



Leicester  
City Council

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ALL WARDS**

## **FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:**

### **CHILDREN AND YOUNG PEOPLE'S SERVICES SCRUTINY COMMITTEE**

**10<sup>th</sup> December 2009**

### **CABINET**

**14<sup>th</sup> December 2009**

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## **FUTURE OF RIVERSIDE BUSINESS AND ENTERPRISE COLLEGE**

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### **1. Purpose of the report**

- 1.1 This report advises Scrutiny and Cabinet of representations received following the publication of a Statutory Notice and Detailed Proposal to move to close Riverside Business and Enterprise College. Scrutiny and Cabinet are advised of the Strategic Director's responses to these representations.
- 1.2 In accordance with guidance from the Department for Children, Schools and Families (DCSF), a final decision is now sought from Cabinet upon the future of the School.
- 1.3 In reaching this decision Cabinet's attention is drawn to the relevant Guidance for Decision Makers and a range of supporting information to enable them to take an informed decision on this matter.

### **2. Background to the Report**

- 2.1 On 5<sup>th</sup> October 2009 Cabinet agreed to publish a formal Statutory Notice and Detailed Proposal stating the intent of the Council to move to close Riverside Business and Enterprise College. This Notice was published on 7<sup>th</sup> October 2009. The Statutory Notice and Detailed Proposal are reproduced at **Appendices A and B** respectively.
- 2.2 Interested parties had a six-week period to register their views on this proposal. This period ended on 18<sup>th</sup> November 2009 and the City Council received a total of two representations.
- 2.3 These representations are reproduced at **Appendices C and D**.

- 2.4 As a result of a “call in” of the Cabinet decision on 5<sup>th</sup> October 2009 to publish a Statutory Notice and Detailed Proposal, this decision itself was also considered by Full Council on 25<sup>th</sup> November 2009. Following discussion Full Council endorsed the decision of Cabinet on the 5<sup>th</sup> October 2009. A minute of this discussion is available at **Appendix G – to follow.**
- 2.5 This report details the representations received and the Strategic Director’s response to these. In accordance with DCSF guidance on the exercise of powers by the decision maker this report also provides a range of information to enable the Cabinet to take an informed decision on this matter. These matters are now brought to the attention of Scrutiny and Cabinet in order that Cabinet may take an informed, final decision upon this matter.
- 2.6 In conclusion, a number of recommendations are also made with respect to the exercise of powers conferred upon the Director of Children’s Services under the Admissions Code 2009 to protect the interests of children, young people and their families currently at Riverside Business and Enterprise College in the event of a closure decision being taken.

### **3. Recommendations**

- 3.1 Scrutiny is invited to consider this matter and advise Cabinet accordingly.
- 3.2 Cabinet is recommended to review the information provided within this report and its appendices and agree to close Riverside Business and Enterprise College in accordance with the process set out in the Statutory Notice and Detailed Proposal published on 7<sup>th</sup> October 2009.
- 3.3 In reaching this decision Cabinet is asked to affirm that:
- The collapse of parental preference, low pupil numbers and associated financial viability are the key issues (In 2008 & 2009 more than 90% of parents living within the Riverside priority area sent their children to other schools.)
  - Riverside Business and Enterprise College simply cannot be sustained on current pupil numbers and continued progress secured within resources available.
  - Alternative models do not offer a way of addressing this collapse in parental preference and sustaining continued educational progress within available resources.
- 3.4 To assist in the planning of effective transition arrangements and help maintain curriculum continuity and opportunity for current pupils Cabinet is asked to endorse the exercise of powers conferred by paragraph 1.24 of the Admissions Code 2009 to permit the City Council as Admissions Authority to cease any further admissions to any year group at the school until further notice.
- 3.5 In accordance with Paragraphs 1.18 to 1.21 of the Admissions Code 2009 Cabinet is asked to endorse the exercise by the Director of Children’s Services of

powers conferred upon her to offer places for September 2010 and September 2011 for displaced pupils at Riverside Business and Enterprise College at any maintained school within the City. These revised displacement arrangements are authorised under Regulation 21 School Admissions (Admission Arrangements)(England) Regulations 2009 to comply with paragraphs 1.47b) and 3.44 of the Admissions Code 2009.

- 3.6 Agree that Cabinet Procedure Rule Part D 12 (d) (grounds of urgency – a delay would be *seriously prejudicial to pupil interest*) applies to the above recommendations and decisions such that they are not open to further “call in” by Members.

## 4 REPORT

- 4.1 Following the publication of the Statutory Notice and Detailed Proposal on 7<sup>th</sup> October 2009 the City Council has received two representations. These are reproduced at **Appendices C and D**.

