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To: Members of the Communities
Scrutiny Committee

Date: 10 November 2015

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Dear Councillor

You are invited to attend a **Special Meeting** of the **COMMUNITIES SCRUTINY COMMITTEE** to be held at **2.00 pm** on **MONDAY, 16 NOVEMBER 2015** in **CONFERENCE ROOM 1A, COUNTY HALL, RUTHIN.**

Yours sincerely

G. Williams
Head of Legal, HR and Democratic Services

AGENDA

PART 1 - THE PRESS AND PUBLIC ARE INVITED TO ATTEND THIS PART OF THE MEETING

1 APOLOGIES

2 DECLARATION OF INTERESTS

Members to declare any personal or prejudicial interests in any business identified to be considered at this meeting.

3 URGENT MATTERS AS AGREED BY THE CHAIR

Notice of items which, in the opinion of the Chair, should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act 1972.

4 CALL-IN OF THE CABINET DECISION OF 27 OCTOBER 2015 RELATING TO YSGOL LLANFAIR DYFFRYN CLWYD AND YSGOL PENTRECELYN
(Pages 3 - 16)

To consider the Cabinet's decision of 27 October 2015 with respect to the implementation of the closures of Ysgol Llanfair Dyffryn Clwyd and Ysgol Pentrecelyn on 31 August 2017, and the opening of a new dual stream, Category 2, Church in Wales Voluntary Controlled primary school from 1 September 2017 (report attached)

MEMBERSHIP

Councillors

Councillor Huw Hilditch-Roberts
(Chair)

Councillor Rhys Hughes (Vice-Chair)

Brian Blakeley
Bill Cowie
Peter Evans
Martyn Holland
Win Mullen-James

Bob Murray
Anton Sampson
Cefyn Williams
Cheryl Williams

Voting Co-opted Members for Education (Agenda Item No. 4 only)

Gill Greenland
Debra Houghton
Dr. D. Marjoram

John Piper
Gareth Williams

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Report to:	Communities Scrutiny Committee
Date of Meeting:	16 November 2015
Lead Member:	Lead Member for Education
Report Author:	Scrutiny Co-ordinator
Title:	Call-in of the Cabinet decision of 27 October 2015 relating to Ysgol Llanfair Dyffryn Clwyd and Ysgol Pentrecelyn

1. What is the report about?

To consider the Cabinet decision of 27 October 2015 to approve implementation of the proposal and the proposed modification to close Ysgol Llanfair D C and Ysgol Pentrecelyn on 31 August 2017 and the Diocese of St. Asaph to open a new dual-stream Category 2, Church in Wales Voluntary Controlled primary school from 1 September 2017.

2. What is the reason for making this report?

To seek scrutiny to consider the request that the Cabinet's decision in respect of Ysgol Llanfair D C and Ysgol Pentrecelyn be reviewed.

3. What are the Recommendations?

That the Committee considers the reasons given for requesting a review of the Cabinet's decision, and following consideration of the information provided determines either:

- 3.1 not to refer the decision back to Cabinet; or
- 3.2 to refer the matter back to Cabinet for reconsideration together with the evidence and basis for making the referral.

4. Report details.

- 4.1 At its meeting on 27 October 2015 Denbighshire's Cabinet made the following resolution:

“(a) note the findings of the objection report;

(b) following consideration of the above, Cabinet approve implementation of the proposal and the proposed modification to close Ysgol Llanfair DC and Ysgol Pentrecelyn on 31 August 2017 and the Diocese of St. Asaph to open a new dual-stream Category 2, Church in Wales Voluntary Controlled primary

school from 1 September 2017;

(c) that applications for discretionary transport to the nearest category 1 school, be considered on a case by case by case basis, from existing pupils and siblings of Ysgol Pentrecelyn for the remainder of their primary education following the closure of the school (as of the 1 September 2017), and

(d) the Local Authority are committed to monitoring the standards and outcomes of the new Area School which will be reviewed regularly at School Standards Monitoring Group, Scrutiny and by the Welsh in Education Strategic Group.”

