

Classification: Open	Decision Type: Key
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Report to:	Cabinet	Date: 12 July 2023
Subject:	Proposals to alter the upper age range at Manchester Mesivta Secondary School	
Report of	Cabinet Member for Children and Young People	

1.0 Summary

- 1.1 In accordance with the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013, Cabinet is requested to determine a proposal published by the Governing Body in respect of Manchester Mesivta Secondary School regarding a prescribed alteration to change the age range of the school.
- 1.2 The current provision comprises a local authority maintained 11-16 secondary school, and an independent 6th form provision funded by the Education & Skills Funding Agency (ESFA), through a sub-contracting arrangement facilitated by Bury College. There are approximately 50 students in the 6th form.
- 1.3 The ESFA has indicated that it intends to withdraw from such sub-contracting arrangements, and the proposal presented to Cabinet is intended to ensure continuity of funding for the 6th form by incorporating it into the maintained school.
- 1.4 As with the 11-16 school, the 6th form serves boys from the Orthodox Jewish community, provision that is not available elsewhere.
- 1.5 It is proposed to alter the upper age range at Manchester Mesivta Secondary School from 11-16 year olds to 11 - 18 year olds in order to add 6th form provision with effect from September 2023.
- 1.6 The Governing Body of Manchester Mesivta Secondary School has published the proposal and has consulted upon that proposal.
- 1.7 Ordinarily, and taking into account Department for Education guidance on school organisation matters, Officers would be recommending refusal of the proposal on the basis of its size, and given the current Ofsted rating for the school which is 'Requires Improvement'. DfE suggest a minimum of 200 pupils, and only making such changes when provision is judged to be good or better.
- 1.8 There are, however, exceptional circumstances in this instance. The 6th form has been in place for many years, and has continued to deliver positive educational outcomes. On the basis of the ESFA funding arrangements it has also demonstrated that it is financially viable.

- 1.9 The proposal, whilst making a statutory change, will not impact on the way the 6th form operates, and there is nothing to suggest that the educational outcomes and financial viability will be impacted by the proposed changes.
- 1.10 However, robust arrangements are already in place to enable the local authority to support schools, and hold them to account, which is designed to mitigate any potential risk. These arrangements will be extended to cover the 6th Form.
- 1.11 Conversely, if the Council was not minded to support the proposal, the implication is that the 6th form provision would cease, significantly disadvantaging the community, with no comparable provision available to meet the needs to students from the Orthodox Jewish community.
- 1.12 On balance therefore, Officers are recommending that the proposal is supported.
- 1.13 Under the same sub-contracting arrangements, state funding is currently provided to Shalshelles which is an independent 6th form provision located in Manchester and which serves girls from the same Jewish community. As an independent provision, Shalshelles is not governed by the same regulations as Mesivta and ESFA has been able to confirm the continuation of the existing state funding arrangements.

2.0 Recommendation(s)

That:

- Cabinet notes the outcome of the consultation.
- Cabinet approves the proposal to alter the upper age range at Manchester Mesivta Secondary School from 11-16 year olds to 11 - 18 year olds in order to add 6th form provision with effect from September 2023.

2.1 Reasons for recommendation(s)

To date, the independent 6th form provision linked to Manchester Mesivta School has received funding from the Education and Skills Funding Agency (ESFA) routed via sub-contracting arrangements with Bury College. However, the ESFA has advised that it intends to withdraw from this form of sub-contracting arrangement.

The Governing Body of the school are therefore seeking to add 6th form provision thus bringing it into the maintained sector. The Governing Body assert that this change is administrative only and is expected to have no direct impact upon their provision.

Demand for the post 16 provision has been proven over the last decade, and Mesivta is currently the community's only route for Charedi boys to achieve A-levels and access higher education. The school has a good track record of its pupils enrolling in university.

Without the 6th form, there is no comparable provision accessible to the Orthodox Jewish community.

