

Cabinet – 4 February 2015

Special Educational Needs and Disability Review

Portfolio: Councillor B Cassidy – Children's services and education

Related portfolios: Councillor D Coughlan – Social care

Service: Special Educational Needs and Disabilities

Wards: All

Key decision: No

Forward plan: No

1. Summary

- 1.1 This report seeks Cabinet approval to conduct statutory consultation on proposals to strengthen and improve the continuum of provision available in Walsall to meet the needs of children and young people with special educational needs and disabilities (SEND). The proposals contained in **Appendix A** are recommended following a period of informal consultation with a wide range of stakeholders.

2. Recommendations

- 2.1 That Cabinet approve the options proposed in **Appendix A** to go forward for statutory consultation
- 2.2 That Cabinet agree to receive a further report in April 2015 detailing the outcome from the statutory consultation and recommending proposals for approval.

3. Report detail

- 3.1 A series of workshops held January to April 2014 involving key stakeholders including Headteachers of special schools, schools with additionally resourced provision (ARPs) and representatives from partner agencies, developed a series of options for strengthening SEND provision in Walsall. The aim is to ensure Walsall Council has an appropriate range of provision to meet the needs of children and young people with SEND adhering to principles of inclusion, school improvement and the aspiration that Walsall children attend Walsall schools where possible and do not need to be provided with a school place out of the Borough. Over recent months there has been pressure on places in special schools which has resulted in the majority of special schools accepting pupil numbers in excess of their published admission number (PAN).

- 3.2 This review of SEND provision is a key strand of the Walsall Inclusion Strategy for Education the vision of which is to establish a culture of inclusion by creating a secure, accepting, collaborative learning community. This means all Walsall schools will be inclusive and provide good outcomes for children with SEND. The aim is that wherever possible children will attend a mainstream school that meets their needs and where needed will receive appropriate support to transition to the next phase of their education.
- 3.3 Following Cabinet approval in July 2014 wide ranging, informal consultation took place between September and December 2014 on the options for strengthening the continuum of provision. Parents, children and young people and staff of special schools and mainstream schools, school Governors, council staff and partner agencies have given their views on the options for strengthening SEND provision. This was through face to face meetings held at nine different school sites across the Borough (minuted) and by returning written responses (163). Briefings also took place at Primary, Nursery and Special School Forum; Walsall Association of Secondary Heads; Schools Forum; Parent, Carer Forum; SENCo Forum and JNCC.
- 3.4 The process of consultation and analysis has been managed by a small collaborative group of council officers, seconded special school leaders and volunteer mainstream Headteachers. This group analysed the responses received and generated, as a set of proposals relating to each sector of SEN (**Appendix A**). The next step is to obtain cabinet approval to undertake statutory consultation on these proposals with the intention that a further report will be made to Cabinet in April 2015 with a priority plan for phased implementation commencing from September 2015.

4. Council priorities

- **Creating Safe, Sustainable and Inclusive Communities;** strengthening the continuum of SEND provision in line with the draft SEN Inclusion Strategy will support inclusion and personalisation
- **Improving Safeguarding, Learning and the Life Chances for Children and Young People;** the proposals seek to ensure that vulnerable children and young people with SEND have their educational needs met appropriately in good and outstanding settings in Walsall. The attainment outcomes for children with Special Education and Disabilities are not improving quickly enough and gaps in attainment with statistical neighbours and national outcomes need to be closed.

5. Risk management

- 5.1 All Local Authorities are statutorily required to ensure that there is an appropriate balance between the supply of and demand for school places in order to secure provision of an efficient and cost effective education service, this includes the need for special education need places. The SEND review and the proposed statutory consultation will ensure appropriate places can be

provided to meet the current and future anticipated need for SEND provision. This should be understood within a context of inclusion, where children with SEND attend mainstream schools that meet their needs and outreach and school to school support arrangements enhance the mainstream offer.

5.2 Analysis of risk has been undertaken as part of the review so far and a risk log has been created and the most significant are detailed below:

Risk	Impact	Contingency/Mitigation
Review of SEND provision not completed	Insufficient range and number of special school places available in Borough to meet need	Walsall will need to increase out of Borough placements. This will increase costs and financial risk
Formal consultation takes place but proposals rejected by Cabinet	<p>Current pressure on places and provision will continue and may worsen.</p> <p>Further consultation on alternative proposals would need to take place thus lengthening the process with likelihood of less realistic options being considered</p> <p>Children with complex SEND remain inappropriately in mainstream settings</p>	<p>Increase in out of Borough placements with financial impact also potential waiting lists</p> <p>Attempted to mitigate this through the wide ranging informal consultation process</p> <p>Build capacity in mainstream to support inclusion and develop capacity of support services and special schools to support mainstream schools. This good practice would mitigate but not resolve issues associated with inappropriate placement</p>
Reduced number of additional school places made available	Continued pressure on special school places	Could mitigate this by adopting a phased approach to increasing special school places and focus on building capacity of special schools to support mainstream
Option to move to one Social, Emotional and Mental Health (SEMH) school with separate primary and secondary departments rejected	School is too small to be financially viable as fixed costs disproportionate part of expenditure	<p>High financial cost to LA to keep small school functioning.</p> <p>Mitigation: A phased merger of these schools could support planning for this change.</p>

