

Cabinet

14 September 2022



**Providing a sustainable solution for
Durham Community Business College,
part of the former Durham Federation**

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

Paul Darby, Corporate Director of Resources

**Councillor Ted Henderson, Portfolio Holder for Children and Young
People's Services**

**Councillor Richard Bell, Deputy Leader and Portfolio Holder for
Finance**

Electoral division(s) affected:

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

Purpose of the Report

- 1 To outline a course of action that can be taken by the council to ensure the provision of a sustainable education offer for pupils attending Durham Community Business College (DCBC), avoiding closure of the school and the significant pressure this would place upon the Durham Central planning area.
- 2 To recommend that Cabinet write off the deficit budget of Durham Community Business College (DCBC), in order that the school joins a strong and established Multi-Academy Trust. This solution is needed to secure the school's sustainability, improve educational outcomes and ensure the sufficiency of pupil places within the Durham Central planning area.

Executive summary

- 3 DCBC were part of a federation of two schools from 2009. Both DCBC and its federated partner, Fyndoune Community College, which has since closed, were both inspected by Ofsted and deemed to be

'Inadequate' in September 2014 and subsequently were issued with an Academy Order.

- 4 Bright Tribe was the DfE initial sponsorship choice and started to run the school from 2015 until the Trust was investigated for fraudulently using public funds in running its 10 allocated schools. In 2016, Bright Tribe was removed from sponsorship of the Durham Federation.
- 5 Pupil numbers had already been significantly reduced by the school's Inadequate inspection report in 2014 but later suffered further reputational damage through a range of school leadership issues.
- 6 On Bright Tribe's removal, the DfE failed, for a number of years, to secure another sponsor and Durham Federation reverted to Local Authority control in 2018. This culminated in the amalgamation of both DCBC and Fyndoune Community College into one school with a single URN from 12 April 2021.
- 7 The school has operated with a licenced deficit now for 3 years but has made significant reductions in its spending to limit the extent of this accumulated deficit. These cost reductions are not sustainable and will inevitably compromise the quality of curriculum offered to all pupils.
- 8 A Durham-based multi academy trust, the Advance Learning Partnership (ALP) provisionally expressed interest in taking DCBC into their MAT on condition the financial risk is nullified through the removal of any budget deficit prior to transfer. The Council has a strong and effective working relationship with this Trust and has worked successfully with ALP on other academisation projects in the past.
- 9 DfE support this move, identify the need to preserve pupil places within the central Durham pupil place planning area and have committed to financial support around some of the capital projects identified by the Trust.
- 10 Academisation will take place from 1 January 2023 providing all due diligence activities are successful and that the current deficit situation is addressed. This is supported by the DfE and accepted by the RSC Headteacher board in June 2022.

Recommendation(s)

- 11 Cabinet is recommended to:
 - (a) agree to write off the accumulated deficit budget of Durham Community Business College (DCBC) at the point of conversion, in order that the school joins a strong and established Multi-Academy Trust. This will deliver a financially viable solution for the school's future and improve the quality of education for the communities affected;

- (b) agree to the cost of writing off the deficit to be met from the School's earmarked reserves;
- (c) that the Corporate Director of Resources will have the delegated authority to determine the final amount of deficit to be written off. This will continue to be closely monitored through quarterly budgetary control reports.

