

Birmingham City Council

Report to Cabinet Member for Education Skills and Culture, jointly with the Director of Education & Skills

17 May 2019



Subject: PROPOSAL TO REMOVE BOARDING PROVISION AT SKILTS SCHOOLS

Report of: Interim Assistant Director, Education

Relevant Cabinet Member: Councillor Jayne Francis, Cabinet Member Education Skills and Culture

Relevant O &S Chair(s): Councillor Mariam Khan, Learning, Culture and Physical Activity

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, add Forward Plan Reference:		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential :		

1 Executive Summary

1.1 To seek the determination of a statutory proposal:

- Remove the boarding provision at Skilts School with effect from 31st July 2019.

2 Recommendations

That the Cabinet Member for Education, Skills and Culture jointly with the Director for Education & Skills;

- 2.1 Approve, having taken into account the statutory guidance, the statutory proposal to remove the boarding provision at Skilts School.

3 Background

- 3.1 Skilts School is a Birmingham community special school situated outside the city boundary at Gorcott Hill, Redditch, Worcestershire. The school can offer up to 81 places for pupils with a statement of need or an Education and Health Care Plan (EHCP) for Social, Emotional and Mental Health needs, (SEMH). Of the 81 places available, 12 can accommodate boarding pupils who have a statement of need or an EHCP for a boarding school place.
- 3.2 The school has not admitted pupils with a statement of need or an EHCP for a boarding place for over three years. The unit has more recently been used by a small number of pupils for evening intervention and short break/respite care due to the fact there are no boarding pupils (pupils with boarding on their statement or EHCP) at the school.
- 3.3 There are currently six pupils who receive respite at the residential building. Of these six pupils, three will be leaving at the end of the current academic year. The school has made Children's Advice & Support Service (CASS) referrals for two of the remaining three families who have agreed to a full assessment. The two families who are engaging have been contacted via the respective area service teams and are undergoing assessment. The remaining family has declined the support and the offer to engage with CASS for a full assessment.
- 3.4 The Local Authority has an obligation to staff and to maintain the residential building although there have not been any boarding pupils for over three years. The removal of boarding provision will allow the Local Authority to decommission the residential buildings which are beyond economical repair and no longer fit for their original purpose.
- 3.5 Skilts School received an Ofsted rating of "inadequate" when they were inspected on 5th December 2017. The School has had two monitoring inspection visits in May and December 2018. The boarding provision was also inspected on 5th December 2017; this social care inspection was carried out under the Children's Act 1989 amended by Care Standards Act 2000, and judged the boarding provision as "requires improvement", however, the overall judgement for the school remains "inadequate".
- 3.6 Following the Ofsted rating of "inadequate", Skilts School became subject to a Directive Academy Order (DAO) in December 2017.
- 3.7 The Interim Executive Board (IEB) of the school and Birmingham City Council have been working collaboratively and agreed to move forward with proposals to remove the boarding provision.

3.8 In compliance with DFE guidance and best-practice, a statutory pre-publication consultation was completed for the proposal between 25th June 2018 and 20th July 2018. The proposed implementation date for the proposal was 1st January 2019. Three comments were received regarding the draft proposal, two in writing and one verbally expressing concerns regarding the loss of the respite care that a number of pupils/families were receiving at the residential building. Consideration was given to these concerns and it was agreed that the proposed implementation date for the closure of the boarding provision would be 31st July 2019 allowing children that were receiving respite care to leave at the end of the year and for referrals to be made to CASS for the remaining three pupils.

3.9 In compliance with DFE guidance, a statutory notice and proposal were published and the representation period was between 28th February 2019 to 27th March 2019 (four weeks). The representation period commenced with the publication of a statutory notice in the Birmingham Post. During the four week representation period, comments on the proposal can be submitted in writing to Education Infrastructure, via the BeHeard webpages, email or letter. A copy of the full proposal and public notices can be found within Appendices 1 & 2.

3.10 At the close of the representation period, 20 responses were received regarding the proposal. Of the 20 responses received 19 were opposed and one was in favour. The 19 responses opposing the proposal were from a mixture of staff, parents/carers, pupils, a local councillor and one other. These objections were largely focused on the impact of removing respite care that is currently being provided in the residential building. The one response in support was from a Member of Parliament who was in support of the removal of the boarding provision on the condition that alternative respite solutions were found for the remaining pupils who are affected.

A number of detailed responses were received from parents and staff whereby reference is made to pupils being “residential”. There are currently no pupils on roll at Skilts School who have the requirement for a boarding/residential place on their statement of need or EHCP. The pupils currently staying overnight at the residential building are receiving respite care. CASS referrals for an assessment for alternative respite care provision have been offered to three pupils/families who will still be on roll at the school should the proposal to remove the boarding provision at Skilts School from 31st July 2019 be approved. Two of the three pupils’ families have agreed to the assessment. (See 3.3).

The full quantitative and qualitative analysis and copies of the comments received can be found in Appendix 3 of this report.

3.11 Details of both the internal and external stakeholders consulted and the means by which both consultations were carried out are detailed in section 5 of this report.

3.12 The Education and Inspections Act 2006 and Regulation 7 of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (the Prescribed Alterations Regulations) state that the Local Authority must have regard to any guidance issued by the Secretary of State

when making a decision on such proposals. The relevant statutory guidance is attached (Appendix 4). The Education and Inspections Act 2006, and Paragraph 5 of Schedule 3 to the Prescribed Alterations Regulations allows for the proposals to be approved, approved with modification, approved subject to meeting a prescribed condition, or rejected.

