

**Meeting of the Cabinet – 17<sup>th</sup> March 2010**

**Report of the Director of Children's Services**

**Final Decision on Proposals to Discontinue Pensnett High School**

**Purpose of Report**

1. This report seeks Cabinet approval for the discontinuance of Pensnett High School from 31<sup>st</sup> August 2010 in accordance with the Education and Inspections Act 2006 (EIA 2006) and The School Organisation (Establishment and Discontinuance of Schools)(England) Regulations 2007 (as amended by The School Organisation and Governance (Amendments) (England) Regulations 2007 which came into force on 21<sup>st</sup> January 2008 and The School Organisation and Governance (Amendment)(England) Regulations 2009 which came into force on 1<sup>st</sup> September 2009).

**Background**

2. In July 2009 the Council embarked upon the first stage of a statutory consultation to elicit views on the future of Pensnett High School.

The consultation document highlighted two key areas of concern that were impacting upon the outcomes for young people who attend the school. These concerns question the long term education and financial viability of the school. The document set out the key reasons why the Directorate of Children's Services had reached the decision to consult on closure of the school. In summary this was due 'in part to a sustained and significant fall in the number of pupils on roll at the school and also because of the challenges the school continues to face in its efforts to raise standards. These factors have resulted in the school becoming educationally and economically unviable'.

A report was prepared following the first consultation period that summarised the responses from the statutory consultation. In particular the report highlighted views on the possible closure of the school or other alternatives that would address the concerns expressed in the consultation document. The report concluded that:

- Most of the responses received were opposed to closure as an option;
- Alternative options did not sufficiently deal with how the education and financial concerns could be addressed.

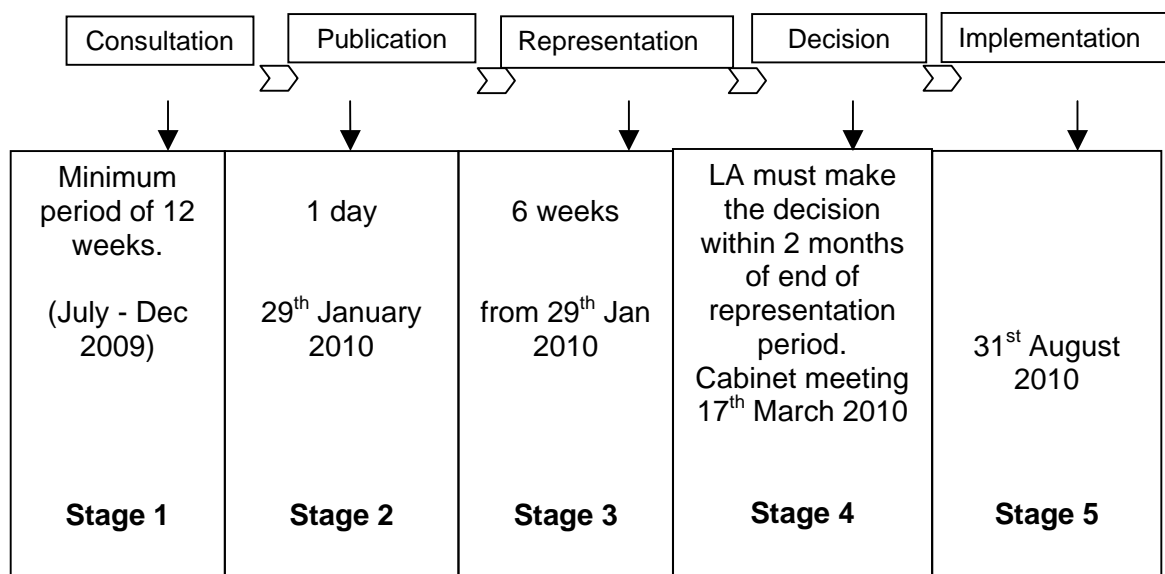
Consequently the report recommended proceeding to the second stage of statutory consultation; publication of a statutory notice to close Pensnett High School with effect from 31<sup>st</sup> August 2010 (copies are available in the Members Room).

The second stage of the process (known as the representation period) commenced on the 29<sup>th</sup> January 2010 and was open for a period of six weeks. (A full summary of the responses is available in the Members Room). 11 responses in total were received during the representation period.

The next stage following the representation period is to make a decision on the proposals and then to implement that decision.

There are five stages in total that a LA must go through to enable the discontinuance of a school. The following is an excerpt from the Department for Children, Schools and Families (DCSF) guide "Closing a Maintained Mainstream School":

3. There are five statutory stages for a statutory proposal:



### Stage 1 – Consultation

Under Section 16 of EIA 2006, those considering bringing forward statutory proposals to close a school must consult interested parties on the proposals, and in doing so must have regard to the Secretary of State's guidance.

This first stage of consultation was undertaken from July to December 2009. The consultation document highlighted two key areas of concern that were impacting upon the outcomes for young people who attend the school. The document set out the key reasons why the Directorate of Children's Services had reached the decision to consult on closure of the school. In summary this was due 'in part to a sustained and significant fall in the number of pupils on roll at the school and also because of the challenges the school continues to face in its efforts to raise standards. These factors have resulted in the school becoming educationally and economically unviable'. During this consultation period the school was inspected by Ofsted and placed in Special Measures.