Background

- 12 Durham Community Business College (DCBC) is a much smaller than average secondary school with pupil numbers in receipt of free school meals (FSM) and with special educational needs significantly higher than the national and regional average. Pupil mobility is much higher than average, and pupils enter school with lower-than-average attainment, low literacy rates. The school is supported by the local authority in running an 'Enhanced Learning Provision' to support children with SEND being fully integrated in a mainstream school environment.
- 13 Both DCBC and Fyndoune were inspected by Ofsted in September 2014 and placed into special measures with Leadership being described as "being in a state of turmoil".
- 14 Bright Tribe was the DfE initial sponsorship choice and started to run the school from 2015 until the Trust was investigated for fraudulently using public funds in running its 10 allocated schools. In 2016, Bright Tribe withdrew from sponsorship of the Durham Federation. This case was highlighted nationally in a Panorama documentary in October 2018, 'Profits before Pupils'.
- 15 Pupil numbers had already been significantly reduced by the school's Inadequate inspection report in 2014 but later suffered further reputational damage on the failed trust sponsorship in addition to the arrest, and later conviction of its high profile Headteacher in June 2015.
- 16 Throughout this time (i.e. from 2014 to 2019) an Interim Executive Board, appointed by the local authority, persevered, under the most challenging circumstances, with the governance of the school, staffing restructures, and regular monitoring visits from Ofsted, in line with a school deemed to be inadequate.
- 17 The school's unique circumstances have made it very difficult to recruit and retain staff, although committed governance and leadership of the school has allowed it to move into and sustain successive 'Requires Improvement' overall judgements over the last 4 years. Seven inspections and monitoring visits at DCBC alone, have recognised this work.
- 18 In 2018, after two years in which no alternative sponsor could be found, the DfE agreed that the schools would therefore revert to Local Authority maintained control, dependant on the Council taking steps to amalgamate the schools and remove one unique reference number (URN) through this process. This step, in effect, closed Fyndoune Community College in April 2021.
- 19 During the prolonged period of instability resulting from the DfE's inaction, pupil numbers fell steeply, staffing restructures were necessary

due to reducing budgets, and a reliance on short-term supply appointments, particularly in core subjects, impacted negatively on outcomes at all levels.

- 20 The demand for future school places in this part of the County is at an unprecedented high, driven by large-scale housing developments across the city of Durham and its outlying communities. 4 of the 5 secondary schools within this planning area, are oversubscribed in all year groups. This makes the closure of DCBC, not a viable option.
- 21 The school has worked effectively with the DfE as part of the One Vision education improvement initiative, and this has helped sustain improvement alongside developing the DfE's confidence in the future of the school provided there is interest shown by an appropriate sponsor.
- 22 DCBC benefitted from a substantial building programme in 2018-19, funded by the government's Education and Skills Funding Agency (ESFA), to a total of c£3 million.
- 23 The only certain way to improve educational standards and secure future growth in pupil numbers was for the Council to broker sponsorship of the school with a multi academy trust (MAT). A Durham-based multi academy trust, the Advanced Learning Partnership (ALP), provisionally expressed interest in taking DCBC into their MAT on condition the financial risk is nullified through the removal of any budget deficit prior to transfer. The Trust have carried out further due diligence since October 2021.
- 24 This Trust has worked effectively with Durham County Council over previous conversions at Wolsingham School and Bishop Barrington School, where pupil numbers were a major concern. Many children pass DCBC to travel to other ALP schools which are over-subscribed, and the Trust believes that these communities, with confidence in the future management of the school, will return to a preference for their local school.
- 25 The DfE agree with the need for the school in its pupil place planning area and have worked with ALP to consider capital solutions to the school site and future security around funding pupil numbers.
- 26 DCC has committed to a number of capital projects that were necessary for the school to operate safely and – for the transfer to ALP to be achieved – would need to commit to pay off the school's deficit at the point of conversion in January 2023.
- 27 Parts of DCBC are in very good condition having benefitted from a recent substantial building programme, as mentioned above. The buildings and playing fields, plus the well-equipped Bobby Robson Sports Complex on site, would potentially be assets to a MAT. A MAT

would also have access to the Condition Improvement Fund which could secure and accelerate additional funding for capital projects.

