal implications

- 9.1 The Council has the power under sections 18 and 19 of the Education and Inspections Act 2006 to make "prescribed alterations" to a maintained school. The procedure for making prescribed alterations is set out in the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.
- 9.2 From 24 January 2014 there is no longer a prescribed 'pre-publication' (informal) consultation period for prescribed alterations. There is a strong expectation on Local Authorities to consult interested parties in developing their proposal prior to formal publication as part of their duty under public law to act rationally and take into account all relevant considerations. This informal period of consultation will satisfy that expectation.
- 9.3 Aside from the cost of the consultation process, approximately £900, there will be no financial implications for the Council during the statutory consultation period.
- 9.4 Mainstream school funding allocations are calculated and set using the schools and academies funding formula. One factor in the formula, is the lump sum currently funded at £110,000 per school. Where schools amalgamate after 1 April, the new school will continue to receive funding equivalent to the formula funding of both schools added together for the remainder of the financial year, 85% of the combined lump sums in the following year reduced to one lump sum in the third year.
- 9.5 The Local Authority can apply to the education skills funding agency to extend to lump sum protection for a second year (i.e. into the third year) up to a maximum of 70% of the combined lump sum funding. Any such application will need the agreement of the Schools Forum before it can be submitted to the ESFA.
- 9.6 When a school closes, any balance (whether surplus or deficit) reverts to the Local Authority and cannot be transferred to any other school even when the new school is the successor to the closing school as outlined in section 4.8 of the Medway Scheme

for financing schools. As Luton Infants school is in a deficit recovery plan at the time of conversion there may be a financial cost to the Local Authority.

9.7 The Council has a statutory duty to provide sufficient good quality school places.

## **10. Recommendation**

10.1 The Cabinet is requested to instruct the Director of People – Children and Adults Services to commence the period of informal consultation for the proposed changes to Luton Infant and Luton Junior Schools, as set out in paragraph 3.1 of the report.

## **11. Suggested reasons for decision**

11.1 Approval to proceed to a period of informal consultation will ensure the Council complies with its duty to follow the prescribed consultation process when proposing changes to schools.

### **Lead officer contact**

Paul Clarke, Programme lead - School Organisation and Capital Services

Tel 01634 331031

Email [paul.clarke@medway.gov.uk](mailto:paul.clarke@medway.gov.uk)

### **Appendices**

None

### **Background papers**

1) Making significant changes ('prescribed alterations') to maintained schools (Statutory guidance for proposers and decision-makers) October 2018.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/751295/Maintained\\_schools\\_prescribed\\_alterations\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/751295/Maintained_schools_prescribed_alterations_guidance.pdf)

2) The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013. <http://www.legislation.gov.uk/uksi/2013/3110/contents/made>

3) Medway's School Place Planning Strategy 2018 – 2022

<https://democracy.medway.gov.uk/ieListDocuments.aspx?CId=115&MId=4052>