

Item No. N/a	Classification: Open	Date: 24 September 2018	Meeting Name: Cabinet Member Children, Schools and Adult Care
Report title:		Approval for commencement of consultation on Primary PAN amendments for September 2019	
Ward(s) or groups affected:		All	
From:		David Quirke-Thornton, Strategic Director for Children's and Adults' Services	

RECOMMENDATION

1. That the Cabinet Member for Children, Schools and Adult Care agree the list of schools to begin consultation on Published Admissions Number (PAN) amendments on table 2 (paragraph 13).

BACKGROUND INFORMATION

2. Recent reductions in primary reception rolls have necessitated the Council to consider measures to "rightsize" some primary provision, where this provision exceeds local demand. This would allow schools to provide places where they are needed and to ensure they are financially and organisationally on a stronger footing than at present.
3. The decision comes to the Lead Member for approval, as the Council's constitution requires Member authorisation for this type of consultation. The Council's constitution - Section 3D – Decisions for Individual Cabinet Members - item 17, page 48 states, under "Partnerships and consultation" that individual Cabinet Members are authorised to *"Agree[...] broad consultation arrangements, in relation to their areas of Responsibility"*.

KEY ISSUES FOR CONSIDERATION

4. Southwark until recently saw a gradual increase in demand for primary places. However, in 2016 there was a drop in primary school applications from Southwark residents followed by further drops in 2017 and 2018, also in common with many London boroughs and Londonwide (a drop of 7% in both cases) please see Appendix 1.
5. The table below shows that the council has seen a reduction since September 2016 in reception rolls.

Table 1 Primary reception rolls September 2015-18

Year	Reception Roll	Reduction	Percentage
September 2015	3,559		
September 2016	3,487	-72	-2%
September 2017	3,274	-213	-6%
September 2018 (projected)	3,200	-74	-2%

6. An analysis of the roll reduction has shown that there are particular concentrations of roll reductions in certain parts of the borough. A substantial amount of development has occurred at "Elephant Park", but the purchasers and lessees of the new properties have not tended to be residents with children, and we have therefore seen a substantial drop in enrolment at 3 schools in the immediate locality.
7. Projected growth borough wide had also been based on continuing levels of immigration to the borough, similar levels of economic growth, and rent levels remaining affordable. These factors are subject to fluctuation going forward and are beyond local authority control. There is some evidence, much of it anecdotal and difficult to quantify, that some Government policies have had an effect on pupil numbers and have had the effect of encouraging residents either to not move to Southwark (or the UK) in the first place, or, if already resident, to move to more affordable areas in and beyond the capital.
8. There has also been a significant drop in demand for denominational education, with both sectors showing around a 17% drop in numbers since September 2016, against a borough and community school average of 10%. We are presently engaging with the Southwark C of E Diocese (SDBE) and the (Catholic) Education Commission. This could potentially result in the reduction of PANs, and the federation or merger of some denominational schools in the borough. We have informally approached, and been approached by a number of community school leaders with suggestions that their Published Admissions Numbers (PANs) be temporarily or permanently reduced. The local authority has the power to make proposals to amend the PAN of a school it directly controls (i.e. community school), providing it follows statutory procedures based on consultation. The decision makers in this case are the Council's Cabinet.
9. The local authority can also propose to amend the PAN or merge/close a Foundation or Voluntary Aided (VA) school, as can the Diocesan authorities and/or the School governing body. The decision makers in such a case are the local authority (and not the diocese or school governing body). The local authority can suggest but cannot propose PAN amendments to academies. In such cases, an amendment would need to be approved by the Multi Academy Trust (MAT)/school governing body, and be approved by the appropriate Regional Schools Commissioner (RSC).
10. The admissions criteria and published admissions numbers (PANs) for community schools are proposed and agreed by Cabinet around 18 months before implementation, in accordance with the requirement of Schools Admissions Code. So, PANs for 2019 for Southwark community schools were agreed by Cabinet in January 2017. In order to make any reduction to the number of children to be admitted, the Council will need to carry out an analysis of need, consult and then apply for a variation to the Office of the Schools' Adjudicator (OSA), who is authorised to make short notice changes to PANs. Cabinet would agree these proposals for changes in February 2019 and they would then be sent en bloc to the OSA for approval for implementation in September 2019. A timetable for this implementation is given in Table 3 (paragraph 20).
11. A list of schools that we are considering and consulting on an adjustment to their published admissions numbers is given below. A number of undersubscribed

