

27th February 2019

FAIR ACCESS AND EXCLUSIONS

Report of the Director of Children's Services

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1. Purpose

- 1.1 To provide a report to the Forum on the current situation both nationally and in Hertfordshire in relation to the rise in the number of pupils who are meeting the requirements/criteria of the Fair Access Protocol and the rise in the numbers of pupils who are being permanently excluded.
- 1.2 This growth in volume has led to significant demand on the Integration Team resource. Whilst the vast majority of schools highly value this service, more recent rises have led to schools raising issue in relation to the lack of capacity in the team. Other Head teachers have recognised that further resourcing the team could have a significant impact for them

'I will continue to discuss a managed move with two schools. My time is fairly limited due to other commitments however I will do my best. Of course, the Integration Team should ideally be doing this work.'

'This is my seventeenth year as a Head and hadn't permanently excluded a child until 3 years ago. Times have changed dramatically in recent years and every permanent exclusion is so complex and tough on all involved.....our support via LA is really stretched.... as you know it is a lonely place dealing with some of these cases.'

'We have enjoyed numerous successes with managed moves.... the provision of panels has also had an enormous impact in preventing young people from being excluded and helping them and their parents to understand the need for change...if given more time and resource, the team could further reduce the rate of permanent exclusions and reduce the number of pupils out of school.'

2. Summary

- 2.1 There has been a very substantial increase in the workload of the Integration team since 2012, which in some respects has accelerated further recently. The report sets this out in considerable detail in terms of numbers of permanent exclusions, pupils who fall within the Fair Access Protocol, and on other measures. In particular since 2012 we have seen:

- a. Permanent exclusions – overall rise of 645%
 - b. Pupils who meet the Fair Access Protocol, (includes two streams: in year applicants and managed moves) – overall rise of 67%
- 2.2 Modelling of the staff establishment required to deliver a reasonable standard of service as against demand indicates a required allocation of time of 430 hours weekly, as against an availability of 209 hours. Details are set out in Table 8, below. This gap is being covered in the short term by undesirable limitation to work in relation to GDCs; by excessive staff hours; and by a general degradation of the quality of work carried out across the board. We do not believe this situation is tenable, or desirable in the interests of schools and pupils.
- 2.3 In response to this, and to manage and mitigate the consequences on schools and pupils themselves, an initial enhancement of 3.76 fte (equivalent to 139 hours weekly) in the staffing establishment of the integration team is proposed, together with a service restructure/re-focusing.

3. Recommendations

3.1 Schools Forum is recommended:

- (i) To note the substantial increase in the workload of the Integration team
- (ii) To agree to fund an additional two H9 Officers at 0.88fte (total 1.76 fte) at an approximate annual cost of £78,000, and 2.0 fte H6 officers at an approximate annual cost of £60,000. (total annual cost of £138,000).
- (iii) To note that the costs of this in 2019/20 of £69,000 (half the full year salary plus non pay employment costs for travel) would require an additional allocation of carry forward to the Central Schools Services Block
- (iv) To note that accommodating the full year consequences of this would need to be addressed in a review for 2020/21 of priorities for expenditure within that Block

4. Background

- 4.1 The Education & Inspections Act (2006) introduced a requirement for each Local Authority (LA) to have in place an In Year Fair Access Protocol agreed with the schools in its area by September 2007. Legislation in regards to this requirement was provided in the School Admissions Code published in February 2007, and was revised again in the School Admissions Codes 2010 and 2012.

Whilst the School Admissions Code was revised again in 2014, there were no changes to the sections regarding Fair Access (sections 3.9 – 3.23) and therefore statutory responsibilities remain the same as 2012.

- 4.2 The School Admissions Code (SAC) requires specific categories of pupils to be included in any Fair Access Protocol and these groups are known to have difficulty in securing a school place. In Hertfordshire's FAP children defined as "hard to place" are included in one of two groups, A and B. Group A encompasses those categories of hard to place pupils who are likely to place a significantly higher demand on the resources of a school than the average child and who are likely to present challenging behaviour. Group B encompasses

those categories of hard to place pupils who are likely to place a significantly higher demand on the resources of a school than the average child but who might not necessarily present challenging behaviour.

