

Cabinet

18 March 2020

Options for the future of the two schools that constitute the Durham Federation



Report of Corporate Management Team

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Electoral division(s) affected:

Sacrison, Deerness Valley, Esh and Witton Gilbert, Brandon, Framwellgate Moor and Elvet; Neville's Cross.

Purpose of the report

- 1 To outline the educational and financial sustainability issues relating to Durham Community Business College (DCBC) and Fyndoune Community College (FCC), which jointly make up the Durham Federation. These schools are among schools causing most concern to the council, both financially and in terms of educational standards.
- 2 The report presents a set of options and recommends Cabinet to agree that Fyndoune Community College (FCC) is closed but that the site retained for educational purposes and community use, as detailed in the report. This is in line with the Department for Education requirement following the removal of a directive 'Academy Order' placed on the two schools.

Executive summary

- 3 In September 2014, both FCC and DCBC were inspected by Ofsted and deemed to be 'inadequate'. As a result they were issued with a directive 'Academy Order' by the Secretary of State requiring them to convert to academy status. This was followed by a protracted period of time in which the Department for Education (DfE) failed to secure an academy sponsor for the schools.
- 4 In 2018, the DfE agreed that no academy sponsor could be found and that the Academy Orders for the schools would be revoked and therefore they would remain under Local Authority maintained control. Revocation of the Academy Orders was dependant on the council taking steps to amalgamate the schools and remove one unique reference number (URN) through this process. This step would in effect amount to the closure of one of the schools.
- 5 Pupil numbers had fallen steeply during the prolonged period in which the future of the schools remained very uncertain following the inadequate Ofsted judgement. Current numbers are as follows:

	Capacity Years 7 - 11	2019 Intake (Year 7)	2020 intake (Year 7) provisional	Total 2020 (Yrs 7 – 11) provisional
Fyndoune Community College	526	13	3	91/526 (17% capacity)
Durham Community Business College	755	44	38	273/755 (36% capacity)
Combined Y7 intake over pupil admission number (PAN) for Y7		57/245	41/245	

- 6 These pupil numbers alone mean a split-site amalgamated school is unviable. The numbers also indicate that without a reversal of the current admission trend the sustainability of a single site school is also of significant concern. DfE guidance is that a minimum size new secondary school requires 600 pupils to be financially viable.
- 7 The options that have been explored are as follows:

Option 1	Amalgamate the schools and continue provision across both sites.
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Option 2	Close Fyndoune Community College and educate all pupils on DCBC site.
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The consequences of taking either these options are addressed in the report.

- 8 The conclusions drawn from the analysis of options is that the closure of FCC is necessary. This will meet the DfE stipulation of removing one URN from the two schools and provides the only option for future sustainability of a single site school. Even taking this action does not fully address the future sustainability concerns of a single site school.
- 9 The report provides full details of the implications of taking the recommended action, the alternatives which have been considered and rejected, and the reasons for all decisions. It also describes the intention of the council to explore future usage of the FCC site, following proper consultation with all stakeholders.
- 10 The demand for future school places in this part of the county is described in the report, and clearly demonstrates the need for one of the schools to remain open. The case for this being DCBC is also expanded upon, influenced not least by the substantial building programme on that site during 2018-19, funded by the ESFA, to a total of circa £3 million. The admissions pattern and potential catchment capacity of the two sites also indicate that DCBC should be the future base.
- 11 To support improvement in standards and future growth in pupil numbers to enable a sustainable single site at DCBC it is proposed also to explore brokering a relationship with one or more educational establishments or with a multi academy trust (MAT).

Recommendations

- 12 It is recommended that Cabinet:
 - agrees to the process of closure of FCC (option 2) which will begin with statutory consultation; and
 - approves the action by which local authority officers will work with school leaders and governors of DCBC to secure a relationship with another education provider to improve the long-term financial sustainability and educational standards of that school.

