

Cabinet

10 February 2021



Proposal to amalgamate Durham Community Business College and Fyndoune Community College into a single secondary school on the site of Durham Community Business College from 12 April 2021

Key Decision: CYPs/01/2021

Report of Corporate Management Team

John Pearce, Corporate Director of Children and Young People's Services

Councillor Olwyn Gunn, Cabinet Portfolio Holder for Children and Young People's Services

Electoral division(s) affected:

Deerness, Esh & Witton Gilbert, Sacriston, Brandon.

Purpose of the Report

- 1 To seek Cabinet approval to amalgamate Durham Community Business College(DCBC) and Fyndoune Community College (FCC) into a single secondary school on the site of Durham Community Business College from 12 April 2021, taking account of the Local Authority's duties as prescribed in the Education and Inspections Act 2006 to secure sufficient places and to ensure good outcomes for all children and young people in the local area.

Executive summary

- 2 FCC has been part of a formal federation with DCBC since September 2009 – the 'Durham Federation'.
- 3 As a result of both schools failing Ofsted inspections, the Department for Education (DfE) issued a directive Academy Order in the expectation that the schools would be sponsored by a multi-academy trust. However, over a protracted period of time, the DfE failed to secure a sponsor.

- 4 As a consequence, the DfE agreed to return the schools to local authority-maintained control on condition the URN of one school was removed. This step required a process of public consultation following DfE statutory guidance.
- 5 Consultation was carried out between 5 October and 15 November 2020 with Governors, staff, parents and the wider community. Only 9 responses were received to that consultation, 5 in support of the proposal and 4 not in support of it. Those responses to the consultation that did not support the proposal failed to put forward educational reasons to suggest that amalgamating DCBC and FCC is not the right thing to do.
- 6 In a report dated 19 November 2020, the Corporate Director of Children and Young People's Services, used delegated powers to approve the issuing of a statutory notice proposing to amalgamate Durham Community Business College and Fyndoune Community College into a single secondary school on the site of Durham Community Business College from 12 April 2021.
- 7 The statutory notice was issued on 26 November 2020. Any person wishing to object or make comments on the proposal had four weeks from this date to do so. No comments were received to the proposal.
- 8 In accordance with DfE statutory guidance, Cabinet will make the final decision that determines the outcome of the proposal.

Recommendation

- 9 Cabinet is recommended to:
 - (a) agree to amalgamate Durham Community Business College and Fyndoune Community College into a single secondary school on the site of Durham Community Business College from 12 April 2021.

Background

- 10 Durham Community Business College and Fyndoune Community College are two small secondary schools in Ushaw Moor and Sacriston. They are currently two separate schools, have two separate school names and numbers but operate as one educational establishment. Both schools provide education for pupils aged 11-16. Durham Community Business College has the capacity to accommodate 755 pupils (currently there are 302 pupils on roll at the school) and Fyndoune Community College has the capacity to accommodate 526 pupils (currently there are 120 pupils on roll at the school,) although these children are taught on the Ushaw Moor site.
- 11 Durham Community Business College and Fyndoune Community College federated in September 2009 to form The Durham Federation. Since then the two schools have worked increasingly closer together to provide the best possible provision for the communities the schools serve.
- 12 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.
- 13 In order to raise standards a new leadership team was employed, and the way education was delivered was reviewed. Academic subjects are delivered from the Ushaw Moor site with the Sacriston site being used to deliver vocational subjects. The Sacriston site has also been used as a base for alternative provision, to support the education of some children with special educational needs, and as a Community Hub. These arrangements have allowed students from both communities and other schools to benefit from the facilities and provision. A wide range of community groups have benefitted from use of sports fields and buildings outside school hours, and these arrangements are set to continue.
- 14 The two schools which are approximately 7 miles apart are clearly identified as 'The Durham Federation' and although registered as separate schools, they operate as one entity and an amalgamation of the two schools will formalise this arrangement. The Department for Education required the Council to take this action as a condition of revoking the Academy Order on the schools.
- 15 The Council and the Governing Body of Durham Federation had become increasingly concerned about the comparatively low pupil numbers attending each school, which was resulting in difficulty in

delivering a broad and balanced curriculum across two sites. This means that both schools faced serious financial challenges but the action to concentrate all pupils and staff on one site as long as this could be accommodated was the most cost-effective approach, as well as presenting the best opportunities to pupils from an educational perspective.

- 16 A serious reduction 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 intake for September 2020 across both schools was 61 against a combined Pupil Admission Number (PAN) of 245.
- 17 In a report dated 18 March 2020, Cabinet agreed that consultation could commence on a proposal to close Fyndoune Community College. This will be achieved by amalgamating Fyndoune Community College with Durham Community Business College and closing Fyndoune Community College as a registered school on 12 April 2021.
- 18 The Cabinet report also agreed 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. A decision by Cabinet to determine the outcome of the proposal to close FCC as a registered school will enable a focus future community use as the next phase of the process.

