

Urgent Decision Taken on Behalf of Cabinet

Report to the Leader of the Council and Cabinet Member for Education and Skills

Report submitted by: Head of Service - Policy, Information and Commissioning (Start Well)

Part I

Electoral Division affected:
Lancaster Rural East

The Outcomes of the Procurement Process for Wennington Hall School and Proposal to Consult on Closure

Contact for further information:

Dave Carr, Tel: (01772) 532066, Policy, Information and Commissioning (Start Well)
dave.carr@lancashire.gov.uk

Executive Summary

Following the process to procure an appropriate private provider to take over the running of the educational provision at Wennington Hall School, no contract can be awarded. Since, prior to the procurement, no appropriate academy sponsor could be identified and the Minister agreed the revocation of the Academy order subject to a provider being found which does not leave the council the option to maintain the school, and that the school's financial viability remains threatened, consideration should now be given to future options for the school.

The statutory process, set out in the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013, must be undertaken before making a decision on the closure of Wennington Hall School.

Reason for Urgency

This decision is urgent and cannot await the next meeting of Cabinet on 10 June 2021. The reason for this is so that parents and carers of children attending the school can be informed of the decision to consult on closure as soon as possible, allowing them to make better informed choices and minimise potential disruption to their children's education.

This decision is therefore being taken on behalf of Cabinet by the Leader of the Council and Cabinet Member for Education and Skills in accordance with the provisions of Standing Order C16(1).

Recommendation

The Leader of the Council and Cabinet Member for Education and Skills are asked to:

- (i) Note that following the process to procure an appropriate private provider to take over the running of the educational provision at Wennington Hall School, no contract can be awarded.
- (ii) Approve a stage 1 consultation on the proposed discontinuance of the local authority's maintenance of Wennington Hall School.

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 so that parents and carers of children attending the school can be informed of the decision to consult on closure as soon as possible, allowing them to make better informed choices and minimise potential disruption to their children's education.

Background and Advice

Wennington Hall is a local authority maintained residential special school, for children and young people aged 11 to 16 with social emotional and mental health needs. The school has a designated capacity of 80 pupils, including 20 single occupancy residential places for 38 weeks a year. There are currently 34 young people on roll; of these 14 will leave at the end of the current academic year. Most pupils attend on a day basis. Currently there are with seven residential placements, four of whom will leave in July 2021. Included in these numbers, not in a residential placement, is one young person in the care of the local authority.

In December 2016, an Ofsted inspection judged the school to require special measures and, as a result, the school was issued with a directive academy order. A further Ofsted inspection took place in July 2019, when the school was judged to be inadequate and in need of significant improvement. Ofsted undertook a further monitoring inspection in March 2021. The report was published on the 20th May 2021. During the inspection Ofsted identified serious concerns relating to the school's culture of safeguarding and pupil's behaviour. As a result, the Local Authority has requested that a risk assessment be undertaken for each pupil at the school and steps will be taken to address any concerns that are identified where there are concerns. Parents and carers will be able to access advice and support through the Inclusion Team.

Despite the efforts of the Local Authority and the office of the Regional Schools' Commissioner, it has not been possible to identify a suitable academy sponsor for Wennington Hall School. Therefore, in June 2019, Cabinet considered five possible models to secure the future of Wennington Hall School and requested a review of three of these: revoking the academy order; developing a joint venture arrangement and transferring the premises to an experienced independent provider.

In September 2019, the Regional Schools Commissioner wrote to the county council to advise that approval had been given to revoke the Academy Order, subject to the county council sourcing an appropriate private provider to take over the running of the educational provision at Wennington Hall School. The revocation of the directive Academy Order is contingent upon the discontinuance of the provision as a maintained school and so the option for the council to run the school does not pertain.

In the context of the decision about the revocation of the Academy Order, and the interest expressed by the independent sector during market testing, a report was considered by Cabinet in January 2020, with approval given to commence a formal procurement process.

The procurement process has now completed and despite negotiation with a potential provider, no compliant bid was received, and a contract cannot be awarded.

Since a provider cannot be found to take over the running of educational provision at Wennington Hall school, consideration has been given to future options. Four options were considered:

Option 1: Continued local authority maintenance of the school. In September 2019, the Regional Schools Commissioner wrote to the county council to advise that approval had been given to revoke the Academy Order, subject to the county council sourcing an appropriate private provider to take over the running of the educational provision at Wennington Hall School. The revocation of the directive Academy Order is contingent upon the discontinuance of the provision as a maintained school and so the option for the council to run the school does not pertain.

Option 2: Request that the Regional Schools Commissioner identifies an appropriate academy sponsor. Between 2017 and 2019, extensive efforts were made to identify an appropriate academy sponsor. Despite the efforts of the Local Authority and the office of the Regional Schools' Commissioner, during that time it was not possible to identify a suitable academy sponsor for Wennington Hall School. There is no local intelligence that suggests an appropriate sponsor could be found should a further search be undertaken.

Option 3: Undertake a new procurement to source a private provider to take over the running of educational provision at Wennington Hall School. The recent procurement exercise did not result in a contract being awarded. Despite negotiation, the local authority was unable to identify a provider who could continue to deliver education services within the financial envelope set out in the tender, and who did not require the local authority to undertake a redundancy programme prior to award of contract. Given the outcome of the recent procurement, it is unlikely that a procurement exercise would result in a provider being identified and contract awarded which was financially viable and also secured the necessary improvements in education provision at Wennington.