Group A

1. Children attending Pupil Referral Units (PRUs), in Hertfordshire referred to as Education Support Centres (ESCs), who need to be reintegrated back into mainstream education – to include both permanently excluded pupils and those who have not been permanently excluded (SAC requirement)
2. Children withdrawn from schools by their families following fixed period exclusions and unable to find another place – this provision will apply where there is a history of fixed period exclusions for persistent disruptive behaviour rather than for a few isolated incidents
3. Children returning from the criminal justice system (SAC requirement)
4. Children who are at serious, but not imminent, risk of permanent exclusion – the transfer of a child between schools in these circumstances will be referred to as a managed move.

Group B

5. Children who have been out of education for two months or more (excluding children with an allocated school place which the parent has rejected) (SAC requirement)
6. Children of refugee and asylum seekers (SAC requirement)
7. Children who are homeless (SAC requirement)
8. Children with unsupportive family backgrounds where a place has not been sought (SAC requirement)
9. Children of traveller heritage (SAC requirement)
10. Children who are carers (SAC requirement)
11. Children with special educational needs (but without an Education and Health Care Plan) (SAC requirement)
12. Children with serious disabilities or serious medical conditions (SAC requirement)
13. Children of serving UK Service personnel (SAC requirement)*

For Primary only

14. Children for whom there is no school place within a reasonable travelling distance from the home address (SAC requirement for infant classes)

For Secondary only

15. Children in Year 11 from the Spring term onwards (earlier if presenting significant additional needs)

* Including children of service families whose countries have a “Memorandum of Understanding” with the UK Home Office.

- 4.3 Historically, four additional categories of pupils have been added to the groups outlined in the SAC, which the LA and school partners have considered appropriate and/or in line with the steer of the School Admissions Code (Categories 2, 4, 14,15 primary and secondary phases)
- 4.4 The Fair Access Protocol applies only to children resident in Hertfordshire and to Hertfordshire schools, although it may be applied to children resident in Hertfordshire seeking a place at a school outside Hertfordshire if the admitting authority for the school is prepared to accept this
- 4.5 Prior to the Local Authority restructure in 2011, the Integration Team consisted of a manager and officer in each quadrant (total of 8 officers) and offered advice, guidance in relation to exclusions and Fair Access, and practical integration support to schools in respect of Fair Access pupils.
- 4.6 After the 2011, restructure the team consisted of five officers and one manager which was a real term decrease in the number of Integration staff from eight to six. An additional officer was employed (without additional resource)from 2014 to address the rising workload in the primary phase, making the current total of 6 Integration Officers. In 2011 the team’s responsibilities were redefined, with any preventative or practical work being routed to the ESC Outreach teams.

5. Local Authority Duty

5.1 The Integration Team has two statutory duties:-

- The Local Authority’s statutory responsibility relating to the Fair Access Protocol as outlined in The School Admissions Code, DfE 2014
- The Local Authority’s statutory responsibilities around exclusions from school as outlined in “Exclusion from maintained schools, academies and pupil referral units in England”, DfE 2017

5.2 There are three main streams of work for the team:-

1. Permanent exclusions
 - Local Authority duties around exclusions
 - securing school places after a period of respite at an Education Support Centre if deemed appropriate (Category 1 of the Fair Access Protocol)
2. Managed Moves for pupils who are at risk of permanent exclusion, or who have been permanently excluded but the exclusion can be withdrawn if a new school place is secured (Category 4 of the Fair Access Protocol)
3. In Year applications who meet the criteria for the Fair Access Protocol (all other categories)

6. National developments

- 6.1 Specific advice from the Department for Education (DfE) 'Fair Access Protocols: Principles and Process' was published in November 2012 and is aimed at all admission authorities and schools, setting out some principles to clarify the expectations on all parties to ensure that Fair Access operates effectively at a local level and offers guidance on the process of direction in respect of academies.
- 6.2 The UK has seen an upward trend in children presenting with additional needs. A survey by the Association of Teachers and Lecturers (ATL) in Autumn 2015 stated that 43% of education staff said they have had to deal with physical violence from a pupil in the previous year. Eighty-nine per cent of teachers had dealt with challenging or disruptive pupils. The survey also recorded a rise in the number of school children with emotional, behavioural or mental health problems.
- 6.3 The NSPCC, triggered by the Government's Select Committee report on mental health in May 2018 made a Freedom of Information request to NHS Trusts in England, and found that there had been an increase of over 30% in referrals made by schools seeking professional mental health support.

