

Urgent Decision Taken on Behalf of Cabinet

Report to the Leader of the County Council and the Cabinet Member for Children, Young People and Schools

Report submitted by: Director of Education and Skills

Part I

Electoral Divisions affected:
Brierfield & Nelson West;
Burnley Central East;
Burnley Central West;
Burnley North East; Burnley
Rural; Burnley South West;
Mid Rossendale; Nelson
East; Pendle Central;
Rossendale East;
Rossendale West;

Proposed Closure of Thomas Whitham Sixth Form

(Appendices 'A' to 'D' refer)

Contact for further information:

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Executive Summary

On 16 January 2020, Cabinet agreed to a statutory notice being published to begin a representation period on the proposed closure of Thomas Whitham Sixth Form. A statutory proposal document was published in relation to the proposed closure of the school, with effect from 31 August 2020. The representation period took place from 29 January to 3 March 2020.

As part of the statutory process, a decision must now be taken about the proposal and this will be done by Lancashire County Council, as the decision maker. If the authority does not make a decision within two months from the end of the representation period, the proposal and any representations about the proposal must be passed to the schools adjudicator for a decision.

This is deemed to be a Key Decision and the provisions of Standing Order C21 have been complied with.

Reason for Urgency

This decision is urgent and cannot await the next meeting of Cabinet. The reason for this is that all formal meetings of the council, including Cabinet, have been cancelled for the foreseeable future and this decision has been deemed to be

business critical by the relevant Executive Director. This decision is therefore being taken on behalf of Cabinet by the Leader of the Council and the Cabinet Member for Children, Young People and Schools in accordance with the provisions of Standing Order C16(1).

This is deemed to be a Key Decision and the provisions of Standing Order C21 have been complied with.

Recommendation

The Leader of the County Council and the Cabinet Member for Children, Young People and Schools are asked to:

- (i) Approve the proposal as detailed in the statutory notice to close Thomas Whitham Sixth Form, with effect from 31 August 2020.
- (ii) Approve that an appropriate statutory decision letter be sent out, as specified under legal requirements, to give the reasons for the decision to those who are to be informed of them.

This decision should be implemented immediately for the purposes of Standing Order C29 as any delay could adversely affect the execution of the county council's responsibilities. The reason for this is that the decision has been designated as business critical by the relevant Executive Director, and any delay in its implementation would have an adverse affect on the operations of the county council.

Background and Advice

Following a review of their financial position and projected student numbers for 2019/20, as well as the July 2019 resignation of the Principal at the time, the governing body of Thomas Whitham Sixth Form wrote to the local authority in July 2019 asking that the authority consults on the future viability of the school.

On 5 September 2019, Cabinet approved that a stage 1 consultation be undertaken in relation to the future viability of Thomas Whitham Sixth Form, as requested by the school's governing body. The reasons for the consultation taking place were concerns about the school's financial deficit and the number of students accessing the provision. It must be noted that there are no concerns in relation to the quality of education being provided by the school, and the school has always been judged as Good by OfSTED.

The stage 1 consultation highlighted a range of concerns if the school were to close. In the main, these related to the offer at the school in terms of provision, support and the overall environment; removing choice from young people; the impact on staff; the impact on current students; the impact on the local community; and finance and building/campus issues. Following this consultation period, the original issues and concerns held by the local authority in relation to the school remain valid.

On 16 January 2020, Cabinet gave approval for a stage 2 statutory notice to be published and for a stage 3 representation period to be undertaken in relation to the proposal to close Thomas Whitham Sixth Form. The reasons for the proposal were the same as stage 1: concerns about the school's financial deficit position and the insufficient number of students accessing the provision. Despite the best efforts of the school, and with the support of the local authority, Thomas Whitham Sixth Form has not been able to increase its student numbers sufficiently to generate financial sustainability as a result. There are no concerns about the quality of the education being provided by the school.

The school's facilities and staffing were originally based on a cohort of 600 students. Due to the falling student numbers, the school has recently reduced the number of places available to 450 students and this has reduced the amount of space it occupies on the Burnley Campus. The school's funding allocation from the Education and Skills Funding Agency for the 2019/20 academic year is based on 139 students. As at September 2019, the school has 101 students.

Thomas Whitham Sixth Form's financial position has been in steady decline for a number of years and there has been a rapid increase in the cumulative deficit since 2017/18. As at 31 March 2019, the school held a cumulative deficit balance of £3.2m, which is forecast to increase by £1.0m in the current 2019-20 financial year, taking the overall cumulative deficit to £4.2m. The current three year forecast for the school indicates that this cumulative deficit is likely to exceed £6.3m by March 2022.

The school has had support from the local authority to implement a number of actions, such as commissioning an independent external review of future options in 2013 and staffing support for the leadership team. The independent external review of future options concluded that there did not seem to be a way in which Thomas Whitham Sixth Form could secure a long term future as an independent institution. The governors accepted this conclusion.