2.2 Alternative options considered and rejected

Extensive discussions have taken place with the Governing Body of Manchester Mesivta, with Bury College, the Education & Skills Funding Agency and Department for Education to identify potential options, given the decision of the ESFA to withdraw the current funding mechanism.

Options including the transfer of the current 6th form provision to a Trust, or the establishment of a separate 6th Form provision, both stand-alone or in partnership with other Orthodox Jewish schools. These have been considered and discounted.

3.0 Background

- 3.1 Manchester Mesivta School was established in November 2004 when the former Manchester Jewish Grammar School, an independent fee paying school, transferred into the maintained sector as a Voluntary Aided School. The school, which serves the Orthodox Jewish community, caters for boys aged 11-16, the majority of whom reside in Bury or Salford.
- 3.2 At the time of the establishment of Manchester Mesivta, a parallel proposal was also agreed that saw the establishment of Beis Yaakov School in Salford catering for girls (11-16) from across the same Orthodox Jewish community. This was to ensure equality of provision for both boys and girls.
- 3.3 At the time, given that there was no parallel 6th form provision at the girls school, the 6th form at Manchester Mesivta was not included in the transfer to the maintained sector and remained as a stand-alone independent provision, albeit operating out of the same building, and utilising many of the same staff and resources.
- 3.4 Whilst being independent, over time the 6th form has been able to secure state funding to remove the reliance on fees payable by parents. This has been secured from the Education and Skills Funding Agency (ESFA) routed via sub-contracting arrangements with Bury College. However, the ESFA has advised that it intends to withdraw this and other similar arrangements.
- 3.5 In order to ensure that state funding continues to be available to support the 6th form, the Governing Body has had to explore a number of options.
- 3.6 These options included the transfer of the current 6th form provision to a Trust, and the establishment of a separate 6th Form provision, stand-alone or in partnership with other Orthodox Jewish schools. Those options have been discounted.

4.0 The proposal

- 4.1 The Governing Body propose to alter the upper age range at Manchester Mesivta Secondary School from 11-16 year olds to 11-18 year olds in order to add 6th form provision with effect from September 2023.
- 4.2 The main objective of the proposal is to continue the existing provision, teaching new and current sixth-form students to a high standard whilst complying with the recent changes in legislation.

- 4.3 The Governing Body does not believe the proposal would have a negative impact on other schools or academies in the local area as this change is administrative only, with little practical impact on operations.
- 4.4 The provision will continue to be located on site at Manchester Mesivta, and therefore will require no capital investment for adaptations.
- 4.5 The school currently receives funding via Bury College. The Bury College funding agreement with the school includes a retention of 20%, therefore the school receives 80% of the ESFA funding value. If the school extends provision and receives funding directly from the ESFA, it will not be subject to this top-slicing. The school already employs the staff who teach the Y12 pupils so there should be no increase in costs.
- 4.6 The school also has an established administrative team with the capacity to cover any additional workload as a result of the change.
- 4.7 Mesivta's teaching staff have been delivering the 6th form programme successfully for 15 years, and so no structural or cost changes are required in this respect.
- 4.8 The School Organisation Regulations and associated [guidance](#) in relation to such proposals sets out those factors that decision makers should take into account when considering the proposal. This includes issues relating to size and quality of existing provision.
- 4.9 In this instance, the school is neither judged by Ofsted to be good or better, nor is the size of the sixth form at least 200 places. Both of which are stipulated in the guidance. The school is currently judged to be Requires Improvement and the sixth form provides education for 50 pupils.
- 4.10 However, the provision meets the need of a specific community, and without the 6th form there will be no comparable provision accessible by the Orthodox Jewish community. In determining the proposal, the Council will need to consider whether on balance, the need to ensure continuity of provision for the community outweighs those other factors.
- 4.11 Further, given that the 6th form provision has existed for many years, during which time it has remained financially viable at its current size, and has achieved positive academic outcomes, would suggest that these are not factors that weigh against the proposal.
- 4.12 This aspect has been discussed with the DfE, and it agrees that this is an appropriate proposal to bring forward for determination.