The Select Committee report outlined that evidence suggests that young people excluded from school or in alternative provision are much more likely to have a social, emotional and mental health need than children not in alternative provision and recommended a focus on how mental health needs are being met and that those services dealing with permanently excluded pupils have sufficient resource to manage these needs.

- 6.4 The Integration Team have experienced a year on year increase in the numbers of children identified as meeting the criteria for the Fair Access Protocol, the number of pupils at risk of permanent exclusion following behavioural incidents, and those being permanently excluded. The profile of these groups has also shown a rise in those identified as receiving SEN support (table 7 below).

7. Current position in Hertfordshire

7.1 Pupils meeting the Fair Access Protocol

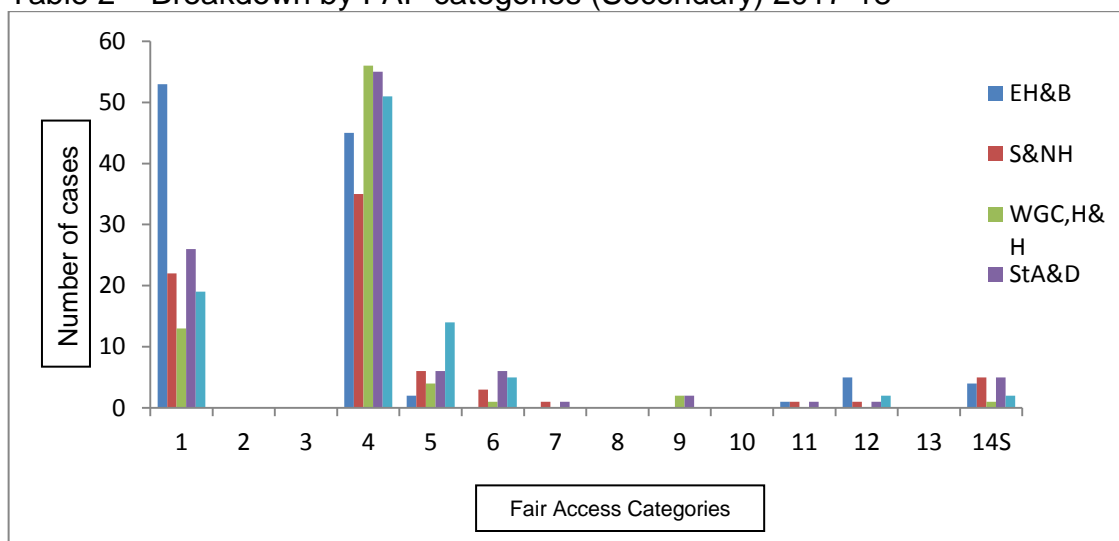
The significant increase in the number of pupils who meet the threshold for invoking the Fair Access Protocol across all phases is shown in table 1 below.

Table 1 – Fair Access totals – all phases

Area	Number of pupils who meet the Fair Access Protocol and CLA admissions placed by the Integration Team		% increase over last 6 years
	2012-13	2017-18	
Stevenage & North Herts	90	96	6%
Broxbourne & East Herts	60	128	113%
WGC/Hatfield & Hertsmere	71	146	106%
St Albans & Dacorum	100	193	93%
Watford & Three Rivers	104	146	40%
Totals	425	709	67% (total overall increase across Herts over last 6 years)

A significant number of Fair Access secondary pupils during the academic year 2017-18 met the threshold under Group A, categories 1 and 4. These are the 'managed moves' undertaken by the team in table 2.