- 3.13 If the proposals are approved, the boarding provision at the school will be decommissioned and the Local Authority will no longer be under an obligation to staff and to maintain the residential buildings.

4 Options considered and Recommended Proposal

- 4.1 Should the proposals be rejected, the boarding provision will remain open at Skilts School even though there are currently no pupils at the school who have a statement of need or an EHCP for a boarding school place. As at January 2019 Skilts School had a financial deficit of £245,000, this will continue to increase if the boarding provision remains open without boarding pupils.
- 4.2 The school is subject to a Directive Academy Order (DAO) and Forward Education Trust has been approved as the sponsor by the Department for Education (DfE). Should the boarding provision remain open Forward Education Trust have indicated that they will withdraw their sponsorship as the boarding provision is not financially viable. In this case an alternative sponsor would need to be identified.
- 4.3 A condition survey of Skilts School was carried out in November 2018 and identified major structural issues with the residential buildings which will require considerable investment to rectify. The closure of the boarding provision at Skilts School will enable the Local Authority to remove the obligation to maintain the residential buildings that are currently unfit for purpose and have become increasingly financially unviable.

5 Consultation

5.1 Internal

During the statutory consultation periods, information about the proposal was sent to:

- All Ward Councillors and Members of Parliament in Birmingham
- Member of Parliament for Stratford on Avon where the school is situated.
- Officers from services across Birmingham City Council including School Admissions, Finance, School and Governor Support, Human Resources, Legal, Planning, Research and Statistics Information Officers for Education and Skills.

Details of the responses received and outcome of the statutory consultation is set out in Appendix 3. The Ward Councillor consulted and the date and method of consultation is set out in Appendix 5.

5.2 External

5.2.1 The proposal has been fully consulted upon in line with the requirements set out in both the statutory guidance “Making significant changes (‘prescribed alterations’) to maintained schools” (October 2018) published by the Department for Education (DfE). A copy of the guidance for decision makers can be found in Appendix 4.

5.2.2 During the pre-statutory consultation period, information about the proposal was publicised to the parents, teaching staff, non-teaching staff. During the statutory consultation period, information about the proposal was publicised to all stakeholders consulted during the pre-statutory period and the following additional consultees:

- Birmingham Schools;
- Neighbouring Local Authorities;
- The Archdiocesan and The Anglican Diocese of Birmingham;
- Professional Associations and Trade unions
- All Birmingham Local Councillors
- All Birmingham Members of Parliament
- Member of Parliament for Stratford Upon Avon

5.2.3 The information was publicised in the following ways:

- Public notice in Birmingham Post newspaper;
- On Birmingham City Council BeHeard webpage;
- On the schools’ webpages;
- On the Birmingham City Council School Notice Board.

5.2.4 A copy of the full proposal document can be found in Appendix 1 and the Public Notice in Appendix 2. The outcome of the external consultation is set out in Section 3 of this report and in Appendix 3

6 Risk Management

Should the proposals for the closure of the boarding provision not be approved there is a high risk of the following;

- The current identified approved Academy Trust may withdraw their sponsorship.
- An alternative solution would need to be sought to address the following serious issues at the school;
 - Ofsted’s judgement of “inadequate”;
 - The School’s deficit budget of £245,000;
 - The buildings are unfit for the original purpose and require a significant level of investment to meet current building standards.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

7.1.1 The proposal to remove the boarding provision at Skilts School is necessary in response to the following issues at Skilts School:

- Ofsted's judgement that Skilts School is inadequate
- The Skilts School estate, including the residential building, is unfit for purpose.
- There have not been any boarding pupils at the school for over three years and boarding schools with unfilled places are at risk of financial unviability which will impact on the future of the school.

7.2 Legal Implications

7.2.1 This report exercises powers contained within sections 19 and 21 of the Education and Inspections Act 2006 and Schedule 2 and Schedule 3 to the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (the "Prescribed Alterations Regulations"), whereby the Local Authority of a Community Special School can propose to remove the boarding provision by following a statutory process. Under the Prescribed Alterations Regulations, the Local Authority is the decision maker for this statutory proposal.

7.3 Financial Implications

7.3.1 Skilts School's financial deficit was £245,000 as at January 2019. The ongoing unviability of maintaining the buildings along with the unfilled boarding places is likely to further increase this deficit unless action is taken.

7.3.2 At the point of conversion the deficit will become the responsibility of the Local Authority.

7.4 Procurement Implications (if required)

Not applicable.

7.5 Human Resources Implications (if required)

7.5.1 Any changes to existing terms and conditions or staff reductions resulting from the closure of the boarding provision will be with full consultation with the trade unions and teaching associations.

7.6 Public Sector Equality Duty

7.6.1 An updated Equality Assessment initial screening was carried out in October 2018 (EQUA221) against the School Organisation Change process, which identified that a full impact assessment was not required. No events have occurred since then which would require the preparation of a fresh screening in respect of these recommendations.

8 Background Documents

8.1 Documents:

- Education and Inspections Act 2006
- Making significant changes ('prescribed alterations') to maintained schools: "Statutory guidance for proposers and decision makers" published by the Department for Education (DfE) October 2018.
- OFSTED Full Inspection Report 2017 Reference No10025414: Skilts School
- Skilts School – Non Building Condition Report November 2018

8.2 List of Appendices accompanying this Report (if any):

- 1. Full Proposal Document
- 2. Public Notice
- 3. Statutory Consultation Results
- 4. Guidance for Decision Makers
- 5. Ward Councillors Consulted.