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Dear Reverend Chew and Mrs Williams

## **SCHOOL STANDARDS AND ORGANISATION (WALES) ACT 2013 – PROPOSAL TO DISCONTINUE YSGOL LLANBEDR VOLUNTARY CONTROLLED CHURCH IN WALES PRIMARY SCHOOL**

1. Huw Lewis AM, Minister for Education and Skills, one of the Welsh Ministers, has considered Denbighshire County Council's (the Local Authority) proposal to discontinue Llanbedr Church in Wales Voluntary Controlled Primary School (Ysgol Llanbedr) with effect from 31 August 2014. The decision of the Local Authority to approve the proposal has been referred to Welsh Ministers by the Governing Body of Ysgol Llanbedr and the Church in Wales Diocese of St Asaph (the appropriate religious body) under Section 54 of the School Standards and Organisation Act 2013. The Welsh Ministers exercise their school reorganisation functions in accordance with the School Standards and Organisation (Wales) Act 2013 and the School Organisation Code ("the Code") made under it. The Welsh Ministers must consider proposals referred to them under this section afresh. Where proposals require their consideration the Welsh Ministers must decide to approve, reject or approve the proposals with modifications.
2. I am directed by the Minister to say that he has considered the evidence provided by the Governing Body of Ysgol Llanbedr and the Diocese of St Asaph in support of their referral, the consultation document, the consultation report, the statutory



objections, the objection report, the decision report, advice from Estyn, and additional information provided by the local authority for the purposes of consideration of the relevant factors set out in the School Organisation Code.

3. In exercise of his powers under Section 50 of the 2013 Act the Minister has decided that although he can reasonably conclude, on educational and strategic grounds, that the proposal could be approved, he must nonetheless reject the proposal because the consultation undertaken by the local authority was flawed in an important respect.
4. Paragraphs 1.3 to 1.14 of the Code set out the factors which should be taken into account by the Welsh Ministers when exercising their functions of determining school organisation proposals.
5. The relevant factors are set out below and are followed by an analysis of how far the Minister believes the factors have been "satisfied". Where appropriate, the extent to which the proposals have/have not satisfied the factors is judged with reference to the objections raised, including those raised in the referral by the relevant parties and the local authority's response thereto.

#### **Quality and standards in education Outcomes (Standards and Wellbeing)**

6. The Minister noted that the Governing Body and the Diocese argue that Ysgol Llanbedr provides a good standard of education and should not close. They also consider that the alternative school, Ysgol Borthyn, does not provide an equivalent or a better standard of education.
7. However, the Minister believes that the evidence supports the initial conclusion drawn by Estyn during the consultation process, that the proposal would be likely to at least maintain standards of provision. Although the subsequent inspection report on Ysgol Borthyn that was published in June 2014 did not appear particularly favourable, the further analysis provided by Estyn in their updated comments requested by the Minister, concludes that the outcomes at both schools involved in the proposal are comparable, and that there is an improving picture at both. Without a further inspection report for Ysgol Llanbedr, there is no evidence to persuade the Minister that pupils would not be provided with at least equivalent education in the alternative school. While he recognises that there is a challenge to comparing the performance of schools when numbers in cohorts are low, on the basis of Estyn's advice and a consideration of the statutory assessment outcomes at both schools, including the most recent, he is largely satisfied that Ysgol Borthyn would enable children to achieve similar outcomes at all phases.
8. The Minister notes that the inspection report of Ysgol Borthyn identified good performance in respect of well being and in support and guidance for learners, and he considers that there is no reason to believe that pupils with special needs would receive inferior support to that provided at Llanbedr.
9. Other schools in the area also perform well at Key Stage 2 and on the basis of their most recently published inspection reports, the Minister believes that parents in the

general area of Ruthin have a choice of a number of schools providing a good standard of education.