- Agrees to the Council working with the local community to find a sustainable approach for the FCC site that protects and expands on existing community use

Background

- 13 DCBC is a smaller than average maintained secondary school (capacity for 755 pupils) with numbers of pupils in receipt of free school meals and special educational needs (SEN) levels significantly higher than average – 36.2% on free school meals compared to the county average of 21.6% and 19.1% pupils with SEN compared to the county average of 12.3% amongst Y7-11 pupils in mainstream schools.
- 14 It has been part of a formal federation with FCC since September 2009; Fyndoune is also a small maintained secondary school (capacity for 526 pupils) with similar characteristics – 29.6% on free school meals compared to the county average of 21.6% and 17.8% pupils with SEN compared to the county average of 12.3%.
- 15 There is a distance of approximately seven miles between the two sites. Budgets are combined and managed at federation level and the federation operates as one unit strategically.
- 16 Both schools have been judged by Ofsted as 'Requires Improvement'. FCC was inspected in March 2019 and DCBC was inspected in November 2019. Pupil numbers have fallen, especially at FCC, partly as an outcome of having been in an 'Inadequate' Ofsted category from September 2014, following which time the Department for Education failed to enlist an academy sponsor.
- 17 An Interim Executive Board (IEB) was appointed following the designation of 'Inadequate' in 2014 and is currently still in place. It will be replaced by a regular governing body in April 2020, which is already operating alongside the IEB in a 'shadow' capacity to ensure a smooth transition. The Chair of the IEB is an experienced national leader of governance (NLG).
- 18 In 2018, the Department for Education agreed that no academy sponsor could be found, the directive Academy Orders placed on the two schools would be revoked. One condition was that the schools would amalgamate and a single URN would apply to both sites, thereafter operating as a single school. This process is the equivalent to a full statutory closure process.
- 19 From September 2018 the large majority of pupils have been educated on the DCBC site as numbers at FCC were small and reducing. Until recently a nurture provision and some specialist groups were based at Fyndoune, but staffing reductions have meant that this unit is now based at DCBC. All academic teaching has taken place on the DCBC

site since the start of the 2018-19 school year. This approach has enabled the schools to pool staff effectively but it has required support from the council in the provision of school transport for some children as an interim arrangement.

- 20 The Sacriston site is partly leased to a large alternative education provider, 'Education Plus', providing a learning environment for approximately 45 students per week, on the roll of other schools including the Woodlands (pupil referral unit) but at risk of exclusion. FCC receives the benefit of the lease income, which is approximately £80,000 per annum. In the event of closure, it is proposed to work with Education Plus to retain their provision on site.
- 21 A further section of the site is leased to a private nursery in an arrangement that does not involve the school. A small number of community and private concerns rent space for clubs and events which translates to a very small additional income. In the event of closure of FCC, we would seek to retain these arrangements and build on community of the site.
- 22 There is a school farm on the Sacriston site used to deliver a BTec qualification to a small group of students: the net cost to the school of maintaining this facility is in excess of £50,000 per annum.
- 23 A serious fall in pupil numbers in recent years has meant that the schools face significant financial challenges. The federation is currently in a deficit position and this is forecast to rise significantly in the coming year. The Year 7 intakes for September 2019 were 44 for DCBC and 13 for FCC, against a combined Pupil Admission Number (PAN) of 245. First preferences for Year 7 in September 2020 are 38 for DCBC and 3 for FCC. Numbers in 2020 may increase by the addition of second and third preferences and late applications. However, there is a real danger that the net Year 7 number will be lower in 2020 than it was in 2019.
- 24 The schools have had issues with deficit revenue budget outturns for the last few years which have diminished their reserves, despite a significant staffing restructure which took place from September 2016. At the end of March 2019 the schools had a cumulative deficit of £112,000. The schools predict a further in-year deficit in 2019/20, increasing the cumulative deficit to over £1.126 million by the end of 2021/22.
- 25 A further staffing restructure is planned to begin in January 2020, and while this will reduce the in-year deficit position for 2020/21, it will not eliminate it. The current proposal is a reduction of 5.6FTE teachers and

4 FTE support staff which would provisionally generate a saving of circa £440,000.

- 26 The table below shows projections for future years based on the most recent version of the current year's budget plan, which underscores the need to take swift action. The pupil numbers in this table and the table in paragraph 28 are based on figures across a financial year and not the actual school year (paragraph 5 shows actual intake figures for last year and provisional intake figures for 2020-21). In effect, it is clear from the actual figures that these financial projections are overly optimistic, with pupil numbers even lower than those used to establish an already unsustainable financial forecast.

