



**Walsall Council**

# **Education Overview and Scrutiny Committee**

Meeting to be held on: **06 September 2022 at 6.00 P.M.**

Meeting to be held via: **Council House and Microsoft Teams**

Public access to meeting via: <https://www.walsallcouncilwebcasts.com>

## **MEMBERSHIP**

Chair	Councillor S. Ditta
Vice Chair	Councillor S. Elson
	Councillor B. Bains
	Councillor R. Burley
	Councillor S. Cheema
	Councillor I. Hussain
	Councillor S.B. Hussain
	Councillor A. Hussain
	Councillor P. Kaur
	Councillor L. Rattigan
	Councillor C. Towe

## **NON-ELECTED VOTING MEMBERS**

Lichfield Diocesan Representative	Vacancy
Archbishop of Birmingham's Representative	Vacancy
Parent Governors	Mrs Heena Pathan
	Vacancy
	Vacancy

## **NON-ELECTED NON-VOTING MEMBERS**

Primary Teacher Representative	Ms Sharon Guy
Secondary Teacher Representative	Ms Wendy Duffus

**PORTFOLIO HOLDER:** Councillor Mark Statham – Education and Skills

Democratic Services, Council House, Lichfield Street, Walsall, WS1 1TW  
Contact: Reena Farmah ☎ 01922 654728 E-mail: [reena.farmah@walsall.gov.uk](mailto:reena.farmah@walsall.gov.uk)

## ITEMS FOR BUSINESS

<b>1.</b>	<b>Apologies</b> To receive apologies for absence from Members of the Committee.	
<b>2.</b>	<b>Substitutions</b> To receive notice of any substitutions for a Member of the Committee for the duration of the meeting.	
<b>3.</b>	<b>Declarations of interest and party whip</b> To receive declarations of interest or the party whip from Members in respect of items on the agenda.	
<b>4.</b>	<b>Local Government (Access to Information) Act 1985 (as amended)</b> To agree that the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda (if applicable).	
<b>5.</b>	<b>Minutes</b> To approve and sign the minutes of the meetings held on 30 June 2022.	Enclosed
<b>6.</b>	<b>School Attendance Bill and Children Not in School Bill:</b> The report provides an update the key information contained in the Schools Bill and Schools White Paper that the government have introduced.	Enclosed
<b>7.</b>	<b>Children not in school (attendance, exclusions, elective home education and children missing education):</b> The report provides an update on how Walsall continues to meet its Statutory responsibility in regards to: Attendance, Children Missing Education (CME), Elective Home Education (EHE) and Exclusions.	Enclosed
<b>8.</b>	<b>Fair access and the Fair Access Protocol:</b> The report provides an update on the Primary and Secondary Fair Access Protocols used within the Borough.	Enclosed
<b>9.</b>	<b>Vulnerable Learners Hub (VLH):</b> The report provides an overview of Vulnerable Learners Hub.	Enclosed
<b>10.</b>	<b>Recommendation Tracker</b> To review progress with recommendations from previous meetings.	Enclosed
<b>11.</b>	<b>Areas of Focus</b> To review the Committees Work Programme and the Forward Plans for Walsall Council and the Black Country Executive Committee.	Enclosed
<b>12.</b>	<b>Date of next meeting</b> To note that the date of the next meeting will be 11 October 2022.	

## The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

### Specified pecuniary interests

The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Localism Act 2011 are the interests specified in the second column of the following:

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a member in carrying out duties as a member, or towards the election expenses of a member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Regulations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to a member's knowledge):</p> <p>(a) the landlord is the relevant authority;</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to a member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

## **Schedule 12A to the Local Government Act, 1972 (as amended)**

### **Access to information: Exempt information**

#### **Part 1**

#### **Descriptions of exempt information: England**

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
  - (a) to give any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Information being disclosed during a meeting of an Overview and Scrutiny Committee when considering flood risk management functions which:
  - (a) Constitutes a trades secret;
  - (b) Its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the risk management authority);
  - (c) It was obtained by a risk management authority from any other person and its disclosure to the public by the risk management authority would constitute a breach of confidence actionable by that other person.

## **EDUCATION OVERVIEW AND SCRUTINY COMMITTEE**

**Thursday, 30 June 2022 at 6.00 pm**

**In the Town Hall at the Council House, Walsall**

### **Committee Members present:**

Councillor S. Ditta (Chair)  
Councillor S. Elson (Vice-Chair)  
Councillor R. Burley  
Councillor B. Bains  
Councillor S. Cheema  
Councillor P. Kaur  
Councillor L. Rattigan  
Councillor C. Towe

**Portfolio Holders present:** Councillor M. Statham – Education & Skills

### **Non-elected non-voting Members present:**

Primary Teacher Representative

Secondary Teacher Representative

### **Officers present:**

Sharon Kelly, Director – Access and Inclusions

Rob Thomas, Head of Access

Judith Nash – Head of Service Inclusion

Lorraine Thompson – Head of Virtual School

Jack Thompson - Democratic Services Officer

### **01/22 Apologies**

Apologies for absence were received for Councillors A. Hussain, I. Hussain and S.B. Hussain.

### **02/22 Substitutions**

There were no substitutions.

### **03/22 Declarations of interest and Party Whip**

There were no declarations of interest or party whip for the duration of the meeting

### **04/22 Local Government (Access to Information) Act 1985 (as amended)**

There were no agenda items requiring the exclusion of the public.

### **05/22 Minutes**

Councillor Rattigan requested that she be recorded as in attendance at the meeting on the 31 March 2022.

### **Resolved**

**That the minutes of the meetings held on 17 February and the 31 March 2022, as amended, a copy having previously been circulated, be approved and signed by the Chair as a true and accurate record.**

## **06/22 Areas of Focus 2022-23**

The Chair invited the Portfolio Holder for Education and Skills, Councillor Mark Statham, to give an overview of his priorities for the coming municipal year.

The Portfolio Holder began by thanking the Chair and Members for being invited to meeting. Also, the Portfolio Holder stated that it was the view of the Executive of the Council that Scrutiny was a critical friend and that scrutiny led to positive outcomes for the Council.

The Portfolio Holder highlighted their priorities for the municipal year. These included: Walsall Right 4 Children, adapting to the changes in national legislation and improving the ways the Council achieve positive outcome.

The Director of Access and Inclusion took Members of the Committee through a presentation [Annexed] outlining the services the Council delivered through Access and Inclusion and the upcoming changes to national legislation. During this presentation contributions were made by the Head of Access, Head of Inclusions and Head of the Council's Virtual School.

At the end of the presentation the Chair invited members to ask question to officers and the Portfolio Holder. Some of the responses to the questions included:

- The Department for Education (DfE) expected all schools to become academies or have plans to become academies by 2030. Furthermore, it was still up to governors to decide whether to academize, however, if a school was found to either be 'inadequate' or 'requires improvement' by Ofsted for two concurrent Ofsted inspections, the DfE could issue an order to make a school academize. These orders could now be issued by regional Schools Commissioners on behalf of the Secretary of State for Education. Additionally, the Council was not encouraging schools in the Borough to become academies, rather, it was encouraging schools to work together whether as part of an academy group or school federation;
- In terms of the number of academies compared to maintained schools, the Borough was on par with the rest of the Country. In addition, just like the rest of the Country more of the Borough's Secondary Schools had academized compared to Primary Schools;
- The Borough had become a net importer of children from outside the borough to schools for the first time in many years. The Council was conducting further modelling to ascertain how many places for Secondary Schools were needed;
- The Council was considering the new development taking place under the Black Country Plan and how that might put pressure on amount of school places. Work was being undertaken to review sites for a potential Free School in the borough and no site had been chosen at the time of the meeting, but the Department for Education had selected a preferred site for the school. The new free school was scheduled to open in 2025 though talks were taking place to have temporary accommodation ready for 2023. The school was planned to take in year 7 to start with and then expand year on year and

move to the new building by 2025. In total the school would have 1150 places including a six form;

- The Borough needed reduce the number of absent children from schools as the average was higher than the national and the Councils statistical neighbours. The new Children not in School Bill would set out clear responsibilities for both schools and Local Authorities (LAs). Likewise, the Bill would strengthen the legal fines that could be given to parents and the recourse available to schools. However, officers were keen to stress that the legal responsibility of making sure a child attended school remained with the parents/guardians of the child;
- The Council carried out home visits for those children who did not attend school consistently. Additionally, schools had their own attendance officers to help enforce attendance and the Council had legal oversight of powers regarding attendance;
- There was a post Covid-19 trend for the reason why school absences were high, this was mainly because of anxiety amongst children returning to the classroom. Recently, however, the level of anxiety was decreasing, and schools had done a lot of work on helping to bring those children struggling back into the classroom. There were still some children not returning to school and some schools/areas were still experiencing issues with attendance;
- The Council could influence schools and make change when there was a good a relationship with school leaders. For example, the Council was working with schools through the Schools Forum to try and pool the School Improvement Grant so that money could be targeted to schools who needed it most;
- At the time of the meeting around 12 children from Ukraine had needed school places within the Borough. Not as many Ukrainian families had decided to immigrate to the area as seen with Afghan families. However, the Council had been successful in finding places for children from Afghan families and believed it would be able to find places if more Ukrainian families decided to immigrate to the Borough;
- For Education Health and Care Plans all councils were bound by a 20-week statutory process. Only 53% of EHCP across the country were completed within the 20 weeks. The Council had improved their process over the past few years and at the time of the meeting the Council was processing 52% of its EHCP applications within the 20-weeks statutory period. The Council was also putting in an improvement plan for the annual review of EHCPs;
- At the time of the meeting the outcome of the Ofsted inspection on the Council SEND services was still embargoed and thus could not be commented on;
- Childhood obesity was a problem at schools across the Borough and this was being addressed by the Public Health team at the Council. The Public Health team worked alongside school nurses to help children and families struggling with these issues. Furthermore, the Schools White Paper proposed that schools have food standards, introduce a food curriculum and a food policy;
- Teen Pregnancy was addressed at school level and by the Public Health Team which helped schools by running programmes to help prevent teen pregnancies and to help those who have become pregnant while still at school;

- The Borough was below the national level in terms of the Good Level of Development for Early Years. This was an area which needed greater improvement and would be an area of focus for the Council;
- The Borough had enough nursery places to meet demand and up take of places had reached pre-covid levels;
- The cost-of-living crisis would have a significant effect on children in the borough and their education. The Borough already had a high level of child deprivation and a high number of children living in poverty, these are going to increase during the crisis. Schools will also struggle because of the rise of energy costs which will put pressure on budgets;
- Since 2019 the majority of the schools within the Borough had improved their Ofsted rating or maintained a Good or Outstanding grade. However, it was important to note that these figures can only improve as quickly as schools in the Borough were inspected so the progress appeared slow;
- At the time of the meeting only two schools within the Borough were graded by Ofsted as inadequate. These schools received help from the Council and a team for each school was put in place led by the Council's Challenge Education Consultant and subsequently both schools improved. It was important to note that due to the changes in funding the Council lost the School Improvement Grant in March 2022 and this money was now given to schools.

At the end of the questions the Chair invited the Principal Democratic Services Officer to report on incomplete items from the previous year, budget scrutiny and working groups for the year 2022/23 [Annexed].

The Chair then invited members to contribute items for Committee areas of focus over the coming municipal year. The contributed items were:

- School attendance, School attendance bill and Children not in school bill
- SEND and EHCP (meeting targets), alternative provision green paper
- Briefing on OFSTED when available
- Education and Home Learning
- Fair access to all children
- Transitioning from schools
- Making sure the council has provision in place in terms of the Black Country Plan
- Children not in school (linked to both attendance and elective home education)
- School place planning (linked to provision of school places)
- Walsall Right 4 Children
- Schools White paper
- Education Investment and priority areas
- Improving the number of good and outstanding schools
- Attainment and improving educational outcome

The Principal Democratic Services Officer also noted that Councillor Rattigan's suggestions of teenage pregnancies and overweight children be recommended to the Social Care and Health Overview and Scrutiny Committee as these items fell within its remit.

The Director of Access and Inclusion noted the suggested items from members and suggested that these should be put into themes so that similar or linked items could be



discussed at a future meeting together and would allow members to explore them in more detail.

The Chair agreed to meet with the Director for Access and Inclusion to discuss the themes of future meetings and once these were agreed they would be relayed to members of the Committee.

**Resolved:**

**That:**

- 1. the following items be agreed as the Committees Areas of Focus for 2022/23:**
  - a. **School attendance, School attendance bill and Children not in school bill;**
  - b. **SEND and EHCP (meeting targets), alternative provision green paper;**
  - c. **Briefing on OFSTED when available;**
  - d. **Education and Home Learning;**
  - e. **Fair access to all children;**
  - f. **Transitioning from schools;**
  - g. **Making sure the council has provision in place in terms of the Black Country Plan;**
  - h. **Children not in school (linked to both attendance and elective home education);**
  - i. **School place planning (linked to provision of school places);**
  - j. **Walsall Right 4 Children;**
  - k. **Schools White paper;**
  - l. **Education Investment and priority areas;**
  - m. **Improving the number of good and outstanding schools;**
  - n. **Attainment and improving educational outcome.**
- 2. A copy of the completed work programme for the year be circulated to Members.**
- 3. That the suggested items on teenage pregnancy and overweight children be referred to the Social Care and Health Overview and Scrutiny Committee as potential items**

**07/22 Date of next meeting**

The next meeting would be held on the Tuesday 6 September 2022 at 6pm.

There being no further business this meeting was terminated at 7.24 p.m.

Signed:

Date:

Schools Bill and Schools White Paper

Wards All

Service: Access Service

Portfolio: Councillor Statham

**1. Aim**

The aim of this report provides an update the key information contained in the Schools Bill and Schools White Paper that the government have introduced.

**2. Recommendations**

That the Education Overview and Scrutiny Committee considers the contents of this report and decides whether there should be further information or updates

**3. Report detail**

On 12 May 2022, the government introduced its new Schools Bill. If the bill is passed by parliament as expected, it will bring significant changes to the sector. The provisions set out are consistent with the government's policy direction and principles announced in the Schools White Paper:

<https://www.gov.uk/government/publications/opportunity-for-all-strong-schools-with-great-teachers-for-your-child>

The Schools White Paper sets out a long term vision for a school system that helps every child to fulfil their potential, founded on achieving world class literacy and numeracy. It has targets that, by 2030, 90% of primary school children are meeting the expected standard in reading, writing and maths; and that the average GCSE grades in both English language and maths are raised to 5. It aims to achieve these ambitions by ensuring an excellent teacher for every child; high standards of curriculum, attendance and behaviour; targeted support for every child who needs it; and a stronger and fairer school system that works for every child.

The provisions are not law yet; the bill's progress through parliament has taken several months so far.