- 4.2 The above decision was published on the Council’s website on 29 October 2015 and in accordance with the Council’s Call-In Procedure (Appendix 1) the decision was not implemented immediately enabling non-Cabinet members to call-in the decision for examination, if they felt it merited scrutiny. To ensure compliance with the School Standards and Organisation (Wales) Act 2013 and the School Organisation Code the Council also published the decision to all stakeholders as defined in the Code. This notice was clear that *“this decision is subject to the call in procedures as set out in the Council’s constitution which allows decisions taken by Cabinet but yet to be implemented to be reviewed. Should a call in of the decision take place, all stakeholders would be informed.”* To facilitate a decision to be called-in five non-Cabinet members are required to sign a notice of call-in form.
- 4.3 A ‘Notice of Call-In’ form, signed by the required number of non-Cabinet councillors, was received on 4 November 2015. The signatories were Councillors Arwel Roberts, Meirick Lloyd Davies, Cefyn H Williams, E Alice Jones and Huw Owen Williams. The grounds for calling in the decision are shown in Appendix 2.
- 4.4 The Call-In Procedure Rules do stipulate that a call-in should be considered within 5 working dates of receipt of the call-in notice. However, this timescale may be extended with the agreement of the decision maker and the chair of the scrutiny committee. In this case both the decision maker and the chair of scrutiny agreed to an extension.
- 4.5 As Cabinet’s decision of 27 October 2015 relates to the Council’s education provision the Authority’s statutory education co-opted members on scrutiny are permitted to participate fully in the consideration of this matter, as full voting members of the Committee.
- 4.6 A link to the report and appendices considered by Cabinet at its meeting on 27 October has been circulated to all committee members. They can also be viewed on the Council’s website by following the link below:
<https://modern.gov.denbighshire.gov.uk/ieListDocuments.aspx?CId=281&MId=5146&LLL=0>

4.7 Based on the information presented to them members are asked to determine, whether the Committee believes that Cabinet should review its original decision, and if so on what grounds.

5. How does the decision contribute to the Corporate Priorities?

See relevant section in the report to Cabinet dated 27 October 2015.

6. What will it cost and how will it affect other services?

See relevant section in the report to Cabinet dated 27 October 2015.

7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.

See relevant section in the report to Cabinet dated 27 October 2015.

8. What consultations have been carried out with Scrutiny and others?

See relevant section and appendices to the report to Cabinet dated 27 October 2015.

9. Chief Finance Officer Statement

See relevant section in the report to Cabinet dated 27 October 2015.

10. What risks are there and is there anything we can do to reduce them?

See relevant section in the report to Cabinet dated 27 October 2015.

11. Power to make the Decision

Section 21, Local Government Act 2000
Article 6.3.2(ch) of the Council's Constitution

Contact Officer:

Scrutiny Coordinator

Tel: 01824 712554

e-mail: dcc_admin@denbighshire.gov.uk

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Denbighshire County Council's Call-In Procedure – Guidance Note

Introduction

The Procedure Rules allow for any 5 non-Executive members (councillors who are not members of the Cabinet) to initiate a call in of a decision – usually one taken by Cabinet or individual Cabinet members (described as the 'decision maker'). To facilitate this process a 'Notice of Call-in of Decision' form has been produced (appendix 2) which is signed by the 5 members and submitted to the Head of Legal and Democratic Services. Five working days are allowed for a decision to be called-in following its publication on the Council's web-site and notification to Members of the Council. A decision taken will not be implemented by officers until the expiry of this period.

Members who have a prejudicial interest in the decision may not be a signatory to a Notice of Call-In.

Publication of Decisions

The 5 working day period will not begin until the decision has been published on the Council's website and emailed to all members of the Council. Decisions must be publicised within 2 working days of the decision being taken in accordance with the Council's Constitution. This could be in the form of draft minutes of the meeting, a summary of decisions taken or a record of a delegated decision taken.

Implementation of Decisions

Decisions may be implemented from the sixth working day following their publication unless a valid Call-in has been received by the Head of Legal and Democratic Services.

Urgent Decisions

Urgent decisions may proceed despite a call-in if the decision-maker has the agreement of:

- (i) the chair of the relevant scrutiny committee, or
- (ii) if there is no such person or that person is unable to act, the Chair of the Council, or
- (iii) if there is no chair of the relevant scrutiny committee or Chair of the Council, the Vice Chair of the Council.