Revenue budget (£, rounded)	2019-20	2020-21	2021-22	2022-23	2023-24
Total Income	4,130,000	3,603,000	3,005,000	2,767,000	2,462,000
Total Expenditure	(4,490,000)	(3,641,000)	(3,620,000)	(3,712,000)	(3,795,000)
In Year Surplus / (Deficit)	(360,000)	(38,000)	(616,000)	(945,000)	(1,333,000)
Surplus /(Deficit) Brought Forward	(112,000)	(473,000)	(510,000)	(1,126,000)	(2,071,000)
Surplus /(Deficit) Carried Forward	(473,000)	(510,000)	(1,126,000)	(2,071,000)	(3,404,000)
Pupil Numbers					
Year 7	84	55	41	48	48
Year 8	103	87	55	41	48
Year 9	96	98	87	55	41
Year 10	135	92	98	87	55
Year 11	126	129	92	98	87
Total Pupils	544	461	373	329	279

- 27 The impact on educational standards of falling numbers and the associated financial challenges set out above are of significant concern and action is required to help alleviate these problems.
- 28 The schools may manage to attract more pupils than the first preference numbers suggest. Estimating against a hypothetical intake of both 90 pupils and 120 pupils enrolling annually from September 2021, the projected figures would be as follows:

90 Admissions

Revenue budget (£, rounded)	2019-20	2020-21	2021-22	2022-23	2023-24
Total Income	4,130,000	3,603,000	3,221,000	3,107,000	3,023,000
Total Expenditure	(4,490,000)	(3,861,000)	(3,510,000)	(3,252,000)	(3,035,000)
In Year Surplus / (Deficit)	(360,000)	(258,000)	(290,000)	(145,000)	(13,000)
Surplus /(Deficit) Brought Forward	(112,000)	(473,000)	(730,000)	(1,020,000)	(1,165,000)
Surplus /(Deficit) Carried Forward	(473,000)	(730,000)	(1,020,000)	(1,165,000)	(1,178,000)
Pupil Numbers					
Year 7	84	55	90	90	90
Year 8	103	87	55	90	90
Year 9	96	98	87	55	90
Year 10	135	92	98	87	55
Year 11	126	129	92	98	87
Total Pupils	544	461	422	420	412

120 Admissions

120 admissions Revenue budget (£, rounded)	2019-20	2020-21	2021-22	2022-23	2023-24
Total Income	4,130,000	3,603,000	3,380,000	3,426,000	3,501,000
Total Expenditure	(4,490,000)	(3,861,000)	(3,510,000)	(3,252,000)	(3,035,000)
In Year Surplus / (Deficit)	(360,000)	(258,000)	(130,000)	174,000	465,000
Surplus /(Deficit) Brought Forward	(112,000)	(473,000)	(730,000)	(861,000)	(687,000)
Surplus /(Deficit) Carried Forward	(473,000)	(730,000)	(861,000)	(687,000)	(222,000)
Pupil Numbers					
Year 7	84	55	120	120	120
Year 8	103	87	55	120	120
Year 9	96	98	87	55	120
Year 10	135	92	98	87	55
Year 11	126	129	92	98	87
Total Pupils	544	461	452	480	502

As in paragraph 26, the pupil numbers used to model these financial projections are more optimistic than the actual pupil intake numbers show (see paragraph 5).

- 29 Although neighboring schools are near or at capacity, it is evident from parental preferences that DCBC and particularly FCC are not necessarily the schools of choice for families living even in close proximity. So any optimistic projection of pupil numbers increasing in future years due to restricted capacity in the local area must be treated cautiously.
- 30 However, with a combination of significantly improved intake figures and a restructure / cost-reduction exercise that reduced annual expenditure, the school could be brought to a position where an in-year surplus could be achieved in the future, although the improved position wouldn't be sufficient to eliminate the cumulative deficit without year-on-year increases for a sustained period and would require deficit budgets to be agreed by the Section 151 Officer. This could extend beyond the point acceptable to the Section 151 Officer (see Appendix 1 – 'Implications').
- 31 While the DfE required a consultation on possible amalgamation of the two schools, a more appropriate response would be to begin consultation on a proposal to close FCC due to its unsustainable financial position. This would also give the remaining single site school the best chance of returning to a more sustainable position in the longer term although, as indicated above, this is only likely in the event of significant improvements in terms of pupil intake.
- 32 Due to the circumstances set out above, the council urgently needs to consider the options to avoid both schools or the sites they occupy becoming unviable, and to prevent them accruing large deficits due to high running-costs, low pupil numbers, and the combined conditions backlog. The imperative of the DfE to amalgamate the schools into one remains, and there is a very real possibility that even this action would not lead to a sustainable outcome, which makes it essential that all possible alternatives are given prompt attention.

