

Central Bedfordshire Council

Executive

11 October 2016

Proposal to change the age range of Everton Lower School from 3 - 9 years of age (Lower School) to 3 – 11 years of age (Primary School)

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This report relates to a key decision

Purpose of this report

1. To seek Executive approval to commence the 2 stage consultation process required regarding the proposal to change the age range of Everton Lower School, Sandy.
2. If approved the proposed change of age range would be implemented from September 2017.
3. The school referred to in this report serves the Ward of Potton.

RECOMMENDATIONS

1. **Approve the commencement of the 2 stage consultation process for the proposal to change the age range of Everton Lower School from 3 – 9 years to 3 – 11 years from September 2017.**
2. **Approve the Executive Member for Education and Skills to determine the proposal if the responses to the statutory notice are favourable.**

Overview and Scrutiny Comments/Recommendations

4. This report was presented to Children's Services Overview and Scrutiny Committee at its meeting on the 6 September 2016 and the Committee was asked to indicate its support for the recommendations set out within the report.

Background

5. Everton Lower School is a designated small rural school in the Sandy planning area. It is the only lower school in the village of Everton, which is situated to the north of Biggleswade and north east of the town of Sandy. (Appendix 1 - map of local area).
6. An initial proposal from the Governing Body of Everton Lower School to become a 3 - 11 Primary school from September 2017 was received and acknowledged by the Council in March 2016
7. Prior to April 2016 as a consequence of changes introduced by the 2013 Regulations and Statutory Guidance, Governing Bodies were able to propose a range of age changes to their schools without following a formal statutory process.
8. Governing Bodies were given the powers to propose and determine a proposal but had 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.
9. Following a successful legal challenge to the guidance the Department of Education (DfE) revised the information for proposers and decision-makers and published new guidance. This was published in April 2016.
10. The revised guidance can be viewed at:-

<https://www.gov.uk/government/publications/school-organisation-maintained-schools>
11. The new guidance states that local authorities can propose:
 - a change of age range of up to 2 years (except for adding or removing a sixth-form) for voluntary and foundation schools by following the non-statutory process
 - a change of age range of 1 year or more for community schools (including the adding or removal of sixth-form or nursery provision) and community special schools or alter the upper age limit of a foundation or voluntary school to add sixth-form provision by following the statutory process.

12. The process for making changes to Everton Lower School, which is a community school, including the statutory process involves:-
- I. Pre publication consultation
 - II. Publication of statutory notice
 - III. Representation period / formal consultation
 - IV. Decision
 - V. Implementation
13. The DfE guidance for decision makers of school organisation proposals contains a number of key factors to be considered along with the views submitted throughout the consultation process, including all objections to and comments on the proposals. The guidance is clear that these factors should not be taken to be exhaustive and all proposals should be considered on their individual merits.
14. Governing bodies of community special and foundation special schools can propose a change of age range of 1 year or more following the statutory process. However governing bodies of community schools can no longer propose age range changes.
15. Whilst the revised guidance removed the power of governing bodies to propose and determine a change of age range of up to 2 years at community schools, it maintained that governing bodies of foundation and voluntary schools can propose:-
- an age range change of up to 2 years (except for adding or removing a sixth-form) by following the non-statutory process

Proposal

16. The governors at Everton Lower School have expressed a desire to change the school's age range to enable it to be a primary school from September 2017.
17. Separately, but in line with the new guidance the Council were informed by the Governing Bodies of the following schools in the Sandy planning area that there was a desire to change their age range and they were seeking to launch a consultation in the autumn school term 2016:-
- Robert Peel Lower School
 - St Swithun's VC Lower School
 - Moggerhanger Lower School
 - Sandy Upper School
 - John Donne C of E VA Lower School
18. Robert Peel Lower School and Moggerhanger Lower School are foundation schools. St Swithun's is a voluntary controlled school. John Donne is a voluntary aided school. Unlike Everton Lower School, which

is a community school Governing Bodies of foundation and voluntary schools can propose an age range change of up to 2 years (except for adding or removing a sixth-form) by following the non-statutory process.