Relocation issues means single SEMH school on one site is not possible	School is too small to be financially viable as fixed costs disproportionate proportion of expenditure	Consider one school on two sites
--	--	----------------------------------

6. Financial implications

- 6.1 The options proposed at **Appendix A** would all have both capital and revenue implications associated with them. Proposals to increase capacity for some settings would result in a need for additional classrooms or refurbishment which would incur capital costs. At their meeting on 9 December 2014 Schools Forum supported the use of up to £1m of surplus balances from the 2014/15 high needs block of the dedicated schools grant to be utilised for this purpose.
- 6.2 As this would involve utilising revenue grant funding to finance capital expenditure, this is subject to agreement from the Secretary of State, which is currently awaited. In terms of managing expectations it should be noted that this potential capital funding stream would provide for limited work. It will be imperative to prioritise within the available budget and with a view to a phased approach to improvements and implementation of the strategy.
- 6.3 Any increase in the number of special school places would also generate revenue implications in terms of the ongoing funding required to support them. For every special school commissioned place there is a cost of £10,000 per year plus 'top-up' funding based on the real time financing of the needs of the pupil(s). The funding mechanism which supports this was generated using the "matrix of need", and was agreed by all special school Headteachers (2013/14).
- 6.4 Walsall Council is already funding places in excess of published admission number (PAN) in most Walsall special schools. Any additional financial implications associated with the potential increase in places above the level already being funded is currently estimated to be able to be contained within the existing high needs block dedicated schools grant funding. Commissioning additional places in Walsall special schools while reducing the need to seek special school places out of the Borough has the potential to reduce placement and transport costs. Further financial modelling will also be undertaken following the statutory consultation to support any decision that Cabinet take.

7. Legal implications

- 7.1 Should Cabinet agree this course of action it is imperative that consultation should be as wide as possible involving all potential stakeholders. A briefing note is attached outlining general principles to be followed to avoid challenge (**Appendix B**).
- 7.2 Equality impact assessments should be maintained and updated as appropriate.

- 7.3 Should Cabinet be in agreement, a detailed report will be provided outlining the extent of consultation and a schedule of responses to ensure that members have all information available to make an informed decision.

8. Property implications

- 8.1 The proposals will improve the quality of the accommodation for the SEND provision to ensure that the facilities are fit for purpose. Proposals involving relocation of settings or development of the new provision will be carried out in a way that increases the utilisation of current Council assets. Such decisions will be dependent on the outcome of the statutory consultation and will require further costings and viability studies.

9. Health and wellbeing implications

- 9.1 A sustainable and appropriate continuum of special educational provision will mean that children and young people with SEND will access high quality, inclusive education that enables them to make outstanding progress and impacts positively on their health and wellbeing.

10. Staffing implications

- 10.1 Approval of the proposals may have some staffing implications, details of which will be known following the statutory consultation. This information will be included in the report submitted to Cabinet in April 2015.

11. Equality implications

- 11.1 An EqIA is ongoing and is attached and has identified continue despite possible adverse impact (**Appendix C**).

12. Consultation

- 12.1 Two seconded special school leaders attended meetings with Headteachers and Chairs of Governors for all seven special schools in Walsall to discuss the context of the SEN review and the consultation process. Following this, staff, parents and school council representatives at each of these schools were invited to attend separate consultation meetings. These meetings were minuted and participants were given response forms on which they could record written responses if they chose. Briefing sessions were held with key stakeholder groups including Primary, Nursery and Special School Headteachers; Walsall Association of Secondary Headteachers; Parent Carer Forum and SENCo Forum and JNCC, which included a presentation and opportunity to ask questions. They were also given the opportunity to submit written responses to the consultation. Information about the review and how to access response forms was also made available on Walsall Council Website and on the SEN Newsletter. Schools were sent information on the review for display on staff noticeboards. The SEN Review was also discussed at Council and health staff team meetings and response forms were made available to staff.