Key elements of the bill include:

**Academy trusts**

The bill reflects the government's aim of all schools being part of a multi academy trust (MAT) – or in the process of joining one – by 2030. It focuses on the regulatory framework around MATs, setting out new expected standards and strengthening powers to intervene in 'failing' MATs. The government has provided a 'factsheet' for the proposed increased intervention powers:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1077814/Academy\\_Trust\\_Intervention\\_Powers\\_-\\_Schools\\_Bill\\_Factsheet.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1077814/Academy_Trust_Intervention_Powers_-_Schools_Bill_Factsheet.pdf)

Specific provisions of the bill include:

**A new legal underpinning for enforceable academy trust standards**, replacing the inconsistencies caused by different funding agreements and articles. The government have published a factsheet which covers the new provision:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1082158/Academy\\_Trust\\_Standards\\_-\\_Schools\\_Bill\\_Factsheet\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1082158/Academy_Trust_Standards_-_Schools_Bill_Factsheet_.pdf)

**Setting standards in relation to governance structures and procedures.** This may include new powers to set expectations for the composition of trust boards and their responsibilities as well as the responsibilities of members. The Department for Education (DfE) has stated that this will mostly replicate existing rules.

**A new power for local authorities (LAs) to apply for an academy order** so that one or more of their schools must join a MAT. This means the power to request an academy order no longer rests solely with the governing body. While the governing body must be consulted by the LA (further detail on consultation is likely in forthcoming guidance), the board ultimately has a legal duty to facilitate conversion after the academy order is received. The DfE has published a factsheet setting out their objectives:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1074508/Local\\_authority\\_academisation\\_power\\_-\\_Schools\\_Bill.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1074508/Local_authority_academisation_power_-_Schools_Bill.pdf)

**A clearer set of protections for grammar and faith schools** to ensure they can maintain their status on joining a trust. This moves the protection for a faith school's religious status, and a grammar school's selective status, from contract (the funding agreement) to law.

**New provisions governing the transfer of land by local authorities**, intended to make the academisation process smoother. The government have published a factsheet which covers the new provision:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1074509/Transfer\\_of\\_land\\_by\\_local\\_authorities\\_-\\_Schools\\_Bill.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1074509/Transfer_of_land_by_local_authorities_-_Schools_Bill.pdf)

**A new system of central intervention in trusts and academies judged to be failing.** The starting point for this is the existing "notice to improve" mechanism. Notices are issued by the Education and Skills Funding Agency (ESFA) on behalf of the Secretary of State where trusts are considered to have breached any of their legal and contractual duties (including in meeting the newly defined academy standards) or are displaying "significant weaknesses" in the trust board's governance procedures or management of the trust. If a trust is judged to have failed to comply with a notice to improve, various sanctions are possible, some of which are new.

#### **New failure to comply sanctions**

- The Secretary of State (usually the ESFA) can require the trust to appoint a specific individual as a trustee, or to source a new trustee with a stipulated skillset.

- Termination of the trust's funding agreement, allowing all or some of the trust's schools to be rebrokered (moved to a different trust).
- A new power to impose interim trustees to govern a trust, with similarities to an interim executive board in maintained schools. Key elements of this power include:
  - Once an interim trustee notice is received from the Secretary of State, all previous trustees are immediately removed from office.
  - All interim trustees are appointed by the Secretary of State (or body acting on their behalf, such as the ESFA). There must be a minimum of three interim trustees.
  - Interim trustees can be remunerated, as decided by the Secretary of State.
  - The length of an interim trustee period is determined by the Secretary of State but cannot exceed two years. It will be followed by either the reintroduction of a normally constituted trust board, which has been approved by the Secretary of State, or the termination of the trust's funding agreement.

## **Funding**

The bill acts as a restatement of the government's commitment to implement the National Funding Formula (NFF) – first announced in 2016 – in full. It facilitates new regulations which will gradually reduce the scope of LAs to alter funding, as has previously been announced, so that schools are funded directly in line with the NFF. Further consultation is expected in the near future on transition to a direct NFF.

The government have published a factsheet on the national funding formula reforms:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1077817/National\\_Funding\\_Formula\\_reforms\\_-\\_Schools\\_Bill\\_Factsheet.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1077817/National_Funding_Formula_reforms_-_Schools_Bill_Factsheet.pdf)

## **Attendance**

The bill reflects the government's commitment to improve attendance in schools, with a new obligation for schools and trusts to have an attendance policy in place. This reflects newly published guidance, which comes into force from September:

<https://www.gov.uk/government/publications/working-together-to-improve-school-attendance>

The expectation on schools is:

- Develop and maintain a whole school culture that promotes the benefits of high attendance;
- Have a clear school attendance policy which all staff, pupils and parents understand;
- Accurately complete admissions and attendance registers and have effective day to day processes in place to follow-up absence;
- Regularly monitor and analyse attendance and absence data to identify pupils or cohorts that require support with their attendance and put effective strategies in place;

- Build strong relationships with families, listen to and understand barriers to attendance and work with families to remove them;
- Share information and work together with other schools in the area, the local authority and other partners when absence is at risk of becoming persistent or severe.

The expectation on local authorities is:

- Rigorously track local attendance data
- Have a School Attendance Support Team
- Communication and advice;
- Targeting Support Meetings;
- Multi-disciplinary support for families;
- Legal intervention.
- Monitor and improve the attendance of children with a social worker through their Virtual School

Whilst there are additional expectations on schools and local authorities, there is no additional funding from government to undertake these duties.

### **Safeguarding**

The bill also takes steps to better protect young people, especially those in illegal schools, or those not in school at all. New provisions include:

- New powers for Ofsted to act against illegal schools, and new powers for inspectors when investigating them.
- Clarified rules on when settings need to register as schools, forcing more settings to do so, and so fall under the regulatory framework around schools.
- An expanded remit of the Teaching Regulation Agency, to make it easier to ban unsuitable teachers from the profession.
- A new requirement for LAs to maintain a register of children not in school, alongside a duty on LAs to provide support to home-educating families. This reflects the increase in home education and the number of children whose educational provision is not certain following the COVID-19 pandemic.

### **3.1 Current position:**

The Schools Bill is undergoing its second reading in the report stage in the House of Lords. It was previously intended that its third reading would also be concluded before the summer recess, but this has now been deferred and scheduled for mid-September.

Concern has been expressed about the erosion of freedoms and autonomy of academies and the potential excessive use of power by the Government, with particular reference to the following provisions:

The Government has agreed to support the amendments to oppose these clauses and to remove them from the current draft Bill. They do however propose to bring forward revised proposals in the House of Commons.

In a letter from Baroness Barran to the Lords she stated: "...the Government is also clear that these measures are essential to secure the path to a system in which all schools can benefit from being part of a strong multi academy trust."

Their objective is therefore to introduce revised clauses into the Bill which will secure the move away from a predominantly contract based system and ensure a system where a minimum set of provisions apply. Tighter wording is expected to minimise the potential impact of the powers both in respect of the setting of standards and in respect of intervention and termination rights.

### **The White Paper Ambition**

In the meantime, the Government has indicated its continued commitment to its ambition for 2030 and the following document, 'Implementing school system reform in 2022/23 Next steps following the Schools White Paper May 2022', remains in place:

<https://www.gov.uk/government/publications/implementing-school-system-reform-in-2022-to-2023>

The Schools White Paper sets out a long term vision for a school system that helps every child to fulfil their potential, founded on achieving world class literacy and numeracy. It has targets that, by 2030, 90% of primary school children are meeting the expected standard in reading, writing and maths; and that the average GCSE grades in both English language and maths are raised to 5. It aims to achieve these ambitions by ensuring an excellent teacher for every child; high standards of curriculum, attendance and behaviour; targeted support for every child who needs it; and a stronger and fairer school system that works for every child.

The White Paper outlines how a strong school system will be delivered by schools, trusts, local authorities (LAs), faith bodies and the Department for Education (the Department) working together – setting an ambition for all schools to be in a strong multi-academy trust (MAT), or with plans to join or form one, by 2030.

This implementation framework outlines immediate next steps towards this ambition. It focuses primarily on academic year 2022/23 and is designed to help schools, trusts, LAs and faith bodies, mainly dioceses, think about what they should do next. It contains guidance and information to help planning for the short term and signposts further work the Department will be taking as it moves towards its 2030 ambition.

In this first phase, the priorities are:

**Education Investment Areas (EIAs)**, including **Priority EIAs**, where they will introduce an area based approach to commissioning trusts. These are also the areas where we will focus new powers of statutory intervention in underperforming schools, subject to the outcome of consultation and parliamentary approval.

Area based commissioning will see the DfE working closely with local partners to establish a coherent local organisation of schools based on strong trusts, per our

guidance on building strong academy trusts, and addressing problems of sustained underperformance.

**Test and learn projects** – a small number of projects to set up new LA-established MATs where they are needed; or to respond to local demand to complete the journey to a fully trust led system; or progress at scale, for example in areas where there are large numbers of rural primary schools.

## **EIAs**

Levelling up the United Kingdom announced 55 EIAs – LAs with the lowest rates of combined KS2 and KS4 attainment, existing Opportunity Areas, or areas identified for additional school improvement support. The DfE will focus early attention and financial support on EIAs and will agree an area wide set of priorities developed with partners locally, including school and trust leaders, LAs and faith bodies, mainly dioceses.

EIAs will also benefit from other support, including the Levelling Up Premium for eligible teachers in priority subjects.

The Schools White Paper sets out that, within the 55 EIAs, a subset of 24 areas will become Priority EIAs where we build on this support by offering additional benefits, such as a local needs funding pot of around £40m, a MAT Leadership development programme for aspiring trust leaders and an extension of our Connect the Classroom offer to all schools.

Walsall has been identified as an EIA and a Priority EIA and officers are currently in discussion with the DfE on the structure and timeline on how the EIA will be taken forward.

## **Schools in EIAs consistently rated as less than Good**

Schools that are judged inadequate, be they maintained or academies, are already eligible for intervention. Subject to consultation and parliamentary approval for the necessary regulations, from September 2022 maintained schools and academies that are currently judged as Requires Improvement (RI) by Ofsted, and were also judged below Good in their previous full inspection, may also be in scope.

## **An area based approach to commissioning trusts**

Building a strong trust system which includes all schools means that the DfE must work in a joined up way with local partners, starting in those areas most in need. It means working together to consider the needs of an area, and designing and shaping trust formations and the pattern of provision, so that schools in trusts work together well and are linked into communities. To achieve this, the DfE will adopt an area based approach to commissioning in EIAs. This will focus on quality first, identifying those which are best placed to take on underperforming schools in these areas.

## **Converting remaining schools and moving to a fully trust led system in a local area**

The pattern of school structure and organisation across the country is mixed. In some areas, the great majority of schools are now academies. The White Paper announced that, subject to parliamentary approval, we will introduce new powers

enabling the Secretary of State to bring an LA's maintained schools into the academy system where requested by an LA. In these areas, there is an opportunity to move more quickly to a fully trust led system.

### **Next steps**

Once the Schools Bill has passed through parliament and enters the statute books then the LA will review the legislation and ensure members are updated. Regular reports to members on both the Schools bill and Schools White Paper implications can be added to the work plan for this commission.

#### **4. *Financial information***

The bill acts as a restatement of the government's commitment to implement the National Funding Formula (NFF) – first announced in 2016 – in full. It facilitates new regulations which will gradually reduce the scope of LAs to alter funding, as has previously been announced, so that schools are funded directly in line with the NFF. Further consultation is expected in the near future on transition to a direct NFF.

The government have published a factsheet on the national funding formula reforms:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1077817/National\\_Funding\\_Formula\\_reforms\\_-\\_Schools\\_Bill\\_Factsheet.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1077817/National_Funding_Formula_reforms_-_Schools_Bill_Factsheet.pdf)

#### **5. *Reducing Inequalities***

The government's aim is to reduce inequalities across the educational sector. The white paper marks the start of a journey towards an education system in which all children benefit from the high standards of the best schools and families of schools, bringing them closer to achieving their literacy and numeracy missions year by year. It will form part of a wider programme of change, alongside the SEND Review, Independent Care Review, Skills for Jobs White Paper and Levelling Up White Paper.

#### **6. *Decide***

Scrutiny may decide to note the current position.

The Committee may decide to request further information or assurance in respect of the progress of the Schools Bill and Schools White Paper.

#### **7. *Respond***

Any recommendations made by the Committee will be assessed against the Access and Inclusion work programme and performance board.

#### **8. *Review***



All areas are under constant monitoring and assessment via Children's Services Performance Board.

### **Background papers**

None

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**Attendance, Children Missing Education,  
Elective Home Education and Exclusions Update**

**Wards** All

**Service:** Access Service

**Portfolio:** Councillor Statham

**1. Aim**

The aim of this report provides an update of on how Walsall continues to meet its statutory responsibility in regards to:

- Attendance
- Children Missing Education (CME)
- Elective Home Education (EHE)
- Exclusions

**2. Recommendations**

That the Education Overview and Scrutiny Committee considers the contents of this report and decides whether there should be further information or updates

**3. Report detail**

**Attendance - overview**

The law entitles every child of compulsory school age to an efficient, full-time education suitable to their age, aptitude, and any special educational need they may have. It is the legal responsibility of every parent to make sure their child receives that education either by attendance at a school or by education otherwise than at a school. Where parents decide to have their child registered at school, they have an additional legal duty to ensure their child attends that school regularly. The usual rules on school attendance continue to apply, including:

- parents' duty to ensure that their child of compulsory school age attends regularly at the school where the child is a registered pupil
- schools' responsibilities to record attendance and follow up absence
- the ability to issue sanctions, including fixed penalty notices, in line with local authorities' codes of conduct
- the duty on local authorities to put in place arrangements for identifying, and to follow up with, children missing from education.

Schools are expected to:

- Promote good attendance and reduce absence, including persistent absence.
- Ensure every pupil has access to full-time education to which they are entitled.

- Act early to address patterns of absence

## Attendance – Department for Education (DfE) Data

The pandemic highlighted the importance of regular data sharing and therefore the DfE has been working to establish a better, timelier flow of pupil level attendance data across schools, trusts, local authorities, and DfE, without placing any additional administrative burdens on schools. Once fully established, this will allow data to be collected directly from all schools' electronic registers. Collection happens via a secure data aggregator at no cost to schools and without requiring any manual inputting of information. Following a voluntary trial earlier this year, all schools are now strongly advised to sign up to this service, which the Secretary of State intends to make a statutory requirement when parliamentary time allows.

Longer term, DfE's intention is for this new method of data sharing to replace existing statutory data returns to local authorities and DfE, including the school census. This will improve the collective understanding of attendance patterns at local, regional, and national levels to identify issues and challenges more quickly.

### Academic year 2020/21 - full-year statistical release

This release looks at pupil absence across the 2020/21 academic year. For the majority of the spring term, only children of critical workers and vulnerable pupils could attend school during the period of lockdown from 4 January 2021. Restrictions were lifted on attendance from 8 March 2021 for all other pupils, four school weeks prior to the end of term.

Due to the disruption faced during the spring term, caution should be taken when comparing data across terms and to previous years.

