

Report of the Cabinet Member for Education

Cabinet – 20 April 2017

ESTABLISHMENT OF SPECIALIST TEACHING FACILITIES FOR PUPILS WITH AUTISTIC SPECTRUM DISORDER (ASD)

Purpose:	To report to members on the result of consultation and to seek approval for the publication of statutory notices on proposals to establish three new specialist teaching facilities (STFs) in schools from January 2018 (at Dunvant Primary School, Portmead Primary School and Birchgrove Comprehensive School).
Policy Framework:	QEd 2020 (strategic programme) Children & Young People Plan (priority 7)
Consultation:	Legal, Finance and Access to Services. The school council, governing body, staff and parents of all affected schools.
Recommendation(s):	It is recommended that: - 1) Cabinet agree to publish statutory notices to establish three new specialist teaching facilities (STFs) in schools from January 2018 (at Dunvant Primary School, Portmead Primary School and Birchgrove Comprehensive School).
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1. Introduction

- 1.1 Cabinet agreed at a meeting held on 15 December 2016 that consultation should take place on establishing three new specialist teaching facilities (STFs) in schools from January 2018 (at Dunvant Primary School, Portmead Primary School and Birchgrove Comprehensive School). The consultation papers can be found here <http://www.swansea.gov.uk/newspecialiststfs>
- 1.2 Following this consultation period, Cabinet are now required to consider the responses received during the consultation period and decide if the

proposals should move to the next stage – the publishing of statutory notices inviting any formal objections to the proposal.

2.0 Consultation Responses

2.1 All consultation responses have been made available for Cabinet to view. In summary:

2.1.1 Birchgrove Comprehensive School – 55 responses received with 54 being in favour of the proposal and just 1 against. The one against feared that the STF would increase bullying.

2.1.2 Dunvant Primary School – 79 responses received, with only 3 being against the proposal. Concerns against were mainly around the fact that there is a new headteacher at the school and the feeling that they should be in place for some time before the new STF is established, and also the idea that the school should focus on getting a ‘good’ Estyn rating before taking on a new challenge of opening the STF. The governing body had also written in asking for assurance that the building works necessary to establish the STF would take place, which they will.

2.1.3 Portmead Primary School – 11 responses received, all in favour of the proposal.

2.2 Estyn were also required to comment on the proposal under the new School Organisation Code. A summary of the issues raised and the local authority response is attached in the consultation report at Appendix A.

2.3 Consultation meetings were held with pupils, parents, staff and governors. Notes of these meetings have been made available to Cabinet members.

3.0 Equality and Engagement Implications

3.1 A full Equality Impact Assessment has been drafted and will form part of the papers presented to Cabinet.

3.2 A Community Impact Assessment has been undertaken for each of the proposals and formed part of the consultation papers.

3.3 A Welsh Medium Impact Assessment has been undertaken for each of the proposals and formed part of the consultation papers.

4. Financial Implications

4.1 Capital funding - corporate funding has already been identified to support the capital works that the remodelling to facilitate the additional ASD STF provisions will require. The estimated cost of providing the three STFs in the three schools identified is £350k.

- 4.2 Revenue funding -the annual revenue costs of 48 'F band' places would be approximately £593k per annum once the STFs are fully established. If the proposals are successful, the revenue funding would be delegated to the host schools who would then manage the staff and pupils accordingly. Additional revenue funding to establish three STFs has been identified in the Council's budget for FY2017-2018.

5. Legal Implications

- 5.1 The City and County of Swansea adopted in July 2012 an Inclusion Policy and an Inclusion Strategy. These documents provide key principles and strategic priorities which, as current policy, should be considered throughout the process of identifying and establishing increased education provision of any type.
- 5.2 The establishment or discontinuance of provision which is recognised by the local authority as reserved for children with special education needs, including STFs, constitutes a Regulated Alteration which requires consultation and the publication of statutory notices in accordance with s42 and Schedule 2, Paragraph 15 (1) of the School Standards and Organisation (Wales) Act 2013 ("the Act") and the Welsh Government's School Organisation Code (Circular 006/2013) (the Code).
- 5.3 The Code provides statutory guidance a local authority must follow when seeking to making Regulated Alterations to education provision within a local authority area. The Code provides that:
- 1.4 'Local authorities must ensure there are sufficient schools providing primary and secondary education for their area. Schools are regarded as sufficient if they are sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education. In order to fulfil these duties, local authorities must ensure that they plan thoroughly and engage fully with relevant partners, including the appropriate religious bodies for schools serving their area which have a designated religious character.'
- 1.13 Additional considerations are applicable when SEN provision is being considered:
'Standards of provision -
In addition to the usual considerations in relation to standards of provision, relevant bodies should consider:
- Whether proposals will improve standards of accommodation for pupils with SEN, including building accessibility;
 - How proposals will address any health, safety and welfare issues;
 - How proposals, where appropriate, will support increased inclusion; and

- The impact of proposals on other SEN provision within the immediate and wider local authority area including out of county where appropriate.

Need for places and the impact on accessibility of schools -
In addition to the considerations listed in 1.4, relevant bodies should consider:

- Whether there is a need for a particular type of SEN provision within the area;
- Whether there is a surplus SEN provision within the area;
- Whether SEN provision would be more effective or efficient if regional provision were made; and
- The impact of proposals on the transportation of learners with SEN.

Other factors -

Relevant bodies should consider:

- How changes to SEN provision in schools are likely to impact on all other services provided in an area for pupils with disabilities and/or SEN.

5.4 Before publishing any proposals the local authority (Proposer/s) is under a duty, by virtue of s48 of the Act, to consult on such proposals. The Code states that:

- At the start of the consultation period Proposers must provide the consultees listed in the Code with a detailed consultation document following the requirements listed in the Code, and give them at least 42 days in which to respond, with at least 20 of these being school days.
- Where proposals involve specialist resource bases attached to mainstream schools the following information must be included in the consultation document:
 - the impact on SEN provision;
 - how proposals will contribute more generally to enhancing the quality of education and support for children with SEN.
- 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.
- A decision must be made by Proposers whether to proceed with changes within 6 months of the end of the consultation period.
- 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.

- f) 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.
- g) 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. The Welsh Ministers and Governing Bodies are to be notified of the decision within 7 days of the decision.
- h) 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.

5.5 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 Summary