12.2 Four consultation meetings led by seconded special school leaders and supported by volunteer mainstream Headteachers were held in schools located in different geographical areas of the borough. There were attended by staff, governors and parents from mainstream schools and other interested parties. Minutes were taken of the discussions and attendees were invited to give written responses if they so chose.

Background papers - none

Author

Karen Grandison

SEN Strategic Manager (interim)

☎ : 01922 686375

✉ Karen.grandison@edu.walsall.gov.uk



David Haley
Executive Director
23 January 2015



Councillor B Cassidy
Portfolio holder
23 January 2015

SEN Review Proposals for statutory consultation

Current Provision	Proposed Provision
Severe Learning Difficulties/Profound and Multiple Learning Difficulties Two primary schools (120 places total) One secondary school (110 places)	Severe Learning Difficulties/Profound and Multiple Learning Difficulties Two primary schools (130 places total) One secondary school (130 places)
Social, Emotional Health and Wellbeing One primary school (30 places) One secondary school (56 places)	Social, Emotional Health and Wellbeing One school with separate primary, secondary and 6 th form departments Primary department (40 places) Secondary department (56 places) 6 th form offer to be developed
Moderate Learning Difficulties Two schools KS2 – KS5 (220 places total)	Moderate Learning Difficulties Two schools – KS1 – KS5 (270 places total)
Communication and Interaction – Additionally Resourced Provision (ARP) Two primary ARPs (16 places Autism Spectrum and 14 places Specific Language Impairment – 30 total) One secondary ARP (5 places Autism Spectrum and 5 places Specific Language Impairment – 10 total)	Communication and Interaction – Additionally Resourced Provision (ARP) Four primary ARPs (30 places Autism Spectrum and 15 places Specific Language Impairment – 45 total) One secondary ARP (5 places Autism Spectrum and 5 places Specific Language Impairment – 10 total) One secondary Autism Spectrum Unit 20 places Central Autism Spectrum transition support team to support transition and inclusion from primary to secondary school
Specific Learning Difficulty/Dyslexia Two secondary ARPs (23 places total)	Specific Learning Difficulty/Dyslexia Two secondary ARPs (23 places total) Central support (1 teacher post) to support primary school interventions and to ensure all schools achieve Dyslexia Friendly Schools status

BRIEFING NOTE

8 October 2014

Re: Consultation – Set in Stone or Shifting Sands?
--

A short guide and FAQ's

The answer

The answer to the question put in the title is both.

The basic principles are set in stone by the courts; these are the key ingredients as a minimum that you have to achieve in order to have effective consultation. These principles are what you must abide by when undertaking significant changes to services.

Those key principles may be set in stone, but the shifting sands are the individual circumstances of your particular services, those affected and what changes you propose. How you meet those key principles depends on these and any other relevant consideration you may have, as under English law every case is judged on its individual circumstances.

This note is intended to remind you of the basic principles, as well give you answers to FAQ's. Also the note contains quotes from Judges in cases where they have considered different elements consultation, so that you can see the thinking being applied by the Judiciary.

Set in stone

The four basic principles:

1. Consultation **must** take place when the proposals are **at a formative stage**;
2. Sufficient **reasons** and **sufficient information must** be **put forward** about the proposal **to allow for intelligent consideration and response**;
3. **Adequate time must be given** for consideration and response; and
4. The product of consultation **must be conscientiously** taken into account.

These are called the Gunning principles because they come from the leading case on consultation called: R v the London Borough of Brent ex parte Gunning and others.

These four principles are immovable, resolute and will be applied in all circumstances.

Shifting Sands

How you meet those principles can be done in many ways, examples include Letters or flyers, posters at strategic locations such as service delivery points, online consultation, face-to-face individual service user consultation, Representative body consultation, open days etc

The point is you must determine what is the most practical and effective means of communication, having regard to the services you deliver, your service users etc. For example, if you're dealing with vulnerable people who have learning difficulties or difficulty in coping with complex issues simply writing a letter or sending them a leaflet would not elicit the response you would require nor

would it be proper consultation as you failed to take into account the nature or particular circumstances of the individuals that would be affected by your decision.

Who you consult with is as important as how, you should not restrict the opportunity to any or all services user to express a view. In other words people who have a views having the opportunity to express those views, and being reasonable in the circumstances. There are cases where the courts have accepted mass consultation through representative bodies, i.e. Unions or professional bodies such as the BMA, however in most cases the Councils service users have no such direct representative body and in any event in those examples the changes affected many thousands of people.

FAQ's

What are the courts looking for?