		Authorised absence rate	Unauthorised absence rate	Overall absence rate	Percentage of persistent absentees (10% or more missed)
England		3.4%	1.3%	4.6%	12.1%
West Midlands		3.5%	1.4%	4.9%	13.2%
North West	Bolton	3.1%	1.2%	4.3%	10.5%
	Rochdale	3.4%	1.9%	5.3%	14.7%
	Tameside	2.7%	1.4%	4.2%	10.2%
Yorkshire and The Humber	Kirklees	3.6%	1.2%	4.8%	12.8%
East Midlands	Derby	3.2%	1.6%	4.8%	13.2%
West Midlands	Dudley	3.5%	1.5%	4.9%	13.8%
	Sandwell	2.9%	1.7%	4.6%	12.0%
	Stoke-on-Trent	3.3%	2.1%	5.4%	15.6%

	Telford and Wrekin	3.6%	1.2%	4.8%	13.1%
	Walsall	3.5%	1.9%	5.4%	14.9%
East of England	Peterborough	3.4%	1.3%	4.7%	12.5%

#### Autumn 2021 – latest statistical release

This data looks at pupil absence in the autumn term 2021. Where a pupil was not attending in circumstances relating to coronavirus (Code X), schools were expected to provide immediate access to remote education. For the autumn term 2021, this category should mostly have been used to record where a pupil was absent from school with symptoms of COVID-19 whilst awaiting the results of a test. This differs to previous terms when this code was also used where pupils were advised to shield, were quarantining after returning from abroad, or were in class bubbles advised to isolate. Throughout the pandemic, schools were advised to record pupils with a confirmed case of COVID-19 as absent due to illness (Code I).

		Authorised absence rate	Unauthorised absence rate	Overall absence rate	Percentage of persistent absentees
England		5.3%	1.6%	6.9%	23.5%
West Midlands		5.3%	1.7%	7.0%	24.3%
North West	Bolton	4.8%	1.5%	6.3%	20.3%
	Rochdale	4.5%	2.5%	7.0%	23.7%
	Tameside	4.6%	2.1%	6.6%	22.0%
Yorkshire and The Humber	Kirklees	5.0%	1.5%	6.5%	22.1%
East Midlands	Derby	5.0%	1.8%	6.9%	22.7%
West Midlands	Dudley	5.5%	1.7%	7.2%	26.1%
	Sandwell	4.4%	2.2%	6.6%	22.3%
	Stoke-on-Trent	4.4%	2.8%	7.3%	25.3%
	Telford and Wrekin	5.8%	1.5%	7.3%	27.1%
	Walsall	4.7%	2.2%	6.9%	23.6%
East of England	Peterborough	5.5%	1.6%	7.1%	25.5%

#### Attendance – Statutory Responsibilities of the Local Authority

The DfE issued a new guidance document called 'Working together to improve school attendance' which was published in May.

From September 2022 this document will replace all previous guidance on school attendance for maintained schools, academies, independent schools, and local

authorities with the exception of the existing statutory guidance on parental responsibility measures.

The guidance reinforces that to successfully treat the root cause of absence and to remove barriers to attendance, at home, in school and more broadly requires schools and local partners to work together with, and not against families.

The expectation on schools is:

- Develop and maintain a whole school culture that promotes the benefits of high attendance;
- Have a clear school attendance policy which all staff, pupils and parents understand;
- Accurately complete admissions and attendance registers and have effective day to day processes in place to follow-up absence;
- Regularly monitor and analyse attendance and absence data to identify pupils or cohorts that require support with their attendance and put effective strategies in place;
- Build strong relationships with families, listen to and understand barriers to attendance and work with families to remove them;
- Share information and work together with other schools in the area, the local authority and other partners when absence is at risk of becoming persistent or severe.

The expectation on local authorities is:

- Rigorously track local attendance data
- Have a School Attendance Support Team
- Communication and advice;
- Targeting Support Meetings;
- Multi-disciplinary support for families;
- Legal intervention.
- Monitor and improve the attendance of children with a social worker through their Virtual School

The Secretary of State has committed to this guidance becoming statutory and the guidance will be updated and reissued ahead of the academic year 2023-24.

### **Children Missing Education (CME)**

Children are classed as 'Children Missing Education' if they are compulsory school age and not registered at a school and are not receiving suitable education otherwise than at a school. Children are of compulsory school age from the start of the first school term after their fifth birthday until the last Friday in the June of the academic year in which they turn 16 years of age.

Children Missing Education (CME) are distinct from Children Missing from Education (CMfE). This term is used to refer to children who are on roll at a school but not attending regularly or full time.

Children missing education are at significant risk of underachieving, being victims of harm, exploitation, or radicalisation, and becoming part of the NEET cohort (not in education, employment or training) once these cease to be compulsory school age.

Effective information sharing between parents, schools, local authorities, and other agencies is critical to ensuring that all children of compulsory school age are safe and receiving suitable education.

Local Authorities have a legal duty under section 436A of the Education Act 1996 to decide to identify children missing education. Local Authorities should consult the parents or carers of a child when trying to establish whether a child is in receipt of a suitable education. Those children identified as not receiving suitable education should be returned to full time education either at a school or in alternative provision.

A child can become open to Walsall Local Authority as a child missing education (CME) for a variety of reasons. These can include Children and Young People who:

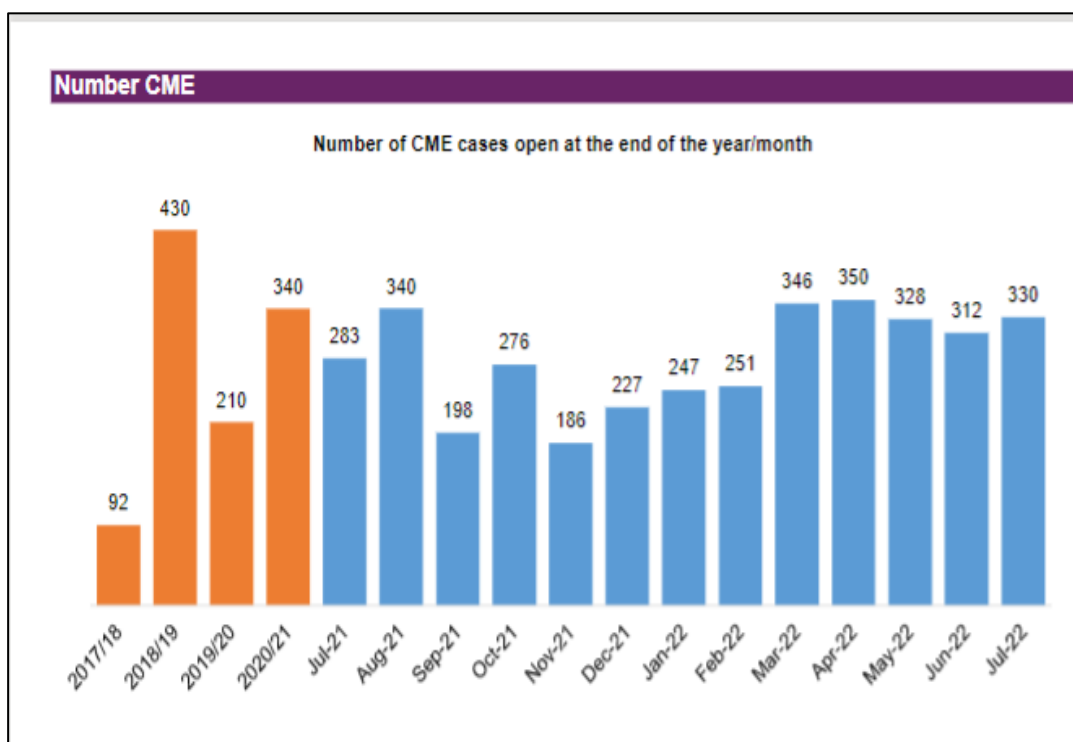
- move to Walsall from a different local authority area or from outside the UK and are unable to secure a school place that is within a reasonable distance of their new home address via either primary or secondary mid-year process.
- fail to take up the school place that is offered to them via the phased admissions process, the mid-year admissions process or Walsall's Fair Access Process.
- are removed from a school roll after a long period of unexplained absence, or after failing to return from an extended or unauthorised holiday.
- have previously been open to the local authority as being electively home educated (EHE) but are deemed by the local authority not to be in 'receipt of a satisfactory education.'
- who are Walsall residents and have who have been permanently excluded from school. In these circumstances, the local authority will open these children and young people as missing education whilst ensuring that appropriate six-day provision is secured for pending the outcome of the governing body hearing process and decision.
- have an Education, Health, and Care Plan (EHCP) and for whom the local authority is unable to secure a permanent education provision that can meet their special educational needs. In these circumstances, the local authority will put in place temporary tuition, but the child will still be opened as child missing education until suitable permanent education provision can be secured via the EHCP consultation process.

### **Walsall Children Missing Education Process**

When a child is opened to CME they are allocated a caseworker and become subject to the local authority's monitoring procedures, working closely with the school admissions team an offer where possible will be made through the midyear admission process. Failing a place being able to be offered through the midyear admissions process the child will be taken the ether the Primary or Secondary Fair Access Protocol. If a child does not taken up an allocated school place then the CME team will establish the reasons for this.

- If a school is refusing to admit a child then the matter will be escalated in accordance with the Department for Education's direction to admit process.
- If a parent is refusing to take up the offer of a school place then the matter will be escalated via the school attendance order process.
- Any child that is open to Walsall CME must be seen by a relevant lead professional on a regular basis or the CME team will commission the education welfare service to undertake a home visit every 20 days or more regularly if deemed appropriate.

Walsall currently have 330 children open to CME as per the month of July 2022. During the summer period, the figure may increase as whilst parent/careers can still submit midyear admission applications they cannot be processed until the schools return following the summer break.



The majority of cases that are opened as children missing education are for children who are New to the UK or moved from another borough. Of the 330 cases from July 2022 there were 89 from another borough and approximately 150 who were new to the UK. All New to UK applications are immediately open to CME.

The recent Ofsted Inspections of Walsall local authority children's services and SEN reports noted

*An inclusion policy and enhanced tracking and monitoring of vulnerable pupils' attendance are now in place. Leaders know where children are and provide comprehensive support if they are not in school.*

*The children missing education (CME) team ensure regular multi-disciplinary oversight of those pupils who are not attending an educational setting. For example, professionals within the speech and language therapy team help families accurately understand pupils' needs so appropriate provisions can be identified. Regular meetings with senior officers in the local partnership keep the profile of these children and young people with SEND high.*

## **Elective Home Education (EHE)**

Elective Home Education (EHE) is the term that is used to describe a choice by parents to provide education for their children at home or in some other way they desire, instead of sending them to school full time. There is only a voluntary register for EHE. If a child has never attended school parents have no legal obligation to notify the local authority or to seek consent if they intend to home educate their child. If a child is withdrawn from school for EHE the school has an obligation to notify the local authority.

The local authority has a statutory duty (under s.436A of the Education Act) to make arrangements to enable it to establish the identities, so far as it is possible to do so, of children in its area who are not receiving a suitable education. We do this by working closely with various partners including: parents, school admissions (including children missing education and pupil tracking teams), special educational needs, Educational Welfare, Data matching Team, Black Country Impact, local schools & colleges, school health, Black Country consortium, early help, educational psychologists, social workers, and other neighbouring authorities.

The EHE service is responsible for identifying and recording compulsory school aged children who are home educated. The service also makes enquiries as to whether that education satisfies legal requirements. If it is deemed that the educational provision at home is unsuitable we also have robust processes to return the child/young person to school.

### **Walsall Elective Home Education Service**

There is a significant reduction in the number of new EHE registrations. 261 new cases were opened in the academic year 2020/21 in comparison to 204 this academic year. This has been achieved by early Intervention and working collaboratively with other services and schools.

In order to meet the demands of Covid-19, which led to an increase in EHE enquiries and registration, the service has expanded its staffing, and now has an emotional literacy support officer within the team who offers face to face, virtual and group sessions for those children who are identified as experiencing emotional or mental health concerns. The emotional literacy support has been utilised to support reintegration back to school, referrals to school health etc. and to support parents to fulfil their responsibility to provide a suitable and full-time education. The weekly sessions that the emotional literacy support officer implements also means that we have a greater oversight of EHE children. A greater oversight of EHE children has also been achieved by completing more interim reviews than ever before which has in turn led to a marked increase in children being reintegrated back to school when the educational provision has been judged to be unsuitable.

The service has strengthened joint working with other professionals and raised the profile of EHE and has delivered training for health visitors, the Special Educational Needs service, school nursing and early help.



The most vulnerable children including those under a Child Protection (CP), Child In Need Plan (CIN) or those receiving Early Help (EH) or in receipt of an EHCP are offered additional support and guidance as we contribute to all of the relevant meetings and review all EHCPs on a termly basis.

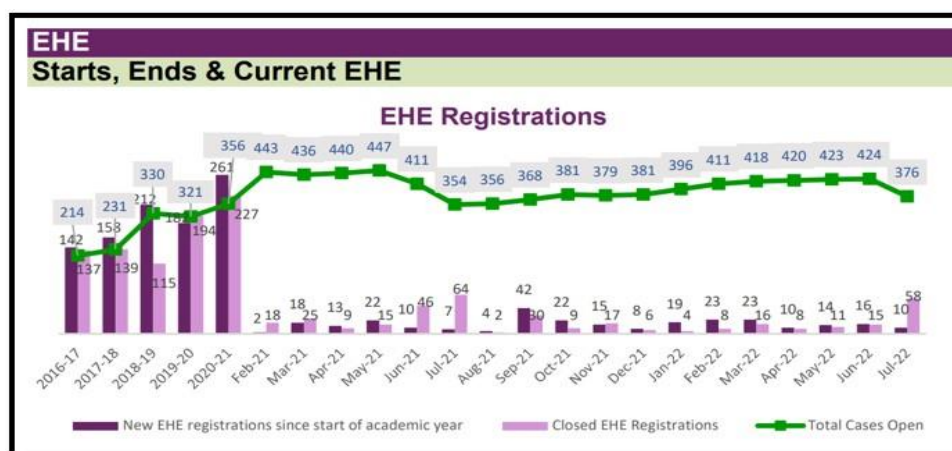
The service has developed and implemented a new EHE policy and processes (See Appendix A.)

The recent Ofsted Inspections of Walsall local authority children’s services and SEN reports noted

*There is robust oversight of children who are electively home educated (EHE).*

*There is strong partnership working with schools through a new EHE policy and positive relationships with families.*

*Leaders know where children are and provide comprehensive support if they are not in school.*



The above graph illustrates the success of the early intervention as the actual number of new EHE registrations is substantially lower.

## Exclusions

For many pupils, exclusions may not be necessary, as other strategies can manage behaviour. However, if approaches towards behaviour management have been exhausted, then suspensions and permanent exclusions will sometimes be necessary as a last resort. This is to ensure that other pupils and teaching staff are protected from disruption and can learn in safe, calm, and supportive environments.

Schools and local authorities should not adopt a ‘no exclusion’ policy as an end in itself. This can lead to perverse incentives for schools not to exclude even when exclusion may be a way for a pupil to access Alternative Provision which will help ensure an excluded pupil remains engaged in education. In some cases, a ‘no exclusion’ policy can present safeguarding issues and expose staff and pupils to unreasonable risks. Instead, schools and local authorities should work to create environments where school exclusions are not necessary because pupil behaviour does not require it.