### 4.2 Representations from Schools and Settings Consultative Committee Teachers Panel (ASCL, ATL, NAHT, NASUWT, NUT, VOICE) - (Appendix C)

- 4.3 These respondents oppose the closure of Riverside Business and Enterprise College and urge the local authority to enter a dialogue about alternative solutions to the issues facing the school. In summary these respondents:

- a. State that the action proposed is short sighted and damaging to the longer-term integrity of local education.
- b. Contend that the LA has not adequately explored how secondary education on that site fits into the wider context of education needs across the City.
- c. State that the LA will lose a Community comprehensive school in 2011, 3 years before secondary rolls start to rise.
- d. It is argued that the City will need the equivalent of at least two large new schools or 3 smaller schools before 2017.
- e. Assert that future schools will need to be open to competition and be established by alternative promoters. By closing Riverside the LA is reducing its capacity to retain coherent community comprehensive education provision in the City.
- f. In opening up the possibility of future schools being provided by alternative promoters (e.g. faith/ private sector) it is asserted that the LA runs the risks of seriously destabilising all current admission arrangements and creating an education free-for-all in the City.
- g. Contend that the above will impact on standards, place preferences and have unforeseen consequences in terms of job losses for staff.

- h. State that the alternative proposal for an Inclusion Centre of Excellence would provide a more creative response to the situation and evidence local authority commitment to collaborative working involving both special and mainstream provision within a caring environment.

## **5. Representation from the Governing Body of Riverside Business and Enterprise College - (Appendix D)**

### 5.1 The School Governing Body:

- a. Assert that the local authority lacks vision and has been aware of falling rolls and the difficulties in raising standards at Riverside for some years.
- b. Assert that the local authority has failed to address the issue strategically and in partnership with the community and Governing Body.
- c. States that the closure of Riverside reduces secondary choice in the immediate neighbourhood and removes the potential for developing an earlier vision of 3 – 16 education proposed by the former Director of Children’s Services.
- d. States that an earlier Academy proposal could have contributed to the revitalisation of the secondary education in the area.
- e. Refutes the local authority comment that the proposal will contribute to “greater social mobility, inclusion and ultimately, therefore, improve community cohesion itself”.
- f. Asserts that the local authority has failed to adequately acknowledge 2009 GCSE results, the importance new build would have made and the capacity of the leadership team and staff to turn around pupil numbers.
- g. Reaffirms all previous objections and concerns stated during the recent consultation period.

5.2 Responses from the Strategic Director to the above representations are detailed in **Appendix E**.

## **6. Compliance with national guidance for decision makers who are considering closing a maintained school**

6.1 Cabinet attention is drawn to **Appendix H** that details an extract DCSF Guidance for Decision Makers on Closing a Mainstream School.

6.2 The attention of Cabinet is drawn to the questions posed at 4.7 of this extract

6.3 Cabinet is advised as follows:

	<b>Key issues &amp; factors to be considered by decision takers.</b>	<b>Cabinet is advised that</b>
1	Is any information missing?	The Director of Children's Services assures members that all relevant information has been made available to Cabinet
2	Does the published notice comply with statutory requirements?	The Statutory Notice and Detailed Proposal published on 7 <sup>th</sup> October 2009 complied with all requirements.
3	Has the statutory consultation been carried out prior to the publication of the notice?	Consultation has been conducted in accordance with national guidelines and a full account of consultation outcomes was published for the consideration of Scrutiny Committee on 23 September 2009, Cabinet 5 October 2009 and Full Council on 25 November 2009.
4	Are the proposals "related" to other published proposals?	This closure proposal is not related to any other published proposal.
5.	<p><b>Other Factors</b></p> <p>Cabinet attention is drawn in particular to sections 4.17 to 4.62 of <b>Appendix H</b>.</p> <p>In summary it is judged that the proposal before Cabinet will reflect the exercise of parental choice, contribute to raising local standards of provision and will lead to improved attainment for children and young people.</p> <p>Strategies with regard to the needs of displaced pupils (e.g. 4.55 – 4.61) etc will be addressed through the Detailed Equality Impact Assessment at <b>Appendix F</b> and detailed transitional plans that will be prepared following approval of any closure decision.</p> <p>Issues with regard to the adequacy of provision for displaced pupils with regard to supply and demand/ increased parental choice are addressed within the Detailed Proposal (<b>Appendix B</b>).</p>	

6.4 Members attention is also drawn to Section 4.63 of the relevant guidance with respect to the options that are now open to them. These options may be simply summarised as:

- reject the proposals;
- approve the proposals;
- approve the proposals with a modification (e.g. the school closure date); or
- approve the proposals subject to them meeting a specific condition.