Consultation

- 19 An initial, non-statutory consultation on a proposal to amalgamate Durham Community Business College and Fyndoune Community College was held between 5 October and 15 November 2020. A virtual meeting on Microsoft Teams was held on 8 October 2020 with Governors. Parents and other stakeholders were encouraged to submit questions and comments regarding the proposal as well as by emailing relevant council officers.
- 20 Details of the consultation and a full summary of the consultation responses received is included in the delegated decision report dated 19 November 2020.
- 21 When considering responses to the consultation, the Council has referred to the Department for Education (DFE) guidance – “Making significant changes (‘prescribed alterations’) to maintained schools. Statutory guidance for proposers and decision-makers”. This guidance states that the decision-maker (in this case the Council’s Cabinet) needs to be satisfied that the appropriate fair and open local consultation has been carried out and that the proposer (in this case the Council’s Education Service) has given full consideration to all the

responses received. The decision-maker should not simply take account of the numbers of people expressing a view. Instead, they should give the greatest weight to responses from those stakeholders likely to be most affected by a proposal – especially parents of children at the affected school(s).

- 22 The responses to the consultation were received and considered by officers in the Council. Of the 9 responses received, 5 were in support of the proposal and 4 were not in support of the proposal. Those not in support of the proposal expressed concerns that the proposal does not take account of the planned housing developments in Sacriston, Witton Gilbert and Sniperley Park, particularly when other local secondary schools are full. Those in support of the proposal felt that having education delivered from only one site enhances learning which in turn improves teaching and learning and pupil outcomes.

Decision to Issue a Statutory Notice

- 23 After considering the responses, a summary of which is provided in the delegated decision report dated 19 November 2020, the Corporate Director, Children and Young People's Services used delegated powers to agree to publish proposals to amalgamate Durham Community Business College and Fyndoune Community College into a single secondary school on the site of Durham Community Business College from 12 April 2021. A statutory notice was therefore published on 26 November 2020.
- 24 Once a proposal is published there follows a statutory 4-week representation period during which comments can be made. These must be sent to the Local Authority. Any person can submit representations, which can be objections as well as expressions of support. The representation period is the final opportunity for people and organisations to express their views about the proposal. Once the representation period has closed, a decision on the proposal must be made by the decision-maker (in this case the Council's Cabinet) within 2 months, i.e. by 23 February 2021.

Responses to the Proposal Published on 26 November 2020

The Statutory Notice Period

- 25 No responses were received by the end of the 4-week statutory notice period.

Decision-Making Process - Factors to be considered by Cabinet

Consideration of Consultation and Representation Period

- 26 Cabinet needs to be satisfied that the appropriate fair and open local consultation and representation period have been carried out and that the proposer (in this case the Local Authority) has given full consideration to all the responses received. If the proposer has failed to meet the statutory requirements, this proposal may be deemed invalid and therefore should be rejected. Consultation was carried out in accordance with Department for Education (DFE guidance).
- 27 Cabinet must consider all the views submitted, including all support for, and objections to and comments on the proposal. Details of the consultation are included in this report. The statutory notice published on 26 November 2020 and which expired on 23 December 2020 (the representation period) was prepared as defined in the regulations and complied with statutory requirements.
- 28 The delegated decision report (19 November 2021) provides full details of the responses received during the consultation period from 5 October 2020 to 15 November 2020. In summary, 9 responses were received, 5 in support of the proposal and 4 not in support of the proposal.

Related Proposals

- 29 Where proposals appear to be related to other proposals, the decision-maker must consider the related proposals together. A proposal should be regarded as related if its implementation (or non-implementation) would prevent or undermine the effective implementation of another proposal.
- 30 The proposal to amalgamate Durham Community Business College and Fyndoune Community College is not linked to any other proposal.

Education Standards and Diversity Issues

- 31 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. The Council and the Governing Body of Durham Federation had become increasingly concerned about the comparatively low pupil numbers attending each school, which was resulting in difficulty in delivering a broad and balanced curriculum across two sites. This means that both schools face serious financial challenges but the action to concentrate all pupils and a single staff on one site as long as this can be accommodated will be the most cost-

effective approach, as well as presenting the best opportunities to pupils from an educational perspective.

- 32 It is believed that the best way of improving education outcomes and easing the pressure on the budget will be most effectively achieved by amalgamating Durham Community Business College and Fyndoune Community College.