Once the consultation period had ended, a report was prepared. The report summarised that the Council, through consultation, had sought views on the future of Pensnett High School. In particular, it sought views concerning the financial viability and the student outcomes at the age of 16. Whilst most responses expressed the closure of the school as a practical alternative, many

responses opposed the closure of the school, no practical alternatives were forthcoming. The alternative creation of a smaller school as part of 'a vision for the future of education in the community of Pensnett' did not sufficiently address how:

- to improve the school's current performance especially in light of the government's target for 2011 (i.e. no school to be below 30% 5 A\*-C including English and maths);
- such a school could be financially viable within the context of national school funding formula.

Therefore a recommendation was made to proceed to the next stage in the statutory process; publication of a statutory closure notice.

## **Stage 2 – Publication**

A LA can publish proposals to close any category of maintained school. Proposals must contain the information specified in the Education and Inspections Act 2006 (EIA 2006) and The School Organisation (Establishment and Discontinuance of Schools)(England) Regulations 2007 (as amended by The School Organisation and Governance (Amendments) (England) Regulations 2007 which came into force on 21<sup>st</sup> January 2008 and The School Organisation and Governance (Amendment)(England) Regulations 2009 which came into force on 1<sup>st</sup> September 2009).

Part of the information is published in a statutory notice. A statutory notice containing specified information must be published in a local newspaper, and also posted at the main entrance to the school.

The Implementation date should also be stipulated. There is no maximum limit on the time between the publication of a proposal and its date of Implementation but circumstances may change significantly if too long a period elapses.

The statutory notice was published on the 29<sup>th</sup> January 2010.

## **Stage 3 - Representations**

Once proposals are published there must follow a six week statutory period during which representations (i.e. objections or comments) can be made. All representations must be sent to the LA.

The representation period is the final opportunity for people and organisations to express their views about the proposals and ensures that they will be taken into account by the Decision Maker.

The representation period commenced on the 29<sup>th</sup> January 2010 and was open for a period of six weeks. There were 11 responses in total during the representation period.

All respondents stressed their opposition to the closure of the school. Each respondent made clear that whilst the school had difficulties, in their view, it was improving and should be given time to demonstrate effectiveness. Serious concerns were expressed regarding the continuity of learning if Year 10 pupils were required to attend other schools to complete their statutory education.

Whilst all respondents opposed the closure of the school, no practical alternatives were forthcoming to sufficiently address how:

- to improve the school's current performance especially in light of the government's target for 2011 (i.e. no school to be below 30% 5 A\*-C including English and maths);
- such a school could be financially viable within the context of national school funding formula.

The key reasons why the Directorate of Children's Services have reached the decision to consult on closure of the school is due to a sustained and significant fall in the number of pupils on roll at the school and also because of the challenges the school continues to face in its efforts to raise standards. These factors have resulted in the school becoming educationally and economically unviable.

#### **Stage 4 – Decision**

Who will make the decision?

Decisions on school organisation proposals are taken by the LA or by the schools adjudicator. Paragraphs 7-8 and 19 of Schedule 2 to EIA 2006 set out who should decide proposals for school closures. Most decisions will be taken by the LA.

This report sets out the statutory process undertaken thus far by the LA and seeks approval from Cabinet to decide on the proposal.

#### **Stage 5 – Implementation**

The proposers are under a statutory duty to implement any proposals which a LA or schools adjudicator has approved. The proposals must be implemented as published, taking into account any modifications made by the Decision Maker. If the approval was subject to a condition being met by a specified date – proposers should ensure that they meet this.

4. The proposed Implementation date for the discontinuance of Pensnett High School is 31<sup>st</sup> August 2010.

#### **Future Use of the Site**

Consideration has also been given to the sports and community facilities on the Pensnett High School site. Some of the facilities on this site are accessed by the local community. The sports hall and football pitches are used for leisure and recreation purposes. As described in the initial consultation document it is the intention that these facilities will continue to be available for use by the community should the Council proceed with the school closure.

A scoping exercise involving staff, parents and Council officers to identify the needs of pupils post August 2010 has taken place; with the current Years 7 and 8 accommodated in local schools and Years 9 and 10 having the option to stay on site for two years as part of an innovative new learning centre, established as part of the Council's Vision 2025, a Strategic Plan for Learning.

## **Finance**

5. Pensnett High School receives annual delegated funding for revenue expenditure in line with the Local Management of Schools (LMS) formula approved for Dudley's maintained schools.

Within the School Finance (England) Regulations 2010, there is provision to address the funding requirements of a closing school; these regulations will be implemented for the forthcoming financial year (2010/11), should the closure be confirmed.

Any additional costs arising from the school closure programme will be a charge against the Dedicated Schools Grant (DSG).

## **Law**

6. The legal provisions relating to this report are set out in paragraph 1 above.

## **Equality Impact**

7. This report takes into account the Council's Equality and Diversity Policy.

Children and young people have been fully consulted throughout this process; individual meetings have been held to discuss the proposals with children and young people.

## **Recommendation**

8. It is recommended that:-
  - Cabinet makes a final determination on the proposals to discontinue Pensnett High School, considering the outcome of the first stage of consultation and the formal representation period and the reasons set out in this report, in accordance with Section 15 (1) and Schedule 2 (paragraphs 8 and 19) of the Education and Inspections Act 2006 on 31<sup>st</sup> August 2010.



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## **List of Background Papers**

*Statutory Consultation 1<sup>st</sup> Stage*

*Report on the outcomes of the 1<sup>st</sup> Stage of Consultation*

*Decision Sheet approving the publication of the Statutory Notice*

*Statutory Representation Period, publication of the Statutory Notice*

*Report on the outcomes of the Representation Period*

*DCSF guidance, 'Closing a Maintained Mainstream School'*