5.0 The Statutory Process

- 5.1 The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (*'the Prescribed Alterations Regulations'*) set out the statutory process to be followed when making significant changes, including changing the age range of a school. Ordinarily the LA will be the decision maker on such proposals.
- 5.2 The statutory process for making prescribed alterations to maintained schools has four stages:

Stage	Description	Timescales	Comments
Stage 1	Publication (statutory proposal/notice)		
Stage 2	Representation (formal consultation)	Must be 4 weeks	As set out in the 'Prescribed Alterations' regulations
Stage 3	Decision	LA should decide a proposal within 2 months otherwise it will fall to the Schools Adjudicator	Any appeal to the adjudicator must be made within 4 weeks of the decision
Stage 4	Implementation	No prescribed timescale	It must be as specified in the published statutory notice, subject to any modifications agreed by the decision-maker

5.3 In accordance with section 19(3) of the Education and Inspections Act 2006 and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013, a Governing Body of a voluntary school can propose an alteration of the upper age range to add 6th form provision by following the prescribed alterations statutory process. The LA is the decision maker on such proposals.

5.4 On 16 May 2023, publication of a statutory notice of the proposal launched a statutory four week representation period of formal consultation with stakeholders. The Statutory Notice and full proposal are contained at Appendix A and B respectively.

5.5 Four responses were received during the consultation period, all in support of the proposal. One response was from Bury College, one from Yesoiday Multi Academy Trust, a firm of solicitors, and Beis Yaakov Jewish High School Academy.

6.0 The Decision Making process

6.1 In accordance with the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013, Cabinet is now requested to determine the proposal. Decisions must be made within a period of two months of the end of the representation period or they must be referred to the Schools Adjudicator.

6.2 In determining proposals, decision-makers must take account of the following:

- Decision makers will need to be satisfied that the appropriate fair and open local consultation and/or representation period has been carried out and that the proposer has given full consideration to all the responses received.
- Decision-makers should not simply take account of the numbers of people expressing a particular 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).

- Decision-makers should consider the quality and diversity of schools in the relevant area and whether the proposal will meet or affect the needs of parents, raise local standards and narrow attainment gaps.
- Decision-makers must comply with the Public Sector Equality Duty (PSED), which requires them to have 'due regard' to the need to:
 - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it; and
 - foster good relations between people who share a relevant protected characteristic and people who do not share it.
- Decision-makers should consider the impact of a proposal upon community cohesion.
- Decision-makers should satisfy themselves that accessibility planning has been properly taken into account and the proposed changes should not adversely impact on disadvantaged groups.
- Decision-makers should bear in mind that a proposal should not unreasonably extend journey times or increase transport costs, or result in too many children being prevented from travelling sustainably due to unsuitable walking or cycling routes. A proposal should also be considered on the basis of how it will support and contribute to the LA's duty to promote the use of sustainable travel and transport to school.
- Decision-makers should be satisfied that any necessary funding required to implement the proposal will be available and that all relevant local parties (e.g. trustees of the school, diocese or relevant diocesan board) have given their agreement. A proposal cannot be approved conditionally upon funding being made available.

Furthermore, DfE guidance states that in deciding whether new 6th form provision would be appropriate, proposers and decision makers should consider the following guidelines:

- Quality: The quality of pre-16 education should be good or outstanding (as rated by Ofsted) and the school should have a history of positive Progress 8 scores (above 0);
- Size: The proposed sixth form should provide at least 200 places;
- Subject Breadth: The proposed sixth form should – either directly or through partnership – offer a minimum of 15 A level subjects. Local authorities may wish to consider the benefits of delivering a broader A level curriculum through partnership arrangements with other school sixth forms. Working with others can offer opportunities to:
 - a. Improve choice and attainment for pupils;
 - b. Deliver new, improved or more integrated services;
 - c. Make efficiency savings through sharing costs;
 - d. Develop a stronger, more united voice; and

e. Share knowledge and information.

