

COUNCIL: 28 JANUARY 2016

**REPORT OF DIRECTOR GOVERNANCE AND LEGAL
SERVICE**

APPOINTMENT OF NEW TEMPORARY GOVERNING BODIES

Reason for this Report

1. To appoint Local Authority governors and Parent governors to new Temporary Governing Bodies for both the proposed new secondary school in the West and the proposed new Welsh-Medium primary school on the Hamadryad site.

Background

2. The New Maintained Schools (Wales) Regulations 2005 (the Regulations) state that where any proposals to establish a maintained school have been published under any enactment, the local authority may make arrangements to appoint governors to Temporary Governing Bodies under Section 34 of the Education Act 2002 (the 2002 Act) in anticipation of the approval of the proposals or in anticipation of a determination by the authority that the proposals should be implemented.
 - a) The Council's Cabinet at its meeting on 10 December 2015 received a report detailing the responses received following consultation on a proposal for a new build high school in the West of the City from September 2018. The Cabinet agreed for the Council to progress to the next stage and publish a legal statutory notice to:
 - Close Glyn Derw High School and Michaelston Community College (the Glyn Derw and Michaelston Federation) from 31 August 2017
 - Establish a new replacement 11-18 community high school to serve the Caerau and Ely areas from 1 September 2017

The statutory notice was published on 6th January 2016 and allows a period of 28 days from the date of publication for receipt of formal objections to the proposals.

- b) The Council's Cabinet at its meeting on 10 December 2015 received a report detailing the responses received following consultation on proposals regarding provision in and around the Butetown, Canton,

Grangetown and Riverside areas. The Cabinet agreed for the Council to progress to the next stage and publish a legal statutory notice to:

- Establish a new FE Welsh-Medium Primary School with nursery on the Hamadryad site located adjacent to the Hamadryad playing fields off Hamadryad Road Cardiff. The school is to open initially at 1 FE only in temporary accommodation adjacent to the Ninian Park Primary School site in the accommodation formerly occupied by Ysgol Tan yr Eos on Virgil Street, Cardiff from September 2016 and transfer to its permanent site adjacent to Hamadryad Park from September 2017.

The statutory notice was published on 7th January 2016 and allows a period of 28 days from the date of publication for receipt of formal objections to the proposals.

Temporary governing bodies will now be established in anticipation of the approval of the proposals.

Issues

3. Where the need for a temporary governing body arises, it is the statutory duty of the Council to appoint the Local Authority and Parent governors. The Local Authority Governors Panel met on 21 January 2016 to consider the applications for the Local Authority governor positions and their recommendations are contained in Appendix 1 to this report. The Panel also noted the applications for the parent governor positions.

Reasons for Recommendations

4. To ensure that the Council fulfils its statutory functions in respect of appointments to Temporary Governing Bodies.

Legal Implications

5. Section 34 of the 2002 Act and Part 2 of the Regulations set out the arrangements that need to be put in place for the temporary government of new maintained schools.
6. In accordance with Section 34 of the 2002 Act, there is a requirement for the local authority to make arrangements for the constitution of a temporary governing body. Regulation 5(1) of Part 2 of the Regulations enables the local authority to put in place arrangements to establish a temporary governing body for a new maintained school once proposals for the new school have been published via a statutory notice. This includes the appointment of Local Authority, Parent and Staff governors in accordance with the Government of Maintained Schools (Wales) Regulations 2005 and the Regulations

7. With regards to the appointment of a temporary Staff governor, the local authority must first make a decision whether a temporary Staff governor should be included on the temporary governing board of the new school in accordance with regulation 10 of the Regulations. This decision is currently being made and if the decision is to proceed with an appointment, then Council will be asked to agree the appointment of a staff governor in a later Report. Any person so appointed following such decision must be employed at a maintained school otherwise than as a teacher.
8. The number of each category of governor required for a temporary governing body are set out in regulation 21 of the Regulations and (in the context of a community school) regulation 13 of the Government of Maintained Schools Wales Regulations 2005.
9. 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. standing orders and financial regulations; (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

10. There are no financial implications arising from this report.

Recommendation

The Council is requested to agree the appointment of Local Authority and Parent School Governors to the Temporary Governing Bodies as listed in Appendix 1.

MARIE ROSENTHAL
Director Governance and Legal Services

Date: 21 January 2016

The following Appendix is attached:

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| Appendix 1 | List of Local Authority and Parent school governors for appointment to the temporary governing bodies, with criteria for appointment |
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The following Background Documents have been taken into account:

The New Maintained Schools (Wales) Regulations 2005
The Education Act 2002
The Government of Maintained Schools (Wales) Regulations 2005