Financial Position of DCBC

28 The table below shows details of the budget and deficit position for the school for the period 2019-20 to 2022-23:

Revenue budget £	2019-20 Outturn	2020-21 Outturn	2021-22 Outturn	2022-23 Budget
Total Expenditure	4,568,000	3,962,000	3,750,000	3,219,000
Total Funding / Income	4,266,000	3,872,000	3,585,000	3,312,000
In Year Surplus / (Deficit)	-302,000	-90,000	-165,000	93,000
Surplus /(Deficit) Brought Forward	-113,000	-415,000	-505,000	-670,000
Surplus /(Deficit) Carried Forward	-415,000	-505,000	-670,000	-577,000
Pupil Numbers				
Year 7	84	55	41	48
Year 8	103	87	55	41
Year 9	96	98	87	55
Year 10	135	92	98	87
Year 11	126	129	92	98
Total Pupils	544	461	373	329

- 29 The cumulative deficit position of DCBC is mainly driven by loss of age-weighted pupil unit (AWPU) funding, which is the basic funding that all pupils attract. The AWPU funding is £4,536 for each Key Stage 3 pupil, so falling numbers and a total roll so far below the capacity of the school mean the current and future budget will remain under pressure.
- 30 The school has been in a deficit position since 2016-17, with the cumulative deficit growing year on year since then. Staffing restructures and other cost saving measures have been introduced at the school, meaning part of the cumulative deficit is forecast to be recovered this financial year, however such restructures have now reached such a point that, while further staff cuts may marginally reduce the in-year deficit position, they come with a consequential risk of translating to poor educational outcomes.
- 31 The Corporate Director of Resources has approved a licensed deficit of £0.577 million for DCBC in 2022-23, which includes an in-year budget surplus of £93,000.
- 32 The deficit at the potential point of conversion (January 2023) is estimated to be between £0.650 million and £0.577 million.

- 33 Where schools choose to convert to academies, the default position is that the accumulated balance, whether a surplus or deficit transfers to the academy trust. However, DfE guidance is that local authorities may choose to write-off all or part of a deficit where the deficit is a hindrance to the school converting.
- 34 The position is different for schools that become sponsored academies, because of an adverse Ofsted rating. Where schools that are becoming sponsored academies have a deficit, the deficit is required to be written-off as a charge to the local authority's general fund.
- 35 If the Council chooses to write-off the deficit, this would be met from the School Reserve, set up for this purpose. The balance on the fund as at 1 April 2022 is £3.282 million.
- 36 Schools in similar situations have made economies by being part of a Multi Academy Trust and have also benefited from access to additional funding through the DfE. Currently, for example, Trusts within Durham which is designated by the DfE as an 'Education Improvement Area' are provided with additional funding to support expansion and support for vulnerable schools. This is the case for DCBC working with ALP currently.
- 37 Should a school 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 should this be necessary in the event that an existing school becomes unviable. Conversely, successful development of the school through an effective Multi Academy Trust would reduce pressures around home to school transport budget, as more local children would be able to walk to their local secondary school.
- 38 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.

Conclusion

- 39 Since 2014 when Ofsted judged DCBC to be inadequate there have been a range of issues impacting on the school's sustainability. These have all had a significant detrimental impact upon the popularity of the school. The inevitable significant financial challenges that are a direct consequence of this, make the need for a new start and identity for this school, essential.
- 40 The decision of the Council to write off the deficit of the school, would replicate previous deficit write-offs for schools that incurred financial

difficulties, whilst being maintained schools. In meeting its statutory pupil place-planning duties, the Council has supported similar schools in this way, as part of the conversation process.

- 41 In getting this potential academisation to this stage, there has been significant work across a wide range of related stakeholders who have all worked effectively, making significant compromises and commitments, in the best interests of children and the community.

Background papers

- None

Other useful documents

- None

Author(s)

Jim Murray

Tel: 03000 265808

David Watchman

Tel: 03000 268573

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 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 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, Corporate 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 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 S151 Officer. In accordance with legal obligations, the S151 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 Durham Community Business College 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.

Climate Change

The taking on of DCBC by the ALP Trust will not directly lead to 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. It is most likely that if the school is successful, local communities surrounding the school are less likely to transport their children further afield and past the school to Willington, as currently happens.

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

None.

Risk

A key risk is that, as a consequence of actions taken by the County 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 S151 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 S151 officer if no credible plans are agreed to resolve the issues described in this report.

Procurement

None.