schools Community, VA and Academy schools are operating in financial difficulties due to low numbers. Reducing PANs to reduce intake could potentially contribute to savings in school budgets and/or help schools recover a deficit position. Numerous schools with low recruitment to reception are already operating in some form of financial difficulty. Schools reduce PANs could generate saving by pooling resources such as administration, and inclusion officers, which could potentially lead to school financial stability. Additionally, space liberated by a reduction in PANs could possibly be used for income generation or areas of need - such as for nurseries, playgroups, alternative provision or appropriate community use

12. Additionally, Harris Primary Free School Peckham have approached us and asked us if they can reduce their PAN from 60 to 30, a net loss of 30 pupils. This would result in a net reduction of 300 reception places and 10 forms of entry The council has no decision making powers in this respect, these accrue to the Harris MAT and the Regional Schools Commissioner and the Secretary of State, but we would broadly welcome a reduction in the PAN to right size the school to match local demand.
13. Any amendment to PANs and local/planning area capacity will be considered in the context of the effects on local provision, looking at recruitment patterns to local schools and ensuring that the knock-on effects in the adjustment of PANs is considered.

Table 2 Proposed amendments to PANs

PA	School	Present PAN	Proposed PAN	Reduction
1	St George's Cathedral RC	60	30	-30
	Charlotte Sharman	60	30	-30
	Keyworth	90	60	-30
	St Pauls CE	45	30	-15
	Robert Browning	60	30	-30
2	Phoenix	120	90	-30
3	Hollydale	45	30	-15
	Bellenden	60	30	-30
	Rye Oak	60	30	-30
	Ivydale	120	90	-30
4	Brunswick	75	60	-15
	Comber Grove	45	30	-15
	Crawford	90	60	-30
Total		930 (31FE)	600 (20FE)	330 (11FE)

Policy implications

14. The Draft Council Plan states *"Southwark schools have improved significantly in recently years and we have been meeting high demand for school places by refurbishing and expanding popular schools and working with local parents to support new schools. We believe every child has the right to a good education, which is why we have campaigned alongside local parents for fair funding and worked with schools to drive up standards"*. By "rightsizing" school PANs, the council will ensure that schools remain viable, standards are maintained and improved, and that parents and carers still have a choice of good or outstanding schools to choose from for their children.

15. The primary planning strategies are aligned to local planning and policy frameworks, including the Council's Plan. These outline the council's commitment to supporting schools to be outstanding, with children and young people able to achieve their full potential, and parents able to exercise real choice in a high-performing schools system. The proposed changes would support schools to be outstanding, with children and young people able to achieve their full potential by ensuring that the wide variety of schools in Southwark remains viable financially and organizationally

Community impact statement

16. The Public Sector Equality Duty, Section 149 of the Equality Act, requires public bodies to consider all individuals when carrying out their day-to-day work – in shaping policy, delivering services and as an employer. Public bodies need to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between people with protected characteristics and those with none when carrying out their activities. The council's "Approach to Equality" commits the council to ensuring equality is an integral part of our daily business. "Protected characteristics" are the grounds upon which discrimination is unlawful - these are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender and sexual orientation. In this case, the characteristics covering gender reassignment, marriage and civil partnership, pregnancy and maternity, and sexual orientation are unlikely to be issues to consider in PAN reductions. In terms of age, disability, race, religion or belief, any specific proposals that emanate from the consultations with schools and the respective Diocesan Boards will be equality impact assessed.

Legal implications

17. The Council's general duty in relation to securing sufficient school places in its area, the legal issues that inhibit the establishment by a local authority of new maintained schools, and its functions in relation to making alterations to its existing maintained schools, is described in the body of the report. Where the council is considering a proposal to alter a maintained school, the Lead Member is reminded that certain proposals will be subject to statutory notification and consultation procedures under Education and Inspections Act 2006 and regulations and guidance issued under that act. The Cabinet Member is reminded that the public sector equality duty under section 149 Equality Act 2010, as set out in the Community Impact section of the report, applies to the exercise any of its functions.