Closing a Maintained Mainstream School: Guidance and Process

There is a defined statutory process in the Department for Education's statutory guidance, 'Opening and closing maintained schools: Statutory guidance for proposers and decision-makers' (November 2019), which must be followed before making a decision on the closure of a maintained school. The five statutory stages for a proposal to close Thomas Whitham Sixth Form and the suggested timescales are set out below:

Action	Start
Cabinet approval to consult	5 September 2019
Stage 1: Consultation	16 September to 1 November 2019
Stage 1: Report back on consultation and Cabinet decision on whether to publish Statutory Notice CURRENT STAGE	16 January 2020
Stage 2: Publish Statutory Notice	29 January 2020
Stage 3: Representation Period	29 January to 3 March 2020

Stage 4: Decision (CURRENT STAGE)	April 2020
Stage 5: Implementation	31 August 2020

The Department for Education's statutory guidance states that proposers, in this case the local authority, must consult with groups and individuals they feel to be appropriate. In line with this, the local authority published a stage 2 statutory notice and an accompanying proposal document on 29 January 2020, the first day of the stage 3 representation period. These documents were available on the Lancashire County Council website and were widely circulated to interested parties, such as Burnley and Pendle Borough Councils, parish councils in Burnley and Pendle, Lancashire County Councillors for Burnley and Pendle, neighbouring local authorities, other local schools and stakeholders. The school also confirmed that it had shared this information with parents, carers, staff and governors and that it had displayed the statutory notice at the entrances to their site.

The statutory notice, accompanying proposal, factors for consideration and an equality impact assessment can be found at Appendices 'A' to 'D' respectively.

Factors Relevant to all Types of Proposal

Local authorities are under a statutory duty to ensure that there are sufficient school places in their area, to promote high educational standards, to ensure fair access to educational opportunity and to promote the fulfilment of every child's educational potential. To help local authorities to meet their duties and restructure local provision, they have the power to close all categories of local authority maintained schools. Reasons for closing a maintained mainstream school include where it is surplus to requirements (for example there are sufficient places in neighbouring schools to accommodate displaced pupils) or where it is failing and there is no viable sponsored academy solution.

The Department for Education's statutory guidance for decision-makers sets out a number of factors which must be taken into consideration for all types of proposal. These factors, and supporting comments, are set out in Appendix 'C'.

Conclusions

The stage 1 consultation questionnaire asked respondents whether they agreed or disagreed with the proposal to close the school. Of the 212 responses, 90% tended to disagree or strongly disagreed. During the stage 3 representation period, only one response was received. This response objected to the proposal to close the school. However, it must be noted that the original issues and concerns held by the local authority in relation to the school remain valid. These issues and concerns are set out in this report in addition to the two previous Cabinet reports dated 5 September 2019 and 16 January 2020. Despite the best efforts of the school and the support of the local authority, Thomas Whitham Sixth Form has been unable to improve its financial position over a number of years. The local authority is therefore taking action to address this, as a school cannot be allowed to set a deficit budget indefinitely. To date, Thomas Whitham Sixth Form has set a deficit budget for 11 years, including this current year. The school is also forecasting a deficit budget for

2020/21 and 2021/22. As the deficit continues to increase, this increases the liability to the local authority and the services it is able to provide to the wider community.

If the decision is taken to close the school, the local authority will work with the school to ensure that there is a smooth transition for the students moving to alternative providers.

This report demonstrates that, on the basis of the Department for Education criteria, the decision maker is recommended to approve the proposal to close Thomas Whitham Sixth Form, with effect from 31 August 2020.

Implications:

This item has the following implications, as indicated:

Risk Management

The local authority has a statutory duty to secure sufficient and suitable education and training provision to meet the reasonable needs of all young people in their area. The local authority has reviewed the alternative post 16 education and training options for young people in the Burnley and Pendle districts, as well as looking at the 16-18 population projections across these areas. As a result of this, we believe that there will be sufficient and suitable places for 16-18 year olds within the local area.

There are implications for staff employed in the school, who will be at risk of redundancy. However, the authority will use its experience to try and avoid compulsory redundancies wherever possible by identifying staff redeployment and retraining opportunities.

Financial

As mentioned above, as at 31 March 2019, the school held a cumulative deficit balance of £3.2m, which is forecast to increase by £1.0m in the current 2019/20 financial year, taking the overall cumulative deficit to £4.2m. The current three year forecast for the school indicates that this cumulative deficit is likely to exceed £6.3m by March 2022. The financial position of the school has been in steady decline over a number of years, with a rapid increase in the cumulative deficit since 2017/18.

If it is decided that a school is to be closed by a local authority, any balance (whether surplus or deficit) reverts to the local authority. The local authority cannot transfer a closing balance to an individual school, even when that school is a successor to the closing school, except that a surplus or deficit transfers to an academy where a school converts to academy status under section 4(1)(a) of the Academies Act 2010.

The school premises, along with three other schools on the same site, were built as part of the Building Schools for the Future project that was funded via the Private Finance Initiative. This means that there are risks associated with the financing of the current annual Private Finance Initiative contract and any Private Finance Initiative liability if the premises do not remain in use.

Equality and Diversity

A full Equality Analysis has been completed and is set out at Appendix 'D'.

List of Background Papers

Paper	Date	Contact/Tel
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None

Reason for inclusion in Part II, if appropriate

N/A

Urgent Decision Taken on behalf of Cabinet: Declarations

Leader of the County Council

Proposed Closure of Thomas Whitham Sixth Form

Original recommendation, as set out in the report, approved without amendment. Yes/No *

Original recommendation amended and decision as follows: Yes/No *

I have a pecuniary/non-pecuniary interest in this matter. Yes/No *

If an interest is declared please give details below:

.....
Leader of the County Council

insert date

Chief Officer

I certify that this is an appropriate and accurate record within the terms of Standing Order C30(2) and (3) of the decision taken by the Cabinet Member.

.....
insert title of authorising officer

insert date

*Delete as appropriate

This decision is to be taken by more than one Cabinet Member and all relevant Cabinet Members must be in agreement with the decision

Urgent Decision Taken on behalf of Cabinet: Declarations

Cabinet Member for Children, Young People and Schools

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Cabinet Member for Children, Young People
and Schools

insert date

Chief Officer

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