Table 2 – Breakdown by FAP categories (Secondary) 2017-18



7.2 Secondary Managed Moves

Managed moves, as shown above, fall into Fair Access Categories 1 and 4:-

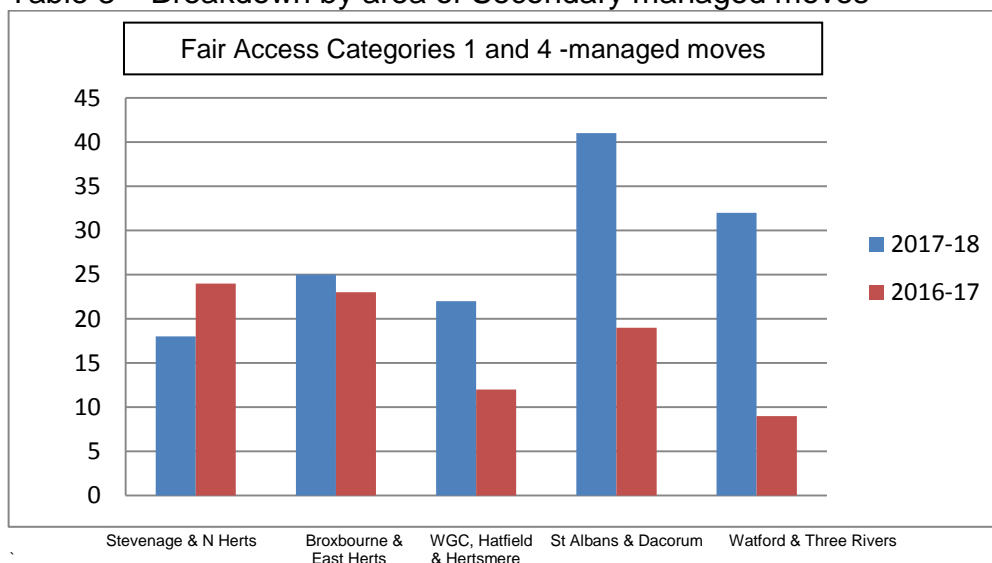
Cat 1. Children attending Education Support Centres (ESCs), who need to be reintegrated back into mainstream education – to include both permanently excluded pupils and those who have not been permanently excluded.

Cat 4. Children who are at serious, but not imminent, risk of permanent exclusion. The transfer of a child between schools in these circumstances will be referred to as a managed move.

7.3 Over the last year, there has been a 19% rise in the number of managed moves into mainstream schools undertaken by the Integration Team across

Hertfordshire (with a particular rise in St Albans & Dacorum and Watford & 3 Rivers) as shown in table 3.

Table 3 – Breakdown by area of Secondary managed moves



7.4 The managed move numbers in 8.3 include pupils who have been permanently excluded and where another mainstream school has been secured to enable withdrawal of the permanent exclusion.

The managed move numbers in 8.3 *do not* include the work by the Integration Team undertaken to secure ESC placements.

Both placements at mainstream school and ESC for permanently excluded pupils (if secured within appropriate timescales) do enable Head teachers to withdraw permanent exclusions, but this is not always agreed due to the circumstances surrounding the permanent exclusion. However, the Integration Team will always request withdrawal of the permanent exclusion by the Head teacher and negotiate to this end where possible.

7.5 Permanent Exclusions

There has been a significant increase in the number of pupils within Hertfordshire who have been permanently excluded as shown in tables 5 & 6.

Table 5

	Primary	Secondary	Total	Year on year % increase
2012-13	4	18	22	-
2013-14	5	31	36	63%
2014-15	21	32	53	47%
2015-16	29	36	65	23%
2016-17	32	94	126	94%
2017-18*	38	126	164	30% (645% over last 6 years)