Finance Implications

18. The finance and resource implications of amending published admissions numbers (PANs) can be split into what it would cost to actually amend published admissions numbers – a fairly minimal cost measured by officer time – and what would be the consequences of amending the PANs themselves. Reducing PANs to match the demand would reduce school expenditure on staff not required to teach classes that are not required. This is particularly an issue where school accommodates a reception intake (or other year group) that is just over the PAN – say 35 pupils where a school has a PAN of 60. Due to infant class size regulations, the school would then need to employ 2 teachers for 2 classes of 17-18 pupils – the outlay on staff will remain the same as if the school had 30 in

each class, but the school would only receive 58% of the headcount funding. It is clearly in the interest of the authority to ensure that demand is as closely matched to supply as possible.

19. Reducing the PAN may mean fewer teachers are required by the schools, there is a risk that this could create redundancy costs in the short term, potentially the reduction could be met by not replacing staff..
20. Section 14 of the Education Act 1996 places a duty on local authorities to secure that there are sufficient primary and secondary school places in their area. There is a *small* risk that reducing school capacities could potentially leave the Council vulnerable to legal action for not meeting its target duty to provide sufficient primary school places, if we were in any danger of not being able to offer a “reasonable offer” to an applicant. However, the level of vacancies presently observed would mitigate against that risk.

Consultation

21. If statutory proceedings to change PANs in non-academy schools are undertaken, informal consultation will be carried out by education and planning teams with individual schools, involving meetings with parents and or carers, staff and governors, including a drop-in parents’ meeting at all of the schools. At the formal stage, notices will be issued to the schools concerned and Southwark Councillors and Southwark, Lambeth and Lewisham MPs, the Southwark Diocesan Board and Commission, and neighbouring authorities will all be written to elicit their views on the proposed PAN amendments.

Table 3 – Timetable for implementation

September 2018	Start of informal consultation with schools, parents and governors
October 2018	Publication of notices and start of formal consultation
November 2018	End of consultation period/Deadline for submitting representations to the Local Authority
November to December 2018	Analysis of consultation representations and preparation of information to be considered by the LA
Before February 2019	Meeting of the Cabinet to consider representations and agree future arrangements.
February 2019	Variation report and recommendations arising from the consultation forwarded to the Schools Adjudicator for their consideration and approval.

Consultation

Not applicable.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

22. The Cabinet member is recommended to agree the list of schools to begin consultation on Published Admissions Number (PAN) amendments. As the recommended decision relates to a proposal to undertake consultation in relation to the cabinet member's portfolio responsibilities, it is one she is empowered to take in accordance with part 3D of the constitution.
23. The subject matter of the consultation proposed to be undertaken, as described in this report, is an amendment to the school admissions arrangements for the academic year 2019/20, agreed by Cabinet at its meeting on 23 January 2018. The council is the admissions authority for community schools in Southwark, and is required by the School Admissions Code (December 2014) to determine, for each academic year, its admissions arrangements by February in the "determination year" – i.e. the school year beginning two years before the school year to which the arrangements relate. As part of their admission arrangements, admissions authorities must set an "admission number" (known commonly as the "published admission number", or "PAN").
24. As the admissions arrangements, and PANs, for the academic year 2019/20 have now been determined, variations (including a reduction in a PAN) cannot be made except in accordance with a procedure set out in the School Standards and Framework Act 1998 and regulations made under the Act. Admissions authorities may propose variations to their admissions arrangements at any time prior to the end of the year to which they relate, in the event of a "major change in circumstances occurring since they were [...] determined". Any proposal must be notified to the other admissions authority in the area and the governing body of an affected school before referring the proposal to the Office of the Schools Adjudicator (OSA) for approval. However, the local authority as admissions authority must consult the governing body of a school affected by the proposal *before* issuing a notice and making a referral to the OSA.
25. In order to ensure any consultation is fair, the following fundamental principles of sound consultation should be followed: consultation should happen when the proposals are still at a formative stage; sufficient information should be given to enable the proposal to be intelligently considered; adequate time for responses should be given; and decision makers must conscientiously take into account responses to a consultation before finalising any proposal (see the Supreme Court decision in *R (Moseley) v Haringey London Borough Council* (2014)).
26. The general duty on the council to ensure a sufficiency of school places has been referred to in the body of the report.
27. The report advises that any specific proposals will be assessed for the impact that they might have on residents who possess one or more of the protected characteristics as defined by the Equality Act 2010. The Cabinet Member is reminded that the council, in the exercise of all its functions, must have due regard (section 149 Equality Act 2010) to the need to (a) eliminate discrimination, harassment, victimisation or other prohibited conduct, (b) to advance equality of opportunity and (c) foster good relations between persons who share a relevant protected characteristic and those who do not share it. Any future equalities analysis will need to be considered in consideration of this duty.

