

SCHOOL ORGANISATION PROPOSALS: PROVISION FOR CHILDREN AND YOUNG PEOPLE WITH ADDITIONAL LEARNING NEEDS (ALN) - EMOTIONAL HEALTH AND WELLBEING PROVISION FOR PRIMARY AND SECONDARY AGED PUPILS

Purpose of the Report

1. To provide Members with the opportunity to carry out pre-decision scrutiny of proposals, attached at **Appendix A**, prior to its consideration by Cabinet at its meeting on the 14 July 2022.
2. The reason for the proposal is to meet increasing demand for special school places for primary, secondary and post-16 age learners with emotional health and wellbeing needs.

Structure of Papers

3. Attached to this report are the following:
 - **Appendix A** – the draft Report to Cabinet – 14 July 2022. This in turn has a number appendices, namely;
 - **Appendix 1:** Cabinet Report, 10 March 2022 (*returning Scrutiny Members will have already received and considered this report*)
 - **Appendix 2:** Statutory Notices
 - **Appendix 3:** Equality Impact Assessments

School Organisation Programming Process

4. If local authorities want to undertake 'school organisation proposal' to make changes to a community school, they must meet Welsh Government requirements, as set out in the School Organisation Code. These include commitments and goals of transforming education in Wales and providing better educational outcomes. There is a statutory process that must be followed for certain proposals. The criteria for following this process are if the local authority wishes to:

- open a new school;
- make a school bigger or smaller, where the change exceeds a certain number or percentage;
- close a school and move the pupils to another school;
- add or take away a 6th form from a secondary school;
- add or take away special educational needs (SEN) units or classes;
- change the language used in school from English to Welsh or Welsh to English.

5. The specific requirements set by Welsh Government for each of the above and a full copy of the Welsh Government Code will be distributed with the Agenda and papers for this meeting. The process for undertaking school organisation proposals broadly adhere to the following steps:

- **Step 1 - Consultation** – this is undertaken at a formative stage of the proposals, setting out sufficient reasons and information for particular proposals to enable intelligent consideration and response. The timeline for this is a minimum of 6 weeks. Consultees must include governors, teachers, school staff, parents, families in the community, and children and young people.

Following the consultation period, the local authority must publish a report on the output from the consultation. The report must be published at least two weeks prior to the publication of a statutory proposals, and set out the following:

- a summary of each of the issues raised by consultees;
 - responding to these issues by means of clarification, amendment to the proposal or rejection of the concerns, with supporting reasons;
 - setting out Estyn’s response to the consultation in full; and
 - responding to Estyn’s response by means of clarification, amendment to the proposal or rejection of the concerns, with supporting reasons
- **Step 2 – Publication of Statutory Proposals** - If the local authority decides to proceed with the proposal, they must publish the proposal by way of a notice (or “Statutory Proposal”). The Proposal must include the main comments and views that the local authority got back from the consultation, and how these will affect the changes they want to make. This step gives anyone a second chance to have a say on why they think the changes should not happen or tell the local authority anything else they think they should know before they make the changes – known as the objection period. This step is open for 28 days beginning with the day on which the notice was published.
 - **Step 3 - Determining Proposals** – following the 28-day objection period, the local authority must publish a summary of the statutory objections and the local authority’s response to those objections. This report must be published on the Council’s website and will explain why or why not they are making the changes to the school. The report must be communicated to a wide range of stakeholders (see Welsh Government Code pages 43 – 44 for details). Some proposals will need approval by Welsh ministers, but the majority will be approved by the local authority. The Local Authority may also determine proposals for changes to Voluntary Aided, Voluntary Controlled or Foundation Schools where objections have been received to proposals published by their Governing Bodies.

This Proposal and Previous Scrutiny

6. This proposal is at **Step 3** in the School Organisation Planning Proposals process outlined above.

7. Previous Scrutiny and links to **Step 1** can be found here. *Returning CYPSC Members would have already considered this issue at the CYPSC meetings on the 13 July 2021 and 13th October 2021.*
 - 13th July 2021 - [Agenda for Children and Young People Scrutiny Committee on Tuesday, 13th July, 2021, 4.30 pm : Cardiff Council \(moderngov.co.uk\)](#)
 - 13th October 2021 - [Agenda for Children and Young People Scrutiny Committee on Wednesday, 13th October, 2021, 4.30 pm : Cardiff Council \(moderngov.co.uk\)](#)

8. Previous Scrutiny of **Step 2** is the Cabinet report set out in Appendix 1 to the Cabinet report attached to this report (**Appendix A**). *Returning CYPSC Members would have already considered this report at the CYPSC meeting on the 8th March 2022.*
 - 8th March 2022 - [Agenda for Children and Young People Scrutiny Committee on Tuesday, 8th March, 2022, 4.30 pm : Cardiff Council \(moderngov.co.uk\)](#)

Reasons for the Cabinet Proposal

9. The Cabinet report is to inform the Cabinet of any objections received to the published statutory notices to:
 - Increase the capacity of The Court Special School from 42 to 72 places. The school would transfer to new build accommodation across two sites at Fairwater Primary School and the current St Mellons CiW Primary School site in Llanrumney with 36 pupils on each site from September 2025.

- establish a 20-place Specialist Resource Base for emotional health and wellbeing at Cardiff West Community High School from September 2022.
- establish a 20-place Specialist Resource Base for emotional health and wellbeing at Eastern High School from September 2023.