In exceptional circumstances there may be urgent decisions that must be implemented immediately upon the decision being taken and a call-in is therefore not possible. These must be identified by the Cabinet / decision-

maker at the time the decision is taken and the reasons behind their urgency explained and reported in the record of decision.

The Procedure

A duly completed 'Notice of Call-In of Decision' (appendix 2) must be submitted to the Head of Legal and Democratic Services (who also holds the post of Monitoring Officer). The notice must contain the signatures of the 5 non-Executive members calling in the decision along with the reasons for the call in.

The Head of Legal and Democratic Services will notify the Leader of the Council, the delegated decision taker (if relevant) and the Chief Executive of the receipt of the Notice of Call-In and confirm with them that the decision may not be implemented until further notice from the Head of Legal and Democratic Services.

Which Scrutiny Committee?

The Head of Legal and Democratic Services will decide the most appropriate scrutiny committee to consider the call in – if necessary in consultation with the Scrutiny Chairs and Vice Chairs Group. A special meeting of the committee will be arranged to be held within 5 working days of the receipt of the Notice of Call-In of Decision unless the committee has a scheduled meeting within that period, or if an extension to the time period is agreed between the decision maker and the chair of the scrutiny committee.

All Members will be notified of the call in and the details of the meeting being held to consider it.

Signatories to attend

The signatories to the call in will normally be expected to attend the scrutiny committee and justify the reasons for the call in to the scrutiny committee.

What happens if the Committee does not meet in time?

Should the scrutiny committee not convene within the 5 working days of the receipt of the Notice of Call In, and without an extension to the time period being agreed, the Head of Legal and Democratic Services will inform the Leader of the Council, the Chief Executive and (if appropriate) the delegated decision taker that the call-in has ceased.

No case to answer?

Should the scrutiny committee upon meeting to consider the call-in, decide that the decision should not be referred back to the decision maker (e.g. Cabinet or lead member) for reconsideration, the Head of Legal and Democratic Services will advise the Leader of the Council, the Chief

Executive and (if appropriate) the delegated decision taker, that the decision may be implemented.

Recommendations from Scrutiny

If the scrutiny committee agrees that there is a case for the decision to be reviewed, the scrutiny committee's recommendations will be considered by Cabinet at its next available meeting, or in the case of a delegated decision by a Lead Member within 5 working days.

What of the original decision is re-confirmed?

Should the decision maker confirm the original decision, the decision may be implemented immediately and may not be subject to a further call in. The decision maker should demonstrate that appropriate consideration has been given to the recommendations from Scrutiny.

DENBIGHSHIRE CALL-IN PROCEDURE RULES

- (1) **5 working days** are allowed for a decision to be called-in following its publication on the Council's web-site and notification to Members of the Council. A decision taken will not be implemented until the expiry of this period (see point 7 for urgent decisions).
- (2) At least **5 signatories of non-executive councillors** are required to initiate a call-in.
- (3) The relevant scrutiny committee (or full Council if acting in a scrutiny capacity) is required to meet to discuss a called-in decision within **5 working days** of the call-in being made.
- (4) If the scrutiny committee (or full Council) agrees that there is a case for the decision to be reviewed, the scrutiny committee's recommendations will be **considered by Cabinet at its next available meeting**, or in the case of a delegated decision by a **Lead Member within 5 working days**.
- (5) A decision that has been called-in will not be implemented until the processes referred to in points 3 and 4 have been completed (see point 7 for urgent decisions).
- (6) There are no financial or other limitations (other than those outlined within this procedure) restricting the use of the call-in procedure.
- (7) Urgent decisions may proceed despite a call-in if the decision-maker has the agreement of:
 - (i) the chair of the relevant scrutiny committee, or
 - (ii) if there is no such person or that person is unable to act, the Chair of the Council, or
 - (iii) if there is no chair of the relevant scrutiny committee or Chair of the Council, the Vice Chair of the Council.

In exceptional circumstances there may be urgent decisions that must be implemented immediately upon the decision being taken and a call-in is therefore not possible. These must be identified by the Cabinet / decision-maker at the time the decision is taken and the reasons behind their urgency explained and reported in the record of decision.