## **Provision**

10. The Minister is satisfied that the Local Authority has a coherent educational case for the closure of Ysgol Llanbedr and the transfer of pupils to Ysgol Borthyn. He agrees with the Local Authority that when, as in the case of Ysgol Llanbedr, pupil numbers fall below thirty, there are consequences for education provision. Opportunities for pupils to interact with other pupils of their own age are limited and planning for the wide age range and diverse ability in a class of several year groups is more difficult. The Minister believes that schools of this size may find it a challenge to provide a full, progressive and balanced curriculum whereas larger schools with more teaching staff, such as Ysgol Borthyn, can provide a greater range of expertise in a wider variety of curriculum areas. In turn there are also more opportunities for teaching staff of larger schools to share good practice and develop leadership skills. Although objectors claim that the buildings and grounds at Ysgol Llanbedr are superior to those at Borthyn, the Minister has found no firm evidence that this is the case, and the Estyn report undertaken recently identified a good learning environment at the latter.

## **Leadership and management**

11. It is apparent to the Minister that the significant and frequent changes in leadership at Ysgol Llanbedr have been difficult for the school. Whilst the Governing Body has expressed concern about the Local Authority's handling of the departure and recruitment of individual headteachers, the Minister considers that these are events that took place some years ago and are not relevant to the consideration of whether the school should close in the near future. It is very unfortunate that there was a prolonged period of uncertainty at the school which seems to have led to the rapid decline in pupil numbers, but it also illustrates the potential vulnerability of small schools when key members of staff leave. The Minister believes that staff remaining at Ysgol Llanbedr have done well to maintain standards in the face of these difficulties, but this does not mean that pupils would not perform equally well at other schools. The Minister is aware of the recent departure of another acting head teacher and that this could lead to further challenge, particularly whilst numbers on roll remain fairly low, which would be the case for the foreseeable future. In these situations, the Minister notes that attracting a permanent head could be difficult. The Minister is aware that the recent inspection of leadership at Ysgol Borthyn found this to be adequate. The Minister believes that the recommendations in the report should lead to improvements in distributed leadership at Ysgol Borthyn, which has recruited a number of newly qualified teachers recently. The Minister notes that the school is being monitored by Estyn and he anticipates that both the Education Achievement Service and Diocesan Authority will assist it in making the necessary progress to remove it from this category.

12. Overall, in terms of quality and standards, the Minister sees no reason why Ysgol Borthyn cannot deliver the curriculum as well as Ysgol Llanbedr, and the sustainable size of the former, and the support it will receive, should assist in the maintenance of standards and improvements in the areas found to need this as a result of the recent inspection. Taking account of benchmarked Key Stage 2 outcomes, Estyn reports and advice from Estyn, the Minister concludes that the alternative provision offered by the Local Authority would deliver outcomes and offer provision of broadly equivalent quality to that which is currently available to learners at Ysgol Llanbedr.

### **Need for places and the impact on accessibility of schools**

13. The Minister notes that one of the reasons given by the Governing Body of Ysgol Llanbedr and the Diocese of St Asaph for not closing Ysgol Llanbedr is that the school is needed to meet demand from parents who have expressed a preference for a school with a religious character. They also suggested that because the school was fairly full in previous years, the removal of places would cause a deficit in provision. The Minister takes the view, however, that since pupils who departed from the school when the difficulties arose will have transferred to other schools, according to parental preference, and there remains a margin of surplus at virtually every school in the area, it seems unlikely that a shortage will materialise.

14. Whilst objectors claim that there is insufficient capacity in schools of a religious character, given that numbers on roll are expected to recover at Llanbedr, this does not seem to the Minister to be a likely scenario, as there would be sufficient places at Ysgol Borthyn alone to accommodate the combined projected numbers on roll, although the margin of surplus would then be small. The Minister is aware that there is a further school with a religious character in the area, which also provides English medium provision (and Welsh medium provision) and has some spare places. An examination of the capacity assessment of Ysgol Borthyn and information from the Local Authority indicates to the Minister that the school's flexible accommodation would add some 20 further places if the need for them were to arise. The Minister is satisfied that the accommodation is at least of equivalent quality. As the Minister understands that were Ysgol Llanbedr to close, parents might not in fact choose a school with a religious character, he has noted that there is ample capacity in other primary schools in the area, and projections indicate that this will remain the case in the foreseeable future. Furthermore the Local Authority has identified a decrease in live births in the area, supporting the view that a shortage of provision is unlikely.