Option 4: Consult on closure. Wennington School was first placed in special measures in 2016. Despite efforts to secure improvements alongside the identification of an academy sponsor and to procure a private provider, there remain serious concerns about the provision. The school's financial viability remains

threatened and is unlikely to improve since, given the concerns about the quality of provision, no new placements are made. The revocation of the directive Academy Order is contingent upon the discontinuance of the provision as a maintained school and so the option for the council to run the school does not pertain. Given the position, a consultation on closure is recommended.

Closing a Maintained Special School: Guidance and Process

The Department for Education's statutory guidance, 'Opening and Closing Maintained Schools' includes the following reasons for the discontinuance of a maintained school:

- *It has been judged inadequate by Ofsted and there is no sponsored academy solution.*
- *It is no longer considered viable.*

As it has not been possible to identify a suitable academy sponsor for Wennington Hall School, the Department for Education on behalf of the Minister for the School System gave permission to pursue discontinuance on the condition that a suitable independent provider is identified. An independent provider has not been identified. Since 2016, there has also been a significant reduction in number of pupils on roll at the school, such that the school's viability is increasingly threatened.

In January 2021, Cabinet approved a stage 1 consultation be undertaken on the proposed discontinuance of the local authority's maintenance of Wennington Hall School. The consultation undertaken was on the basis that an independent provider would be found. As a provider has not been identified, the statutory process, set out in the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013, would need to be repeated before making a decision on the closure of Wennington Hall School.

The applicable statutory guidance recommends a minimum consultation period of 6 weeks. Following this, there would be a requirement to publish the proposal, allowing a four week representation period to allow for objections and comments. The local authority would then be required to make a determination within two months and publish its decision no later than one week thereafter, following which a four week period is allowed for appeals by the dioceses.

There are five statutory stages for this proposal as set out below:

Stage 1	Stage 2	Stage 3	Stage 4	Stage 5
Consultation	Publication	Representation	Decision	Implementation
No longer than 12 months and a minimum of 6 weeks during school term time is recommended.	Publication of statutory notice in appropriate local newspaper, on school premises and at all entrances of the	Must be a minimum of 4 weeks, from the date the statutory proposal is published.	Local authority as the decision-maker must determine proposals within 2	No prescribed timescale, but proposers must be expected to show good reason if the timescale is

	<p>school, within 12 months of the consultation.</p> <p>An accompanying proposal is also required.</p>		<p>months.</p> <p>If longer, must be referred to the schools' adjudicator within a week of the end of the 2 month period.</p> <p>Appeal may also be made to the adjudicator within the 4 weeks following publication of the Local authority's decision by Diocesan Board of Education for any diocese in the Church of England in the local authority area and/or the bishop of any Roman Catholic Church in the local authority's area.</p>	<p>longer than 3 years.</p>
--	--	--	--	-----------------------------

Should a decision be taken to consult on closure, an outline timetable will be developed for the overall process to be applied in respect of a proposal to close Wennington Hall School. However, in advance of any formal consultation, parents and carers of children attending the school will be advised of the concerns highlighted by Ofsted during the recent inspection and, in the event of a decision to consult on closure, will be informed of this, to help them make better informed decisions and minimise potential disruption to their children's education.

Required Consultation

The Department for Education's statutory guidance, 'Opening and Closing Maintained Schools' states that proposers, in this case the local authority, must consult organisations, groups and individuals they feel to be appropriate.

In line with the statutory guidance, a consultation document will be produced and published on Lancashire County Council's website. This will also be circulated to interested parties, including families, staff and governors at the school, Lancaster City Council, county councillors for the districts affected, schools in the Lancaster district, special schools throughout Lancashire and other stakeholders.

Implications

This item has the following implications, as indicated:

Risk management

The authority has a statutory duty to secure high quality school places for its residents. A risk assessment will be undertaken for all pupils placed at the school. Parents and carers will be informed of the concerns highlighted by Ofsted and of any decision to consult on closure so that they can make better informed choices and minimise potential disruption to their children's education.

Financial

The school has a cumulative deficit of over £1.77million, as a result of maintaining higher staffing levels, to ensure pupils are adequately safeguarded and additional transport costs due to fewer residential placements. This deficit is currently forecast to rise by circa £1.1million in 2021/22, circa £1.4million in 2022/23 and £1.4million in 2023/24 if no further action is taken.

When a local authority discontinues its maintenance of a school, a deficit balance reverts to the authority and will need to be funded from the authority's budget, therefore this is a financial risk to the county council.

Equality and Cohesion

Should the option to consult on closure be taken this proposal will have a significant impact on the protected characteristics groups of age (young people) and disability for pupils at the school and on employees as it will potentially result in a change of school and/or employment for those involved, Whilst the number of pupils is quite small – 20 pupils – the impact on them will be significant and the nature of their conditions may make it more difficult for the pupils and their carers/families than for pupils without such disabilities. A full Equality Impact Assessment will be provided to assist at the determination stage of the proposal.

List of Background Papers

Paper	Date	Contact/Tel
-------	------	-------------

None

Reason for inclusion in Part II, if appropriate

N/A

Urgent Decision Taken on behalf of Cabinet: Declarations

Leader of the Council

The Outcomes of the Procurement Process for Wennington Hall School and Proposal to Consult on Closure

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 Council

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.

.....
Senior Democratic Services Officer

*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 Education and Skills

The Outcomes of the Procurement Process for Wennington Hall School and Proposal to Consult on Closure

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:

.....
Cabinet Member for Education and Skills

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.

.....
Senior Democratic Services Officer

*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