## Walsall School Exclusions

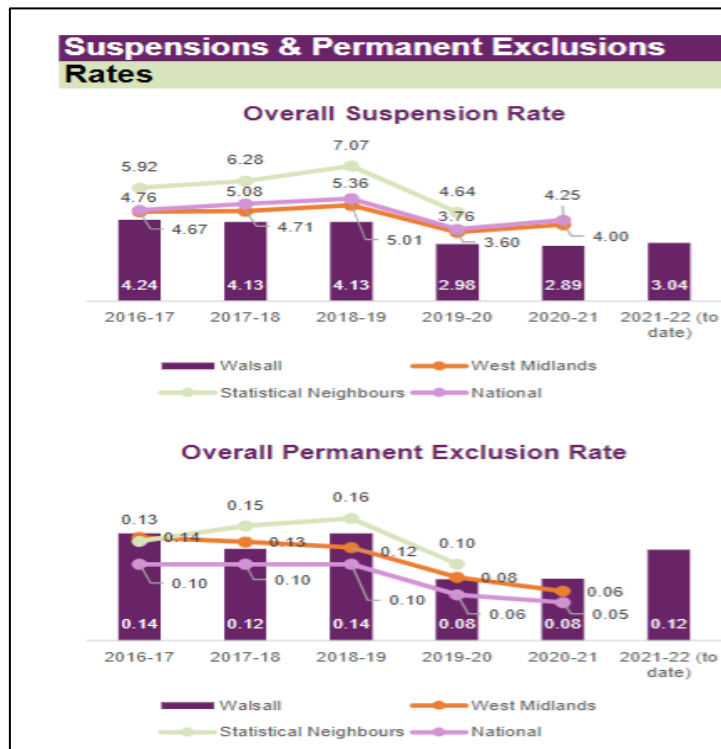
The Local Authority's Placement Panel meets on a weekly basis to consider all permanent exclusions of Walsall resident children and young people both from Walsall school and schools in other LA areas.

As part of our engagement with schools to review existing and to help reduce future exclusions, officers from both Access and Inclusion and the Early Help Service have reviewed and updated Walsall's existing exclusion policy and processes.

This is to ensure there is clarity about:

- The processes that need to be followed by both schools and the Local Authority in terms of notifying all relevant parties about suspensions (fixed period) and permanent exclusions.
- the levels of support that should be provided by both the Local Authority and Walsall schools to children, young people and their parent and carers prior to, at the point of and post exclusion, dependent on whether the exclusion is fixed period or permanent.
- The level of support and, where appropriate, challenge that should be provided by the Local Authority to schools prior to, at the point of and, post exclusion, dependent on whether the exclusion is fixed period or permanent Plan and SEN Support Permanent

The 2020-21 academic year was interrupted by the second national lockdown. Schools remained open for vulnerable children and children of key workers and all other children were learning remotely. While permanent exclusions and suspensions were still possible throughout the academic year, school closures have had a substantial effect on the number of permanent exclusions and suspensions and therefore caution should be taken when comparing figures across years. The last complete year that was not impacted by national lockdowns was 2018-19 which has been added for comparison



**Suspensions** - Overall suspensions for Walsall during the first three years were stable at 4.24, 4.13 and 4.13 percent, however, this decreased in 2019-20 to 2.98 percent and again in 2020-21 to 2.89 percent. National and West Midlands rates were slightly higher than Walsall for each of the first four years showing a small upward trend during the first three years before a drop in 2019-20. Statistical neighbours also followed the national trend increasing year on year for the first three years before dropping in 2019-20, however, at a much higher rate than Walsall. The decreases in 2019-20 and 2020-21 were expected and driven by the effects of the national lockdowns. The suspension rate for 2021-22 (September 2021 to July 2022) shows a slight increase of 0.15 percent to 3.04.

**Permanent Exclusions** - Overall permanent exclusions for Walsall for the first three years were stable at 0.14, 0.12, and 0.14 percent before dropping to 0.08 in 2019-20 and remaining at that rate in 2020-21. Both national, West Midlands, and statistical neighbours followed the same trend and at a very similar rate to Walsall between 2016-17 and 2019-20. The decreases in 2019-20 and 2020-21 were expected and driven by the effects of the national lockdowns. The permanent exclusion rate for 2021-22 (September 2021 to July 2022) shows a slight increase of 0.04 percent to 0.12.

The recent Ofsted Inspections of Walsall local authority children's services and SEN reports noted

*Since 2019, there has been a reduction in suspensions (fixed-term exclusions) and permanent exclusions for pupils with SEND support and those with EHC plans. The development of Walsall's Vulnerable Learner's Hub to support children and young people at risk of permanent exclusion is a positive step forward. The hub provides support, challenge and strategies to help children, young people and schools. For example, experienced headteachers with a track record of preventing suspensions and exclusions work with headteachers of other schools. Consequently, a growing number of potential permanent exclusions have been avoided.*

#### **4. Financial information**

There are no direct financial implications of the report but all pupils who are permanently excluded from schools go 'on roll' at the New Leaf Centre for assessment and provision of education. The funding for New Leaf comes from the High Needs Block of the Dedicated Schools Grant through the high needs local funding formula.

#### **5. Reducing Inequalities**

The principal objective of the local authority is to continue to identify characteristics of good practice in addressing inequalities in elective home education, with particular attention to the following factors, gender, ethnicity, and Special Educational Needs (SEN).

Our aim is to work towards the position where the needs of all young people are addressed in school or alternative provision and parents are only electing to home educate as a positive choice rather than being evoked due to dissatisfaction or conflict with schools

## 6. Decide

Scrutiny may decide to note the current position.

The Committee may decide to request further information or assurance in respect of the progress of elective home education.

## 7. Respond

Any recommendations made by the Committee will be assessed against the Access and Inclusion work programme and performance board.

## 8. Review

All areas are under constant monitoring and assessment via Children's Services Performance Board.

## Background papers

- Scrutiny Paper – Update on Elective Home Education – January 2021
- Scrutiny Paper – Exclusions – November 2020
- Scrutiny Paper – Education Welfare -

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**Fair Access Protocol Update**

**Wards** All

**Service:** School Admissions and Appeals Team, Access Service

**Portfolio:** Councillor Statham

**1. Aim**

The aim of this report is to provide the Education Scrutiny and Overview Committee with an update on the Primary and Secondary Fair Access Protocols that Walsall utilise.

**2. Recommendations**

That the Education Overview and Scrutiny Committee considers the contents of this report and decides whether any further information or updates are required

**3. Report detail**

A parent can apply for a place for their child at any school at any time. All applications must be processed by the relevant admission authority in accordance with the School Admissions Code 2021.

When applications are made outside the normal admissions they are considered in-year applications. Where it can be demonstrated that reasonable measures have been taken to secure a school place through the usual in-year admissions process and this has not been successful, or where a school place has not been sought due to exceptional circumstances, a child may be eligible for referral to the Fair Access Protocol (FAP).

The purpose of a FAP is to ensure that vulnerable children, and those who are having difficulty in securing a school place in-year, are allocated a school place as quickly as possible, minimising the time the child is out of school.

Every local authority must have a FAP in place. Once it has been agreed by most schools in its area, all admission authorities must participate in it. FAPs should provide a fair and transparent system to ensure that all schools share the collective responsibility of helping the most vulnerable, by admitting their fair share of children being placed.

The FAP can only be used to place the following categories of children, where a child is having difficulty in securing a school place in-year, and it can be demonstrated that reasonable measures have been taken to secure a place through the in-year admissions process:

- a) children either subject to a Child in Need Plan or a Child Protection Plan or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the FAP;
- b) children living in a refuge or in other Relevant Accommodation at the point of being referred to the FAP;

- c) children from the criminal justice system
- d) children in alternative provision who need to be reintegrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education.
- e) children with special educational needs (but without an education, health, and care plan), disabilities or medical conditions.
- f) children who are carers.
- g) children who are homeless.
- h) children in formal kinship care arrangements.
- i) children of, or who are, Gypsies, Roma, Travellers, refugees, and asylum seekers.
- j) children who have been refused a school place on the grounds of their challenging behaviour and referred to the FAP in accordance with paragraph 3.10 of the Code.
- k) children for whom a place has not been sought due to exceptional circumstances.
- l) children who have been out of education for 4 or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted; and
- m) previously looked after children for whom the local authority has been unable to promptly secure a school place.

Walsall has updated its existing Fair Access Protocols – Appendix A and B for the new academic year 2022/23. These protocols will be shared with Primary and Secondary head teachers at the start of Autumn Term 2022 and will immediately be used as the guidance on how to place children.

### 3.1 FAP data

During the 2021/22 academic year, there were 146 pupils allocated to schools via the Primary FAP and 202 pupils allocated to schools via the Secondary FAP. The breakdown of allocations by main reason are below.

Primary School FAP		
<b>FAP Category (main reason for allocation reported)</b> Children will fall into more than one category but the majority come to FAP as parent has been unable to secure a secondary school place - regardless of additional characteristics.		Total number allocated a school place via FAP
A	Children either subject to a Child in Need Plan or a Child Protection Plan or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the FAP.	1
B	Children living in a refuge or in other Relevant Accommodation at the point of being referred to the FAP.	0
C	Children from the criminal justice system children in alternative provision who need	0

	to be reintegrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education.	
D	Children in alternative provision who need to be reintegrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education.	0
E	Children with special educational needs (but without an education, health, and care plan), disabilities or medical conditions.	3
F	Children who are carers.	0
G	Children who are homeless.	0
H	Children in formal kinship care arrangements.	2
I	Children of, or who are, Gypsies, Roma, Travellers, refugees, and asylum seekers.	0
J	Children who have been refused a school place on the grounds of their challenging behaviour and referred to the FAP in accordance with paragraph 3.10 of the Code.	0
K	Children for whom a place has not been sought due to exceptional circumstances.	1
L	Children who have been out of education for 4 or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted.	139

Secondary School FAP		
<b>FAP Category (main reason for allocation reported)</b> Children will fall into more than one category but the majority come to FAP as parent has been unable to secure a secondary school place - regardless of additional characteristics.		Total number allocated a school place via FAP
A	Children either subject to a Child in Need Plan or a Child Protection Plan or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the FAP.	0
B	Children living in a refuge or in other Relevant Accommodation at the point of being referred to the FAP.	0
C	Children from the criminal justice system children in alternative provision who need to be reintegrated into mainstream education or who have been permanently	0

	excluded but are deemed suitable for mainstream education.	
D	Children in alternative provision who need to be reintegrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education.	0
E	Children with special educational needs (but without an education, health, and care plan), disabilities or medical conditions.	1
F	Children who are carers.	0
G	Children who are homeless.	0
H	Children in formal kinship care arrangements.	3
I	Children of, or who are, Gypsies, Roma, Travellers, refugees, and asylum seekers.	3
J	Children who have been refused a school place on the grounds of their challenging behaviour and referred to the FAP in accordance with paragraph 3.10 of the Code.	0
K	Children for whom a place has not been sought due to exceptional circumstances.	0
L	Children who have been out of education for 4 or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted.	195
M	Previously looked after children for whom the local authority has been unable to promptly secure a school place.	0

#### **4. Financial information**

There are no financial issues about the Fair Access Protocol.

#### **5. Reducing Inequalities**

In relation to the Marmot principles the most relevant principles in line with the Fair Access Protocol is to enable all children and young people to maximise their capabilities and meet their needs and improve educational outcomes.

#### **6. Decide**



The Committee may decide to note the current position and request further information or assurance in respect of the progress of the Fair Access Protocol.

## **7. Respond**

Any recommendations made by the Committee will be assessed against the Access and Inclusion planned work and performance board programmes.

## **8. Review**

The work of the School Admissions and Appeals team is subject to constant monitoring and assessment via the Children's Services Performance Board process.

### **Background papers**

Fair Access Protocols (2021)

### **Contact Officer(s)**

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## Primary Fair Access Protocol 2022/23

### Background

- 1.1. The School Admissions Code (2021) <sup>1</sup>sets out the mandatory requirements of the admissions process. The Code is clear that all local authorities and admissions authorities are required to have a Fair Access Protocol and that all schools and academies must participate in their local authority's protocol in order to ensure that all children and young people, especially those that are deemed as 'vulnerable or hard to place' are offered a place at a suitable school as quickly as possible. This includes admitting children above published admission number to schools that are already full.
- 1.2. The School Admissions Code 2021 also makes it clear that local authorities must ensure that no school –including those with places available- is asked to take a disproportionate number of children and young people who have been excluded from other schools, or who have challenging behaviour, under the Fair Access Protocol.
- 1.3. This protocol has been devised in accordance with relevant provisions of the School Admissions Code (2021).

### 2. Aims of the Protocol

- 2.1. This protocol is designed to:
  - a. to support the members of the Fair Access Panel to take a child and family centered approach when placing children in accordance with the protocol;
  - b. ensure that all schools within Walsall admit children and young people, including those who are deemed as 'unplaced and vulnerable and those who are having difficulty securing a school place' on a fair and transparent basis in accordance with the requirements of the School Admissions Code (2021);
  - c. acknowledge the need for vulnerable young people who are seeking a school place to be dealt with quickly and empathetically;
  - d. to be fair and transparent, and have the confidence of all schools in Walsall;
  - e. ensure that all Walsall schools and academies admit a fair and equitable share of pupils under the protocol whilst taking account of the geographical and logistical constraints of the Borough.

### 3.0. Main Principles of Walsall's Fair Access Protocol

- 3.1 This protocol will apply to all mainstream primary schools and academies in Walsall.
- 3.2 The protocol should not be used to circumvent the mid-year year admissions process.

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<sup>1</sup> Schools Admissions Code, May 2021, [www.gov.uk](http://www.gov.uk)



- 3.3 Schools will exceed their published admission number where necessary in order to admit pupils under the protocol.
- 3.4 Pupils identified for placement under the Fair Access Protocol will be given priority over those on waiting lists for the same school;
- 3.5. Whilst acknowledging that there is no requirement to comply with parental preference when placing a child under the Fair Access Protocol the Panel will recognise that parental preference is an indicator of potential placement sustainability and will try to take this into account wherever possible.
- 3.6. The panel will endeavour to take a child and family centred approach when identifying a school placement and wherever possible will allocate the child a place in the locality area in which the child lives whilst also taking account of the statutory home to school walking distances for primary school aged children as follows: <sup>2</sup>
- 2 miles for children up to the aged of eight
  - 3 miles for children over the age of eight
- 3.7. The allocation of pupils should be equitable, with no one school or Academy being required to take a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour;
- 3.8. Placement of a child with challenging behaviour must not be unduly delayed due to a lack of SEN assessment data as per paragraph 3.13 of the School Admissions Code (2021) below.
- “Admission authorities must not refuse to admit a child thought to be potentially disruptive, or likely to exhibit challenging behaviour, on the grounds that the child is first to be assessed for special educational needs.”

#### **4.0. Primary Phase Mid-Year Admissions**

- 4.1. The majority of pupils should be admitted to Walsall Schools via the Primary Mid-Year Admissions Process. This process is co-ordinated by the Local Authority’s Admissions and Appeals team and all Schools and Academies must act in accordance with the Walsall’s Primary Mid-Year Admissions Procedure.

#### **5. Criteria to be used to identify pupils to be placed under the Fair Access Protocol**

- 5.1. The Fair Access Protocol does not apply to looked after children, or children with an Education, Health and Care Plan (EHCP) as these children must be admitted in accordance with relevant schools admissions and placement process as set out below.

