

To: Chair and Members of the
Communities Scrutiny Committee

Date: 14 December 2015

Direct Dial: 01824 712554

e-mail: dcc_admin@denbighshire.gov.uk

Dear Councillor

I refer to this agenda for the meeting of the **COMMUNITIES SCRUTINY COMMITTEE** to be held at **9.30 am** on **THURSDAY, 17 DECEMBER 2015** in **CONFERENCE ROOM 1A, COUNTY HALL, RUTHIN** and enclose the following report(s).

**Agenda Item
No**

4 MINUTES (Pages 3 - 12)

To receive the minutes of the Communities Scrutiny Committee held on:-

- (i) 5th November, 2015 (copy enclosed)
- (ii) 16th November, 2015 (copy enclosed)

Yours sincerely

G Williams
Head of Legal and Democratic Services

MEMBERSHIP

Councillors

Brian Blakeley
Bill Cowie
Peter Evans
Huw Hilditch-Roberts
Martyn Holland
Rhys Hughes

Win Mullen-James
Bob Murray
Anton Sampson
Cefyn Williams
Cheryl Williams

COPIES TO:

All Councillors for information
Press and Libraries
Town and Community Councils

This page is intentionally left blank

Minutes of Communities Scrutiny Committee held on Monday, 16 November 2015 at 2.00 pm at Conference Room 1a, County Hall, Ruthin

Present:

Councillors Brian Blakeley, Bill Cowie, Huw Hilditch-Roberts (Chair), Martyn Holland, Rhys Hughes (Vice-Chair), Bob Murray, Anton Sampson, Cefyn Williams and Cheryl Williams

Co-opted Members – John Piper and Gareth Williams

Lead Member for Education Councillor Eryl Williams

Also Present:

Chief Executive (MM), Corporate Director: Communities (NS), Monitoring Officer (GW), Head of Education(KIE), Head of Customers & Education Support (JW), Programme Manager, Modernising Education (JC), Scrutiny Coordinator (RE) and Democratic Services Officer (KAE)

1 APOLOGIES

Councillors Peter Evans, Win Mullen-James and Co-opted Members Gill Greenland, Debra Houghton and Dr Dawn Marjoram.

2 DECLARATION OF INTERESTS

The following declared personal, non-prejudicial interests:

Co-optees:

Gareth Williams – Co-opted member representing the Church in Wales on Scrutiny.
John Piper declared a personal interest – family member attends Ysgol Llanfair DC

Councillors:

Martyn Holland – member of Board of Governors for Ysgol Bro Fammau
Huw Hilditch-Roberts – Local Education Authority representative and Chair of Governors Ysgol Pen Barras, child attending Cylch Meithrin at Ysgol Pentrecelyn and resident of Pentrecelyn.

3 URGENT MATTERS AS AGREED BY THE CHAIR

There were no urgent matters.

4 CALL-IN OF THE CABINET DECISION OF 27 OCTOBER 2015 RELATING TO YSGOL LLANFAIR DYFFRYN CLWYD AND YSGOL PENTRECELYN

A report detailing the grounds on which the Cabinet decision of 27 October 2015 relating to the above schools had been called-in had been published prior to the meeting. The report included a copy of the Council's Call-in Procedure and Guidance Notes. Committee members had also been provided with a link to the Cabinet report of 27 October and associated papers available on the Council's website ahead of the meeting.

Prior to the commencement of the discussion the Chair explained the reasons why the meeting had been called and the process that would be followed at the meeting, which would include giving an opportunity for a representative on behalf of the governing bodies of both Ysgol Llanfair D C and Ysgol Pentrecelyn to address the Committee.

The Monitoring Officer explained the definition of 'personal' and 'prejudicial' interests as they applied to Committee members and Cabinet members. As Cabinet members were deemed to have a 'prejudicial' interest in the matter, they were not permitted to attend the meeting. However, the Lead Member for Education was exempted from having a 'prejudicial' interest in this case as he had been invited to attend by the Committee to answer questions and points raised during the discussion.

An explanation of the law governing the calling-in of Cabinet/Executive decisions, including the associated timescales and process was provided by the Monitoring Officer. He explained that the Committee was required to determine at the conclusion of the debate whether or not, based on the information presented to it during the meeting, there was sufficient evidence to merit it to ask Cabinet to re-consider its original decision and the basis for the request to review. If the Committee resolved that there were grounds to seek Cabinet to re-consider its decision, the referral would be considered by Cabinet at its next available meeting.