Schools proposing a partnership arrangement should include evidence of how this will operate on a day-to-day basis, including timetabling and the deployment of staff;

- Demand: There should be a clear demand for additional post-16 places in the local area (including evidence of a shortage of post-16 places and a consideration of the quality of Level 3 provision in the area). The proposed sixth form should not create excessive surplus places or have a detrimental effect on other high quality post-16 provision in the local area;
- Financial viability: The proposed sixth form should be financially viable (there must be evidence of financial resilience should student numbers fall). The average class size should be at least 15, unless there is a clear educational argument to run smaller classes – for example to build the initial credibility of courses with a view to increasing class size in future.

6.3 When issuing a decision, the decision-maker can:

- reject the proposal;
- approve the proposal without modification;
- approve the proposal with modifications, having consulted the LA and/or GB (as appropriate); or
- approve the proposal, with or without modification – subject to certain conditions (such as the granting of planning permission) being met.

Report Author and Contact Details:

Name: Paul Cooke
Position: Strategic Lead
Department: Education services
E-mail: p.cooke@bury.gov.uk

Links with the Corporate Priorities:

The proposal will support key ambitions of the Let's do it strategy:

- A better future for the children of the borough
- A better quality of life
- A chance to feel more part of the borough
- Building a fairer society that leaves no-one behind

Equality Impact and Considerations:

The outcomes of the initial equality analysis is positive.

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

- a. A public authority must, in the exercise of its functions, have due regard to the need to.
- b. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.

- c. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- d. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services

An equality impact assessment has been undertaken and identified no areas of negative impact in relation to protected characteristics

Environmental Impact and Considerations:

There are no environmental impacts for this decision.

Assessment and Mitigation of Risk:

Risk / opportunity	Mitigation
Impact on stakeholders	Full consultation and engagement
Opportunity to improve provision	
Early identification of needs of pupils and allow for strong transition into school	

Legal Implications:

Statutory Guidance [Making significant changes \('prescribed alterations'\) to maintained schools Statutory guidance for proposers and decision makers](#)

Prescriptive guidance can be found in the Code in relation to the need to comply with the consultation process and timeframes for each stage. Failure to comply with the stages therein may render the process flawed and open to challenge.

Financial Implications:

The current proposal would not meet the criteria for establishment of a new 6th form in terms of student numbers and therefore financial viability. However, under the current arrangements Bury College act as an agent and sub contract the delivery of the 6th form provision. Bury College receive the funding directly from ESFA but take a topslice before passing the balance to Mesvita. Under this proposal Mesvita will provide their own 6th form. Going forward, the Council will receive the funding and will passport in full the funding through to Mesvita.

Background papers:

[Making significant changes \('prescribed alterations'\) to maintained schools Statutory guidance for proposers and decision makers](#)

Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning
ESFA	Education and Skills Funding Agency

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MR S. BLATCHER
ASSISTANT HEADTEACHER

Proposal to extend Manchester Mesivta to an 11-18 age range

Proposal

The Governing Body of Manchester Mesivta propose to extend the age range at Manchester Mesivta school, from 11-16 to 11-18 with effect from September 2023.

School Details

Name: Manchester Mesivta
Address: Charlton Ave, Greater, Prestwich, Manchester M25 0PH
URN: 134195
DfE number: 351/4005
Category: Maintained school

Description of Proposed Alteration

For the past 15 years, Manchester Mesivta has had an arrangement with Bury College to administer its' programme for students post-16 (years 12+).

Due to changes to the school funding schemes, the school have been working with Bury College, the Department for Education and Bury MBC to finalise plans to bring its sixth form provision into the main school. This change is administrative only and is expected to have no direct impact on our provision.