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<sup>2</sup> [Department for Education \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk)



- 5.2. Children who are looked after must be admitted in accordance with Walsall's admissions process for looked after children. . **Any consideration of a school move for a looked after child must be preceded by a Personal Education Plan (PEP) review**
- 5.3. **Children who have an Education Health and Care Plan must be admitted in accordance with the ECHCP process and any consideration of a school move for a child with an EHCP plan must be preceded by EHCP review.**
- 5.4. In order to facilitate this the swift and efficient placement of children via the Primary Fair Access Protocol the following data will be made available to the panel at each meeting:
- The number of children that have been admitted to each primary school under the Fair Access Protocol per year group. The Local Authority is working to develop a new FAP credit sheet which will enable the FAP Panel and each relevant school to see the names of all children that have been placed at that school including date of allocation and date of admission of all children who have been placed at a particular school. The FAP credit sheet will be updated each at each FAP meeting and will be adjusted to take account of pupils that were previously allocated via FAP but are no longer on roll at a particular school.
  - The FAP credit sheet will also highlight the number children who have been admitted to each school that have been previously excluded or are deemed to have a history of challenging behavior as set out in paragraph 5.5 j. below.
  - The FAP credit sheet will also highlight the number of children that have been admitted to schools under each of the FAP criteria. This is to enable the panel to begin to develop a graduated approach to making FAP allocations. For instance if a child has placed at a school via FAP because they were unable to secure a place via the mid-year process due of lack of place availability then the potential impact on the pupil and the school is different to a situation where a child has been placed at school under the 'challenging behavior' criteria.

Note: this will be an area that the newly constituted FAP panel will continue to develop during the forthcoming academic year and will explore possibility of tying in with the banding as provided in the SEN guidance document. PNS will be provided with regular updates as appropriate.

- The FAP credit sheet will start afresh each academic year but numbers of children allocated to each school from previous academic years will be available as a further tool to assist the panel with decision making.
- Latest vacancy information and numbers on roll for each school per year group will also be provided to the Primary FAP Panel at each meeting. It is intended that this information will serve two purposes:



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- To re-assure FAP panel members that there is no scope for the children to be placed via the mid-year admissions process
- To support the Primary FAP panel with decision as the panel may decide to pro-rata FAP allocations in relation the size of the school i.e. schools that 2+ forms of entry may be expected to admit more FAP children.

5.5. Please note that the revised School Admissions Code 2021 does not permit the inclusion of any locally agreed FAP criteria as was previously the case. Given this the Walsall Primary Fair Access Protocol may only be used to place the following groups of vulnerable and/or hard to place children, where they are having difficulty in securing a school place in-year and it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedures.<sup>3</sup>

- a). children either subject to a Child in Need Plan or a Child Protection Plan or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the Protocol;
- b). children living in a refuge or in other Relevant Accommodation at the point of being referred to the Protocol;
- c). children from the criminal justice system;
- d). children in alternative provision who need to be reintegrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education;
- e). children with special educational needs (but without an Education, Health and Care plan), disabilities or medical conditions;

Whilst this criterion is a mandatory requirement of the Fair Access Protocol referrals should only be made under this criterion in the event that a child has difficulty securing a school place.

Admissions Authorities are required to note paragraph 1.27 of the SEN and Disability Code of Practice as follows:

The School Admissions Code of Practice requires children and young people with SEN to be treated fairly. Admissions authorities:

- **must** consider applications from parents of children who have SEN but do not have an EHC plan on the basis of the school's published admissions criteria as part of normal admissions procedures
- **must not** refuse to admit a child who has SEN but does not have an EHC plan because they do not feel able to cater for those needs
- **must not** refuse to admit a child on the grounds that they do not have an EHC plan.

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<sup>3</sup> The School Admissions Code 2021 gives an example of reasonable measures as follows, where an application has been made to at least one school and this has been refused, or the local authority has confirmed that there are no places available at any school within a reasonable distance.

<sup>4</sup>



- f). children who are carers;
- g). children who are homeless;
- h). children in formal kinship care arrangements
- i). children of, or who are, Gypsies, Roma, Travellers, refugees, and asylum seekers;
- j). children who have been refused a school place on the grounds of their challenging behaviour and referred to the Protocol in accordance with paragraph 3.10 of the School Admissions Code.

PNS have concluded that it is not possible to agree a definitive threshold in respect of this criterion. However, they have identified the following as indicators that a child has a history of 'challenging behaviour' and is eligible for placement via this protocol in accordance with this criterion:

- Comprehensive behaviour log evidencing a pattern of persistent disruptive behaviour and/or fixed term exclusions over a consistent period of time.
- The child has been subject to one of more managed moves
- The child has been attending alternative provision or there is evidence to indicate that the previous/existing school was/is in the process of exploring options for alternative provision.
- child has been permanently excluded.

Please note that 3.11. of the School Admissions Code advises that admission authorities should only rely on the provision in paragraph 3.10 in relation to children with 'challenging behaviour' if it has a particularly high proportion of either children with 'challenging behaviour' or previously permanently excluded pupils on roll compared to other local schools and it considers that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources. In seeking to refuse admission under this criterion then a Head Teacher or Principal must be able to evidence this.

PNS recognises that the term 'challenging behaviour' is the specific term that is used in the School Admissions Code (2021) and as such cannot be changed. PNS also recognises that there is a requirement for the set of indicators as set out above to ensure some consistency about how schools and admissions authorities in Walsall interpret and apply paragraphs 3.10 and 3.11 of the School Admissions Code (2021).

However, PNS have requested that the following paragraph from Walsall's Restorative Practice, Relationships and Behaviour Guidance Document is also included in order to set out the wider context that it believes that all schools should be taking account of when considering whether or not to refuse to admit a child on the grounds of 'challenging behaviour'

## PRINCIPLES TO GUIDE PRACTICE



# Walsall Council

- Every child is unique
- All behaviour is communication
- Behaviour is a function of the interaction between a person and their physical and social environment
- Through their behaviour, children are trying to solve a problem not be one
- Children develop their social and emotional skills and ability to self-regulate in the context of secure relationships
- Children need their basic needs met, including physical and emotional safety, before they are ready to learn
- All children are different and a 'one size fits all approach' is not likely to be effective
- A child 'at risk of exclusion' is a child with unmet need.

Prior to making a decision to refuse to admit a child on the grounds of 'challenging behaviour' PNS would like schools to find out what has been done to support this child in the past and ask whether they believe that all options have been fully explored.

k). children for whom a place has not been sought due to exceptional circumstances;

l). children who have been out of education for four or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted;

m). previously looked after children for whom the local authority has been unable to promptly secure a school place

## **6. The Fair Access Panel**

6.1 The remit of the Fair Access Panel is to decide on an appropriate placement for each child taking account of the issues that will impact on the sustainability of the placement and also the responsibilities of parents and guardians to ensure that their child is in receipt of a suitable education.

6.2. The Fair Access Panel aims to be representative of all Walsall Primary Schools, including primary maintained schools and academies, and will comprise of three representatives from each locality area and include representation both primary maintained schools and academies in Walsall.

6.3. All primary head teachers and principals of primary schools and academies in Walsall will be eligible to be members of the Fair Access Protocol Panel. The effectiveness of the panel is contingent on the engagement of all schools in Walsall and the attendance and active participation of all panel members.

6.3. In the event that a school or academy does not engage with the Fair Access Process then the Chair of Primary FAP will contact the relevant Head Teacher or Principal to attempt to resolve the matter. In the event of persistent non-engagement then the matter will be escalated to the Local Authority who will contact the Head Teacher/Principal and if necessary escalate



further to the relevant Trust and/or the Department for Education and/or Regional Schools Commissioner.

- 6.3. Primary FAP Panel members will be appointed by PNS and the panel members will appoint a Chair and Vice-Chair. The Chair and Vice-Chair are pivotal to the success of the panel. The responsibilities of these roles will include overseeing the quality of the referral information, liaising with the School Admissions and Appeals Team, negotiating with Head Teachers and acting as a mediator, where required, in order to ensure that the decisions of the Panel are implemented in an effective and timely manner.
- 6.4. The Chair will be only be expected to assume the responsibility for a single academic year only and the Vice-Chair will assume the role of Chair for the following academic year. Panel members will be appointed by PNS at end of each academic year.
- 6.5. The following Local Authority representatives will be required to attend ALL Fair Access Panel meetings. In the event that the designated representative cannot attend then another appropriately briefed representative MUST attend in their absence:
  - Child Safeguarding Coordinator
  - Admissions and Education Sufficiency Manager
  - School Admissions Inclusions coordinator
  - Representative from the SEND Team
  - Representative from the Elective Home Education Team
  - Admissions Panels Coordinator
- 6.6. Representatives from other Local Authority services can be invited to attend Fair Access Panel meetings as appropriate;
- 6.7. The Fair Access Panel will meet regularly on a four weekly meeting cycle (20 school days) during term time only. This is to ensure that the panel are able to allocate places for children who are identified as being eligible for placement under the Fair Access Panel in accordance with the 20 day deadline as set out in the School Admissions Code 2021. The meeting schedule for the next academic year will be agreed in advance of each new academic year. The Panel or the Local Authority may identify the need for additional meetings but these will not take place without the consent of the Chair and the presence of either the Chair/Vice-Chair.
- 6.8. Placement decisions will be made by majority view of the Head Teacher representatives that are in attendance at the relevant meeting. In the event of a disagreement about a placement decision then the Chair of Panel will make the final decision.
- 6.9. Local Authority Officers may make recommendations to the panel regarding placement decisions but individual officers do not have voting rights.

## **7. Procedures**





- 7.1 Parents of children referred for placement under the Fair Access Protocol will not be invited to attend Fair Access Panel meetings. Parents must be informed about the Fair Access referral process and asked about their preference for a school place for their child. However, parents will be advised that Fair Access Panel do not have to place a child in accordance with parental preference.
- 7.2 Referrals will be submitted to the School Admissions and Appeals Team a minimum of five school days prior to the meeting.
- 7.3 Meetings will be held on Wednesday mornings between 9.30 and 11.30 during term time only. Pre-meetings for the Chair and Vice-Chair will be diarised for the Friday prior to each meeting. Subject to the Chair's approval, all referrals paperwork will then be circulated to all panel members by 12.00 noon on the Monday prior to each Panel meeting.
- 7.4 In preparation for each panel meeting, the School Admissions and Appeals Team will collate the following in relation to each child that has been referred to FAP:
- all **available** safeguarding information, subject to appropriate consent
  - all **available** attainment/attendance/behaviour data, subject to appropriate consent. Behaviour data can include information about exclusions and behavior log,

The LA will also measure the distance from the child's home address to all schools within a reasonable distance.

The School Admissions and Appeals team will do all it can reasonably be expected to obtain this information, including contacting previous schools, other Local Authorities and agencies where appropriate and will provide evidence of this to the FAP panel.

However, in accordance with provisions of the School Admissions Code 2021 the Panel FAP cannot delay or defer making a decision about a placement solely because additional information is not available.

- 7.5 Please note that when a school makes a referral into the FAP panel on the grounds that they cannot admit the child as a result of 'challenging behaviour', then the referring school must also provide details of all relevant safeguarding, attainment and behavioural information in setting out the reasons for the referral.

In order to underpin the successful implementation of the Primary Fair Access Panel an information sharing agreement will be devised and implemented by the Local Authority. This is to ensure that the FAP information sharing process is robust, transparent and compliant with the provisions of the following:

- Keeping Children Safe in Education (September 2020)
- Generation Data Protection Regulation (2018)
- School Admissions Code (2021)
- SEND Code of Practice (2015)



- 7.6. In each case the panel will review the referral and decide upon the most appropriate **placement to meet the child's needs**. In reaching a decision the panel will consider the circumstances of the pupil and the context of the school, taking account of the following factors:
- the distance and ease of travel from home to school;
  - the fairness of any placement and proportion of hard to place pupils in each school in the child's locality area as evidenced by the information presented to each placement panel
  - the parents or carers preferred choice(s) of school and reasons for this.
  - genuine concerns from the local authority or referring school about admission.
  - other reasonable considerations.
- 7.7. The panel will aim to place children on a locality basis whilst recognising that this might not always be possible given the demographic and geographic constraints of the borough.
- 7.8. The Local Authority will circulate the updated FAP credit sheet of pupils placed and the minutes of meetings to all member of the Primary Fair Access Panel within two school days of each Fair Access Panel meeting. The Local Authority will also email all relevant schools confirming any decisions that were taken in relation to their school within three school days of the date of the meeting.
- 7.9. The Local Authority will write to parents and carers informing them of the panel's decision within three school days of the meeting.
- 7.10. Receiving schools should arrange to admit children placed with them as soon as possible and within a maximum of ten school days of the date of receipt of the letter from the Fair Access Panel meeting. All FAP decision letters will be sent by the Local Authority to parents/carers and schools via email. The letters to the schools will be addressed for the attention of the Head Teacher.
- 7.11. For the purposes of this protocol, a child is deemed to be a pupil at the school from the expected first date of attendance and must be listed in both the admissions and the attendance register within a maximum of ten school days of the school receiving the letter confirming the FAP placement. The only exception to this will be if a relevant school refuses to admit the student. In these circumstances please refer to the process outlined below in section 8.0 below.

Receiving schools should inform the Local Authority's CME team once the child has gone on roll at the school so that the child can be closed to the Fair Access Panel and also to the Local Authority's Children Missing Education list.

## **8.0. Difficulties or Delays in Securing Admission.**



- 8.1. It is expected that all parties will act with a sense of urgency to ensure that a child is placed under the Fair Access Protocol. All schools are expected to respond to requests to admit within seven calendar days. Any difficulties or delays in securing Admission will be brought to the attention of the FAP Chair as a matter of urgency. The LA will attempt to resolve the situation via dialogue between the FAP Chair, the respective school and parents/carers if appropriate.
- 8.2. In the event that the matter cannot be resolved at this stage then a representative from the respective school or trust will be required to attend a specially convened meeting of the FAP panel in order to set out their reasons for refusal. If required, the LA will also write to the Chair of the Governing Body and where appropriate, the Chair of the Trust, to advise that the school is being required to attend the FAP panel meeting. The FAP panel will need to take a decision as to whether to accept the school's case and agree to place the student at another school or whether to escalate the matter to the Assistant Director of Access and Achievement for a decision about the most appropriate course of action.
- 8.3. Options will include a 'Direction to Admit' in the case of maintained schools or referral to the Secretary of State in the case of Academies. If an Academy has not agreed a start date for a child within 15 calendar days then Local Authority can apply for a Direction to the Secretary of State. The Local Authority will make a decision about the course of action to be followed within two school days of the FAP panel meeting. Appendix C sets out the 'Rules Governing Direction'.
- 8.3. Any decisions will be actioned by the Local Authority as matter of urgency so as to minimise any further disruption to the respective child's education.

## 9.0 Consultation and Review of Walsall's Primary Fair Access Protocol

- 9.1. In accordance the School Admissions Code (2021) s.3.22 and with Fair Access Protocols<sup>4</sup> (Guidance for school leaders, admission authorities and local authorities (August 2021) the Local Authority **must** consult and develop its Fair Access Protocols in partnership with ALL schools its area. The Local Authority is also required to keep its Fair Access protocols under review to ensure it remains fit for purpose and ensure that all schools are consulted on any changes. In response to this requirement, Walsall Local Authority will ensure that the Primary Fair Access Protocol is reviewed on annual basis in preparation for each new academic year.
- 9.2. In the event that the majority of schools can no longer support the principles and approach of the local FAP (for example, if they believe it is not operating fairly or effectively), they may request that it is reviewed. The mechanism for invoking a review and the procedure that follows should be agreed during the development of each FAP. The existing FAP will remain binding on all schools in the area until a new one is adopted.