Councillor Arwel Roberts, as the lead signatory of the 'notice of call-in' was invited to present the case to review Cabinet's decision. He emphasised that whilst he and his co-signatories welcomed the decision to build a new area school they were disappointed that the new school would be a Category 2, dual stream school, to replace the current Category 1 (Welsh Medium) and Category 2 schools. They were of the view that this approach undermined national policy. Recent decisions in Carmarthenshire had seen a Category 2 dual stream school replaced by a Category 1 school. Denbighshire County Council had commissioned Cefin Campbell to undertake a study on the state of the Welsh Language in the county in the wake of the publication of the 2011 Census statistics on the number of Welsh speakers in the county. One of the recommendations in Mr Campbell's report was that the Council should take steps to support schools to move from being providers of bilingual education to providing education through the medium of Welsh. The signatories to the call-in were of the view that the argument put forward at the recent Cabinet meeting that a Category 2 school in this particular area would deliver the same educational and linguistic outcomes as a Category 1 school would be setting a dangerous precedent for the future. They acknowledged that Ysgol Llanfair D C was at present a high performing school and did deliver good

educational and linguistic outcomes for its pupils via both the Welsh medium and English medium streams, with the majority finishing their education at the school in the Welsh medium stream. Nevertheless, they felt that designating the new school a Category 2 school, could leave the school open to the linguistic ethos of it being diminished and diluted at some point in the future.

The Chair of Ysgol Llanfair D C then addressed the Committee. During his address he highlighted the following points:

- that a lot of scaremongering had been taking place;
- there were no proposals to change the headteacher or teachers at Ysgol Llanfair D C;
- the majority of pupils at Ysgol Llanfair D C were educated in the Welsh medium stream and every child was bilingual when they left the school at the age of 11;
- it was a good inclusive, bilingual, community school which delivered good outcomes for its pupils;
- during the past 20 years the Governing body had considered whether to change its categorisation from a Category 2 to a Category 1 school, but they had concluded that they risked losing a number of non-Welsh speaking parents if they did this – parents who perhaps would not be comfortable opting for Welsh medium delivery for their child's education at the outset. The model currently operated at Ysgol Llanfair D C had during this time been very successful in securing the transfer of pupils from the English medium stream to the Welsh medium stream during their time at the school, with a high number of those pupils then transferring to the Welsh-medium provision for their secondary education;
- the Category 2 model currently in operation at Ysgol Llanfair D C was in the Governing Body's view the most cohesive model for the future provision of education in Wales;
- 120 parents and former pupils of Ysgol Llanfair D C had signed a letter sent to Committee members which evidenced the value of the education provision at the school. These signatories included Welsh speaking and non-Welsh speaking parents;

Concluding his address the Chair of Governors re-iterated the Governing Body and the school's commitment to the Welsh language, and to the delivery of education through the medium of Welsh to pupils. Governors, staff and parents at Ysgol Llanfair D C respected and were tolerant of opposing views, but had recently felt both hurt and betrayed by the unpleasantness of the current situation and comments made by some individuals. They were fearful for the future of community cohesion in both Llanfair D C and Pwllglas, where both languages had existed well side by side for a long period of time.

The Governing Body of Ysgol Pentrecelyn had sought permission from the Chair to appoint one of the parents to read out a statement on their behalf, as the Chair of the Governing Body nor any of the Governors felt comfortable in addressing the

Committee. The Chair had permitted the request and the representative outlined the following points put forward by the Governing Body:

- that the consultation had been undertaken in name only, the decision had been made by the Council from the outset;
- the School Organisation Code was central to the school re-organisation proposal. The Code stipulated that the public ought to be able to influence decisions made by local authorities. To highlight this the case of McCann vs Bridgend was cited and examples were given of how in the Governing Body's opinion the Council had not complied with this requirement i.e. meetings with the Governing Body cut short, discussions around language categorisation abandoned, papers publicised without full discussion on their contents, misrepresentation of pupil numbers (based on Pupil Level Annual School Census (PLASC) data rather than on pupil projection figures submitted by the Governing body based on current numbers and nursery numbers from January 2016, not following the Council's own Welsh in Education Strategic Plan(WESP) by choosing to establish a Category 2 school at outset although the WESP recommends moving schools along the language continuum, non-provision of evidence on the sustainability of Welsh language provision at a Category 2 school and the fact that the majority of pupils (78%) in the new school would be choosing Welsh-medium provision;
- they fully understood the financial situation facing the Council and shared the Authority's wish and vision for a new modern school for the area, the core of the disagreement lay with the language categorisation. Despite the Welsh Language Commissioner, the Governing Body and the local community raising concerns on this matter no attempt had been made to negotiate or mitigate the impact on the Welsh language, which led the Governing Body to conclude that the spirit of consultation had been ignored and the decision predetermined;
- the letter issued to the Diocese ahead of the Cabinet meeting confirmed that there was only one possible outcome – that the decision had been made in all but name;
- since the decision by Cabinet on 27 October other factors had come into play which enhanced the Governing Body's concerns with respect to the Welsh medium provision at the new school, these being Cabinet's decision to close another Category 2 school in the Ruthin area , Ysgol Rhewl, with the proviso that free school transport would be available to those wishing to attend a Category 2 school to attend the new area school for Llanfair D C/Pentrecelyn, and another decision to close a rural church school in the Ruthin area, which could result in more pupils accessing the English-medium stream at the proposed new Llanfair D C/Pentrecelyn area school. These other decisions could potentially have far-reaching implications on the new school in Llanfair D C/Pentrecelyn;