Closure of Fyndoune Community College (FCC) to remove URN

- 33 The council is already committed to the removal of the URN of one school as a condition of the DfE revoking the directive Academy Orders in 2018. The original plan to achieve this requirement was the amalgamation of the schools, and a timeline that would achieve this is provided below.
- 34 Removal of a URN by amalgamation would in effect constitute a closure of one school and a full closure process would achieve the same end. Both amalgamation and full closure are considered in the various

options set out later in the report but retaining two schools with separate URNs is not considered as this course of action would not satisfy the DfE conditions previously set down.

- 35 Planned amalgamation of the two schools or closure of one could go ahead in 2020, according to the following timeline:

Date	Action
18 March 2020	Cabinet decision report to begin consultation
20 April – 30 May 2020	Initial consultation (6 weeks)
8 – 12 June 2020	Delegated decision report to issue statutory notice
18 June – 16 July 2020	(4 weeks) Public notice period
August 2020	CYPS SMT
August 2020	CMT
1 September 2020	Pre - Agenda Meeting
14 September 2020	Cabinet Briefing
16 September 2020	Cabinet key decision
October 2020	Closure of FCC

Options to consider

Option 1: Amalgamation of DCBC and FCC with provision continuing across two sites:

- 36 Under this option, the two schools merge under a single URN (thus complying with the DfE requirements) achieved by closing FCC as a registered school and retaining DCBC URN, but with provision continuing to be offered across the two sites, as is currently the position.
- 37 Under this option:
- small group provision on the Fyndoune site would continue, supplemented by rental of space to a large alternative provider and other sundry rents (see paragraphs 20 and 21, above);
 - the two lump sums that are currently claimed by the two schools as part of the schools funding formula will be reduced to one lump sum plus a split-site allowance (while this element remains a part of the future national funding formula);
 - while there would be scope to try and achieve further rental of space on the Fyndoune site, the overall costs of staffing and maintenance across two sites will remain.

- 38 This option will necessitate the council continuing to provide home to school transport for pupils living in Sacriston, Langley Park, Witton Gilbert and surrounding areas so that they may attend the DCBC site. The current cost of this transport is approximately £260,000 per year but will reduce if the low numbers of pupils admitted to Year 7 in September 2019 are repeated in 2020.
- 39 This option would not improve educational standards, as the requirement to provide teaching across two sites would put unsustainable strain on staff and would require a reversal of steps already successfully taken to deliver the bulk of the curriculum on one site (a move that has been broadly welcomed by students and has eased difficult staffing and recruitment issues in the schools).
- 40 As the conditions outlined above will not reduce the in-year deficit (unless in the unlikely event that the available space on the Fyndoune site can be rented at rates higher than any current market projections), this option is not considered viable and is therefore **NOT RECOMMENDED**.

Option 2: Closure of FCC and all education to take place on the DCBC site.

- 41 Under this option, closure of Fyndoune Community College goes ahead from October 2020, following the timeline shown in paragraph 35. In this case the site reverts to the council and, we would seek to retain alternative education providers, nursery or other community activities on the site. It is proposed under this option to undertake a consultation with the local community about the opportunities for future additional use of the site.
- 42 This option would mean that DCBC will divest itself of any liabilities for maintenance and running-costs of the FCC site. DCBC will receive only one lump sum and no split-site allowance but will not have additional staffing and management responsibilities associated with schools across more than one site. An estimate of the overall savings from these reduced maintenance and staffing costs (estimated by AVEC who were engaged by the DfE / school to review this option) is in the region of £75,000 per annum. However, income currently coming to the Federation from, for example, the lease of space to 'Education Plus' (circa £80,000) will not henceforth contribute to the budget.
- 43 All pupils would be educated at DCBC. Transport for those pupils formerly enrolled at FCC would continue to be provided and this

arrangement would be maintained during the time they attend DCBC. Transport for new pupils joining the school after September 2020 would be based on eligibility under the council's Home-to-School Transport policy.