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<sup>4</sup> School Admissions Code 2021

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1001050/School\\_admissions\\_code\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001050/School_admissions_code_2021.pdf)

Fair Access Protocol 2021 (Guidance)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1012993/FAP\\_Guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1012993/FAP_Guidance.pdf)



- 9.3. Any request to review Walsall's Primary or Secondary Fair Access Protocol should be made to the Local Authority via the relevant Head Teacher Association. PNS in the case of the Primary Fair Access Protocol and WASH in the case of the Secondary Fair Access Protocol. The Local Authority will then work with the relevant Head Teacher Association to agree the terms and timescale for any review. However, queries or concerns about Walsall's Primary or Secondary Fair Protocols can be raised with Walsall Local Authority at any time by emailing [childrenmissingeducation@walsall.gov.uk](mailto:childrenmissingeducation@walsall.gov.uk)

## **Appendix: Rules Governing Direction**

In accordance with the provision of the School Admissions Code 2014<sup>5</sup> (3.16 -3.18 and 3.22) Local Authorities have the power to direct the governing bodies of maintained school to admit a child **even** when their school is full and in the case of Academies to refer the matter to the Secretary of State.

### ***Local Authority Powers of Direction (general)***

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<sup>5</sup> School Admissions Code 2014, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/389388/School\\_Admissions\\_Code\\_2014\\_-\\_19\\_Dec.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/389388/School_Admissions_Code_2014_-_19_Dec.pdf)



# Walsall Council

*A local authority has the power to direct the governing body of a maintained school for which they are not the admission authority to admit a child in their area even when the school is full. The local authority can only make such a direction in respect of a child in the local authority's area who has been refused entry to, or has been permanently excluded from, every suitable school within a reasonable distance. The local authority must choose a school that is a reasonable distance from the child's home and from which the child is not permanently excluded. It must not choose a sixth-form that selects by ability unless the child meets the selection requirements, or a school that would have to take measures to avoid breaking the rules on infant class sizes if those measures would prejudice the provision of efficient education or the efficient use of resources.*

*Before deciding to give a direction, the local authority must consult the governing body of the school, the parent of the child and the child if they are over compulsory school age. If, following consultation, the local authority decides to direct, it must inform the governing body and head teacher of the school. The governing body can appeal by referring the case to the Schools Adjudicator within 15 days. If it does this, the governing body must tell the local authority. The local authority must not make a direction until the 15 days have passed and the case has not been referred.*

*If the case is referred to the Adjudicator, the Adjudicator may either uphold the direction or determine that another maintained school must admit the child. The Adjudicator's decision is binding. The Adjudicator must not direct a school to admit a child if this would require the school to take measures to avoid breaking the rules on infant class sizes and those measures would prejudice the provision of efficient education or the efficient use of resources.*

## **Secretary of State's Power of Direction (Academies)**

*Where a local authority considers that an Academy will best meet the needs of any child, it can ask the Academy to admit that child but has no power to direct it to do so. The local authority and the Academy will usually come to an agreement, but if the Academy refuses to admit the child, the local authority can ask the Secretary of State to intervene. The Secretary*

*of State has the power under an Academy's Funding Agreement to direct the Academy to admit a child, and can seek advice from the Adjudicator in reaching a decision.*



## Secondary Phase Mid-Year Admissions Fair Access Protocol 2022/23 (Draft)

### Background

- 1.1. The School Admissions Code (2021) <sup>1</sup>sets out the mandatory requirements regarding the admissions process. The Code is clear that all local authorities and admissions authorities are required to have a Fair Access Protocol and that all schools and academies must participate in their local authority's protocol to ensure that all children and young people, especially those that are deemed as 'vulnerable or hard to place' are offered a place at a suitable school as quickly as possible. This includes admitting children above published admission number to schools that are already full.
- 1.2. The protocol makes it clear that local authorities must ensure that no school –including those with places available- is asked to take a disproportionate number of children and young people who have been excluded from other schools, or who have challenging behaviour, under the Fair Access Protocol.
- 1.3. This protocol has been devised in accordance with relevant provisions of the School Admissions Code (2021) and Fair Access Protocols: advice for school leaders, admission authorities and school leaders (August 2021) <sup>2</sup>

### 2. Aims of the Protocol

- 2.1. This protocol is designed to:
  - a. ensure that all schools within Walsall admit children and young people, including those who are deemed as 'unplaced and vulnerable and those who are having difficulty securing a school place' on a fair and transparent basis in accordance with the requirements of the School Admissions Code (2021);
  - b. acknowledge the need for vulnerable young people who are seeking a school place to be dealt with quickly and empathetically.
  - c. to ensure that these young people are placed in a 'suitable and sustainable education' provision to minimise the time that these pupils spend out of education provision.
  - d. to be fair and transparent, and have the confidence of all schools in Walsall.
  - e. ensure that all Walsall schools and academies admit a fair and equitable share of pupils within the geographical and logistical constraints of the Borough.

### 3.0. Main Principles of Walsall's Fair Access Protocol

- 3.1 This protocol will apply to all mainstream secondary schools and academies in Walsall.
- 3.2 The protocol should not be used to circumvent the mid-year year admissions process.

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<sup>1</sup> Schools Admissions Code, May 2021, [www.gov.uk](http://www.gov.uk)

<sup>2</sup> Fair Access Protocols: advice for school leaders, admission authorities and school leaders (August 2021) [www.gov.uk](http://www.gov.uk)



- 3.3 Schools will exceed their published admission number where necessary in order to admit pupils under the protocol.
- 3.4 Pupils identified for placement under the Fair Access Protocol will be given priority over those on waiting lists for the same school;
- 3.5. Whilst acknowledging that there is no requirement to comply with parental preference when placing a child under the Fair Access Protocol the Panel will recognise that parental preference is an indicator of potential placement sustainability and will try to take this into account wherever possible.
- 3.6. The allocation of pupils should be equitable, with no one school or Academy being required to take a disproportionate number of children who have been excluded from other schools, or who have challenging behaviour;
- 3.7. Pupils will be placed at the most appropriate school to meet their needs providing that this is not to the detriment of the receiving school. It must be an equitable distribution.
- 3.8. Placement of a child with challenging behaviour must not be unduly delayed due to a lack of SEN assessment data as per paragraph 3.13 of the School Admissions Code (2021)
- 3.9 Grammar schools will admit a pupil through the Fair Access Protocol if a pupil has/had a KS2 standardised score of 108 to 120. There will be no further testing of pupils before admittance in line with all Walsall Secondary Schools. However, further assessment can be undertaken prior to admission in the event that the young person does not have any previous assessment history. The Fair Access Protocol should not be used a means of circumventing Grammar school entrance requirements.

#### **4.0. Secondary Phase Mid-Year Admissions**

- 4.1. The majority of pupils should be admitted to Walsall Schools via the Secondary Mid-Year Admissions Process. This process is not co-ordinated by the Local Authority's Admissions and Appeals team but all Schools and Academies **must** act in accordance with the provision of the School Admissions Code 2021.

#### **5. Criteria to be used to identify pupils to be placed under the Fair Access Protocol**

- 5.1. The Fair Access Protocol does not apply to children who are in the care of a local authority, or children with an Education, Health and Care Plan (EHCP), as these children must be admitted in accordance with relevant admissions process. Any consideration of a school move for a child that is in the care of the Local Authority must be preceded by a Personal Education Plan (PEP) review and any consideration of a school move for a child with an EHCP plan must be preceded by an EHCP review.



# Walsall Council

The following data will be made available to the panel at each meeting:

- number of children that have been admitted to each Secondary School under the Fair Access Protocol per year group. The Local Authority is working to develop a new FAP credit sheet for the 2022.23 Academic Year which will enable the FAP Panel and each relevant school to see the names of all children that have been placed at that school including date of allocation and date of admission of all children who have been placed at a particular school.
- The FAP credit sheet will start afresh each new academic year and be adjusted to take account of pupils that were previously allocated via FAP but are no longer on roll at a particular school.
- numbers of children allocated to each school from previous academic years will also be included on the FAP credit sheet as a further tool to assist the panel with decision making.
- Latest vacancy information and numbers on roll for each school per year group will also be provided to the Secondary FAP Panel at each meeting. It is intended that this information will serve two purposes:
  - To re-assure FAP panel members that there is no scope for the children to be placed via the mid-year admissions process
  - To support the Secondary FAP panel with decision as the panel may decide to pro-rata FAP allocations in relation the size of the school
- number of children with EHCPs in each year group (Local Authority to provide)
- numbers of permanent and fixed term exclusions from each school during the academic year (Local Authority to provide)
- number and current status of inward and outward managed moves (to be provided by WIP )

Walsall Association of Secondary Head Teachers acknowledge that having an EHCP is not an indication that a child has challenging behaviour. However, the data outlined above will be made available to assist the Panel in understanding the wider context of a particular school and ensuring that no school is being asked to take a disproportionate number of pupils via the Protocol. This will be kept under review.

The following pupils who fall into the following groups will be placed under the Walsall Fair Access Protocol:

- 5.2. Fair Access Protocols may only be used to place the following groups of vulnerable and/or hard to place children, where they are having difficulty in securing a school place in-year, and it can be demonstrated that reasonable measures have been taken to secure a place through the usual in-year admission procedures.

Please note that the revised School Admissions Code 2021 does not permit the inclusion of any locally agreed FAP criteria as was previously the case.





# Walsall Council

a) children either subject to a Child in Need Plan or a Child Protection Plan or having had a Child in Need Plan or a Child Protection Plan within 12 months at the point of being referred to the Protocol;

b) children living in a refuge or in other Relevant Accommodation at the point of being referred to the Protocol;

c) children from the criminal justice system;

d) children in alternative provision who need to be reintegrated into mainstream education or who have been permanently excluded but are deemed suitable for mainstream education;

e) children with special educational needs (but without an Education, Health and Care plan), disabilities or medical conditions; It was noted that whilst this criterion is a mandatory requirement of the Fair Access Protocol. Referrals should only be made under this criterion in the event that a child has difficulty securing a school place.

Admissions Authorities are required to note paragraph 1.27 of the SEN and Disability Code of Practice as follows:

The School Admissions Code of Practice requires children and young people with SEN to be treated fairly. Admissions authorities:

- **must** consider applications from parents of children who have SEN but do not have an EHC plan on the basis of the school's published admissions criteria as part of normal admissions procedures
- **must not** refuse to admit a child who has SEN but does not have an EHC plan because they do not feel able to cater for those needs
- **must not** refuse to admit a child on the grounds that they do not have an EHC plan.

f) children who are carers;

g) children who are homeless;

h) children in formal kinship care arrangement

i) children of, or who are, Gypsies, Roma, Travellers, refugees, and asylum seekers;

j) children who have been refused a school place on the grounds of their challenging behaviour and referred to the Protocol in accordance with paragraph 3.10 of the School Admissions Code. WASH have concluded that it is not possible to agree a definitive threshold in respect of this criterion. However, they have identified the following as indicators that a child has a history of challenging behaviour and is eligible for placement via this protocol in accordance with this criterion:

- Comprehensive behaviour log evidencing a pattern of persistent disruptive behaviour and/or fixed term exclusions over a consistent period of time.
- The child has been subject to one of more managed moves



# Walsall Council

- The child has been attending alternative provision or there is evidence to indicate that the previous/existing school was/is in the process of exploring options for alternative provision.

Please note that 3.11. of the School Admissions Code advised admission authority should only rely on the provision in paragraph 3.10 in relation to children with challenging behaviour if it has a particularly high proportion of either children with challenging behaviour or previously permanently excluded pupils on roll compared to other local schools and it considers that admitting another child with challenging behaviour would prejudice the provision of efficient education or the efficient use of resources

k) children for whom a place has not been sought due to exceptional circumstances;

l) children who have been out of education for four or more weeks where it can be demonstrated that there are no places available at any school within a reasonable distance of their home. This does not include circumstances where a suitable place has been offered to a child and this has not been accepted;

and, m) previously looked after children for whom the local authority has been unable to promptly secure a school place

## 6. The Fair Access Panel

6.1 The remit of the Fair Access Panel is to decide on an appropriate placement for each child.

6.2. Head Teachers and Principals of all Secondary Schools and Academies in Walsall will be eligible to be members of the Fair Access Protocol Panel. The effectiveness of the panel is contingent on the attendance and active participation of all Secondary Head Teachers and Principals in Walsall. Meetings will be held every four weeks and the dates will be agreed in advance for each academic year. In the event that a Head Teacher or Principal cannot attend they will nominate a named representative who can attend and make decisions on their behalf.

6.3. In the event that a school or academy does not engage with the Fair Access Process then the Chair of FAP and the Chair of WASH will contact the relevant Head Teacher or Principal to attempt to resolve the matter. In the event of persistent non-engagement then the matter will be escalated to the Local Authority who will contact the Head Teacher/Principal and if necessary escalate further to the relevant Trust and/or the Department for Education and/or Regional Schools Commissioner.

6.3. The Chair and Vice-Chair will be appointed by Walsall Association of Secondary Head Teachers (WASH). The Chair and Vice-Chair must hold a senior leadership role in a school, academy or academy trust that operates in the Walsall Local Authority area. The Chair will be required to assume the responsibility for a single academic year only and the Vice-Chair will assume the role of Chair for the following academic year. A new Vice-Chair will be appointed by WASH at end of each academic year.

6.4. The role of the Chair and Vice-Chair are pivotal to the success of the panel. The responsibilities of these roles will include overseeing the quality of the referral information, liaising with the School Admissions and Appeals Team, negotiating with Head Teachers and acting as a



mediator, where required, in order to ensure that the decisions of the Panel are implemented in an effective and timely manner.

- 6.5. The following Local Authority representatives will be required to attend ALL Fair Access Panel meetings. If the designated representative cannot attend then another appropriately briefed representative **MUST** attend in their absence:
- Child Safeguarding Coordinator
  - Admissions and Education Sufficiency Manager
  - School Admissions Inclusions coordinator
  - Representative from the SEND Team
  - Representative from the Elective Home Education Team
  - Admissions Panels Coordinator
- 6.6. Representatives from other Local Authority services and external can be invited to attend Fair Access Panel meetings as deemed appropriate by the Chair of the Panel;
- 6.7. The Fair Access Panel will meet every four weeks basis during term time. The meeting schedule for the next academic year will be agreed at the end of the previous academic year. The Panel or the Local Authority may identify the need for additional meetings but these will not take place without the consent of the Chair and the presence of either the Chair/Vice-Chair.
- 6.8. Placement decisions will be made by majority view of the Head Teacher representatives that are in attendance at the relevant meeting.
- 6.9. The Local Authority may make recommendations to the panel as to placement decisions but individual officers do not have voting rights.