- (8) The timescales described in procedure rules 1, 3 and 4 may be extended in exceptional circumstances with the agreement of the decision-maker and the chair of the relevant scrutiny committee



NOTICE OF CALL IN OF DECISION

To: Head of Legal and Democratic Services

We, the undersigned, wish to call in the following decision (*see note 1*).

Decision taken by (*see note 2*): _____

Date decision was taken: _____

Report Title: _____

Decision (*see note 3*): _____

Reason for Call In:

We (*see note 4*) request that according to the Council's approved 'call-in' procedure rules (*see note 5*) a meeting of the most appropriate Overview and Scrutiny Committee be held within 5 working days (*see note 6*) of the date of your receipt of this notice.

1. _____ (print) _____ (signature)

2. _____ (print) _____ (signature)

3. _____ (print) _____ (signature)

4. _____ (print) _____ (signature)

5. _____ (print) _____ (signature)

Dated: _____

Guidance Notes

1. Five working days are allowed for a decision to be called-in following its publication on the Council’s web-site and notification to Members of the Council. Urgent decisions may proceed despite a call-in if the decision-maker has the agreement of:
 - (i) the chair of the relevant scrutiny committee, or
 - (ii) if there is no such person or that person is unable to act, the Chair of the Council, or
 - (iii) if there is no chair of the relevant scrutiny committee or Chair of the Council, the Vice Chair of the Council.
2. Please state the name of the decision maker e.g. Cabinet or the Lead Member for.....
3. If the decision contains more than one part, please state which are to be called-in, e.g. parts (a), (b), and (d) of the Resolution.
4. Signatories must be non-executive members. Councillors with a prejudicial interest in the decision may not be a signatory to the Notice of Call-in.
5. The Denbighshire Call-in Procedure Rules appear in the Council’s Constitution *Part 4.5 – Scrutiny Procedure Rules*.
6. Timescales may be extended in exceptional circumstances with the agreement of the decision-maker and the chair of the relevant scrutiny committee.

For Office use only

Received by: _____ Date: _____

Date decision was published: _____

Notification sent to Leader and the Decision taker (date): _____

Notification sent to Chief Executive (date): _____

Relevant Scrutiny Committee: _____

Date: _____ Time: _____ Venue: _____

Y rhesymau dros y Galw i Mewn a restrwyd ar y rhybudd ffurfiol a arwyddwyd ac a dderbyniwyd ar 4 Tachwedd 2015

Cwestiynau:

1. Ydy'r pwyllgor craffu'n hapus bod y penderfyniad wnaed gan y cabinet yn wirioneddol agored i newid/ddylanwad yng ngwir ystyr ymgynghoriad cyhoeddus?
2. Ydy "impact" mudo disgyblion wedi ei ystyried ym mhroffil ieithyddol yr ysgol newydd?
3. Anfonwyd dogfen oddiwrth y sir at yr esgobaeth ar y 23/10/2015 a grëwyd cyn y penderfyniad – fe gyfeiriodd y Cynghorydd Huw Williams ato yn y cyfafod cabinet – ydy hyn felly'n dangos bod y penderfyniad wedi ei wneud ymlaen llaw?
4. Gan fod yr argymhelliad yn pwysleisio fydd yr ysgol newydd yn ysgol categori 2. Mae y mwyafrif o'r disgyblion ysgolion Pentrecelyn a Llanfair Dyffryn Clwyd yn dewis derbyn eu haddysg drwy gyfrwng y Gymraeg. Onid yw hyn yn dangos fod yn rhaid i'r ysgol newydd fod yn un Categori 1."
5. Mae'r penderfyniad yn mynd yn erbyn Cynllun Strategol Addysg Gymraeg Sir Ddinbych – cau ysgol categori 1, disodli'r ysgol yn yr ardal gyda ysgol Categori 2 lle mae'r polisi'n dweud yn glir bod y cyngor eisiau symud ysgolion ar hyd y continuum

The reasons for the Call-in as listed on the formal Notice of Call-in dated and received 4 November 2015

Questions:

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

Arwyddwyd yr uchod ar 4 Tachwedd 2015 gan y Cynghorwyr:

The above was signed on 4 November 2015 by Councillors:

Arwel Roberts

Meirick Lloyd Davies

Cefyn H Williams

E Alice Jones

Huw Owen Williams

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