- 44 As most schools near DCBC are full or very nearly full, the alternatives available to families in need of secondary school places are currently limited, meaning DCBC numbers are likely to rise to some degree by default. The nearest schools to where most of the affected pupils live would be Framwellgate Academy (2.6 miles), Durham Johnston (3.2 miles) and The Hermitage Academy (3.6 miles), all of which are full. If a strengthened offer is made available through DCBC there is scope to put the school on a sustainable footing.
- 45 Regardless of this, it can be assumed that DCBC would remain with low pupil numbers for the foreseeable future, which will not serve to address its in-year and accumulated deficit over time. This will necessitate future further steps with possible actions summarised later in the report (paragraphs 48 – 52).
- 46 Closure of FCC would present a risk to community provision as this will be a formal end to the provision of secondary education within Sacriston. In terms of secondary education it should be noted that the limited provision on the FCC site means that as a mainstream education facility it has in effect already ceased. If the recommendation is approved to consult on closure of FCC, the council will work with the local community to support the existing usage of the site as far as it is possible to do so.
- 47 While there remains a strong financial imperative to close FCC, enabling all the resources of the current Durham Federation to be focussed on one site only, this action alone is unlikely to secure a sustainable outcome for DCBC, requiring further work to be undertaken (as described in paragraphs 10 and 11). However, as this is the only option for a potentially viable future provision, the option is **RECOMMENDED**.

Support for DCBC to enable future educational and financial viability

- 48 As mentioned in paragraph 10, there is current and anticipated demand for secondary school places in Durham city, where schools are mainly full, and prudently the council should aim to maintain a secondary

school as near to the city as DCBC is. Against future financial pressures, an arrangement may be brokered between DCBC and another education provider to support improved standards and financial sustainability.

- 49 Such action could ease pupil placement and formalise a connection with a more popular school, although the challenges of providing education across a split-site is well-documented in other parts of the county and is one of the underlying issues that has adversely affected the Durham Federation over time. This would need to be carefully considered by all parties involved in any such arrangement.
- 50 DCBC is in very good condition having benefitted recently from a substantial building programme fully funded by the ESFA, completed in 2019. The buildings and playing fields, plus the very well-equipped Bobby Robson Sports Complex on site, are assets to support improvement in the broad educational offer of both DCBC and the school(s) with which it may form a relationship.
- 51 Potential exists for a relationship to be brokered between one or more primary schools and DCBC, on condition the financial sustainability of the arrangement can be secured.
- 52 The support of parent communities at DCBC and any potential partner(s) would need to be established to support a successful process. However, this option would help to ensure a sustainable future for a school in the Deerness Valley community and would potentially offer a means of easing demand on pupil numbers in good or better schools in the Durham city area. The council has a statutory duty for providing sufficient pupil places of good quality now and in the future.

Future usage of the FCC site in the event of school closure

- 53 As described above (paragraphs 20 following), FCC currently hosts both alternative provision and private nursery educational provision and community groups. Buildings in parts of the site have been adapted to suit the external education providers, and a lease arrangement exists between them and the school or council. Community groups also use facilities, particularly but not exclusively the sports hall.
- 54 As part of the consultation on closure of FCC, the implications for these various interested parties will be given full consideration. It is the intention of the council that the site will continue to be used to some degree for educational purposes and that community groups will continue to be able to access the facilities. We will work with

community leaders and groups to ensure sustainability of community provision on the site.