- based on the above the Governors were seeking the Committee to refer the decision back to Cabinet requesting them to reconsider the original decision in the light of the of new and previously unconsidered evidence, review submissions and objection reports, and ask them to undertake a new language and community impact assessment taking into account the potential impact of the additional pupil migration outlined above. Cabinet should also be asked to review its application of the Schools Organisation Code and public consultation mechanisms, the numbers seeking Welsh-medium education, whether pupil teacher ratios were sustainable against future financial projections and that stricter guidelines are provided for maintaining Welsh-medium education with a Category 2 school and/or reviews the definitions of the different categorisations.

In response to the points raised the Head of Education gave a comprehensive definition of the delivery of education in both Category 1 and Category 2 schools – Category 1 being 100% delivery of education through the medium of Welsh, communication between staff and pupils and pupil assessments were through the medium of Welsh. Category 2 schools were dual stream provision schools. At Category 2 schools the parents choose whether their child entered either the Welsh-medium stream or the English-medium stream. If a child entered the Welsh-medium stream their education would be delivered entirely through the medium of Welsh, their interaction with the teachers would be through the medium of Welsh as would their pupil assessments. If they opted for their child to enter the English-medium stream they would receive their education through the medium of English and be assessed through the medium of English, however Welsh would be introduced through communication and gradually as their confidence and competencies in the use of the language grew they would receive more of their instruction through the language. In a successful Category 2 school, similar to Ysgol Llanfair D C, as confidence and competency in the language grew the majority of the children who had entered the school in the English stream opted to transfer to the Welsh stream before the end of their education at the school, with a number of them progressing on to Welsh-medium secondary education.

It was the Welsh Government (WG) that determined the definition for the various 'categories', it was not within the gift of the local authority.

Responding to Committee members' questions the Lead Member for Education, Head of Education and Head of Customers and Education Support advised that:

- the School Governing Body determined the most appropriate way for delivering dual stream education. Each school was different, consequently different methods suited different schools. Some schools delivered it side-by-side in the same class, whilst other schools opted to teach the pupils in separate classes;
- in Llanfair D C pupils that entered the school in the Reception Class in the English-medium stream would be fluent in both languages by the end of Key Stage (KS)2. Consequently a number of parents then opted for their child to continue the rest of their statutory education through the medium of Welsh.

The Chair then referred the Committee to the five points listed in Appendix 2 to the report, which were the basis given for calling-in the Cabinet decision for review. Committee members questioned the Lead Member for Education and Heads of Services on these questions. Clarification was provided as follows:

- the process for addressing the number of surplus places in the primary education sector in the Ruthin area was outlined – there were in the region of 23% surplus places in primary schools in the area. In planning to address this problem the Council had to explore parental preference for education provision i.e. English-medium, Welsh-medium and faith based provision and draw up plans to ensure that in future there would be sufficient numbers of the chosen type of education places available to meet pupil needs. Parents were a key part of the consultation process throughout the period when these plans were being drawn-up;
- all consultation exercises had been undertaken via a number of different methods i.e. community meetings, meetings with schools, parents and stakeholders as well as different types of written communications;

On the five points on which the decision had been called-in the following explanations were given by the Lead Member and Heads of Services:

1. Is the scrutiny committee satisfied that the decision made by the cabinet was genuinely open to influence/change in accordance with the spirit of public consultation?