15. The Minister is satisfied that the Local Authority has provided evidence to show that there is sufficient capacity at Ysgol Borthyn to accommodate all of the full time pupils currently attending Ysgol Llanbedr, and that there is a sufficient choice of other places.

16. Whilst some parents expressed concern that Ysgol Borthyn would be overcrowded, the Minister does not believe that this would be the case although the majority of Ysgol Borthyn's classrooms are fairly small. The number of pupils in each age group attending Ysgol Llanbedr is small and he considers that if Ysgol Llanbedr were to close, it would be possible to accommodate them mainly in the appropriate year group without overcrowding. While the Governing Body and the Diocese

argue that Ysgol Llanbedr should be retained to meet demand for places at an English medium Church in Wales primary school there are surplus places at all 3 schools with a religious character which suggests that there is currently an excess of provision. Although the Governing Body and the Diocese consider that the pupil numbers will recover to past levels, the Minister cannot see that this would change the quantum of pupils in the general area, which is served by several English medium schools, 2 of which would be schools of a religious character, were Ysgol Llanbedr to close. After considering the updated projections for the relevant schools, the Minister notes that there is currently sufficient capacity in schools with a religious character in the absence of Ysgol Llanbedr. The Minister understands that if necessary the capacity of Ysgol Borthyn could be increased to around 200 full time places by the addition of a small extension.

17. The Minister notes that objectors did not make strong representations about school journeys apart from access to the school site, and he was satisfied with the local authority's response to the objections on these grounds. The Minister understands that whilst the feasibility study noted that further parking would not be available on the road, there is a local authority owned car park without restrictions and a pedestrian crossing to the school. Were Ysgol Llanbedr to close, the Minister believes that some children would be eligible for transport, which would not add to car journeys, and others would be within walking distance of Borthyn were they to attend it in future.

### **Resourcing of education, and other financial implications**

18. The Minister was satisfied that the proposal would ensure a fairer and more equitable distribution of funding between mainstream schools within the Local Authority's area, as in 2013/14 the cost per pupil at Ysgol Llanbedr was significantly higher than Ysgol Borthyn and the average for the Local Authority area. Whilst objectors rightly point out that the cost per pupil would fall were Llanbedr to grow, it would remain a small school and therefore relatively less cost effective than larger units.

19. The Minister considers that the proposal would contribute to the delivery of sustainable schools for the 21<sup>st</sup> Century and to the better strategic management of the school estate. He notes that it is the view of the Local Authority that while Ysgol Llanbedr is not in a poor condition it would require investment to enable it to provide a learning environment fit for purpose to meet the requirements of the 21<sup>st</sup> Century Schools Programme. The school lacks a hall, the catering facilities need investment and any significant increase in pupils would reduce dining space.

20. The Minister notes that the Local Authority has stated that there would be annual savings of £68,000 resulting from this proposal which will be retained in the education budget. Although Ysgol Llanbedr has been faced with budget challenges in recent years, there does not appear to be a danger of it suffering a deficit in the near future.

21. The Local Authority estimate that the proposal would result in additional school transport costs of £26,600; this has already been accounted for in producing the savings above, and contrary to the view of objectors, the savings are considered by the Minister, sufficient to be worthwhile.

22. The Minister noted that there was no capital cost associated with the proposal. The school site is the subject of a trust and in the event of the school closing in future, the site reverts to the beneficiaries of the original donor. Therefore the proposal, or any future proposal would not provide a capital receipt for the Local Authority.
23. The Minister is aware that the Governing Body and the Diocese consider that there is a link between the closure of Ysgol Llanbedr and the consequent reduction of surplus places, and the ability of the Local Authority to access Welsh Government funding from the 21<sup>st</sup> Century Schools capital programme but he does not agree that this is the case. Local authorities are expected to show strategic planning when seeking funding, but this does not necessarily call for the closure of any, or a particular school.