Risks / Implications

- 55 Without taking actions recommended in this report, the schools that make up the Durham Federation are not financially viable and they will quickly accumulate significant deficits across the coming years. Schools cannot set a deficit budget without the prior agreement in writing of the authority, and the anticipated pupil numbers across the two schools are insufficient to permit a balanced budget to be set without significantly affecting educational attainment – the school cannot achieve the DfE requirements in terms of a broad and balanced curriculum with the funding available to it based on the low numbers of pupils.
- 56 There is a reputational risk to the council from having local authority maintained schools unable to set a balanced budget, and timely action is required to avert this. However, the need to retain some capacity for school places in this area means that the closure of both schools would not be possible. That said, closure of one school will likely provoke a negative community reaction, and this also poses a significant reputational risk.
- 57 Failure to respond to this situation effectively runs the risk of the council failing in its fiduciary duties, which in this case conflict with its statutory duty for providing sufficient pupils places now and in the future.
- 58 Should both schools close, the additional cost of providing home to school transport to pupils' nearest schools will be significant. Potentially there would also need to be capital investment to expand other secondary schools to accommodate additional pupils as the nearest schools are full or near to full.
- 59 A decision to close a school can only be taken after consultation, but this action may prevent or inhibit choices of families to send their children to a local school.
- 60 Any review or change to educational provision in an area has the potential to adversely impact on protected characteristics, both in terms of pupils, their families, local communities and employees working in the schools. The options described in this report could involve pupils being required to attend different schools or not being able to access a local school and being required to travel further, although the option recommended has only a moderate risk of this.

Proposed next steps

- 61 In line with the recommendations of this report, and in the event that approval is given, consultation on the closure of Fyndoune Community College will begin in line with the timeframe provided in paragraph 35.
- 62 If the recommendations are approved, officers will commence discussions with leaders and governors of suitable County Durham schools and academies in the attempt to broker a partnership between them and DCBC to provide a more sustainable educational model with improved standards and outcomes.
- 63 Further reports will be brought forward on the options and costs of developing the Fyndoune site for further educational and community use following consultation with the local community and providers.

Conclusion

- 64 Since 2014 when Ofsted found both schools to be inadequate there have been a range of issues impacting on the sustainability of both schools. The uncertainty created by the 'inadequate' judgements and the Department of Education's failure to secure a suitable sponsor has seriously undermined attempts to address the underlying issues in both schools.
- 65 As a result, pupil numbers have fallen and significant challenges, partly relating to the split-site context of the Federation, have exacerbated an already difficult situation.
- 66 The options described in this report and the subsequent recommendations represent a measured but increasingly urgent response to a worsening situation to try and safeguard the future education of children living with the area serviced by the Federation.

Background papers

- List any papers required by law / None

Other useful documents

- Previous Cabinet reports / None

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Appendix 1: Implications

Legal Implications

The actions described in this report are intended to comply with the council's duty to exercise its education functions with a view to promoting high standards and the fulfilment of each pupil's learning potential in accordance with S 13 A of the Education Act 1996.

The Corporate Director of Resources is responsible by virtue of Section 151 of the Local Government Act 1972 for the administration of the authority's financial affairs. The Corporate Director of Resources also has a duty to report certain matters to the authority by virtue of Section 114 of the Local Government Finance Act 1988.

Schools have delegated budgets, but if a school fails to recruit sufficient pupils to maintain a viable budget, or incurs staffing or other costs in excess of income, then the decision to allow a school to set a deficit budget falls to the Section 151 Officer, the Corporate Director of Resources.

The funding framework governing schools finance, which replaced Local Management of Schools, is based on the legislative provisions in sections 45-53 of the School Standards and Framework Act 1998. Under this legislation the Council is required to publish a Scheme of Financing for Schools. The scheme sets out the financial relationship between the authority and the maintained schools which it funds, including the respective roles and responsibilities of the authority and the schools. The scheme does not limit unreasonably the flexibility of schools to control and deploy their budgets, recognising the need for public monies are involved to be properly accounted for and recorded. The scheme includes provisions which are binding on both parties. Under the scheme, any deficits of expenditure against budget share (formula funding and other income due to the school) in any financial year will be charged against the school and will be deducted from the following year's budget share to establish the funding available to the school for the coming year.

Schools cannot set a deficit budget without the prior agreement in writing of the authority. For clarity, a deficit budget is one where the gross expenditure in the budget plan exceeds the total of funding, income and the balance (surplus or deficit) brought forward from the previous year.