28. Strategic Director of Finance & Governance

The responsibilities for funding and the sources for that funding pertinent to this report are clearly set out in the relevant funding and grant regulations. The responsibility for the sufficiency of places is a statutory duty of the Local Authority and the funding source is a combination of general fund and funding sources that replaced the former Education Services Grant. The admissions function of the Local Authority is funded from the Central Block of the Dedicated Schools Grant.

The potential revenue consequences to schools flowing from changes in pupil admissions numbers contained within this report flow to and from the Dedicated Schools Grant and the Schools Block, which is ring fenced for funding mainstream schools. These arrangements are supplemented further within the Dedicated Schools Grant by a growth and falling rolls fund which is set aside by Schools Forum to assist in managing flexibility to variation in pupil numbers and also a Schools in Financial Difficulty Fund (de-delegated from maintained schools and accessible only to maintained schools) which has set criteria for use.

Schools governing bodies have a responsibility to manage their delegated budgets in accordance with the Southwark Scheme for Financing Schools, the latest version of which applies from April 2018. Therefore any revenue consequences flowing from the changes contained within the report to individual schools delegated budgets will need to be managed closely and carefully by schools having due regard to the provisions set out in that document and any existing financial arrangements agreed with the Local Authority set out under those provisions.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
School Admissions Code Statutory guidance for admission authorities, governing bodies, local authorities, schools adjudicators and admission appeals panels December 2014 – DfE	Council Offices, 160 Tooley Street, London, SE1 2QH	Ric Euteneuer 020 7525 5018
Making ‘prescribed alterations’ to maintained schools Statutory guidance for proposers and decision-makers April 2016	Council Offices, 160 Tooley Street, London, SE1 2QH	Ric Euteneuer 020 7525 5018
Link: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/514548/16-04-06_FINAL_SO_Guidance_PA_Regs.pdf		
Southwark’s Council Plan 2018-19 – 21-22	Council Offices, 160 Tooley Street, London, SE1 2QH	Ric Euteneuer 020 7525 5018
Link: http://moderngov.southwark.gov.uk/documents/s75951/Appendix%20%20Council%20Plan%202018-19%202021-22.pdf		

Background Papers	Held At	Contact
The Essential Guide to the Public Sector Equality Duty 3rd edition April 2011, updated: January 2015	Council Offices, 160 Tooley Street, London, SE1 2QH	Ric Euteneuer 020 7525 5018
Link: https://www.equalityhumanrights.com/sites/default/files/psed_essential_guide_-_guidance_for_english_public_bodies.pdf		

APPENDICES

No.	Title
Appendix 1	Demand for Primary School Places
Appendix 2	Map of Primary Schools in Southwark

AUDIT TRAIL

Cabinet Member	Councillor Jasmine Ali, Children, Schools and Adult Care		
Lead Officer	Nina Dohel, Director of Education		
Report Author	Ric Euteneuer, Principal Strategy Officer (School Place Planning)		
Version	Final		
Dated	17 September 2018		
Key Decision?	Yes		
CONSULTATION WITH OFFICERS/DIRECTORATES /CABINET MEMBER			
Officer Title		Comments Sought	Comments Included
Director of Law and Democracy		Yes	Yes
Strategic Director of Finance & Governance		Yes	Yes
Cabinet Member		Yes	Yes
Date final report sent to Constitutional Team			21 September 2018