## 7. Procedures

- 7.1 Parents of children referred for placement under the Fair Access Protocol will not be invited to attend Fair Access Panel meetings. Parents will be informed about the FAP referral process and asked about their preference for a school place for their child. However, parents will be advised that FAP do not have to place a child in accordance with parental preference.
- 7.2 Referrals are to be submitted to the Admissions Panel Co-ordinator a minimum of five days prior to the meeting, who will collate referrals and prepare the agenda for each meeting;
- 7.3. The Panel Co-Ordinator will make all referrals paperwork available to the Panel Members a minimum of three school days prior to the meeting.
- 7.4. In preparation for each panel meeting, the School Admissions and Appeals Team will collate the following in relation to each child that has been referred to FAP:
- all **available** safeguarding information, subject to appropriate consent
  - all **available** attainment/attendance/behaviour data, subject to appropriate consent



# Walsall Council

The LA will also measure the distance from the child's home address to all schools within a reasonable distance.

The School Admissions and Appeals team will do all it can reasonably be expected to obtain this information, including contacting previous schools, other Local Authorities and agencies where appropriate and will provide evidence of this to the FAP panel. Where the School Admissions and Appeals team are having difficulties obtain this information then this will be escalated via senior management at the relevant school or LA.

However, in accordance with provisions of revised School Admissions Code 2021 the Panel FAP cannot delay or defer making a decision about a placement solely because additional information is not available and schools will be expected to undertake due diligence and relevant checks when admitting children to their school.

- 7.5. Please note that when a school makes a referral into the FAP panel then the referring school must also provide details of all relevant safeguarding, attainment and behavioural information in setting out the reasons for the referral.

It was agreed that an information sharing agreement will be devised and implemented by the Local Authority in the 2022/23 academic year order to ensure that the FAP information sharing process is robust, transparent and compliant with the provisions of the following:

- Keeping Children Safe in Education (September 2020)
- Generation Data Protection Regulation (2018)
- School Admissions Code (2021)
- SEND Code of Practice 2015

- 7.6. In each case the panel will review the referral and decide upon the most appropriate placement to meet the child's needs. In reaching a decision the panel will consider the circumstances of the pupil and the context of the school, taking account of the following factors:

- the distance and ease of travel from home to school;
- the fairness of any placement and proportion of hard to place pupils in each schools as reflected in the information presented to each placement panel
- the parents or carers preferred choice(s)of school and reasons for this.
- genuine concerns from the local authority or referring school about admission.
- other reasonable considerations.

- 7.7. There should, as far as possible be an equitable distribution of fair access pupils across all schools within the geographical and logistical constraints of the borough. Where it is necessary to place a child at a school that has already received a number of Fair Access Pupils, this must be done in agreement with the Head teacher of the receiving school



- 7.8 The Local Authority will circulate the minutes of meetings and updated FAP credit sheet to all head teachers within two school days of each Fair Access Panel meeting. The Local Authority will also write to all schools confirming any decisions that were taken in relation to their school within three school days of the date of the meeting.
- 7.9. The Local Authority will write to parents and carers informing them of the panel's decision within two school days of the meeting.
- 7.10. Receiving schools should arrange to admit children placed with them as soon as possible and no longer than eight school days of the date of receipt of the letter from the Fair Access Panel meeting and within ten school days of the date of the panel meeting.
- 7.11. For the purposes of this protocol, a child is deemed to be a pupil at the school from the expected first date of attendance and must be listed in both the admissions and the attendance register within ten school days date unless in exceptional circumstances the relevant school refuses to admit the student. In these circumstances please refer to the process outlined below in section 8.0 below.

## **8.0. Difficulties or Delays in Securing Admission.**

- 8.1. It is expected that all parties will act with a sense of urgency to ensure that a child is placed under the Fair Access Protocol. All schools are expected to respond to requests to admit within seven calendar days. Any difficulties or delays in securing Admission will be brought to the attention of the FAP Chair as a matter of urgency. The LA will attempt to resolve the situation via dialogue between the FAP Chair, the respective school and parents/carers if appropriate.
- 8.2. In the event that the matter cannot be resolved at this stage then a representative from the respective school or trust will be required to attend a FAP meeting in order to set out their reasons for refusal. If required, the LA will also write to the Chair of the Governing Body and where appropriate, the Chair of the Trust, to advise that the school is being required to attend the FAP panel meeting. The FAP panel will need to take a decision as to whether to accept the school's case and agree to place the student at another school or whether to escalate the matter to the Assistant Director of Access and Achievement for a decision about the most appropriate course of action.
- 8.3. Options will include a 'Direction to Admit' in the case of maintained schools or referral to the Secretary of State in the case of Academies. If an Academy has not agreed a start date for a child within 15 calendar days then Local Authority can apply for a Direction to the Secretary of State. The Local Authority will make a decision about the course of action to be followed within 2 school days of the FAP panel meeting. Meeting. Appendix A sets out the 'Rules Governing Direction'.
- 8.3. Any decisions will be actioned by the Local Authority as matter of urgency so as to minimise any further disruption to the respective child's education.

## **9.0 Consultation and Review of Walsall's Primary Fair Access Protocol**



- 9.1. In accordance the School Admissions Code (2021) s.3.22 and with Fair Access Protocols<sup>3</sup> (Guidance for school leaders, admission authorities and local authorities (August 2021) the Local Authority **must** consult and develop its Fair Access Protocols in partnership with ALL schools its area. The Local Authority is also required to keep its Fair Access protocol under review to ensure it remains fit for purpose and that all schools are consulted on any changes. In response to this requirement, Walsall Local Authority will ensure that the Secondary Fair Access Protocol is reviewed on annual basis in preparation for each new academic year.
- 9.2. In the event that the majority of schools can no longer support the principles and approach of the local FAP (for example, if they believe it is not operating fairly or effectively), they may request that it is reviewed. The mechanism for invoking a review and the procedure that follows should be agreed during the development of each FAP. The existing FAP will remain binding on all schools in the area until a new one is adopted.
- 9.3. Any request to review Walsall's Primary or Secondary Fair Access Protocol should be made to the Local Authority via the relevant Head Teacher Association. PNS in the case of the Primary Fair Access Protocol and WASH in the case of the Secondary Fair Access Protocol. The Local Authority will then work with the relevant Head Teacher Association to agree the terms and timescale for any review. However, queries or concerns about Walsall's Primary or Secondary Fair Protocols can be raised with Walsall Local Authority at any time by emailing [childrenmissingeducation@walsall.gov.uk](mailto:childrenmissingeducation@walsall.gov.uk)

## Appendix A: Rules Governing Direction

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<sup>3</sup> School Admissions Code 2021

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1001050/School\\_admissions\\_code\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001050/School_admissions_code_2021.pdf)

Fair Access Protocol 2021 (Guidance)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1012993/FAP\\_Guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1012993/FAP_Guidance.pdf)



In accordance with the provision of the School Admissions Code 2014<sup>4</sup> (3.16 -3.18 and 3.22) Local Authorities have the power to direct the governing bodies of maintained school to admit a child **even** when their school is full and in the case of Academies to refer the matter to the Secretary of State.

## **Local Authority Powers of Direction (general)**

*A local authority has the power to direct the governing body of a maintained school for which they are not the admission authority to admit a child in their area even when the school is full. The local authority can only make such a direction in respect of a child in the local authority's area who has been refused entry to, or has been permanently excluded from, every suitable school within a reasonable distance. The local authority must choose a school that is a reasonable distance from the child's home and from which the child is not permanently excluded. It must not choose a sixth-form that selects by ability unless the child meets the selection requirements, or a school that would have to take measures to avoid breaking the rules on infant class sizes if those measures would prejudice the provision of efficient education or the efficient use of resources.*

*Before deciding to give a direction, the local authority must consult the governing body of the school, the parent of the child and the child if they are over compulsory school age. If, following consultation, the local authority decides to direct, it must inform the governing body and head teacher of the school. The governing body can appeal by referring the case to the Schools Adjudicator within 15 days. If it does this, the governing body must tell the local authority. The local authority must not make a direction until the 15 days have passed and the case has not been referred.*

*If the case is referred to the Adjudicator, the Adjudicator may either uphold the direction or determine that another maintained school must admit the child. The Adjudicator's decision is binding. The Adjudicator must not direct a school to admit a child if this would require the school to take measures to avoid breaking the rules on infant class sizes and those measures would prejudice the provision of efficient education or the efficient use of resources.*

## **Secretary of State's Power of Direction (Academies)**

*Where a local authority considers that an Academy will best meet the needs of any child, it can ask the Academy to admit that child but has no power to direct it to do so. The local authority and the Academy will usually come to an agreement, but if the Academy refuses to admit the child, the local authority can ask the Secretary of State to intervene. The Secretary of State has the power under an Academy's Funding Agreement to direct the Academy to admit a child, and can seek advice from the Adjudicator in reaching a decision.*

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<sup>4</sup> School Admissions Code 2014, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/389388/School\\_Admissions\\_Code\\_2014\\_-\\_19\\_Dec.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/389388/School_Admissions_Code_2014_-_19_Dec.pdf)

## **Vulnerable Learners Hub**

**Ward(s): ALL**

**Portfolios: Education and Skills Councillor Statham**

### **1.0 Aim**

- 1.1 This report will provide an overview of the work carried out by the Vulnerable Learners Hub (VLH).
- 1.2 The report will also highlight the current educational outcomes for children with a social worker to evidence why this cohort of young people need more targeted support to enable them to reach their potential

### **2.0 Recommendations**

- 2.1 For the committee to note the impact of the work carried out by the VLH

### **3.0 Report detail – know**

- 3.1 In June 2021 the DfE announced that from September 2021, the role of the Virtual School Head will be extended to promote the education of all children aged 0-18 with a social worker and those who have had a social worker within the last 6 years (Ever 6), meaning there will be a local champion for children with a social worker in every local authority in England. This is to ensure more focus is placed on targeting support earlier on in these young people's lives and helping improve how they engage with education.
- 3.2 To support the new duties we have developed a Vulnerable Learners Hub and appointed three members of staff to work with social workers, schools and LA officers to help make visible the disadvantages children with a social worker can experience and promote practice that supports their engagement in education.
- 3.3 We have also created a full-time permanent SEN Casework Officer to sit with the SEN Assessment Team to work directly with looked after children and young people who have an EHCP or are undergoing a SEN needs assessment. A further post has been developed to support the work of the Vulnerable Learners hub to ensure that all children with a social worker who have an EHCP or who are undergoing a SEN assessment are prioritised.
- 3.4 The Virtual 'School Specialist Support Team, comprising of 3 Education Psychologists, 2 Speech and Language Therapists and a CAMHs Practitioner work closely with schools and social workers to ensure the needs of looked after and vulnerable children with special educational needs are prioritised.



- 3.5 In June 2022 the DfE announced a further 1 year extension to the duties
- 3.6 At the time of writing this report there are 214 children/young people in Walsall on a Child Protection Plan and 1086 on a Child in Need Plan
- 3.7 The CiN review identified for the first time that 1.6 million children needed a social worker between 2012 and 2018, equivalent to 1 in 10 children or 3 children in every classroom. These children are present in 98% of state schools and face barriers to education due to experiences of adversity, most commonly as a result of domestic abuse, mental ill-health, and substance misuse, with 62% of children needing a social worker having experienced one or more of these.
- 3.8 On average, children with a social worker do worse than their peers at every stage of their education.
- In 2019 34% of children in need achieved the expected standard at the end of key stage 2 compared to 61% of all children in Walsall
  - In 2021 25% of children in need achieved 9-4 GCSEs including English and maths at the end of KS4 compared to 65% of all children in Walsall
  - In 2021 42% of children in need were classes as persistent absentees compared to 14.9% of all Walsall children
  - In 2021 8.64% of children in need received at least 1 suspension compared to 2.98% of all Walsall children
  - In 2019 1.27% of children in need were permanently excluded from school compared to 0.14% of all children in Walsall
- 3.9 The focus of the VLH is to ensure all children with a social worker have a school place, have good school attendance, are not being excluded and have the right support and interventions to enable them to succeed.
- 3.10 The work of the VLH - Since the development of the VLH in September 2021, we have:
- Developed a Vulnerability Matrix to help identify those children and young people most at risk of underachievement. Vulnerability factors, such as children missing education, suspensions, below 50% attendance, Youth Justice Involvement, reduced time tables, elective home education etc. are all scored to enable the team to identify and implement appropriate support and challenge where needed.
  - Extended the work of our SEN Casework Officer to oversee EHCP requests for all children with a social worker
  - Attended social work team meetings to inform social workers on how they can access support from the VLH
  - Delivered training to Designated Safeguarding leads and designated teachers to highlight the disadvantages children with a social worker may have experienced
  - Implemented and led a regional working group with staff from other local authorities carrying out the role of supporting children with a social worker
  - Visited over 30 schools to discuss individual and cohorts of children

During the 2021/22 academic year the team have dealt with 348 referrals from social workers, schools and other professionals

	Total	%
Number of YP referred to the vulnerable hub (overall)	348	100%
Number of YP referred to the vulnerable hub with SEN support	73	21%
Number of YP referred to the vulnerable hub with an EHCP	87	25%
Number of YP referred to the vulnerable hub with an EHCP in progress	2	1%

- 90 issues related to school attendance
- 44 issues related to children missing education
- 40 issues related to exclusions
- 68 issues related to school admissions/awaiting a school placement
- 34 issues related to special educational needs
- Other issues were around reduced timetables, managed moves, support for NEET etc

### Reducing the exclusions of children with an Education Health and Care Plan

In addition to the work carried out to improve educational outcomes for children with a social worker, the staff in the VLH are also challenging schools where children with an EHCP are at risk of exclusion. The table below shows the number of referrals into the hub for young people at risk of exclusion.

Perm Ex referrals	Total
Number of YP referred at risk of suspension/PEX	33
Number of YP without an identified SEN who were at risk of PEX	11
Number of YP without an identified SEN who went on to be PEX	3
Number of YP on SEN support were at risk of suspension/PEX	12
Number of YP on SEN Support who went on to be PEX	2
Number of YP with an EHCP were at risk of suspension/PEX	10
Number of YP that went on to be PEX	0
<b>Total number of YP at risk of perm ex</b>	<b>33</b>
<b>Total number of exclusions avoided by the VLH</b>	<b>28</b>

## **Further development of the Vulnerable Learners Hub**

Due to the success of the VLH, an additional Education Liaison Officer has been seconded into the team to provide additional capacity to help improve outcomes for our most vulnerable children and young people.

- 3.11 From September 2022 the staff in the VLH will be responsible for working alongside schools and other professionals to help reduce the number of all children and young people who are permanently excluded from school. The team will challenge any exclusion where a graduated response to exclusion has not been followed. There is an expectation that Head teachers only use their powers to exclude where all other options to avoid an exclusion have been explored. Where we have a concern about schools not following the graduated response, a schools causing concern referral will be made will

### **4.0 Financial information**

- 4.1 The posts within the team are funded through the DfE VSH additional duties grants. Local authorities were given additional funds based on the number of schools. Walsall received £100k for the academic year 2021-22 and will receive a further £100k for the next academic year

### **5.0 Reducing Inequalities**

- 5.1 While there is no single cause for the poor educational outcomes for children with a social worker, experiences of adversity can create barriers to good outcomes. The work carried out by the VLH ensures that with the right support, the aspirations of these children can be raised to enable them to achieve their best and ensure there is equal access to education opportunities.

### **6.0 Decide**

- 6.1 The committee may decide to request further information on the education outcomes of children with a social worker.