### **Other general factors**

24. Whilst the Local Authority did not specifically refer to this issue, it does not appear that the proposal would have any impact on educational attainment among children from economically deprived backgrounds. The proportion of pupils entitled to free school meals at Llanbedr is consistently low, but is also fairly low in the schools which might accept additional pupils (though it is more variable at Ysgol Borthyn). It does not appear either that there are any equalities issues as the Local Authority intends to maintain sufficient places in schools of a religious character to meet anticipated demand. Both schools named in the proposal have made arrangements for people with disabilities.

### **Specific factors in the consideration of school closures Community**

25. The Minister is satisfied that the Local Authority carried out equality, community and Welsh language impact assessments. Although the school hosts a number of after school clubs and Munchkins childcare provision, the school is located outside the village of Llanbedr Duffryn Clwyd which has its own community hall. The community hall appears to the Minister, to be very well used by a variety of community groups, and in the event of the school closing, the community hall would continue to provide facilities for the community of Llanbedr Duffryn Clwyd.
26. The Minister recognises that wrap around care provided at the school is a significant benefit, not only to parents associated with the school but to others in the area. It is apparent to the Minister that the Local Authority suggested a number of options in an attempt to ensure the continuation of childcare. Ysgol Borthyn, the named alternative school, does not currently have equivalent child care arrangements but the Local Authority has indicated that the school is looking, as part of its development plan, to extend current playgroup activities so that it provides out of hours childcare. The Local Authority has identified potential accommodation for this purpose which would be convenient to the school.

### **Alternatives**

27. Although objectors claim that the Local Authority did not consider alternatives, the Minister does not agree. The consultation document clearly set out the alternatives considered and the scoring system applied, and this evidences consideration. In light of the proximity of the alternative school of the same character, the Local

Authority's conclusion that closure was the most appropriate option seemed to the Minister to be reasonable on strategic grounds. The Local Authority is clearly open to alternatives as it has pursued federations in other cases.

## **Additional Factors to be taken into account in approving/determining school organisation proposals**

### **Whether there are any other related proposals**

28. The Minister is satisfied that there were no other related proposals to consider. Although the Governing Body and the Diocese argue that the Local Authority should not have brought forward, and determined the proposal to close Ysgol Llanbedr before other proposals to reorganise primary schools in Ruthin, the Minister considers the Local Authority's approach to reorganisation of primary school provision on a phased basis to be reasonable.

### **Whether consultation has been conducted in accordance with the Code**

29. When approving or determining proposals, the School Organisation Code states that relevant bodies must ensure that the statutory consultation has been conducted in accordance with this Code. The decision maker must consider the consultation document and the consultation report.

30. The Minister is satisfied with the circulation given to the consultation document and that there was sufficient time for interested parties to respond.

31. The Minister notes that the Governing Body and the Diocese have raised concerns that the consultation conducted by the Local Authority did not comply with the requirements of the Code.

32. The Minister notes that pupils at Ysgol Llanbedr were not involved in a specific consultation meeting, which would normally be expected in compliance with the Code. However the Minister concluded that whilst this could be perceived as a failing on the part of the local authority, the governing body of the school also neglected to comply with the Code by refusing to allow the local authority to meet pupils to discuss the proposal. The local authority produced a specific document for children, which enabled them to engage in the consultation process.

