

ANGUS COUNCIL**CHILDREN AND LEARNING COMMITTEE – 24 FEBRUARY 2022****PRIMARY AND SECONDARY CAPACITIES****REPORT BY KELLY MCINTOSH, DIRECTOR OF EDUCATION & LIFELONG LEARNING****ABSTRACT**

This report provides an update on school capacities and seeks approval for a change to the process for the administration of roll caps.

1. RECOMMENDATIONS

It is recommended that the Children and Learning Committee:

- (i) Approves the updated intake limits for Brechin High School and Webster's High School;
- (ii) Approves the updated reserved places for Arbroath Academy, Arbroath High School, Brechin High School and Webster's High School;
- (iii) Delegates authority to the Director of Education and Lifelong Learning to determine primary and secondary school capacities and reserved places on an annual basis prior to 31 March each year in respect of the following school session.

2. ALIGNMENT TO CORPORATE PLANS

This report contributes to the following local outcomes contained in the:

Angus Community Plan, 2017-30:

- Reducing child poverty
- The best start in life for children

Angus Council Plan, 2019-24:

- We want to maximise inclusion and reduce inequalities

Tayside Plan for Children, Young People and Families, 2021-23

- Our children and young people growing up healthy, confident and resilient with improving physical and mental health and strengthened emotional wellbeing
- Our children, young people and families at risk, who face significant inequalities and disadvantage, having improved life chances

3. BACKGROUND

- 3.1 Angus Council use the Scottish Government guidance, 'Determining Primary School Capacity,' as the basis for calculating primary school capacities. In Angus the capacity of each school is assessed on its own merits, dependent on design, core facilities and effective delivery of the curriculum. The primary capacities and methodology were last approved in full in April 2015 (Report [141/15](#)) refers). The majority of capacities are unchanged since the initial report.
- 3.2 Reference is made to Paragraph 5 of the minute of the meeting of the Children and Learning Committee of 02 April 2015 where Members approved the principles of establishing reserved places and capping school rolls. Committee also requested an annual report from the Head of Schools and Learning regarding the school capacities for the following school session. The most recent report was considered by Committee in March 2021 (Report [112/21](#)) refers).
- 3.3 Secondary school capacities were set by the Education Committee in January 1997 (Report [935A/96](#)) refers). Primary capacities were also set at that time but have been superseded by

Report 141/15 as noted above. [Circular No 3/2004](#), published by the Scottish Government sets out guidance for determining school capacities. While superseded for primary, the published principles still apply for secondary and are referenced below.

- 3.4 Each primary school has been assessed on its design, core facilities and effective delivery of the curriculum. The capacity profile for each school shows the planning and working capacity of each school. Planning capacity is used when determining potential future developer contributions arising from new housing development. On occasion some of our schools use general purpose rooms as classrooms. It is our aspiration to use rooms as they were originally intended. In establishing whether a cap should be set we will use the working capacity based on using only classrooms. The working capacity is used to assess Placing Requests.
- 3.5 Secondary school capacities were set by the Education Committee in 1997 in response to amendments to the Education (Scotland) Act 1980 in respect of Placing Requests. Overall capacities were agreed as well as a maximum S1 intake for each school and the number of spaces to be reserved for children moving into catchment. There has been no formal change made to these capacities since 1997, however it is noted that both Brechin High School and Forfar Academy have been replaced. Forfar Academy's capacity is unchanged but Brechin High School now has a maximum capacity of 800.
- 3.6 Angus Council's policy is to encourage parents to enrol their children in their local school but otherwise to agree to all Placing Requests wherever possible. A small number of Angus schools are under considerable pressure for space due to high rolls. In such cases, applications for admission to the school are prioritised on the following basis:

Entitlement: *Children whose home address is within the schools delineated area*

Priority 1: *Children whose address is outside the delineated area but who have a brother or sister already attending the school. (This can sometimes include another relative who lives permanently at the same address)*

Priority 2: *Children whose home address is not within the school's delineated area and who do not have a brother or sister already attending the school*

Placing requests made for children with Additional Support Needs are prioritised using the same criteria as above. In limited circumstances a child may be placed by the local authority at a specific school. This is separate to the priority categories set out above.

As agreed by Children and Learning Committee on 29 January 2019, catchment areas are no longer used as a priority category for allocating Early Learning and Childcare places. Attending a school nursery does not imply automatic enrolment at the same primary school.

- 3.7 Reserved places are retained for children who may move into the catchment area over the course of the year. Table 1 shows the previously agreed reserved places in primary schools.

Number of Classes	Reserved Places
Fewer than 5 Classes	5
5-7 Classes	7
7-10 Classes	10
11-14 Classes	14

- 3.8 Reserved places for secondary schools were set in 1997 and re-confirmed in 2000 ([Report 450/00](#) refers). This information is available in table 1, below.

School	Capacity	Intake Limit	Reserved Places per Stage
Arbroath Academy	1060	200	N/A
Arbroath High School	1160	220	N/A
Brechin High School	1060*	200	6
Carnoustie High School	1060	200	6
Forfar Academy	1270	240	7

Monifieth High School	1060	200	6
Montrose Academy	1270	240	7
Webster's High School	740*	140	4

*The capacities for highlighted schools have changed since 2000. Proposals relating to this can be found in section 5.