### **7.0 Respond**

- 7.1 Any recommendations made by the committee will be responded to by the appropriate service area

### **8.0 Review**

- 8.1 The actions and outcomes within this report are monitored by Access & Inclusion SMT and Children's Services DMT and through a monthly performance board

## Author

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## Education Overview and Scrutiny Committee – Recommendation Tracker (22/23)

30 June 2022	Areas of Focus	A work program for the municipal year be produced and be circulated to members of the Committee.	Jack Thompson	Complete	6 September 2022	Sent to members of the Committee with agenda for the meeting on the 6 September 2022.
		The suggested items of 'teenage pregnancy' and 'overweight children' be referred to the Social Care and Health Overview and Scrutiny Committee	Jack Thompson	Complete	14 July 2022	Members of the Social Care and Health Overview and Scrutiny Committee agreed to put these items on the Committee work program.



**Walsall Council**

## **FORWARD PLAN OF KEY DECISIONS**

**Council House,  
Lichfield Street,  
Walsall, WS1 1TW**  
[www.walsall.gov.uk](http://www.walsall.gov.uk)

**4 July 2022**

## FORWARD PLAN

The forward plan sets out decisions that are termed as “key decisions” at least 28 calendar days before they are due to be taken by the Executive (Cabinet). Also included on the plan are other decisions to be taken by the Cabinet (“non-key decisions”). Preparation of the forward plan helps the Council to programme its work. The purpose of the forward plan is to give plenty of notice and an opportunity for consultation on the issues to be discussed. The plan is updated each month with the period of the plan being rolled forward by one month and republished. Copies of the plan can be obtained from Democratic Services, Walsall MBC, Council House, Walsall, WS1 1TW [Craig.Goodall@walsall.gov.uk](mailto:Craig.Goodall@walsall.gov.uk) and can also be accessed from the Council’s website at [www.walsall.gov.uk](http://www.walsall.gov.uk). The Cabinet is allowed to make urgent decisions which do not appear in the forward plan, however, a notice will be included on the agenda for the relevant Cabinet meeting which explains the reasons why.

Please note that the decision dates are indicative and are subject to change. Please contact the above addressee if you wish to check the date for a particular item.

The Cabinet agenda and reports are available for inspection by the public 7 days prior to the meeting of the Cabinet on the Council’s website. Background papers are listed on each report submitted to the Cabinet and members of the public are entitled to see these documents unless they are confidential. The report also contains the name and telephone number of a contact officer. These details can also be found in the forward plan.

Meetings of the Cabinet are open to the public. Occasionally there are items included on the agenda which are confidential and for those items the public will be asked to leave the meeting. The forward plan will show where this is intended and the reason why the reports are confidential. Enquiries regarding these reasons should be directed to Democratic Services ([Craig.Goodall@walsall.gov.uk](mailto:Craig.Goodall@walsall.gov.uk)).

“Key decisions” are those decisions which have a significant effect within the community or which involve considerable expenditure or savings. With regard to key decisions the Council’s Constitution states:

- (1) A key decision is:
  - (i) any decision in relation to an executive function which results in the Council incurring expenditure which is, or the making of savings which are, significant, having regard to the Council’s budget for the service or function to which the decision relates or
  - (ii) any decision that is likely to have significant impact on two or more wards within the borough.
- (2) The threshold for “significant” expenditure/savings is £500,000.
- (3) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution. [Page 63 of 71](#)

**FORWARD PLAN OF KEY DECISIONS  
AUGUST 2022 TO NOVEMBER 2022 (04.07.22)**

1	2	3	4	5	6	7
Reference No./ Date first entered in Plan	Decision to be considered (to provide adequate details for those both in and outside the Council)	Decision maker	Background papers (if any) and Contact Officer	Main consultees	Contact Member (All Members can be written to at Civic Centre, Walsall)	Date item to be considered
101/22 (4.4.22)	<p><b>Corporate Financial Performance 2022/23, approach to Budget Setting for 2023/24, and changes to the council's Tax Strategy:</b></p> <p>To report the financial position based on 2 months to May 2022, including the impact of Covid-19, and to set out our approach and timeline for the 2023/24 budget process and amendments to the Tax Strategy.</p>	Cabinet  Key Decision	Vicky Buckley  <a href="mailto:Vicky.Buckley@walsall.gov.uk">Vicky.Buckley@walsall.gov.uk</a>	Corporate Management Team and internal services	Cllr Bird	20 July 2022
112/22 (20.6.22)	<p><b>Accommodation Strategy and Proud Everywhere Update:</b></p> <p>Final appendix of the Strategic Asset Plan to be presented and agreed with an update of the works and costs to be approved in the capital programme required across the Civic Centre, Council House and wider Corporate Estate to ensure maximisation of use of assets and fit for purpose premises for staff, members and customers</p>	Cabinet  Key Decision	Strategic Asset Plan and appendices  Nick Ford  <a href="mailto:Nick.Ford@walsall.gov.uk">Nick.Ford@walsall.gov.uk</a>	Internal Services	Cllr Andrew	20 July 2022



<p>98/22 (7.3.22)</p>	<p><b>Statutory Advocacy Services:</b></p> <p>To receive an update on the recommissioning of these services and delegate authority to accept and award a contract.</p> <p><i>Private session report. Contains information relating to the financial or business affairs of any particular person.</i></p>	<p>Cabinet</p> <p>Key Decision</p>	<p>Tracy Simcox <a href="mailto:Tracy.Simcox@walsall.gov.uk">Tracy.Simcox@walsall.gov.uk</a></p>	<p>Internal Services</p>	<p>Cllr Pedley</p>	<p>20 July 2022</p>
<p>113/22 (20.6.22)</p>	<p><b>Adult Social Care – Extension of contractual arrangements:</b></p> <p>To approve:</p> <p>1) the extension of the interim contracts for Residential and Nursing Care Services for Older People, Complex Care and Mental Health Services from 1.4.23 to 31.3.24</p> <p>2) the extension of the current contractual arrangements for Community Based Services from 1.4.23 to 31.3.24.</p> <p>3) the extension of the current Supported Living Framework and agreement to spot purchase supported Living placements commencing from 26.1.23 to 25.1.24</p>	<p>Cabinet</p> <p>Key Decision</p>	<p>Cabinet Report 09/09/2020</p> <p>Jean Watson <a href="mailto:Jean.Watson@walsall.gov.uk">Jean.Watson@walsall.gov.uk</a></p>	<p>Internal</p>	<p>Cllr Pedley</p>	<p>20 July 2022</p>

108/22 (6.6.22)	<b>Town Deal:</b> To report for consideration business cases for the Town Deal.	Cabinet Key Decision	Philippa Venables <a href="mailto:Philippa.Venables@walsall.gov.uk">Philippa.Venables@walsall.gov.uk</a>	Internal Services, Town Deal Board members	Cllr Andrew	7 September 2022
106/22 (6.6.22)	<b>Treasury Management Annual Report:</b> To note and forward to Council, for consideration and noting (and in line with the requirements of the Treasury Management Code of Practice (2017)), the annual report for treasury management activities 2021/22 including prudential and local indicators.	Council Non-Key Decision	Treasury Management Code of Practice.  Richard Walley <a href="mailto:Richard.Walley@walsall.gov.uk">Richard.Walley@walsall.gov.uk</a>	Internal Services	Cllr Bird	7 September 2022
114/22 (4.7.22)	<b>West Midlands Enhanced Partnership Scheme for Buses (Variation):</b> To approve a revised scheme to improve bus travel in the West Midlands.	Cabinet Key Decision	Matt Crowton <a href="mailto:Matt.Crowton@walsall.gov.uk">Matt.Crowton@walsall.gov.uk</a>	Legal, Procurement, Finance, Economy & Environment	Cllr Andrew	7 September 2022
103/22 (9.5.22)	<b>Cannock Chase Special Area of Conservation:</b> To consider options for mitigation strategies in response to the requirement that all developments that would have Likely Significant Effects on the SAC need to provide mitigation for their impacts.	Cabinet Key Decision	Stuart Crossen <a href="mailto:Stuart.Crossen@walsall.gov.uk">Stuart.Crossen@walsall.gov.uk</a>  John Raine <a href="mailto:John.Raine@walsall.gov.uk">John.Raine@walsall.gov.uk</a>	Internal Services	Cllr Andrew	7 September 2022

115/22 (4.7.22)	<b>Refugee Resettlement support services contract award:</b> To approve the contract awards for: 1) Ukrainian Refugee Resettlement support; 2) Afghan Refugee Resettlement support; 3) UK Resettlement Scheme (UKRS).	Cabinet  Key Decision	Neil Hollyhead  <a href="mailto:Neil.Hollyhead@walsall.gov.uk">Neil.Hollyhead@walsall.gov.uk</a>	Internal services, service users, external stakeholders	Cllr Ali	7 September 2022
110/22 (6.6.22)	<b>Draft Revenue Budget and Draft Capital Programme 2023/24 to 2026/27:</b>  To provide an updated medium term financial outlook, draft revenue budget and capital programme for 2023/24 to 2026/27, including savings proposals, and to set out the process and timescales for setting a legally balanced budget for 2023/24.	Cabinet  Non-key decision	Vicky Buckley  <a href="mailto:Vicky.Buckley@walsall.gov.uk">Vicky.Buckley@walsall.gov.uk</a>	Public, Internal Services	Cllr Bird	19 October 2022
111/22 (6.6.22)	<b>Corporate Financial Performance 2022/23:</b>  To report the financial position based on 5 months to August 2022, including the impact of Covid-19.	Cabinet  Non-key decision	Vicky Buckley  <a href="mailto:Vicky.Buckley@walsall.gov.uk">Vicky.Buckley@walsall.gov.uk</a>	Public, Internal Services	Cllr Bird	19 October 2022
107/22 (6.6.22)	<b>Procurement of Corporate Landlord Strategic Partner:</b>  To seek approval to the appointment of a strategic partner to support the programme of capital schemes related to the council's property portfolio.	Cabinet  Key Decision	Nick Ford  <a href="mailto:Nick.Ford@walsall.gov.uk">Nick.Ford@walsall.gov.uk</a>	Internal Services	Cllr Andrew	19 October 2022

<p>116/22 (4.7.22)</p>	<p><b>Young person homelessness accommodation and support contract awards:</b></p> <p>To approve the contract awards for:</p> <ol style="list-style-type: none"> <li>1) Dispersed temporary accommodation and intensive housing management;</li> <li>2) Supported lodgings, and Night Stop and Day Stop facility;</li> </ol>	<p>Cabinet</p> <p>Key Decision</p>	<p>Rashida Hussain</p> <p><a href="mailto:Rashida.Hussain@walsall.gov.uk">Rashida.Hussain@walsall.gov.uk</a></p>	<p>Internal services, service users, external stakeholders</p>	<p>Cllr Ali</p>	<p>19 October 2022</p>
<p>109/22 (6.6.22)</p>	<p><b>Schools Mainstream Local Funding Formula 2023/24:</b></p> <p>That Cabinet approves a full consultation with all schools for the Mainstream Local Funding Formula, to be used for the allocation of mainstream funding to schools in Walsall</p>	<p>Cabinet</p> <p>Key Decision</p>	<p>Schools Forum</p> <p>ESFA – Schools revenue funding operation guide</p> <p>Richard Walley</p> <p><a href="mailto:Richard.Walley@walsall.gov.uk">Richard.Walley@walsall.gov.uk</a></p>	<p>Schools Forum</p> <p>Cabinet</p>	<p>Cllr M. Statham</p>	<p>19 October 2022</p>

**Black Country Executive Joint Committee**  
**Forward Plan of Key Decisions** **Published up to December 2022**

Date created	Key Decision	Contact Officer	Main Consultees	Date of meeting
09/05/2022	<p><b>Future working arrangements of the Black Country Executive Joint Committee</b></p> <p>Consider the future working arrangements in light of the receipt of Government correspondence dated 31 March 2022: Integrating Local Enterprise Partnerships into local democratic institutions.</p>	<p>Sarah Middleton  <a href="mailto:Sarah.Middleton@blackcountryconsortium.co.uk">Sarah.Middleton@blackcountryconsortium.co.uk</a></p>	<p>Dudley MBC  Sandwell MBC  Walsall MBC  City of Wolverhampton Council</p>	19/10/2022
Black Country Enterprise Zone (EZ)				
06/06/2022	<p><b>Governance Principles: Enterprise Zones</b></p> <p>Approval of the amended Supplemental Deed of <i>Governance Principles: Enterprise Zones</i>, relating to the Black Country Executive Joint Committee Collaboration Agreement.</p>	<p>Simon Neilson  <a href="mailto:Simon.neilson@walsall.gov.uk">Simon.neilson@walsall.gov.uk</a></p>	Walsall Council	19/10/2022
Local Growth Fund (LGF) <span style="float: right;">Programme changes</span>				
06/04/2021	<p><b>Dudley Advanced Construction Centre</b></p> <p>Approval for the Accountable Body for the Growth Deal (Walsall Council) to proceed to amending the Grant Agreement with Dudley College, to deliver the Local Growth Fund (LGF) funded elements of</p>	<p>Helen Martin  <a href="mailto:Helen.Martin@dudley.gov.uk">Helen.Martin@dudley.gov.uk</a></p>	Dudley Council	19/10/2022

	the Dudley Advanced Construction Centre project with delivery to continue in the 2022/23 financial year. Note that change request relates to a change in outputs.			
06/09/2021	<p><b>Elite Centre for Manufacturing Skills</b></p> <p>Approval for the Accountable Body for the Growth Deal (Walsall Council) to proceed to amending the Grant Agreement with the University of Wolverhampton, to deliver the Local Growth Fund (LGF) funded elements of the Elite Centre for Manufacturing Skills (ECMS) project with delivery to continue in the 2022/23 financial year. Note that change request relates to a change in outputs.</p>	Richard Lawrence <a href="mailto:Richard.Lawrence@wolverhampton.gov.uk">Richard.Lawrence@wolverhampton.gov.uk</a>	Wolverhampton City Council	19/10/2022

## Education Overview and Scrutiny Committee: Work programme 2022/23

Main agenda items	06/09/22	11/10/22	22/11/22	12/01/23	16/02/23	28/03/23
<b>Theme: Children not in School</b>						
School Attendance Bill and Children Not in School Bill	X					
Children not in school (attendance, exclusions, elective home education and children missing education)	X					
Fair access and FAP	X					
Vulnerable Learners Hub	X					
<b>Theme: SEND</b>						
OFSTED Inspection Outcome and actions inc EHCP		X				
Transitions		X				
SEND and Alternative Provision Green Paper		X				
Special School Provision Plan		X				
<b>Theme: School Place and Capital Strategy</b>						
School Place Planning: Capital strategy for schools inc Early Years sufficiency, Primary, Secondary, Post 16 and Special Schools (inc Black Country plan impact and Free School development)			X			
Budget Setting 2023/24			X			
Quarter 2 Financial Monitoring			X			
<b>Theme: Outcomes and improvements</b>						
Attainment and Improving Educational Outcomes				X		
Increasing the Number of Good and Outstanding Schools				X		
Schools White Paper and Education Improvement Area				X		
Childrens Strategic partnership and Walsall Learning Alliance (WR4C)				X		
<b>Theme: Children not in School (Revisited)</b>					X	
<b>Theme: SEND (Revisited)</b>						X

**NB: The Outturn, Q1 and Q3 Finance reports to be by email circulation to the Committee.**