33. The School Organisation Code sets out, in the case of all proposals, that consultation documents must contain certain information, including the following: *the likely impact of the proposals on the quality of the following (reference to relevant Estyn Key Questions are included in brackets):*

- a) *Outcomes (standards and wellbeing) ;*
- b) *Provision (learning experiences, teaching, care support and guidance, and learning environment);*
- c) *Leadership and management (leadership, improving quality, partnership working and resource management);*

*at the school or schools which are the subject of the proposals and at any other school or educational institution which is likely to be affected.*

*information from the most recent Estyn reports for each school likely to be affected;*

*the likely impact of the proposals on the ability of school or schools which are the subject of the proposals or any other school which is likely to be affected, to deliver the full curriculum at the foundation phase and each key stage of education.*

34. The Minister takes the view that whilst the consultation document was reasonably comprehensive, some particularly important mandatory content was not present. The Minister is satisfied that the consultation did not provide the following:

any information about the quality of the accommodation at Ysgol Borthyn.

any evaluation of the likely impact of the proposal on the quality of outcomes, provision, and leadership and management at Ysgol Borthyn.

information from the most recent Estyn report for Ysgol Borthyn.

any information on the likely impact of the proposal on the ability of Ysgol Borthyn to deliver the full curriculum at the foundation phase and each key stage of education.

a specific comparison of the quality and standard of education provided at the Ysgol Llanbedr, and that provided at Ysgol Borthyn. Nor did it provide an outline of any steps necessary in order to ensure that any identified shortcomings in the latter were addressed.

provide a comparison of the quality of accommodation at Ysgol Llanbedr and that at Ysgol Borthyn. Nor did it provide an outline of any steps necessary in order to ensure that any identified shortcomings in the latter were addressed.

35. Some of the above missing information was available elsewhere – on Estyn’s website, the My Local School website and survey information about the building provision. However, important information was not available elsewhere, in particular the comparison between Llanbedr and the alternative schools. The Minister therefore has concluded that the consultation was flawed.
36. The Minister is aware that a procedural non-compliance is not always fatal but a decision taken after a flawed consultation exercise will only stand if the Minister is satisfied that the outcome would inevitably have been the same had the consultation exercise not been flawed.
37. The Minister is not satisfied to the requisite high degree that he would inevitably have reached the same decision on the proposal had the information been included in the consultation document. This is particularly the case where the failure in the consultation exercise related to one of the most important issues, if not the most important issue, that required consideration.
38. The purpose behind the missing information being included in the consultation document is to enable parents and those interested to consider the potential quality of the alternative school(s). Interested parties were not provided with an explanation as to how the proposal would at least maintain standards of provision. This information is of particular importance to parents who are being asked to consider whether alternative arrangements that are being proposed for their children’s schooling are acceptable or not.
39. The Code identifies that relevant bodies should place the interests of learners above all others, and the Minister believes that it is important that consultation documents should evidence the consideration that has been given to this matter. The document, in the Minister’s view, made generalisations about challenges



facing small schools, and the benefits of larger schools but recognised the good standard of provision at Ysgol Llanbedr without providing a readily understandable comparison of standards at Ysgol Borthyn. In addition, no readily understood comparison was provided for any of the other alternative schools, apart from a table showing outcomes at Key Stage 2, with a minimum amount of contextualisation other than a statement that it was difficult to compare outcomes at schools with very small cohorts. The Code also provides that content must include information from the most recent Estyn reports for each school likely to be affected, but this was only provided for Ysgol Llanbedr. No information was provided, as required by the Code, on the condition of school buildings apart from the condition at Ysgol Llanbedr, an additional omission that would have been of relevance to interested parties when considering the comparability of schools.