The courts adopt a forensic approach, in which is they break down everything the Council and its Officers have done, even down to such things as every single piece of correspondence, words spoken, leaflets distributed, information provided, policies adopted or not complied with, as well as relevant statutes, statutory guidance, and the specific circumstances of the services. They are looking for evidence or examples of meeting the four principles as well the guiding fundamental principles of public law: openness, transparency, fairness, reasonableness etc

How does this all work with the Budget consultation process?

The budget goes through its own process, this is a headline consultation process and amounts to telling the public that the council intends to set a budget, what that total budget is and the headline key components of it as well as the council tax they will be expected to pay for the forthcoming financial year. This process does not, nor indeed was never intended to amount to detailed service consultation.

Untimely Full Council and Cabinet decided upon the budget based upon the options for changes or cuts to services that Full Council and Cabinet decide to take forward. Those decisions are informed by the recommendations of officers, which in turn must be informed from not just your own professional judgement and expertise but also the consultation process followed.

This means that where you are looking at making significant changes to services in order to have a reduced budget you should be running a specific consultation outside of the budget process with those persons or organisations affected by the options and proposals that you are intending to put forward.

For how long should I consult?

There are no generally accepted timescales unless you are working under a statutory requirement to consult or under government guidance that sets out a time period. Other than that it is what is reasonable in all the circumstances, as set out by the Government in its paper entitled Consultation Principles (Cabinet Office 17 July 2012 amended):

“Timeframes for consultation should be proportionate and realistic to allow stakeholders sufficient time to provide a considered response and where the consultation spans all or part of a holiday period policy makers should consider what if any impact there may be and take appropriate mitigating action. The amount of time required will depend on the nature and impact of the proposal (for example, the diversity of interested parties or the complexity of the issue, or even external events), and might typically vary between two and 12 weeks. The timing and length of a consultation should be decided on a case-by-case basis; there is no set formula for establishing the right length.”

<https://www.gov.uk/government/publications/consultation-principles-guidance>

Can I have preferred options?

Yes, it is important for the public/service users to know what your recommended or preferred option is. This is so that they know what they are being faced with, so that they can respond upon it. Most importantly you must provide as much information as possible, as well as your reasoning for that option or options.

“Where a decision-maker has formed a provisional view as to the course to be adopted, or is ‘minded’ to take a particular course subject to the outcome of consultations, it is expected that those being consulted should be informed of this ‘so as to better focus their responses’” (R (Sardar) v. Watford Borough Council [2006] Wilkie J).

Must I put every option I can think of to consultation?

No, you do not need to put every feasible possible option to be consulted upon.

“I see no conflict between the Council keeping an open mind and its consulting on the preferred route identified by officers and approved by the executive ... A lawful consultation process does not require that all the anterior phases in the selection of a preferred course be formally and specifically opened to consideration.

The Council was not obliged to consult on alternative means of achieving the same ends; there is no such general principle and such a requirement would make consultation inordinately time-consuming and complex..” (Brent Libraries Case: Ouseley J)

“Its obligation is to let those who have a potential interest in the subject matter know in clear terms what the proposal is and exactly why it is under positive consideration, telling them enough (which may be a good deal) to enable them to make an intelligent response. The obligation, although it may be quite onerous, goes no further than this.” (Lord Woolf MR in the case of Coughlan)

Do I have to allow the consultees to make proposals/put forward alternative options?

Yes, inherent within a fair and open consultation process is not just seeking views upon options presented but also that you provide consultees with the opportunity to put forward alternatives.

Do I have to re consult where I have made changes following consultation?

Maybe, it depends on whether you have made fundamental changes to what was consulted upon:

What is ‘fundamental’?

‘a fundamental change is a change of such a kind that it would be conspicuously unfair for the decision-maker to proceed without having given consultees a further opportunity to make representations about the proposal as so changed.’ (In R (Elphinstone) v Westminster City Council, Kenneth Parker QC)

Is it trivial?

‘trivial changes do not require further consideration’ (East Kent Hospital NHS Trust. Silber J)

Amended proposal following consultation?

where the amended proposal had itself ‘emerged from the consultation process. It was a proposal reflecting the consultation process itself’, there was no further obligation to consult, (again East Kent Hospital NHS Trust. Silber J)

A note of caution with this last quote, it is a rule of thumb and the Courts may still expect consultation where the changes are significantly and fundamentally different to anything considered before during consultation. Whilst this will be rare as set out above the courts look at every case on its individual circumstances.

Statutory duty to consult verses non statutory – what's the difference?

Very little in practical terms, as they both mean you have to consult.

The distinction arises where a particular act of Parliament (statute) or statutory regulations (issued by Parliament under some statute) specifically requires consultation. Non statutory consultation is what the courts have decided a Council should do in any event when making significant changes to services, this is sometimes called Judge made law or Common Law.