19. If the consultations for the above schools are favourable it is likely that Robert Peel Lower School, St Swithun's VC Lower School, Moggerhanger Lower School and John Donne C of E VA Lower School will change age range and become primary schools from September 2017.
20. The Council have also been informed that Sandy Upper has expressed a desire to become a secondary school. The school is a foundation school and would not need to follow a statutory process. The Governing Body would be required to consult.
21. The Governing Body of Sandy Upper would need to consult on their admission arrangements for 2018 (6 weeks between 1 Oct 2016 and 31 Jan 2017). They would need to identify the point(s) of entry, the admission number for this and any changes to their oversubscription criteria.
22. Everton Lower School was judged by Ofsted to be an outstanding school in October 2011. The school have undertaken early engagement with stakeholders regarding their proposed change of age range and have had favourable responses. If approved the consultation would supplement the schools responses received to date.
23. The school have a planned admission number (PAN) of 10 pupils and the school have no plans to change the PAN. If the consultation is favourable and the proposal approved the school could have pupils continuing in to year 5 and year 6.
24. In line with the intention of some of the other lower schools within the planning area to consult in the 2016 autumn term for a proposed change of age range, Everton Lower School's proposed transfer of year 6 children would be to a local secondary school.
25. Everton Lower has expressed a desire to be a feeder school to a school in Cambridgeshire. No formal arrangements have been agreed, although the school is located close to the Cambridgeshire border. The Council would ensure all local schools are consulted.
26. The Sandy planning area also consists of the following schools and the Council have not been informed of any proposed age range changes:-
 - Potton Lower School (foundation school)
 - Sutton Lower School (voluntary aided)
 - Wrestlingworth Lower School (voluntary controlled)

- Potton Middle School - formerly Burgoyne Middle School (community school)
- Sandye Place Middle School (academy)
- Laburnum Lower School (foundation school)
- Maple Tree Lower School (foundation school)

27. The proposed change of age range for some schools, but not all schools, within the planning area would impact on which years the transfers between schools take place. If the commencement of the consultation process for the change of age range for Everton Lower School is approved, as proposer the council would consult with all stakeholders.

28. As a consultee for the change of age range for the voluntary controlled and foundation schools planning to initiate a consultation, the Council would expect to see the transfers addressed in these consultations.

Reason/s for decision

29. The recommended consultation on the proposal to change the age range at Everton Lower School is to ensure the Council continues to meet its statutory obligation ensuring there are adequate school places and also to meet the legal requirements placed on the Council by the Education and Inspections Act 2006.

30. If approved, the initial pre-publication consultation would be for 5 weeks and commence in October, concluding in November with the outcome of the consultation reported to Executive in December 2016.

31. Executive Members will be asked at the December meeting to consider the responses received to the initial consultation and will be asked to consider giving approval to proceed to the second stage of the consultation process which would be the publication of the statutory notice. This represents the start of the formal consultation

32. If during this formal consultation period no further objections are received then it is proposed that determination is delegated to the Executive Member for Education and Skills. If objections are received to the statutory notice, a final decision on the proposal would be determined at Executive on the 4 April 2017.

Council Priorities

33. The proposal supports the following Council priority:

- Improving Education and Skills

Legal Implications

34. The main legislation governing school organisation is found in sections 7-32 of the Education and Inspections Act 2006, The School Organisation (Establishment and Discontinuance of Schools) (England Regulations 2013 and the School Organisation (Prescribed Alterations to Mainstream Schools) (England) Regulations 2013.
35. DfE regulations and guidance outline the requirements and process for proposals to change age range at Council maintained schools and these include full public consultation, the publication of statutory proposals and the decision making process. The Council is the decision maker for proposals relating to maintained schools, which are set out in this report.
36. The Executive Member for Education and Skills is authorised, under delegated authority, to exercise the council's duty to determine proposals to alter the upper and lower age range of pupils in schools. As decision maker the Council must be satisfied that the proposals have followed due process and must also have regards to statutory guidance.
37. As decision maker for the statutory proposal reflected in this report the Executive Member for Education and Skills must determine whether to:-
 - Reject the proposal
 - Approve the proposal
 - Approve the proposal with a modification (e.g. the implementation date)
 - Approve the proposal subject to them meeting a certain condition
38. In any case the proposal must be determined within 2 months of the close of the determination period, otherwise the proposal will be referred to the schools adjudicator.