- PLASC figures were always used as the basis for any school re-organisation exercise, as these census figures were revised on a twice-yearly basis and were therefore as accurate as they could possibly be. However, there would always be an element of fluctuation in pupil numbers at any school;
- A contingency would be built into the plans for a new school in order to accommodate a level of fluctuation and as the plans for this new area school had not yet been drawn-up it would be easy to draw the plans taking into account the projected number of pupil places required, including any additional pupils transferring-in from other schools affected by the Ruthin Area Review;
- The fact that Cabinet had varied the dates for closure by twelve months, from 31 August 2016 to 31 August 2017, following the original decision being called-in to scrutiny re-affirmed the fact that Cabinet was open to influence and change. In light of the comments made at the Performance Scrutiny Committee meeting which had considered that call-in Cabinet had agreed that applications for discretionary transport to the nearest Category 1 school be considered on a case by case basis for existing pupils and siblings of pupils at Ysgol Pentrecelyn

2. Has the impact of pupil migration on the language profile of the new school been fully considered?

- Denbighshire's school re-organisation project has been undertaken on an area by area basis, specifically to ensure that no decisions relating to the re-provision of school places was taken in isolation. The proposals for a new area school for the Llanfair D C/Pentrecelyn area were the product of the wider review of the Ruthin area. The objective of adopting this approach was to mitigate the risk of decisions taken with respect to individual schools impacting negatively on other neighbouring schools;
- Whilst birth rates in an area could be estimated fairly accurately, predicting parental choices with respect to their children's education was more difficult;
- The potential impact of the Council's Local Development Plan (LDP) also needed to be factored into the planning stage when bringing forward proposals for future education provision, as did the mandatory 10% contingency for fluctuation in pupil numbers when planning for a new school;
- In light of the above factors, and to mitigate the risk of losing pupils from exposure to the Welsh language and denying them the opportunity of gaining high level Welsh language skills, it had been concluded that a Category 2, dual stream, school would be the most appropriate school for the Llanfair D C/Pentrecelyn area;
- On potential pupil migration from Ysgol Rhewl and whether those numbers could potentially undermine/dilute the position of the Welsh language at the new area school in due course, it was explained that as the Council was closing a Category 2 school it was proposing to offer parents an alternative Category 2 school as part of their choice options. At present only two pupils were educated in the Welsh stream at Ysgol Rhewl, the remainder were educated in the English-medium stream, it would be the parents' choice whether to send those children to a Category 1, Category 2 or a Category 4 or 5 school in due course;
- The linguistic impact of the proposal on pupils attending both present schools was anticipated to be as follows. The closure of Ysgol Pentrecelyn would see existing pupils transfer to Welsh-medium provision at either a Category 1 or a Category 2 school. However if the new area school which opened was a Category 1 school a number of pupils from Ysgol Llanfair D C may transfer to either a Category 4 or Category 5 school. If this happened these children would be lost to the Welsh language and it would be detrimental to the language in the area;
- A Category 2 school gave parents and pupils additional options and opportunities

- 3. Document sent from the council to the diocese on 23/10/2015 referred to at the cabinet meeting by Cllr Huw Williams created before the decision made, does this mean the decision was predetermined?**
- The Monitoring Officer clarified to the Committee the legal definition of 'predetermination', explaining that for a decision to be predetermined the mind of the 'decision-maker' must have been closed to any possible alternative decision. The term 'decision-maker' was key when considering whether the decision was 'predetermined'. In this case the sole decision-maker was Cabinet, no one else.
 - The letter to which this point referred was a 'draft' letter, sent under the cover of an e-mail to the Diocese of St. Asaph's Director of Education and Lifelong Learning by an officer from the Council's Customers and Education Support Service. A copy of the covering e-mail was circulated to Committee members. The e-mail clearly stated that the letter was "a draft of the determination letter prior to any decision being made next week." The e-mail went on to say that "if the proposal is determined" the Council had to publish a determination letter within 7 days of the decision being made, and due to the tight timescale, translation requirements and the imminent half term holidays they were seeking the Diocese's approval for the wording to facilitate the meeting of statutory deadlines if the recommendation to Cabinet was approved. This was an administrative forward work planning process undertaken by an officer, which did not involve the 'decision-maker' i.e. Cabinet at any stage;
 - If Cabinet had decided against closing the schools and the opening of a new school on 27 October 2015, and a different decision had been approved, a different wording would need to have been agreed between the Council and the Diocese. As officers were not privy to any alternative proposals that were likely to be put forward they could not prepare a 'draft' letter for consideration along those lines in anticipation of any such decision.
- 4. Considering the fact that the recommendation states that the new school will be Category 2. Majority of the pupils in Pentrecelyn and Llanfair Dyffryn Clwyd choose to have their education through the medium of Welsh isn't this a case that the new school must be a category 1 school.**
- It was confirmed that the combined number of pupils at both schools at present receiving their education through the medium of Welsh was circa 78%. All pupils in Pentrecelyn were currently educated through the medium of Welsh and the majority of pupils attending Ysgol Llanfair D C received their education through the medium of Welsh. As Llanfair D C was a Category 2 school what tends to happen is that some children from a non-Welsh speaking background enter the English-medium stream at the start of their statutory schooling period. As they progress their education and