Statutory

Most of these specific statutory obligations to consult apply in areas concerned with vulnerable people, an example being under the Education Act 1996, where the Council is required to provide leisure time activities and facilities for children and young adults who have learning difficulties. Under the same Act there is also a statutory duty to consult with those children and young adults upon the nature of those leisure time activities and facilities to be provided. The Act does not set how consultation takes place just that consultation must take place.

It is important to note that where the government have issued guidance you must have regard to that guidance, and follow it unless you genuinely have very good reasons not to. Some guidance is called statutory guidance which is issued under a power in an Act, giving a Secretary of State the power to issue that guidance.

Non statutory (Common Law/Judge made law)

As set out above this law comes out of judgments in cases, recent case law states that the public have a fundamental right to be consulted about changes to public services. This principle comes out of the English legal principle known as a legitimate expectation, under which the public legitimately would expect to have a right to be consulted.

The outcome of consultation, kiss but do I tell?

The outcome of consultation must be 'conscientiously considered' as part of the decision making process. If the Full Council/Cabinet does not properly consider the material produced by the consultation, then it can be open to an accusation of failing to have taken it into account as part of its decision making the outcome of consultation i.e. not **conscientiously** taken into account.

However that does not mean that Councillors have to read personally every response provided in the consultation process. A summary is acceptable in the report, but note where a summary is provided; this will need to be sufficiently detailed to be comprehensive and accurate. Also you need to make available the underlying materials to Councillors, and make sure they know this so that they can access them if they wish.

Attached to this note is an appendix, which you must read in conjunction with this note as it explains what you need to put in any reports you write, or sections of reports relevant to your service e.g. in the final budget report.

Reports to Full Council/Cabinet/Committees - Informed Decision Making

In this appendix is an explanation of what the Courts expect to see in a report to Full Council, Cabinet or any Committee of the Council. The appendix is taken from a note written by Tony Cox, Head of Legal & Democratic Services and Monitoring Officer and contains a quote from a

significant Judgment made this year, in which the judge helpfully summarised many years of case law into a few short paragraphs.

Crucially, the judgment explains that writing a report is a balancing act, in that they are a crucial document that has to be concise, clear and full whilst not being overly complex or too long. In terms of consultation, this means you need to respond to the outcome of the consultation and not simply regurgitate it in a section of the report without answering the points raised. So for example if you have adopted some of the outcome of the consultation you need to explain this and why conversely if you are not recommending adopting some of the outcomes of consultation you need to explain why.

The Judgment

In R (Sky Blue Sports & Leisure Ltd) v Coventry City Council [2014] EWHC 2089 (Admin), his Honor Hickinbottom J, set out the legal principles to be applied when considering a challenge, the Judge said, at paragraph 139 (emphasis added):-

"i) A local authority acts unlawfully if, in making a decision, it fails to take into account a material consideration ... For these purposes, a consideration is material if the decision-maker might have decided the matter differently had he taken it into account ...

ii) Decision-makers ... (usually Councillors, in full Council or in a committee to which decision-making is delegated) often act on the basis of information provided by its officers in the form of a report. Such a report usually also includes a recommendation as to how the application should be dealt with. In the absence of contrary evidence, it is a reasonable inference that, where a recommendation is adopted, the decision-making Councillors follow the reasoning of the report.

iii) The Councillors are not deemed to know something that the officers know, but which is not transmitted to them ...

iv) The officers' report is therefore often a crucial document. It has to be sufficiently clear and full to enable Councillors to understand the important issues and the material considerations that bear upon them; and decide those issues within the limits of judgment that the law allows them. However, the courts have stressed the need for reports also to be concise and focused, and the dangers of reports being too long, elaborate or defensive. The Councillors do not have to be provided with every detail of every relevant matter, but only those matters which are so relevant that they must be taken into account, i.e. the salient facts which give shape and substance to the matter such that, if they are not considered, it can be said that the matter itself has not been properly considered ...

The assessment of how much and what information should go into a report to enable it to perform its function is itself a matter for the officers, exercising their own judgment ...

v) Of course, if the material included is insufficient to enable the decision-making Councillors to perform their function, or if it is misleading, a decision taken on the basis of a report may be challengeable.