Financial and Risk Implications

39. There are no capital implications for the Council arising as a result of the proposals set out in this report.
40. The day to day running costs of the school are met through revenue funding which is made available to each school as part of the dedicated schools grant, calculated on a per pupil basis. Nationally, School and Academy revenue budgets are set in line with the School and Early Years Finance Regulations 2013 which uses October school census data of pupil numbers accommodated at that moment in time to calculate the budget for the following financial year, for Council maintained schools, and the following academic year for Academies.

41. If the proposal is determined in favour of the change of age range, the school are likely to require additional teaching staff. The school have shown prudent financial management which was reported at the last audit.
42. There will be a lag in funding provision to the school if the proposal is implemented in September 2017. This funding 'lag' can have a significant impact on those schools and academies that are implementing changes in age range and retaining or admitting pupils into new year groups in the following September without the corresponding revenue funding that should ordinarily follow the child which only begins to flow into the schools budget in the following April, or September in the case of Academies.
43. Funding will not be due to the school until 2018/19. Everton Lower School will need to consider the financial viability of its proposals as a result of the inevitable shortfall in revenue during the transition period. The Governing Body has confirmed that they would seek a licensed deficit at the time.

Equalities Implications

44. The consultation and decision making process set out in regulation for proposals to maintained schools requires an evaluation on a project by project basis of any equalities and human rights issues that might arise.
45. Public Authorities must ensure that decisions are made in a way which minimises unfairness and without a disproportionately negative effect on people from different ethnic groups, disabled people, women and men. It is important that Councillors are aware of this duty before they take a decision.
46. This statutory duty includes requirements to:
- i. Remove or minimise disadvantages suffered by people due to their protected characteristics.
 - ii. Take steps to meet the needs of people from protected groups where these are different from the needs of other people.
 - iii. Encourage people from protected groups to participate in public life or in other activities where their participation is disproportionately low.
47. The proposed change of age range at Everton Lower School is not envisaged to have an adverse impact on any of the listed groups below:-

Sex	N/A
Gender Reassignment	N/A
Age	Primary aged pupils will have

	access to sufficient school places
Disability	N/A
Race & Ethnicity	N/A
Sexual Orientation	N/A
Religion or Belief (or No Belief)	N/A
Pregnancy & Maternity	N/A
Human Rights (Please see articles in toolkit)	N/A
Other Groups (rural isolation etc)	This is a rural designated school which provides school places in a village

Risk Management

48. The proposal set out in this report has been developed and evaluated against the key criteria for decision makers that are outlined in guidance. Likewise the proposal has followed the procedures set out in regulation. This mitigates the risk on the Council of failing to comply with the relevant statutory requirements.

49. The key risks mitigated by the process that has been followed include:

- Failure to discharge legal and statutory duties/guidance.
- Failure to deliver the Council's strategic priorities.
- Reputational risks associated with the non delivery of required school places.
- Financial risks, no capital investment from the council and all consequential additional running costs will be borne by the school.

50. If approved, the Governing Body of Everton Lower school will develop and implement change management plan that will include risk assessment and management criteria to ensure the effective delivery of the objectives set out in the proposal document

Conclusion and next Steps

51. The recommendation is for the Executive to approve the launch of the 2 stage consultation process for the proposal to change the age range at Everton Lower School from 2017.

52. A detailed programme for the statutory consultation has been developed with the school which will seek maximum stakeholder feedback. This will enable an informed decision to be made by the Executive to approve or not the proposal to change the age range at the school.

Appendices

The following appendices are attached:-

Appendix 1 – Map showing the location of Everton Lower School

Appendix 1

Map showing the location of Everton Lower School