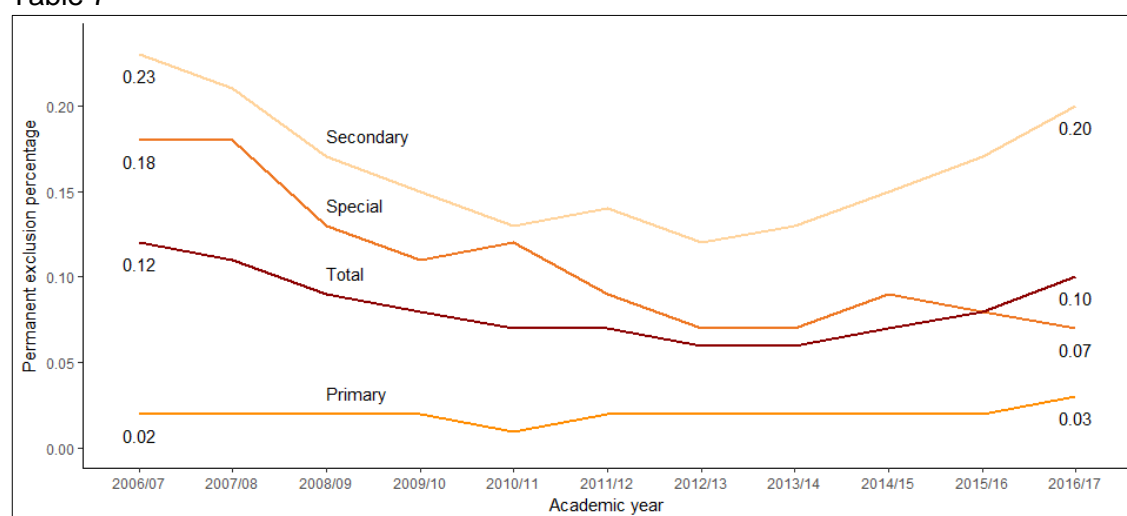
Table 6

	Primary				Secondary			
	Number of pupils permanently excluded	No identified SEN	SEN support	EHCP	Number of pupils permanently excluded	No identified SEN	SEN support	EHCP
2015-16	29	19	0	10	36	29	3	4
2016-17	32	22	5	5	94	86	3	5
2017-18*	38	10	18	8	126	75	36	16

* These are working figures. There are currently cases going to Independent Review panel which may alter the GDC outcome. Additionally, these figures do not include permanent exclusions from out of county schools where the child is resident in Herts

This upward trend in permanent exclusions is reflected in national statistics published by DfE July 2017 as can be seen in table 7

Table 7



8. The current work of the Integration Officers and planned developments

- 8.1 The current workload data is outlined below in table 8 and is based on 5.64 FTE officers (208.68 hours per week capacity). The following is based on output management data for 2017-18. The team are currently undertaking approximately a 70 hour week to manage demand for the service which is unlikely to be sustainable in the long term.

Table 8

Task	Integration Team time commitment per week
Integration Panels	
Integration Panel (pre) preparation	12.00
Integration Panel attendance	28.00
Integration Panel (post) administration	16.00
Permanent exclusions * 2017-18 =272 therefore 6.8 per week over 40 weeks	

Task	Integration Team time commitment per week
GDC preparation (pre)	13.60
GDC administration (post)	5.10
Liaison with professionals/School/ ESCs	27.00
Total	101.70
Fair Access	
Fair Access panel administration (pre and post)	11.50
Fair Access Panel	4.50
Telephone enquiry in/out (based on output management data 2017-18)	180.00
Email enquiry in/out (based on output management data 2017-18)	45.00
School approaches preparation	28.00
School approach email correspondence (based on output management data for 709 cases during 2017-18)	32.00
Meetings	28.00
Total	329.00
Grand total	430.70

*Both withdrawn permanent exclusions and actual permanent exclusions have similar time requirements

- 8.2 This academic year (Autumn term 2018/19), there have been 253 pupils placed via the Fair Access protocol. Numbers of pupils by area and phase are shown below in table 9.

Table 9 – Breakdown of Fair Access Pupils by area and phase

Area	Number of pupils who meet the Fair Access Protocol placed by the Integration Team and CLA admissions 2018-19 at 07/01/19		Number of pupils permanently excluded	
	Primary	Secondary	Primary	Secondary
Stevenage & North Herts	19	22	2	6
Broxbourne & East Herts	42	22	2	14
WGC/Hatfield & Hertsmere	30	13	1	3
St Albans & Dacorum	33	30	5	9
Watford & Three Rivers	29	13	2	6
Totals	153	100	12	38

- 8.3 Many of the Fair Access categories are prescriptive i.e. a pupil is either homeless, or not. Some categories are not as clear cut, such as thresholds for pupils considered at risk of permanent exclusion, pupils with SEN but without an EHCP. In order to ensure parity and equality for Hertfordshire residents, these

cases are initially assessed at a 'sorting' panel to decide whether or not the child meets the thresholds for the Fair Access Protocol. If the case is accepted the relevant Integration Officer will then work to secure a school place.

