

<b>Title of meeting:</b>	Cabinet Member for Children, Families and Education
<b>Date of meeting:</b>	15 <sup>th</sup> March 2023
<b>Subject:</b>	Statutory process to close the Inclusion Centre at Portsdown Primary School - outcome of statutory consultation
<b>Report from:</b>	Sarah Daly, Director of Children, Families and Education
<b>Wards affected:</b>	Paulsgrove
<b>Key decision:</b>	No
<b>Full Council decision:</b>	No

---

## **1. Purpose of report**

- 1.1 This report sets out the outcome of the statutory consultation which was undertaken between 16<sup>th</sup> January 2023 and 13<sup>th</sup> February 2023 on the proposal to close the Inclusion Centre for children with special educational needs (SEND) at Portsdown Primary School.

## **2. Recommendations**

### **2.1 It is recommended that the Cabinet Member:**

- a) Consider the response to the statutory consultation carried out on the proposal to close the Inclusion Centre at Portsdown Primary School**
- b) Authorise the Director for Children, Families and Education to implement the proposal so that the Inclusion Centre at Portsdown Primary School closes at midnight on 31<sup>st</sup> August 2023.**

## **3. Background**

- 3.1 Portsdown Primary school is a 2-form entry community maintained primary school in Portsmouth. The school has houses a small 9 place (single class) Inclusion Centre for pupils with an Education Health and Care Plan identifying communication and interaction as the primary area of need. Although the Inclusion Centre has provided a good standard of education, as the needs of the pupils placed in the Inclusion Centre have become more complex it has become harder for this single class centre to provide the highly individualised education that the pupils require. It has proved increasingly difficult to effectively provide peer grouping and progression within a single class Centre which caters for children through key stages 1 and 2 of their education.

- 3.2 As Portsdown Primary School is a community maintained school, a closure of a provision for pupils with SEND at the school is a prescribed alteration governed by The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013. The Local Authority is the proposer and the decision maker for this process. The proposer has to follow the four stage statutory process set out below:

Table 1. Statutory process for a prescribed alteration to a maintained school

<b>Stage</b>	<b>Description</b>	<b>Timescale</b>	<b>Comments</b>
Stage 1	Publication (statutory proposal / notice)		
Stage 2	Representation (formal consultation)	Must be at least 4 weeks	As prescribed in the 'Prescribed Alteration' regulations.
Stage 3	Decision	LA should decide a proposal within 2 months otherwise it will fall to the Schools Adjudicator.	Any appeal to the adjudicator must be made within 4 weeks of the decision.
Stage 4	Implementation	No prescribed timescale	However, it must be as specified in the published statutory notice, subject to any modifications agreed by the decision-maker.

- 3.3 The Council and Governors of Portsdown Primary school undertook a pre-statutory consultation for this proposal between 15th October and 15th November 2021. On 15th December 2022, following consideration of the outcome of a pre-statutory consultation, the Cabinet Member for Education authorised the Director of Children, Families and Education to proceed with the publication of the proposal and the formal representation stage of the statutory process.
- 3.4 The Council formally published a statutory notice for the closure of the Inclusion Centre at Portsdown Primary School on 16<sup>th</sup> January 2023 and the four week formal representation period ran from 16<sup>th</sup> January 2023 until 13<sup>th</sup> February 2023.

#### Outcome of Statutory Consultation

- 3.5 The statutory proposal was also published on the PCC website as required by the Department for Education. No comments were submitted to the Council during the representation period.

#### **4. Reasons for recommendations**

- 4.1 The Inclusion Centre at Portsdown Primary School is a small single class provision and smaller Inclusion Centres tend to be less sustainable and

financially viable than larger SEN Centres that benefit from additional flexibility, staff development opportunities and economies of scale. The Portsmouth Strategic SEND Review Phase 2 published in November 2020 provides for new Inclusion Centres to be 'of a sustainable and viable size with a minimum of 3 classes'. This is because larger Inclusion Centres can benefit from:

- greater financial viability
- increased potential for recruitment and retention of specialist staff
- the ability to provide more specialist learning support accommodation
- more efficient and effective peer groupage and progression for children through the school
- improved opportunities for inclusion in mainstream classes
- improved parental choice of setting
- less risk of insufficient cover through staff absence

4.2 There is no scope to develop the Portsdown Primary school site to increase the number of places in the Inclusion Centre to ensure that the provision continues to be viable and to provide the flexibility required to better support the needs of pupils.

4.3 Suitable placements for all pupils currently educated in Portsdown Primary Inclusion Unit have been identified and discussed with their parents or carers. The transition to a new provision will be carefully planned and managed for each pupil.

## **5. Equality impact assessment**

5.1 An equality impact assessment is not required as the recommendation does not have a negative impact on any of the protected characteristics as described in the Equality Act 2010.

## **6. Legal implications**

6.1 The statutory process for the removal of special educational needs provision in a maintained mainstream school is set out in the Education and Inspections Act 2006 ("EIA 2006") and The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013. Under s.18 of the Education and Inspections Act 2006, an LA can propose the discontinuance of provision which is recognised by the LA as reserved for children with special educational needs. The LA will be the decision-maker of the proposal and must follow the statutory process.

6.2 The statutory process for the discontinuance of the Portsdown Inclusion Centre requires publication of the statutory proposal and a period of formal consultation of 4 weeks. The statutory guidance for proposers and decision-makers "Making significant changes ('prescribed alterations') to maintained schools" October 2018 states that whilst there is no requirement for a pre-statutory consultation, there is a strong expectation that schools and LAs will consult interested parties

in developing their proposal prior to publication. The purpose of this report is to provide the outcome of this early consultation to the Cabinet Member.

- 6.3 The statutory guidance requires the proposer, when considering any reorganisation of provision reserved for pupils with special educational needs, including that which might lead to children being displaced, to demonstrate how the proposed alternative arrangements are likely to lead to improvements in the standard, quality and/or range of educational provision for those children.
- 6.4 The statutory proposal as published must include the information contained in Schedule 3 of the Prescribed Alterations Regulations 2013.
- 6.5 Following the end of the representation period, the LA must make a decision within a period of two months, otherwise the proposal must be referred to the Schools Adjudicator
- 6.6 It is within the Cabinet Member's powers to approve these recommendations, as set out in the City Council's constitution.

## **7. Director of Finance's comments**

- 7.1. Inclusion Centres are funded via the Dedicated Schools Grant (DSG) which is governed by the School and Early Years Finance (England) Regulations. The DSG provides funding through three funding streams, the mainstream funding formula (approximately £4,000), place funding (£6,000) plus Top-up funding which reflects the level of need of the pupils.
- 7.2. Should the Inclusion Centre close, the funding provided through the three funding streams will cease. The school will be responsible any revenue costs associated with the closure of the Inclusion Centre including redundancy or early contract termination fees.
- 7.3. The DSG budget for the financial year 2023-24 has yet to be approved, the outcome of the statutory consultation will be included within the 2023-24 budget proposals.

.....  
Signed by:

## **Appendices:**



**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Making significant changes ('prescribed alterations') to maintained schools Statutory guidance for proposers and decision makers	<a href="#">Making significant changes ('prescribed alterations') to maintained schools (publishing.service.gov.uk)</a>

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

.....  
Signed by: