

This document has been created in response to questions posed by the Parish Council & Community members at the meeting in September. It has been ratified by the board of governors and shared with other documents, presented and shared to the Parish Council Clerk.

Response and Actions following the Community Meeting in Sept. 2021

At the meeting it was suggested we look at models at other schools for access to their grounds, for example, Meavy Primary School.

**We have:**

- Had a meeting with the headteacher at Meavy Primary School, who was concerned this was the impression. Meavy Primary School does not have open access and anyone using the site out of school hours would be challenged if they were to do so.
- Put out a survey on the National Headteacher's forum to ask how other schools manage open access. Of the schools that responded, just one school (in the Pennines) had open access. All other respondents said that due to issues of liability, their grounds were not open for unrestricted access.
- Canvassed local headteachers at the Devon SLS conference held on 14 October 2021, and established that no schools promote open access.
- Canvassed headteachers at the C of E heads meeting held on 30 September 2021 in a similar way, and with a similar outcome. No schools promote open access.
- Have established Whitchurch Primary School permits access after school and at weekends, but does so without any risk assessment. This is entirely a matter for that school's governors to determine, as they are both responsible and liable for any associated risks that might arise.

It was requested we arrange a Health and Safety assessment for the use of the school outside operational hours.

- The Local Authority state that they will not risk assess the site for outside of school hours, as the issues of responsibility and liability for risks arising from such use cannot be mitigated by the governors.
- There is no evidence in writing as requested by the working party and Parish Council. This was asserted by the Local Authority representative in a meeting with the Head and Assistant Headteacher June 2021 and twice on the phone with both members of staff (July 2021 and September 2021).
- The Local Authority Health and Safety officer asserts the school is to remain a closed site outside operational hours, and that governors are responsible for ensuring this is the case.

It was suggested the school construct a fence partitioning off the field from the rest of the site and re-purposing a path from the back gate to the side gate at Chapel Meadows.

- We have been advised that to re-purpose a permissive path or a right of way requires the authorisation of the Secretary of State
- Parent feedback and letters of concern received after the last group meeting request that the governors do not divide the children's outdoors learning areas.
- Dividing the school site with a fence would impact teaching and learning, and will not mitigate the liability issue.

We were asked to gather all the evidence and to share it with the smaller group

- We sought advice from the Local Authority's Legal Department, who set out that the governors could consider opening if they employ the caretaker to remain on site, check the site after use and secure it. The school's budget does not have the capacity to fund this.
- The Local Authority is fully aware of the situation. Their advice is that the governors need to restrict access, as they are fully responsible as occupiers for the site at all times.
- Please refer to shared documents for more details.

It was requested that we investigated our Public Liability Insurance

- Public Liability Insurance cover for accident and injury.
- Public Liability Insurance cover, however, is not the same as Occupier Liability where the Governors and Headteacher are fully responsible for the site. This includes all of the measures taken on a daily basis whilst the school is in operation e.g. lighting the site, gritting paths, daily checks on the site, equipment and so on.
- Occupier's Liability makes the Chair/Headteacher personally liable for any accident or injury arising from the school site having open public access.

It was said the shared the path and access to the school grounds were part of an agreement made in 1974.

- We took advice from the Local Authority's Senior Legal Advisor, and as a result, the governors understand that the Deed of Dedication and Conveyance of the whole site dating from 1975/76 do not contain any provision for community use or access to the school grounds, nor do they refer to any agreement relating to the same.

In conclusion

- The DfE sets out that the Governing Board is responsible in law for the school and for ensuring legal and regulatory compliance across a range of areas, including health & safety of pupils, staff and others when they are on school premises and land.

In Addition, the Governance Handbook 2020 sets out with regard to school premises and land that:

- Governing Boards should fully understand the individual history and circumstances of the school, including who holds all the land the school currently makes use of and on what basis the land is held and used. This includes considering the category of the existing school; the history of the school, including any particular arrangements that were made when it was set up; the current arrangements by which land is either held for the purposes of the school or used by the school (including the pattern of use and the nature of that land); and any existing arrangements allowing others to make use of the school's land.
- The Governing Board bears legal responsibility for the school's actions, and governors are given day to day control over what happens in school buildings and grounds both inside and outside school hours through law, and are responsible for deciding how school premises are used.
  - The governors also have a separate legislative power to provide community facilities and services and support these from their revenue budgets, however, for voluntary and Foundation Schools this is limited both by the statute and by any requirements contained in the school's trust deed (if have one). These schools must therefore work closely with the trust that owns the land and assets over the use of premises for community facilities and services, as these may conflict with the purposes of the trust, and in extreme cases result in land being lost to the school.
  - In the case of the land use at St Andrew's Primary School, the governors will continue to give careful consideration to the representations of both the Parish Council and the Community working Group concerning access to the school's playing fields.
  - The governors have also given careful consideration to the statutory requirements made of them with regards to their stewardship of the land in question, and to their liabilities in law for the health and safety of people who may at any time be upon the land, including the playing fields.
  - The governors have taken legal advice from the Local Authority's Legal Department about the question of public access to the land in question.

For the reasons above the governors have concluded that open unrestricted public access to the school's playing fields cannot be granted at this time. However, we would welcome further discussions for example around the opportunity of restricted access.