Evidence of Demand

Manchester Mesivta has been running a successful sixth form programme in conjunction with Bury College for 15 years, whereby Bury College has funded the school to directly employ teachers and deliver the educational provision with a high level of autonomy.

This has been a fruitful partnership, but due to legislative changes, the ESFA have advised that the school must find alternative arrangements for its pupils.

Demand for the provision has been proven over the last decade, and Mesivta is currently the community's only route for Charedi boys to achieve A-levels and access higher education.

The school has a good track record of its pupils enrolling in university and offers a full provision of subjects for up to 30 boys per year.

Objectives of the Proposal

The main objective of the proposal is to continue the existing provision, teaching new and current sixth-form students to a high standard whilst complying with the recent changes in legislation.

The Effect on Other Educational Settings in the Area

The school does not believe the proposal would have a negative impact on other schools or academies in the local area as this change is administrative only, with little practical impact on operations.

Project Costs & Indication of How These Will Be Met

The provision will continue to be located on site at Manchester Mesivta, and therefore will require no capital investment for adaptations.

The change would mean that Mesivta receives the per pupil funding directly at 100%, rather than through Bury College, where deductions have been previously taken for administration and processing costs. This would afford Mesivta a net gain per pupil.

The school has an established administrative team with the capacity to shoulder any additional workload as a result of the change.

Mesivta's teaching staff have been delivering the sixth form programme successfully for 15 years, and so no structural or cost changes are required in this respect.

Implementation

If approved, it is anticipated that the new provision will open at the start of term in September 2023.

Consultation

The proposal to alter the age range will be subject to a full statutory consultation process.

Following the publication of a Statutory Notice on 16 May 2023, the statutory four-week Representation Phase will run from 16th May 2023 to 16th June 2023.

All representations will be analysed and considered prior to a report being presented to the Council's Cabinet.

Procedure for Making Representations

Any person may object to or make comments on the proposal by sending them to Rachael Stirk, Bury Council, Department for Children & Young People, Education Services, 3 Knowsley Place, Duke Street, Bury BL9 0EJ. Tel: 0161 253 5685, Email: schoolorganisation@bury.gov.uk

Comments and objections should be sent by no later than 16th June.

APPENDIX B

CHARLTON AVENUE
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ASSISTANT HEADTEACHER

Statutory consultation on the proposed extension of Manchester Mesivta to an 11-18 age range

The school is required by law to consult on the proposed changes to its age range.

Notice is given in accordance with section 19(3) of the Education and Inspections Act 2006 and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 that the Governing Body of Manchester Mesivta (Voluntary Aided) Secondary School intends to make a prescribed alteration to Manchester Mesivta with effect from 1st September 2023.

The Governing Body proposes to increase the school's age range from 11-16 to 11-18, in order to bring our sixth form provision in-house.

What we are proposing to change and why

For the past 15 years, Manchester Mesivta has had an arrangement with Bury College to administer its' programme for students post-16 (years 12+).

Due to changes to the school funding schemes, we have been working with Bury College, the Department for Education and Bury MBC to finalise plans to bring our sixth form provision into the main school. This change is administrative only, and is expected to have no direct impact on our provision.

We are consulting on these plans, prior to final approval by Bury MBC and the DfE, for implementation in September 2023.

Consultation timetable

- 16 May 2023: Consultation opens.
- 16 June 2023: End of consultation period, deadline for submitting responses.

This notice is an extract from the complete proposal. The complete proposal is published on the school's website at www.mesivta.co.uk. Copies can also be requested by telephoning 0161 773 1789 or by emailing office@mesivta.co.uk

Any person may object to or make comments on the proposal by sending them to Rachael Stirk, Bury Council, Department for Children & Young People, Education Services, 3 Knowsley Place, Duke Street, Bury BL9 0EJ. Tel: 0161 253 5685, Email: schoolorganisation@bury.gov.uk

Comments and objections should be sent by no later than 16th June 2023.

Noach Fletcher (Chair of Governors)

Date: 16 May 2023