Appendix C

Equality Impact Assessment (EqIA) for Policies, Procedures and Services

Proposal name	Review of Special Educational Needs (SEN) provision		
Directorate	Children's Services		
Service	SEN teams		
Responsible Officer	Mike Morris/Karen Grandison		
EqIA Author	Lee Cross		
Date proposal started	01/09/2014	Proposal commencement date (due or actual)	February 2015

1	What is the purpose of the proposal?	Yes / No	New / revision
	Policy		
	Procedure		
	Internal service		
	External Service		
	Other - give details	To review Special Educational Needs provision in Walsall	
2	What are the intended outcomes, reasons for change? (The business case)		
	<u>Reasons for change:</u> The provision hasn't been reviewed since 2004. We need to establish that we have the right children in the right place. We need to be certain that we identify SEN in a timely way and we need to check that we have the right range of provisions. Introduction of the New SEN Code of Practice (2014)		
	<u>The Aims:</u> Meet the needs of children with SEND in the context of legislative regulations in SEND and education. Secure outstanding provision for children and young people within Walsall. Incorporate a range or provisions – including inclusive mainstream schools, additionally resources provisions / units and special schools that cater for a range of high need pupils within Walsall.		
	<u>Options linked to types of need</u> <u>Profound and Multiple Learning Difficulties (PMLD) / Severe Learning Difficulties (SLD)</u>		
	1) Maintain current provision: two primary schools (120) / one secondary school (110)		
	2) Two primary schools + increase 10 places across primary phase / one secondary school increase 20 places		
	3) One primary school and one secondary school		
	4) One primary school + increase 10 places / one secondary school + increase 20 places		
	<u>Social, Emotional and Mental Health (SME)</u>		

- 1) Maintain current provision: One primary school (30) and one secondary school (56)
- 2) One primary school + increase 10 places / one secondary school
- 3) One school with separate primary, secondary and post 16 departments
- 4) One school with separate primary (increase 10 places) secondary and post 16 departments

Moderate Learning Difficulties (MLD)

- 1) Maintain current provision: Two schools both KS2 – KS5 (100 & 120)
- 2) Two schools both KS1 – KS5 + increase 50 places across the sector
- 3) Two schools: school one (KS1 & KS2) / school two (KS3 – KS5) + increase 50 places across the sector
- 4) One school KS2 – KS5 + increase 50 places across sector
- 5) One school KS1 – KS5 + increase 50 places across sector

Communications and interaction

- 1) Maintain current provision: Two primary ARP's (30). This is broken down into 16 places for AS and 14 places for SLI. One secondary ARP (10). This is broken down into 5 places for AS and 5 places for SLI.
- 2) *One primary ARP AS x 15 places / one primary ARP SLI x 15 places. Speech therapy intensive support for 40 pupils KS1 with SLI. One Secondary ARP 10 places. This is broken down into 5 places for AS and 5 places for SLI. One secondary AS unit 25 places. Central AS transition support/outreach team focusing on transition to secondary mainstream yr 6/7*
- 3) *Three primary ARP's (45 places). This is broken down into 15 places for SLI and 30 places for AS). One Secondary ARP 10 places. This is broken down into 5 places for AS and 5 places for SLI. One secondary AS unit 25 places.*
- 4) *Three primary ARP's (45 places). This is broken down into 15 places for SLI and 30 places for AS). One Secondary ARP 10 places. This is broken down into 5 places for AS and 5 places for SLI. One secondary AS unit 25 places. Central AS transition support/outreach team focusing on transition to secondary mainstream yr 6/7.*
Four primary ARP's (45 places). This is broken down into 15 places for SLI and 30 places for AS). One Secondary ARP 10 places. This is broken down into 5 places for AS and 5 places for SLI. One secondary AS unit 25 places. Central AS transition support/outreach team focusing on transition to secondary mainstream yr 6/7.

Specific Learning Difficulties

- 1) Maintain current provision: No primary ARP / two secondary ARPs (13 and 10 places).
- 2) No primary ARP/ two secondary ARPs (13 and 10 places)

Central SpLD support to eligible primary aged pupils and to support all Walsall schools to achieve Dyslexia Friendly status