Background and Process for this Proposal

10. At its meeting on 10 March 2022, the Cabinet, in accordance with the terms of the Schools Standards and Organisation (Wales) Act, approved a recommendation for the publication of a statutory notices relating to the proposals as set out at point 1 of the Cabinet report (*and point 8 of this report above*). A copy of the Cabinet Report of 10 March 2022 is attached as **Appendix 1** to the Cabinet report. *Returning CYPSC Members will have already considered **Appendix 1** at their meeting on the 8th March 2022.*
11. The statutory notices were published on 06 May 2022 for a period of 28 days to allow for objections. The statutory notice period expired on 02 June 2022. A copy of the notices is attached at **Appendix 2**.
12. The notices were published on the Council website and posted at The Court Special School, Fairwater Primary School, St Mellons CiW Primary School, Cardiff West Community High School and Eastern High School.
13. Copies of the notices were distributed via e-mail to organisations and consultees required under the School Organisation Code 2018.
14. Residents and businesses in the local area were notified of publication of the statutory notices by letter.

Objections to the Proposals

15. There were **no objections** to the proposal to increase the capacity of The Court Special School and to transfer the school to new build accommodation across two sites at Fairwater Primary School and the current St Mellons CiW Primary School site in Llanrumney.
16. There were **no objections** to the proposal to establish a 20 place Specialist Resource Base for emotional health and wellbeing at Cardiff West Community High School.
17. There were **no objections** to the establish a 20-place Specialist Resource Base for emotional health and wellbeing at Eastern High School.

Further Information Highlighted in the Cabinet Report

18. The following further issues are highlighted in the Cabinet report, as at

Appendix A:

- Section 1.3 Quality and Standards in Education (*points 13 - 25 in the Cabinet report*)
- Section 1.4 Need for Places and the Impact on Accessibility of Schools (*points 26 - 34 in the Cabinet report*)
- Section 1.5 Resourcing of Education and Other Financial Implications, including specific issues for The Court Special School, Cardiff West Community High School and Eastern High (*points 35 – 44 in the Cabinet report*)
- Section 1.6 Other General Factors (*points 45 - 46 in the Cabinet report*),
- Section 1.14 Additional Factors to be Taken into Account in Preparing, Publishing, Approving or Determining Proposals for the Reorganisation of SEN Provision (*points 47 - 51 in the Cabinet report*)
- Section 1.15 Factors to be taken into account in approving/determining school organisation proposals (*points 52 - 57 in the Cabinet report*)
- Changes to Admissions (*points 59 - 60 in the Cabinet report*)
- Partnerships (*points 61 - 70 in the Cabinet report*)

- Impact of the proposals on the Welsh Language (*points 71 - 83 in the Cabinet report*)
- Wellbeing of Future Generations (*points 84 - 87 in the Cabinet report*)
- Local Member consultation (*point 88 of the Cabinet Report*)
- Scrutiny Consideration (*point 89 of the Cabinet Report*)

19. The draft Cabinet report also provides details on the following areas:

- Financial Implications (*points 91 - 98 in the Cabinet report*)
- Legal Implications (*points 99 – 106 in the Cabinet report*)
- Wellbeing of Future Generations (*points 107 - 112 in the Cabinet report*)
- HR Implications – Court Special School, Cardiff West Community High School and Eastern High (*points 113 - 117 in the Cabinet report*)
- Property Implications (*point 118 in the Cabinet report*)
- Traffic and Transport Implications (*points 119 - 140 in the Cabinet report*). This includes details of transport matters relating to the following:
 - The Court at the proposed Fairwater Primary School site;
 - The Court at the proposed St Mellons CiW Primary School site
 - Cardiff West Community High School
 - Eastern High
- Equality Impact Assessment (*points 141 - 143 in the Cabinet report; plus Appendix 3 to the Cabinet Report*)

Recommendations set out in the Cabinet Proposals

20. Cabinet is recommended to

- (i) Approve the proposals in respect of changes to additional learning needs provision as set out in a paragraph 1 of the Cabinet report without modification.
- (ii) Authorise officers to take the appropriate actions to implement the proposals as set out in paragraph 1 of the Cabinet report.
- (iii) Authorise officers to publish the decision within 7 days of determination of the proposal.

- (iv) Delegate authority to the Director of Education & Lifelong Learning (in consultation with the Cabinet Members for Education, Employment & Skills and Finance, Modernisation & Performance, the Director of Governance and Legal Services, the Director of Economic Development and the Corporate Director for Resources) to determine all aspects of the procurement process (including for the avoidance of doubt development of all procurement documentation and selection and award criteria, commencement of procurement through to award of contracts).

Scope of Scrutiny

21. The scope of this scrutiny is for Members to consider and provide comments on the draft report to Cabinet, prior to its consideration of the report on the 14 July 2022.

Way Forward

22. Councillor Sarah Merry (Deputy Leader and Cabinet Member for Education Employment, Skills) has sent her apologies for this meeting, but the Chair of this Committee has agreed that Officers can present this Item to this Committee. Therefore, Melanie Godfrey (Director of Education and Lifelong learning), Richard Portas (Programme Director for the School Organisation Programme), and Brett Andrewartha (SOP Programme Planning Manager) will present the report to the Committee and be available to answer any questions Members may have.

23. This report will also enable Members to provide any comments, concerns or recommendations to the Cabinet Member prior to its consideration by Cabinet.

Legal Implications

24. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal

implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

25. There are no direct financial implications arising from this report. However, financial implications may arise if and when the matters under review are implemented with or without any modifications.

RECOMMENDATIONS

The Committee is recommended to:

1. Review and assess the information contained in the draft Cabinet Report, attached at **Appendix A**, together with any information provided at the meeting;
2. Provide any recommendations, comments or advice to the Cabinet Member and / or Director of Education and Lifelong Learning prior to the report's consideration by Cabinet.

Davina Fiore

Director of Governance and Legal Services

28 June 2022