

## Report of the Cabinet Member for Education

Cabinet – 16 December 2014

### AMALGAMATION OF BRYNHYFRYD INFANT AND JUNIOR SCHOOLS

<b>Purpose:</b>	To report to members that no objections were received during the Statutory Notice period and to seek determination on the proposal to close Brynhyfyd Infant and Brynhyfyd Junior Schools and establish a new all through primary school on the existing sites from September 2015.
<b>Policy Framework:</b>	QEd 2020 (strategic programme) Children & Young People Plan (priority 7)
<b>Reason for Decision:</b>	Cabinet have previously approved that consultation could take place on this proposal and then, following the consultation period, approved that a Statutory Notice could be published. No objections were received during the Statutory Notice period and Cabinet must now determine the outcome of the proposal. This proposal is consistent with existing Council policy to deliver, wherever possible, all through primary provision for pupils.
<b>Consultation:</b>	Legal, Finance and Access to Services.
<b>Recommendation(s):</b>	1) To determine that the City & County of Swansea cease to maintain Brynhyfyd Infant and Brynhyfyd Junior Schools from 31 August 2015, and establish a new all through Primary School from the 1 <sup>st</sup> September 2015 on the existing Brynhyfyd sites.
<b>Report Author:</b>	Kelly Small,
<b>Finance Officer:</b>	Sue Rees
<b>Legal Officer:</b>	Stephanie Williams
<b>Access to Services Officer:</b>	Sherill Hopkins

## **1. Introduction**

- 1.1 Cabinet agreed at a meeting held on the 6<sup>th</sup> May 2014 that consultation should take place on a proposal to cease to maintain Brynhyfryd Infant and Brynhyfryd Junior Schools from 31<sup>st</sup> August 2015 and to establish a single all through Primary School from 1<sup>st</sup> September 2015, on the existing sites.
- 1.2 Following this consultation period, Cabinet considered the responses received and approved the publication of a statutory notice inviting any formal objections to the proposal.
- 1.3 No objections were received during the statutory notice period that ran from 6<sup>th</sup> October 2014 to 3<sup>rd</sup> November 2014. Therefore Cabinet must determine the outcome of the proposal. (If objections had been received then Council would have needed to consider those objections and determine the proposal).

## **2.0 Equality and Engagement Implications**

- 2.1 A full Equality Impact Assessment is needed for school organisation proposals. The full EIA was submitted as part of the Cabinet report on 23<sup>rd</sup> September 2014.

## **3.0 Financial Implications**

- 3.1 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 Brynhyfryd primary school over time and this information was submitted as part of the Cabinet report on 23<sup>rd</sup> September 2014. Any savings will be reinvested into the ISB for the benefit of all pupils in Swansea in line with existing policy.
- 3.2 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.
- 3.3 There can be some transitional and implementation costs with school organisation proposals. These would be met from central Education budgets or the delegated ISB.
- 3.4 There are no capital implications for this proposal as existing sites are to be used for the new primary school.

## **4.0 Legal Implications**

4.1 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.

4.2 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.

4.3 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; Reports to Cabinet 6<sup>th</sup> May 2014 and 23<sup>rd</sup> September 2014

**Appendices:**

None