become immersed in the Welsh language, their parents opt for them to transfer to the Welsh medium stream later on. The method used at Llanfair D C to introduce the language to pupils, support and encourage them to use it, instils confidence in the parents to opt for them to be assessed through the medium of Welsh in due course and continue with their education through the medium of Welsh. In recent years this has resulted in the majority of pupils at the end of KS2 receiving their education through the medium of Welsh and transferring to Welsh medium secondary education;

- The intended outcomes for pupils attending a Category 1 primary school and those attending the Welsh medium provision at a Category 2 school were identical and was as defined by the Welsh Government (WG) in its 2007 document 'Defining Schools According to Welsh Medium Provision'

5. The decision goes against the Denbighshire Welsh Education Strategic Plan – closing a category 1 school, replacing the school in the area with a category 2 school when the policy clearly states that the council wishes to move schools along the continuum.”

- The Council aspires to move all schools along the language continuum. However, different schools within the various categories were at different stages in this process, this was because of their geographical location and the current ethos and culture of the individual schools. Nevertheless, in a Category 2 school the Council would expect staff and the governing body to continually increase the use of Welsh in the English-medium stream;
- Recent work undertaken by the Council's Welsh in Education Strategic Group (WESG), School Standards Monitoring Group (SSMG) and Scrutiny had resulted in the Authority now knowing each individual school's position with respect to moving along the continuum;
- The WESP itself would be due for review in time for the end of the current Plan in 2017. Guidance was currently awaited from WG with respect to the contents of the next plan;
- The proposal in this case to establish a new Category 2 area school would support the delivery of two specific outcomes in the Council's Welsh in Education Strategic Plan (WESP) 2014-17 those being: "more seven-year-olds being taught through the medium of Welsh" and "more learners continuing to improve their language skills on transfer from primary to secondary school";
- the WESP was a statutory plan which had been endorsed by the WG. Both the WG and the Council monitored and challenged the Plan's delivery on a regular basis;
- whilst the categorisation of schools was historical, if a governing body decided that it wanted to change its language categorisation there was a statutory process which had to be followed. This statutory process included a consultation process with all stakeholders;

- the decision did not go against the Council's WESP, as establishing a Category 2 school instead of a Category 1 school could not be interpreted as downgrading due to the fact that the intended outcomes for pupils attending the Welsh-medium stream of a Category 2 school were identical to those of pupils attending a Category 1 school;
- The WG's 'Welsh-medium Education Strategy' (2010) (paragraph 2.15) quoted by one of the signatories during the discussion did state that "bilingual settings should aim to provide as much provision through the medium of Welsh as is necessary for learners to achieve fluency in two languages"

During his summary of the points raised during the debate the Chair referred to the challenges and the divisiveness of the current language categorisation system. Officers advised that they acknowledged this and that the WG was now acknowledging the challenges which categorisation was causing.

Prior to seeking the Committee to determine whether it was of the view that the decision merited being referred back to Cabinet for review, the Chair thanked both schools for their high standards and acknowledged the respect held for both schools in the area.

Councillor Cefyn Williams proposed that the Committee refer the decision back to Cabinet for review on the basis that:

- (i) the decision to close Ysgol Llanfair D C and Ysgol Pentrecelyn on 31st August 2017 and that the Diocese of St. Asaph open a new dual-stream Category 2, Church in Wales Voluntary Controlled primary school from 1st September 2017, went against the Council's Welsh in Education Strategic Plan by replacing one Category 1 school and one Category 2 school with a Category 2 school for the area; and
- (ii) the impact of the closure of another Category 2 school, Ysgol Rhewl, and the associated decision to offer free transport to pupils of that school to the new area school for Llanfair D C and Pentrecelyn, on the ethos of the new area school had not been considered as part of the original consultation with stakeholders.

The above proposal was seconded by Councillor Brian Blakeley. On being put to the vote 4 members voted for the proposal and 6 members voted against. The Committee therefore:

Resolved: - that, having considered the reasons for requesting a review of the Cabinet decision and the information provided, the decision did not merit being referred back to Cabinet for review.

Meeting concluded at 15:50