Finance

Schools are funded through the Dedicated Schools Grant and operate to delegated budgets, which are the responsibility of individual school governing bodies. Where a school wishes to set a deficit budget (where its spending exceeds its resources in year) it can only do so in accordance with EFA guidance and the Scheme of Financing for Schools and with the permission of

the Council's Section 151 Officer. In accordance with legal obligations, the Section 151 Officer may not continue to allow a school to set a deficit budget without a robust business plan that indicates the removal of any deficit over time.

The report outlines the significant financial difficulties experienced by the two schools that make up the Durham Federation and the options that will need to be explored in terms of a solution to these problems.

The National Funding Formula puts more funding into pupil-led factors than school-led factors, which creates longer-term challenges for smaller schools or schools with very low and/or reduced rolls, because the increase in pupil-led funding will be of less benefit to schools with smaller numbers of pupils.

Should a school close, the additional cost of providing home to school transport to pupils' nearest schools can be significant. There would also need to be significant capital investment to expand other secondary schools to accommodate additional pupils should a secondary school close for financial reasons. Where this expansion involves an academy, the share of the costs between the local authority (with its statutory function to provide places) and the ESFA, which is responsible for the funding of academies, will need to be negotiated.

Consultation

Consultation on closure of schools follows a statutory process with set sequence and timelines. This will be followed in the event that closure is agreed as an outcome of the recommendations of this report.

Equality and Diversity / Public Sector Equality Duty

A decision to close a school can only be taken after consultation, but this action may prevent or inhibit choices of families to send their children to a local school.

Any review or change to educational provision in an area has the potential to adversely impact on protected characteristics, both in terms of pupils, their families, local communities and employees working in the schools. The options described in this and previous reports could involve pupils being required to attend different schools or not being able to access a local school and being required to travel further.

Initial analysis of the potential equality impacts of the review options are as follows.

The impact on pupils who have learning difficulties, SEN or who are already disadvantaged in their educational attainment will need to be put under particularly acute scrutiny. For vulnerable pupils there is maybe a need for a personal educational plan or a revised Education and Health Plan. Changes to transport arrangements and to support staff continuity may be required as part of equalities mitigation.

Recognition will need to be given to any variation in staff contracts, changed travel times and potential for some impact on hours worked. It will be important to negotiate mitigation in these areas.

Where a school under consideration for closure is used by the community for sport, leisure and a range of community activities, the withdrawal of access to the facility will have potential negative impacts across the protected groups in particular age, gender and disability.

Critical challenge, feedback and advice should come from future public consultations from professional associations, unions and other interested parties.

Although doing nothing and leaving the schools as they are may initially be favoured by parents, who tend to view the closure of any school in a negative manner, the fact is that action is required. Although a school may be viable currently they may become unviable in future if action is not taken in a planned way.

Climate Change

The closure of Fyndoune Community College will not directly lead of a negative impact on climate change, but increased transportation of pupils to and from other schools, that may be an indirect outcome of some recommendations contained in the report, must be acknowledged. Any new school building will be compliant with environmental legislation.

Human Rights

Human rights are not affected by the recommendations in this report.

Crime and Disorder

None

Staffing

There is potential impact on school staff through re-structuring to address deficit balances, or through closure of schools, as indicated in this report.

Accommodation

If school closure is proposed as a recommendation of the report or if a solution to financial challenges is sought through the transfer of a maintained school to become an academy, this may have implications in terms of accommodation where school premises are used by the community under arrangements set up with a maintained school.

Risk

A key risk is that, as a consequence of actions taken by the council (including the failure to make timely interventions), pupils and students do not receive an adequate education. There is an additional risk of reputational damage if the council does not appear to be able resolve the problem of schools operating

with significant and sometimes increasing budgetary difficulties, and allows some schools to continue to set deficit budgets whilst requiring other schools to balance their budgets.

The Section 151 Officer must sign-off the budget for schools with a deficit budget plan and needs to be able to justify doing so in terms of each school having a robust plan to recover from its deficit. The scheme of delegation allows for deficit budgets, but only for three years, and no more than 20% of the school's budget share, up to a maximum of £750,000. There is a risk of legal challenge from the Department for Education if this statutory function is neglected. There is a risk of external auditors calling into question the actions of the Section 151 Officer if no credible plans are agreed to resolve the issues described in this report.

Procurement

Not applicable.