- 8.4 The Integration Team is under significant pressure, and has recently experienced substantial staff turnover due to pressure of work. This has been reported as highly unsettling by school partners who rely on the expertise of the Integration Officer when at their most vulnerable; staff retention is critical to allow stable relationships to form between the team and school partners and offer expertise.
- 8.5 Much of the work of the team is completed by telephone and emails, with meetings kept to a minimum. The team therefore use a targeted approach where able, but pressure is constant from school partners to provide a more preventative role.
- 8.6 Complex cases are taken to an Integration Panel, whether an in year applicant, an 'at risk' of permanent exclusion or permanently excluded pupil. This can create pressure on ESC Head teachers to be part of discussions around in year applications to provide education (potentially contributing to having the 'wrong' children utilising valuable ESC placements)
- 8.7 To address some of these concerns and promote preventative work where we are able, we propose to separate the statutory responsibilities for exclusions procedures, and those for Fair Access thus creating two separate teams as below:-

Fair Access Team

H9 Group A Fair Access Officer (full time)	Currently in post	Stevenage & North Herts Primary and Secondary phase,
H9 Group A Fair Access Officer(term time only)	Currently in post	Broxbourne & East Herts Primary & Secondary phase
H9 Group A Fair Access Officer (term time only)	Currently in post	Dacorum Primary and Secondary phase
H9 Group A Fair Access Officer(term time only)	Currently in post	Watford & Three Rivers Secondary and Primary phase
H9 Group A Fair Access Officer(term time only)	Currently in post	WGC/Hatfield & Hertsmere Secondary and Primary phase
H9 Group A Fair Access Officer (term time only)	Request to Schools Forum	St Albans Primary and Secondary phase
H9 Group B Fair Access Officer(term time only)	Request to Schools Forum	All FAP Categories 12 and 12 SEN without an EHCP, and serious disabilities or serious medical conditions) plus EHCP cases

Exclusions Team

M1Exclusions Lead Officer (full time)	Currently in post
H9 Exclusions Officer (full time)	Request to Schools Forum
H6 Exclusions Officer (full time)	Request to Schools Forum
H6 Exclusions Officer (full time)	Request to Schools Forum
H3 Admin Officer (term time only)	Currently in post
H3 Admin Officer(term time only)	Currently in post

- 8.8 Currently the fortnightly multi-agency Integration Panels are being used mainly for permanently excluded pupils in order to manage the demand for Day 6 provision or a change in their education provision and are jointly run by Integration and local ESCs.

Therefore there is no real current facility to intervene at an earlier stage for pupils who are at risk of permanent exclusion. Where these panels have been expanded to weekly (therefore offering double the appointments for families and schools), this has placed undue pressure on the ESC for their provision.

To resolve this situation, a new lower tier intervention of Managed Move Panels will be set up by the new Fair Access Team for school partners to utilise for pupils at significant risk of permanent exclusion. There will be an expectation that these children can return to mainstream provision. The new Exclusions Team would continue to hold responsibility for the current Integration Panels which would then serve the needs of schools seeking specialist ESC provision for pupils who have been permanently excluded.

- 8.9 Additionally, a separate Exclusions Team can ensure that there is scrutiny of permanent exclusions and support of more preventative practice amongst school partners and to reinforce the ethos of the Hertfordshire Behaviour Strategy. Currently the ability to operate such a model is significantly limited by capacity.
- 8.10 Both teams would be able to offer attendance at permanent exclusion Governor Disciplinary Committee Meetings enabling the team to return to offering this support at all GDCs which schools voice as highly supportive.

There will be a need to ensure that these two teams work tightly together to offer consistency to school and parents throughout the permanent exclusion through to Fair Access admission procedure.