3 Who is the proposal potentially likely to affect?

People in Walsall	Yes / No	Detail
All		

	Specific group/s	Y	Pupils with Special Educational Needs and their parents / carers.
	Council employees	Y	Education; Health and Social Care
	Other		
4	Summarise your evidence, engagement and consultation.		
	<p>There are currently 1133 children and young people with statements of Special Education Needs attending Walsall schools and other provision, with 562 pupils placed in special schools. The 2014 Narrowing the Gap report (DfE First Release Data) indicates that at Key Stage 2 there are 3% of pupils in Walsall with a Statement of Special Educational Needs. The same figure is evident nationally and for statistical neighbours suggesting Walsall is in line with other local authorities in this respect for this Key Stage: 2014 data is not currently available for Early Years and Key Stage 4. However, in recent years data has indicated that an escalating number of children have been placed in special schools in Walsall once statements have been completed: a significant gap between Walsall and most statistical neighbours has developed with the best performing local authorities retaining 20% more children/young people with statements in mainstream schools than is the case in Walsall. This does not indicate an inclusive approach to children/young people with Special Educational Needs. The Key Stage 2 Narrowing the Gap data shows that 9% of statemented pupils achieved level 4 plus in reading, writing and maths in 2014. This is a two percentage point decline on the 2013 position and is six percentage points lower than statistical neighbours. The gap between children with SEN and those without SEN in Walsall widened by 2% in 2014 to 57%, 5% wider than the national percentage. This widening gap is a concern. A holistic review of provision is required and reference to an Inclusion Strategy and the School Improvement Strategy will be fundamental to this.</p> <p><u>Consultation</u></p> <p>2013-2014 6 workshops with special headteachers, ARP leaders, representation from workforce development, social and health care professionals.</p> <p>September 2014-November 2014 initial informal consultation to ascertain thoughts, feelings and fears with Special Headteachers; Chair of Governors; parents / carers; pupils and staff of all the 6 special schools, Additional Resource Provision (ARP's) and PRU's within Walsall.</p> <p>There were 163 written responses received. These were broken down into the following areas (SLD/PMLD – 62 responses; MLD – 61 response; SME – 29 response; Communication and Interaction ARP – 6 responses; Specific Learning Difficulties – 5 responses).</p> <p>There have been 3 telephone conversations regarding the SEND reform.</p> <p>Presentation at Director Children Services (DCS) November 2014 to highlight the journey so far regarding SEND reform and the commitment of the Local Authority through the secondment of 2 senior leaders from within the special sector.</p> <p>September 2014 – Attendance at parent forum to “myth bust” regarding the changes a foot within SEND.</p> <p>December 2014 – All stakeholders associated with the SEND reform from within the mainstream sector were invited to an initial consultation event across the North, East, South and West of the borough.</p> <p>December 2014 – Primary, Nursery and Special Headteachers group and Walsall Secondary Headteacher group the options were presented and initial thoughts, feelings and fears recorded and challenged.</p> <p>The following summary will be presented within the three sectors (PMLD/SLD; SME; MLD) and the four sectors of the ARP's (Communication and Interaction; Specific</p>		

Learning Difficulties; Physical Disabilities and Hearing Impairments).

In this section highlight the preferred option for each sector.

PMLD / SLD

Option 1: 10 responses; Option 2: 49 responses; Option 3: 0 responses

There have been no consultation responses for options 1 and 5 that have indicated any potential adverse impact, for people with protected characteristics.

Proposed option (2) **two primary schools with an increase of 10 places across the primary sector, with one secondary school with an increase of 20 places.**

The justification for this will be highlighted as follows:

- It will benefit more families.
- Reduction in travel time and ensuring that the schools remain local to the community that they serve.
- Increase provision for outreach as more expertise is generated.
- Focussed and managed alterations to existing schools has the least impact on the child's health, wellbeing and progress.
- The option supports parental choice regarding the best educational provision for their child.
- Smaller provision enables for a more child and family centred support for very complex issues.

This is reinforced by the following comments:

"One large school would lack the intimacy / nurturing that smaller schools can offer"
Oakwood.

"One school wouldn't support the choice element for parents"
Old Hall.

"Distance is a consideration, particularly with pupils who have complex medical needs in addition to their AS traits."
Old Hall.

"Looking at auditing space within the school to maximise teaching space"
Mary Elliot.

SME

Option 1: 1 response; Option 2: 13 responses; Option 3: 2 responses; Option 4: 4 responses; Option 5: 5 responses (option 3 and 4 are to be merged as they are similar).

There have been no consultation responses for options 1 to 3 and 5 that have indicated any potential adverse impact, for people with protected characteristics.

Proposed option (4) **one school with separate primary, secondary and post 16 departments, with an increase of 10 places across the primary sector.**

The justification for this will be highlighted as follows:

- Consistent ethos for the children within the school.
- Coherence of behaviour management.
- Less costly (long term financial viability of primary school).
- Sharing expertise and resources for all.
- Reduced anxieties for families.

- Improve working relationships within the sector to better support pupils.
This is reinforced by the following comments:

"Transition of pupils will be eased with one provision because the primary pupils would be familiar as they move through the Key Stages"

Staff, Elmwood School

"Teachers could work across all sectors to make the transition easier for all pupils"

Staff, Elmwood Secondary School

"Develop an assessment placement model across the key stages, sharing levels of expertise"

Staff, Phoenix Primary School

MLD

Option 1: 15 responses; Option 2: 42 responses; Option 3: 2 responses

There have been no consultation responses for options 1 and 3 that have indicated any potential adverse impact, for people with protected characteristics.