40. The Local Authority might consider that given the low number of pupils on roll at Ysgol Llanbedr currently, the impact on any other school would be minimal. However it is clear that relevant information should at the very least have been provided about Ysgol Borthyn, in order to properly inform parents about the alternative school offered in the specific proposal.
41. The Minister takes the view that it is important not just to focus on the amount of information that was omitted from the Council's consultation document, but also the nature of that information. In his view, the effect of the Council's failure to comply with the Code was that consultees were provided with no proper explanation as to why the Council considered that the proposal to discontinue the School would at least maintain quality and standards in education as they were provided with virtually no information on that issue. The omission of a reasoned argument about standards would not have assisted interested participants. The Minister has concluded that as a result, consultees were not properly informed about one of the most important issues (if not the most important issue) that arises for consideration in the context of a proposal to discontinue a school. The ability to compare standards at schools is of significant importance when parents are considering how to respond to a proposal that their school should be closed. This information is required to enable parents to come to a fully informed view as to whether alternatives provide at least equivalent standards of provision. In the Minister's view, its omission was therefore important in that it did not provide consultees with the full picture. Some consultees did draw their own conclusions on the suitability of the alternatives, based on the information they were able to obtain. However, that in itself does not rectify that failure.
42. The Minister takes the view that information that the local authority brought to the fore following the end of the consultation period, which contextualised performance data would have assisted interested parties in forming their response. However, this was produced after the consultation had been completed.
43. The Minister has not been able to satisfy himself that he has had all the information that might have been available to him had the local authority provided more detailed information to interested parties about standards and quality during the consultation period. For example, the local authority provided further information to decision makers about Ysgol Borthyn, as part of the objection report, covering such matters as the proportion of pupils with SEN at the schools, which might have assisted parents in making a comparison between the schools, but the Minister does not have interested parties' views on this matter. Whilst it seems very unlikely

that the Minister would have received views that would have persuaded him that Ysgol Borthyn was not a suitable alternative school in terms of standards, he cannot be certain that his view would remain unchanged as he cannot know what might have been said had further information on, for example, standards and quality, been provided. In other words, the Minister is not satisfied that if the consultation had been undertaken properly, nothing could have been said that would affect his decision.

44. The Minister would like to make it clear that had there been a lack of coverage about matters of lesser importance in the consideration of school organisation proposals, then a flaw might not be considered sufficiently serious to necessitate the position he is taking in respect of this proposal. He expects those who are bringing forward proposals for change to provide more comprehensible information about the likely impact that the change will have on quality and standards in education than that which was provided in the consultation documentation in this case.

45. There were other issues of concern to objectors that the Minister did not agree with. For example, in spite of allegations to the contrary, he considers that the local authority was generally open and fair in the way that it developed the proposal. The Minister recognised that the local authority developed two quite different proposals for formal consultation in the Ruthin area, and he considers that this was reasonable and was a response to different circumstances, having regard to the differing locations, and distance from the main centres of population, and not because of prejudice. The Minister is satisfied that the local authority has an ongoing commitment to retaining schools with a religious character and is aware of proposals it is making to increase the number of schools with a religious character at another location.

46. The Minister feels he has no alternative other than to reject this proposal, notwithstanding the educational merits of the proposal. The Minister has concluded that the consultation was flawed and the flaws were significant. The Minister considers that because of the limited coverage of standards and quality in the consultation document, he cannot satisfy himself to the requisite high degree that he would inevitably have approved the proposal as a more comprehensive document in this respect could have elicited a different response from that which ensued.

47. The Minister however recognises that there are a number of arguments in favour of his approving the proposal, and he is generally satisfied that it would:

maintain the standard of education provision and ensure the delivery of a broad and balanced curriculum

allow pupils who attend Ysgol Llanbedr access to education at an alternative English medium Church in Wales school which is within a reasonable distance and which is more sustainable for the future.

provide a choice of other schools should parents prefer a smaller school

deliver education more equitably and more cost effectively.

make savings that will be retained in the education budget.

reduce surplus places by 54 places

48. The Minister is concerned about the future of Ysgol Llanbedr in the light of the relatively low number of children on roll, and the temporary nature of current leadership. He expects the local authority to consider the future of the school carefully and if it decides that it should be retained, believes that it should be provided with support. If the local authority decides, on the other hand, that other arrangements would be in the educational interests of all pupils in the area, the Minister expects it to carefully comply with the mandatory requirements of the School Organisation Code in respect of any changes it proposes.

49. I am sending a copy of this letter to the Chief Executive of Denbighshire County Council.

50. On this occasion, a copy of this letter is also being sent to Assembly Members who have objected, and David Jones MP, who has taken an interest in the proposal.

Yours sincerely

A handwritten signature in cursive script that reads "Steve Vincent".

**STEVE VINCENT**  
**DEPUTY DIRECTOR: SCHOOLS MANAGEMENT AND EFFECTIVENESS DIVISION**