- 8.11 As outlined in table 1, the three areas of Broxbourne & East Herts, WGC, Hatfield & Hertsmere, and St Albans and Dacorum have all seen levels double in respect of children who are meeting the threshold for Fair Access. For the new Fair Access team (without responsibility for permanent exclusions), this should bring the work to manageable levels of operation. However, for the St Albans and Dacorum area, the statistics are not fully reflective of the total work undertaken due to the area's focus on early intervention (some evidence shown in table 3). This work means the double district has been unmanageable and the forecast without responsibility for permanent exclusions will not sufficiently bring the work to manageable levels, hence the need to separate into two distinct areas of St Albans, and Dacorum respectively.
- 8.12 Many of the administrative tasks can be completed at H6 grade (64.6 hours per week) and the plan will be to remove these responsibilities to the lower grade staff, along with a level of email and telephone enquiry to reduce the strain on Integration officer resource. This will leave 366.2 hours Integration team activity.
- 8.13 The new model also offers the opportunity for a FAP Officer to deal specifically with the pupils with SEN but without an EHCP (Fair Access Category 11), and to further build relationships with SEN teams in respect of SEN pupils who have been permanently excluded in finding new mainstream provision swiftly. Despite

a wish to extend the current Integration service into this area, capacity has limited the ability to do this.

However, a recent pilot cases working EHCP permanent exclusions enabled far swifter resolution in finding new interim education provision, thereby offering financial efficiencies as it reduced the use of interim tuition during these transition times prior to naming new provisions via the SEN consultation process. This interim provision is a significant cost to HCC requiring interim tuition whilst provision panel and formal consultation takes place.

- 8.14 This model of separate teams for the two responsibilities of permanent exclusions and Fair Access Protocol is followed in the majority of other Local Authorities.

Specific proposals and financial implications

In order to manage the major increase in workload and to start to deliver some of the additional services set out in Section 9 above, it is necessary to enhance the staffing of the Integration Service.

Currently, of the six Integration Officers, three work 0.88 fte (term time plus 3 weeks, total of 2.64 fte), two who work 1.0 fte and there is one Lead Officer at 1.0 fte. This totals 5.64 fte. They are supported by two term-time only admin officers. The service is part of the School Admissions and Transport Team which is funded from the Central Dedicated Schools Grant (DSG).

The workload of the Integration Team has increased significantly across all three work streams since 2012 as outlined below:-

2. Permanent exclusions – overall rise of 645%
3. Pupils who meet the Fair Access Protocol, (includes two streams: in year applicants and managed moves) – overall rise of 67%

To accommodate this, we are proposing a School's Forum is therefore asked to agree to fund an additional two H9 Officers at 0.88fte (total 1.76 fte) at an approximate annual cost of £78,000, and one 2.0 fte H6 officers at an approximate annual cost of £60,000. (total annual cost of £138,000). This amounts to a 66% increase in staffing establishment, against the workload changes and capacity set out in detail in the tables above.

After one year of operation we would expect to review our needs and decide whether an additional further Fair Access officer and Exclusions Officer was required, fully to deliver on the structure described above, in the light of then-current demand.

The part-year costs of this for 2019/20 of £69,000 would need to be met by an increased allocation from the DSG carry forward of £69,000. Continuing costs in 2020/21 would need to be addressed as part of a review of costs and priorities within the CSSB, the first part of which is to be addressed in June at Forum through a review of our current approach to Administration of Admission Appeals.

9 Conclusion

- 9.1 The significant increase in workload of the Integration Team of 67% rise in students meeting the Fair Access Protocol and 645% increase in permanent exclusions over the last six years has led to staff retention issues, and at times compromised the Local Authority's ability to offer a consistent service across Hertfordshire.
- 9.2 Additionally the targeted development in identified preventative strategies outlined above (8.8 - 8.13) is limited by current capacity
- 9.3 Given the current position it is reasonable to assume that Fair Access pupil numbers and permanent exclusions may continue at current levels or worse, continue to increase, meaning that any support the Local Authority is able to provide will become even more limited. The immediate recommendation is therefore to increase the current capacity around these responsibilities in order to provide additional support to school partners and families, which will also ensure continuity and parity of service delivery across Hertfordshire.