

Report of the Cabinet Member for Learning and Skills

Cabinet – 23 September 2014

AMALGAMATION OF BRYNHYFRYD INFANT AND JUNIOR SCHOOLS

Purpose:	To report to members on the result of consultation and to seek approval for publication of a statutory notice on a proposal to close Brynhyfryd Infant and Brynhyfryd Junior Schools and establish a new all through primary school on the existing sites
Policy Framework:	QEd 2020 (strategic programme) Children & Young People Plan (priority 7)
Reason for Decision:	Cabinet have previously approved that consultation could take place on this proposal. The consultation period has now ended and, following consideration of the points raised during consultation, it is recommended to move to the next stage of the statutory process – publication of a statutory notice. This proposal is consistent with existing Council policy to deliver, wherever possible, all through primary provision for pupils.
Consultation:	Legal, Finance and Access to Services.
Recommendation(s):	To publish a statutory notice on the proposal to cease to maintain Brynhyfryd Infant and Brynhyfryd Junior Schools from 31 August 2015, and to establish a new all through Primary School from the 1 st September 2015 on the existing Brynhyfryd sites
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1. Introduction

- 1.1 Cabinet agreed at a meeting held on the 6th May 2014 that consultation should take place on a proposal to cease to maintain Brynhyfyd Infant and Brynhyfyd Junior Schools from 31st August 2015 and to establish a single all through Primary School from 1st September 2015, on the existing sites. The consultation papers are attached at Appendix A.
- 1.2 Following this consultation period, Cabinet are now required to consider the responses received by the end of the consultation period and decide if the proposal should move to the next stage – the publishing of statutory notices inviting any formal objections to the proposal.

2.0 Consultation Responses

- 2.1 106 responses were received during the consultation period. 101 of these were from pupils, 4 were from parents/carers and 1 was from a school governor. 77 responses supported the proposal/were happy with the proposal, 16 were undecided and 13 were unhappy about the proposal. Estyn were also required to comment on the proposal under the new School Organisation Code. Copies of all correspondence received has been made available to Cabinet members. A summary of the issues raised and the Estyn response is attached at Appendix B.
- 2.2 Consultation meetings were held with pupils, parents, staff and governors. Notes of these meetings have been made available to Cabinet members.
- 2.3 8 responses wanted the infant and junior schools to remain as separate schools. The other main concern was about the cost of the new school uniform (2 responses).

3.0 Equality and Engagement Implications

- 3.1 A full Equality Impact Assessment has been completed (see Appendix C), which reflects the views received during the consultation. It has shown this project will have a positive impact on;

Age – With pupils benefiting from a shared ethos and philosophy, coherent continuity of education provision as well as benefits for the whole school community, for example where older children can work with younger children.

4. Financial Implications

- 4.1 Schools are funded from an overall delegated budget – The Individual Schools Budget (ISB). There is a funding formula that allocates a budget share to each individual school from the ISB. The amalgamation will lead to a reduced budget share for the Brynhyfyd primary school

over time (see Appendix D). Any savings will be reinvested into the ISB for the benefit of all pupils in Swansea in line with existing policy.

- 4.2 Amalgamations of schools can lead to some initial increased costs, for example redundancy costs, as in legal terms both the infant and junior schools must be closed and a new primary school established. Although we would recommend to governors that all posts at the new school are ring-fenced to existing employees at Brynhyfryd Infants and Juniors, there could be some staff that are not successful in matching against a post at the newly established primary school, with redundancy costs charged to central budgets.
- 4.3 There can be some transitional and implementation costs with school organisation proposals. Further details are provided at Appendix D. These would be met from central Education budgets or the delegated ISB.
- 4.4 There are no capital implications for this proposal as existing sites are to be used for the new primary school.

5. Legal Implications

- 5.1 Reorganisation of school provision involving the establishment or discontinuance of community schools requires consultation and the publication of statutory notices in accordance with the School Standards and Organisation (Wales) Act 2013 (“the Act”) and the Welsh Government’s School Organisation Code.
- 5.2 Before publishing any proposals relating to the establishment of a school under s41 of the Act, or discontinuing a school under s43 of the Act, the Authority (Proposer/s) is under a duty, by virtue of s48 of the Act, to consult on such proposals. Guidance has been issued by the Welsh Government in Circular 006/2013 entitled the “School Organisation Code” which must be followed:
 - a) At the start of the consultation period Proposers must provide consultees with a consultation document and give them at least 42 days in which to respond, with at least 20 of these being school days.
 - b) Consultation comments must be collated and summarised by Proposers. This summary together with the responses to the comments must be published in a consultation report within three months of the end of the consultation period.
 - c) A decision must be made by Proposers whether to proceed with changes within 6 months of the end of the consultation period.
 - d) If a decision is made to proceed, a Statutory notice is published providing a 28 day notice period for objections. The notice must be

published on a school day and with 15 school days (not including the day of publication) in the notice period.

- e) If objections are received, an objection report must be published providing a summary of the objections with responses to them before the end of 7 days beginning with the day of the Proposers determination of the proposals.
- f) The Proposer must determine under s53 whether the proposals are to be implemented. Proposals must receive final determination within 16 weeks of the end of the objection period. Local determination is a requirement of the School Organisation Code, and The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) (Amendment) Regulations 2013 allow for this local determination. In this Authority, it has been determined that if objections are received then the final decision will be a Council function. The Welsh Ministers and Governing Bodies are to be notified of the decision within 7 days of the decision.
- g) If the Proposer determines to implement proposals, they should be implemented in accordance with the date given in the statutory notice, or any subsequent modified date.

5.3 Failure to comply with the statutory consultation requirements in the Act and Code will leave the Authority open to Judicial Review and the decision could be quashed by the Courts.

Case law has established that the consultation process should:

- be undertaken when proposals are still at a formative stage;
- include sufficient reasons and information for particular proposals to enable intelligent consideration and response;
- provide adequate time for consideration and response; and
- ensure that the product of consultation is conscientiously taken into account when the ultimate decision is taken.

Background Papers: School Standards and Organisation (Wales) Act 2013; The Welsh Government's "School Organisation Code" Circular 006/201; Community Impact Assessment; Report to Cabinet 6th May 2014

Appendices: Appendix A – Consultation Papers
Appendix B – Summary of Responses Received
Appendix C – Equalities Impact Assessment
Appendix D – Financial Breakdown