Proposed Admission Arrangements

- 33 When deciding the proposal, Cabinet should confirm that the admission arrangements are compliant with the School Admissions Code. The admission arrangements will remain unchanged and be the same as those for all community and voluntary controlled schools in County Durham and these are compliant with the DFE's School Admission Code. The proposed number of pupils to be admitted to Year 7 in the school in September 2021 will be 141.

National Curriculum

- 34 All maintained schools must follow the National Curriculum unless they have secured an exemption for groups of pupils or the school community. The proposal to amalgamate Durham Community Business College and Fyndoune Community College into a single secondary school has no impact on the school's ability to follow the National Curriculum.

Equal Opportunity Issues

- 35 Cabinet must have regard to the Public Sector Equality Duty (PSED) which requires them to have 'due regard' to the need to:
- eliminate discrimination;
 - advance quality of opportunity;
 - foster good relations.
- 36 An equality impact assessment (Appendix 2) has been carried out on this proposal. There are no potential impacts in relation to age, gender, disability, sexual orientation or ethnicity for pupils and parents/carers. The current schools provide education for boys and girls aged between 11-16 years and amalgamated single secondary school will continue to provide education for boys and girls across the same age range.

Travel and Accessibility

- 37 The single secondary school will operate on the existing site of Durham Community Business College which is where all pupils are currently taught. Consequently, there will be no increase in travelling time

Funding

- 38 Cabinet must be satisfied that the necessary funding required to implement the proposal will be available. If the proposal is agreed, no capital funding will be required to implement it.

School Premises and Playing Fields

- 39 Under the School Premises (England) Regulations 2012 all maintained schools are required to provide suitable outdoor space to enable physical education to be provided to pupils in accordance with the school curriculum; and for pupils to play outside safely. The site of Durham Community Business College has suitable outdoor spaces for all pupils.

Conclusion

- 40 It is believed that the best way of improving education outcomes and easing the pressure on the school budget will be most effectively achieved by amalgamating Durham Community Business College and Fyndoune Community College into a single secondary school on the site of Durham Community Business College.
- 41 Although there has been a limited response to the consultation and statutory notice, most responses received were in support of the proposal. There have been no educational reasons put forward by those not in support of the proposal as to why the proposal to amalgamate Durham Community Business College and Fyndoune Community College into a secondary school on the site of Durham Community Business College should not be agreed.

Background Papers

- Consultation document: 'Proposal to Amalgamate Durham Community Business College and Fyndoune Community College into a Single Secondary School on the site of Durham Community Business College from 12 April 2021'
- Consultation document distribution list – Oct/Nov 2020

Author(s)

Graeme Plews

Tel: 03000 265777

Appendix 1: Implications

Legal Implications

The actions described in this report are intended to comply with the Council's duty to exercise its functions with a view to promoting high standards and the fulfilment of each pupil's learning potential in accordance with S13A 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 of Director 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 previous years.

Finance

At 31 March 2021 DCBC and Fyndoune are forecast to have a combined retained deficit balance of circa £795,000. Pupil numbers and associated pupil led funding is forecast to reduce over the short to medium term.

There should be income for the school from leasing the Fyndoune building to various groups.

Consultation

Consultation has been carried out in accordance with DfE statutory guidance. The approach to consultation is described in the report.

Equality and Diversity / Public Sector Equality Duty

Any review or change to educational provision in an area has the potential to have an adverse effect on protected characteristics, both in terms of pupils, their families, local communities and employees working in the schools. However, the proposal to amalgamate Durham Community Business College and Fyndoune Community College will benefit pupils, staff and parents. Education will be provided in one location with a single leadership team to facilitate a positive learning experience for children and provide equal access to all.

The focus on improved educational outcomes is seen as a positive experience in a child's education and ensures that children who are protected under the Equality and Diversity/Public Sector Equality Duty can maximise their potential. The main groups affected are children currently accessing education at Durham Community Business College and Fyndoune Community College, their families and staff. Where a school under consideration for closure (which in effect Fyndoune Community College is under this proposal) 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.

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. The proposal allows the Fyndoune site to remain open and that should enable activities for the community to continue to take place.

An Equality Impact Assessment is included in Appendix 2 to this report.

Climate Change

No impact as all pupils have been taught on the DCBC site since September 2018.

Human Rights

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

Crime and Disorder

No impact.

Staffing

No impact.

Accommodation

Fyndoune Community College site has been used as a base for alternative provision, to support the education of some children with special educational needs, and as a place where community groups can meet and use facilities. There is also a nursery school on a part of the site. These arrangements are well-established and there are no plans to have any of them change. A strong commitment of the Council is in ensuring that as wide a range of community groups as possible continue to benefit from the use of sports fields and buildings outside school hours, and if there is interest from the community this usage is likely to grow and develop.

Risk

A key risk is that because 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.