Proposed option (2) **two primary, secondary and post 16 schools (KS1-KS5) with an increase of 50 places across the sector.**

The justification for this will be highlighted as follows:

- Reduced change and disruption to support a smooth transition.
- Maintains parental choice element to educational establishments.
- Small schools allow for a better relationships.
- Recognises the strengths of both schools in addressing individual's needs.
- Enables KS1 to be correctly identified and placed.

This is reinforced by the following comments:

"Smaller learning environments are best"

Parents, The Jane Lane School

"It would be a good move to get KS1 back, as mainstream schools are struggling"

Staff, The Jane Lane School

"The choice needs to be as important as in mainstream"

Staff, The Jane Lane School

"The introduction of KS1 provision would enable greater support to the pupils"

Parents, Castle Business and Enterprise College

Communication and Interaction

Option 2: 1 response; Option 4: 1 response; Option 5: 3 responses

There have been no consultation responses for options 1 to 4 that have indicated any potential adverse impact, for people with protected characteristics.

Proposed option (5) **four primary ARP's with 45 places (broken down into 15 places for SLI and 30 places for AS); 1 secondary ARP for 10 places (broken**

down into 5 SLI and 5 AS); a secondary AS unit with 25 places and central AS transition support focussing on transition to secondary mainstream (years 6-7).

The justification for this will be highlighted as follows:

- Provision located throughout the borough of Walsall.
- Secondary AS unit very much needed to meet the demand.
- Primary school children stay close to home.
- Expertise is widened.

This is reinforced by the following comments:

“The primaries would have social links and interactions close to home”

Parent

“It would be better to have more than one provision spread across the borough so that pupils wouldn’t have far to travel”

Parent

“Asperger pupils should be stretched by more specialist provision”

Parent

“Early intervention is essential in specialist settings”

Parent

Specific Learning Difficulties

Option 1: 1; Option 2: 2; Other: 2

There have been no consultation responses for option 1 that have indicated any potential adverse impact, for people with protected characteristics.

Proposed option (2) **two secondary ARP’s with 23 places and a centralised support to eligible primary aged pupils and to support all Walsall schools to achieve Dyslexic friendly status.**

The justification for this will be highlighted as follows:

- Addresses the current demand in primary.
- Targets upper KS2 pupils to enable for a smooth transition into secondary.

This is reinforced by the following comments:

“Dyslexia training needs to be monitored and checked”

Parent

“Identifying KS2 pupils would strengthen links with secondary colleagues”

Primary Headteacher

5	How may the proposal affect each protected characteristic or group? The affect may be positive, negative or neutral.			
	Characteristi c	Affect	Reason	Action needed Y or N
	Age	Neutral	No foreseen impact	N
	Disability	Positive	Effective identification of need for all pupils and matching that to appropriate provision will enable greater opportunities for learners to reach their full potential	N
		Negative	The requirement to change schools for existing pupils - travel arrangements and facilities at schools may adversely impact pupils	Y
	Gender reassignment	Neutral	No foreseen impact	N
	Marriage and civil partnership	Neutral	No foreseen impact	N
	Pregnancy and maternity	Neutral	No foreseen impact	N
	Race	Neutral	No foreseen impact	N
	Religion or belief	Neutral	No foreseen impact	N
	Sex	Neutral	No foreseen impact	N
	Sexual orientation	Neutral	No foreseen impact	N
	Other (give detail)			
Further information				
6	Does your proposal link with other proposals to have a cumulative affect on particular equality groups? If yes, give details below.			Yes
	This proposal links to the School Improvement Plan and also an Inclusion Strategy currently being developed			
7	Which justifiable action does the evidence, engagement and consultation suggest you take? (Bold which one applies)			
	A	No major change required		
	B	Adjustments needed to remove barriers or to better promote equality		

	C	Continue despite possible adverse impact
	D	Stop and rethink your proposal

Now complete the action and monitoring plan on the next page

Action and monitoring plan				
Action Date	Action	Responsibility	Outcome Date	Outcome
In progress	Development and launch of Inclusion Strategy	M Morris/K Grandison/M Wiredu		Schools working to inclusive principles, to provide foundation for improved outcomes for pupils with SEN
In progress	Improved school to school/outreach support	SEN review team		More effective sharing of knowledge and strategies that have a proven track record in improving outcomes for pupils with SEN
In progress	Provide support for pupils affected by any change in travel arrangements and facilities at schools	SEN review team		Smooth transition for pupils to new provision
In progress	Ensure that all facilities are accessible for pupils attending new provision	SEN review team		Ensuring access to provision

Update to EqlA	
Date	Detail