4. CURRENT POSITION

- 4.1 At present, primary school occupancy levels are reviewed annually. This exercise usually takes place between late February and mid-April each year as part of the consideration of Placing Requests. Under the current process, a report is presented to Children and Learning Committee with proposals for capping and uncapping the rolls at schools experiencing capacity issues. A cap is proposed when a school roll is projected to be at 95% of working capacity, or when five or fewer places remain, at the start of the next session in August. The proposed cap is always working capacity minus reserved places.
- 4.2 Secondary school occupancy levels are also reviewed annually as part of the Placing Request process. For each school reference is made to published capacities and intake limits for S1 and the existing school roll. The physical lay-out of the building is also taken into account, including safe circulation routes and the flexible use of social and staff spaces. Caps to S1 intake limits may be proposed as a result of this analysis. At present, Monifieth High School is the only school with such a cap.
- 4.3 For both primary and secondary schools, the proposed caps are based on 'live' school roll projections. Due to the timetable associated with school enrolments, accurate projections for August are usually available from the start of March in each year and updated on a weekly basis thereafter. The projections, along with any proposed caps, are then utilised by the Education and Lifelong Learning Leadership Team to determine any Placing Requests made for the upcoming session. Local authorities are legally required to determine requests for the next session by 30 April each year.
- 4.4 The Education (Scotland) Act 1980 (and the Education (Additional Support For Learning) (Scotland) Act 2004 in respect of pupils with Additional Support Needs) confers on the Education Authority (amongst other grounds of refusal) the right to refuse placing requests where acceptance would have the consequence of exceeding capacity in terms of pupil numbers or where acceptance would impact on reserved places. A decision to refuse a placing request can be appealed to the Education Appeal Committee and thereafter to the Sheriff Court.
- 4.5 The requirement to seek approval each year for school caps can result in delays to the determination of Placing Requests. This delay results in uncertainty for families awaiting the outcome of their requests and also has an impact on the appeal process. Due to the volume of placing request refusals and subsequent appeals for session 2021, some cases were not determined until July. This uncertainty is not in the best interests of the children and young people affected.

5. PROPOSALS

- 5.1 It is proposed to streamline the process for both primary and secondary to make more appropriate use of reserved places to effectively manage school capacities. Section 28A of the Education (Scotland) Act 1980 defines reserved places as:

““reserved places” means such number of places (not exceeding such number or, as the case may be, such percentage of places at the school or relating to the particular stage of education as may be prescribed by regulations) as are in the opinion of the education authority reasonably required to accommodate pupils likely to become resident in the catchment area of the school in the period from the time of consideration of the placing request up to and during the year from 1 August to which the placing request relates; and different numbers or, as the case may be, percentages may be prescribed under this subsection for the purpose of different cases or circumstances.”

Local authorities may refuse placing requests where acceptance would prevent the education authority from retaining reserved places. Appendix 1 sets out the 'effective capacity' for each primary and secondary school: the working capacity minus reserved places. This calculation

provides a true capacity for each school. Where a school roll is projected to exceed the effective capacity, the ability to accept placing requests will be affected.

- 5.2 If the changed process is approved by the Committee, more detailed information will be shared with parents and carers via the Angus Council website. Projected rolls for August each year will be available on the website at an appropriate time and updated on a regular basis. Details of existing roll caps and reserved places will also be published to improve transparency and enable families to make informed choices regarding enrolments and placing requests. Consideration will also be given to publishing the number of placing requests approved and refused each year. If moving to this process is approved, there will be no further requirement for an annual report to this Committee on capacities.
- 5.3 The existing Scheme of Delegation for Education and Lifelong Learning does not include any reference to the setting of caps for individual schools. It is proposed that the Children and Learning Committee delegates authority for this on an annual basis to the Director of Education and Lifelong Learning.
- 5.4 As noted in 3.8, the stated capacities for Brechin High School and Webster's High School are no longer accurate. Following the construction of Brechin Community Campus, the working capacity of the school is now 800. The working capacity of Webster's High School is now 880. It is proposed that the Children and Learning Committee approve the revised capacities for these schools.
- 5.5 In the table presented in section 3.8, it is noted that reserved places have not been set for Arbroath Academy and Arbroath High School. It is suggested for consistency that these should be set at 6 places per stage, in keeping with similarly sized schools in Angus. The reserved places for Brechin High School should be reduced to 4 per stage to reflect the change in the school's capacity. It is proposed that the Children and Learning Committee approve the amendments to reserve place levels for these schools.

6. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

7. LEGAL IMPLICATIONS

Section 28A of the Education (Scotland) Act 1980 (and Schedule 2 of the Education (Additional Support For Learning) (Scotland) Act 2004 in respect of pupils with Additional Support Needs) obliges an education authority to comply with a request from a parent to place a pupil in a school under their management unless the authority can refuse the request under certain specified grounds.

One of those grounds is that, if the placing request was accepted, then it would have the consequence that the capacity of the school would be exceeded in terms of pupil numbers or would prevent the education authority from retaining reserved places at the specified school or in relation to any particular stage of education at the school.

A person aggrieved at the decision to refuse a placing request has the right to refer a decision to refuse a placing request to the authority's Education Appeal Committee and thereafter to appeal the decision to the Sheriff Court. In certain circumstances, appeals relating to placing requests in respect of pupils with Additional Support Needs are determined by the Health and Education Chamber of the First-tier Tribunal for Scotland.

8. CONSULTATION

The Director of Legal and Democratic Services has been consulted in the preparation of this report.

NOTE: The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

- Report [935A/96](#)
- Report [141/15](#)
- [Report 450/00](#)
- Report [112/21](#)
- Circular No 3/2004
- [Choosing a School Booklet](#)

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List of Appendices:

Appendix 1 – Proposed automatic caps for primary schools

Appendix 2 – Proposed automatic caps for secondary schools