Appendix 2: Impact Assessment

Durham County Council Equality Impact Assessment

NB: The Public Sector Equality Duty (Equality Act 2010) requires Durham County Council to have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity and foster good relations between people from different groups. Assessing impact on equality and recording this is one of the key ways in which we can show due regard.

Section One: Description and Screening

Service/Team or Section	Education, School Places and Admissions
Lead Officer	Graeme Plews
Title	School Places and Admissions Manager
MTFP Reference (if relevant)	N/A
Cabinet Date (if relevant)	February 2021
Start Date	October 2020
Review Date	January 2021

Subject of the Impact Assessment

Please give a brief description of the policy, proposal or practice as appropriate (a copy of the subject can be attached or insert a web-link):

Proposal to amalgamate Durham Community Business College and Fyndoune Community College into a single secondary school on the site of Durham Community Business College from 12 April 2021.
The objective of the proposal is to address the reduction in pupil numbers, pressure on the school budget and to improve educational standards.

Who are the main stakeholders? (e.g. general public, staff members, specific clients/service users):

General Public, governors, Staff, pupils of Durham Community Business College and Fyndoune Community College, providers of Early Years Education, Elected Members, MPs, Neighbouring Schools, Trade Unions, Diocese, Department for Education, Community Groups, Parish Councils, Residents' Associations, AAP Board, CYPS/DCC Staff, Parents/Carers.

Screening

Is there any actual or potential negative or positive impact on the following protected characteristics.		
Protected Characteristic	Negative Impact Indicate: Y = Yes, N = No, ? = Unsure	Positive Impact Indicate: Y = Yes, N = No, ? = Unsure
Age	N	N
Disability	N	N
Marriage and civil partnership (workplace only)	N	N
Pregnancy and maternity	N	N
Race (ethnicity)	N	N
Religion or Belief	N	N
Sex (gender)	N	N
Sexual Orientation	N	N
Transgender	N	N

Please provide brief details of any potential to cause adverse impact. Record full details and analysis in the following section of this assessment.

The main groups affected by this proposal are pupils attending Durham Community Business College and Fyndoune Community College, their families and staff. It is not expected that pupils and their families will be adversely affected.

How will this policy/proposal/practice promote our commitment to our legal responsibilities under the public sector equality duty to:

- **eliminate discrimination, harassment and victimisation**
- **advance equality of opportunity, and**
- **foster good relations between people from different groups?**

Amalgamating Durham Community Business College and Fyndoune Community College will enhance education provision in the area and will lead to a more sustainable establishment for the long term that will bring about educational improvement and will continue to provide equal access for all. A 6 week consultation was held during October and November 2020. Consultation documents were distributed widely, and a meeting was held with Governors of the Durham Federation which comprises Durham Community Business College and Fyndoune Community College. Due to the situation with coronavirus and Government guidance on social distancing it was not possible to have meetings with parents or members of the local community.

Stakeholders were invited to respond in a variety of ways written responses using the response form attached to the consultation document, letter, email or completing the response form online via the County Council's website. Alternative formats were available on request. 9 responses were received to the consultation, 5 in support of the proposal and 4 not in support of the proposal.

Evidence

What evidence do you have to support your findings?

Please **outline** your data sets and/or proposed evidence sources, highlight any gaps and say whether or not you propose to carry out consultation. Record greater detail and analysis in the following section of this assessment.


Durham Community Business College and Fyndoune Community College are two small secondary schools in Ushaw Moor and Sacriston. They are currently two separate schools, have two separate school names and numbers but operate as one educational establishment. Both schools provide education for pupils aged 11-16. Durham Community Business College has the capacity to accommodate 755 pupils (currently there are 289 pupils on roll at the school) and Fyndoune Community College has the capacity to accommodate 526 pupils (currently there are 131 pupils on roll at the school, although these children are taught on the Ushaw Moor site.

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. The council and the Governing Body of Durham Federation had become increasingly concerned about the comparatively low pupil numbers attending each school, which was resulting in difficulty in delivering a broad and balanced curriculum across two sites. This means that both schools face serious financial challenges but the action to concentrate all pupils and a single staff on one site as long as this can be accommodated will be the most cost-effective approach, as well as presenting the best opportunities to pupils from an educational perspective.

Screening Summary

On the basis of the screening is there:	Confirm which refers (Y/N)
Evidence of actual or potential impact on some/all of the protected characteristics which will proceed to full assessment?	No
No evidence of actual or potential impact on some/all of the protected characteristics?	No

Sign Off

Lead Officer sign off: 	Date: 1 February 2021
Service equality representative sign off:	Date:

If not proceeding to full assessment please return completed screenings to your service equality representative and forward a copy to equalities@durham.gov.uk If you are unsure of potential impact please contact the corporate research and equalities team for further advice at equalities@durham.gov.uk