- 6.5 Prior reports to Scrutiny, Cabinet and Full Council have provided ample opportunity for all City Councillors to explore and debate related issues. As reference to **Appendix G** makes clear, an overwhelming number of City Councillors have endorsed the decision of Cabinet to proceed with the publication of the Statutory Notice and Detailed proposal at **Appendix A** and **B** to this report.
- 6.6 Only two representations have been received within the required representation period and neither of these have addressed the proposed transition period detailed at **Appendix B**. Neither representation has proposed a viable alternative.
- 6.7 It is clear however from representations made to Cabinet by the Acting Headteacher on behalf of his School and the views expressed by the School Governing Body that the proposed published transition path is believed to offer the best way forward for pupils in the event of closure.
- 6.8 Having regard to the above Cabinet is recommended to approve the proposals as detailed in the Statutory Notice and Detailed Proposal published on 7<sup>th</sup> October 2009 and consequently Cabinet is recommended to take this action.
- 6.9 Reasons for decision: All decision makers are required to give reasons for their decision and indicate the main factors/criteria informing their decision.
- 6.10 In reaching this decision at 6.8 above Cabinet is asked to affirm that:
- The collapse of parental preference, low pupil numbers and associated financial viability are the key issues (In 2008 & 2009 more than 90% of parents living within the Riverside priority area sent their children to other schools – See Also **Appendix H**, Paragraphs 4.34 and 4.35 – surplus places and use of resources)
  - The school simply cannot be sustained on current pupil numbers and continued progress secured within resources available (– **Appendix H** Paragraph 4.35 – removal of surplus places).
  - Alternative models do not offer a way of addressing this collapse in parental preference and sustaining continued educational progress within available resources. (**Appendix E** – City Council response to representations received)
  - The decision is informed by Guidance for Decision Makers published by the Department for Children Schools and Families (**Appendix H**).
- 7. Implications of a decision to close Riverside Business and Enterprise College in accordance the Statutory Notice and Detailed Proposal published on 7<sup>th</sup> October 2009.**
- 7.1 If the recommendation within this report is agreed, Riverside Business and Enterprise College will close on 31<sup>st</sup> August 2011.
- 7.2 If the Detailed Proposal is agreed, there will be no admissions into Year 7 at Riverside in September 2010. This possibility was explained to parents in the Secondary Transfer booklet. Pupils living in the current Priority and Linked

Areas for Riverside who applied on time would have a priority for all of the other Community Secondary Schools in the City that they have made a preference. Parents will be informed of the allocation of places on the National Offer Date of 1<sup>st</sup> March 2010.

- 7.3 The Detailed Proposal stipulates that pupils currently in Year 9 would not continue into Year 10 at Riverside in September 2010. If closure is agreed, the parents of these pupils will be asked to complete an application for alternative schools. It is proposed that this process takes place during January 2010. Advice from the Independent Choice Adviser will be available. Again, these pupils would have a priority for all of the other Community Maintained Secondary Schools in the City that they have made a preference, and parents would be informed of the allocation of places on the National Offer Date of 1<sup>st</sup> March 2010. Schools will be asked not to finalise their GCSE option groups until this process is completed. There are currently 67 pupils in Year 9 at Riverside.
- 7.4 From September 2010, the school would therefore operate with Years 8, 9 and 11. The school is proposed to close in August 2011; therefore pupils completing Years 8 and 9 at that time would need to be allocated alternative school places for September 2011. It is proposed that the same process described above would be followed. There are currently 25 and 63 students respectively in these Year Groups.
- 7.5 At September 2011 all remaining pupils at the School would need to move to another school and Riverside would close.
- 7.6 To assist in the planning of effective transition arrangements and help maintain curriculum continuity and opportunity for current pupils Cabinet is asked to endorse the exercise of powers conferred by paragraph 1.24 of the Admissions Code 2009 to permit the City Council as Admissions Authority to cease any further admissions to any year group at the school until further notice. Parents would retain the right to appeal for a school place under the terms of the Admissions Code, 2009.
- 7.7 In accordance with Paragraphs 1.18 to 1.21 of the Admissions Code 2009 Cabinet is asked to endorse the exercise by the Director of Children's Services of powers conferred upon her to offer places for September 2010 and September 2011 for displaced pupils at Riverside Business and Enterprise College at any maintained school within the City.
- 7.8 It is important to note that implementation of these detailed proposals will have the effect that all current 2009/10 pupils and continuing pupils in Years 8, 9 and 11 from September 2009 will only be able to access revised admission preference arrangements during the above agreed transfer processes. Families and pupils seeking alternative schools outside these agreed processes and periods will have their admission requests determined in accordance with current prevailing admission arrangements.
- 7.9 Scrutiny and Cabinet are reminded that this timeline and transition programme has been discussed and is supported by a large number of stakeholders including the School Leadership Team and Governing Body. The full Governing Body discussed this matter further on 24<sup>th</sup> September 2009 and, although clearly

opposed to closure, expressed a unanimous preference for this two-year proposal as it believed that this option provides the best possible educational transition path in the event of closure being determined.

- 7.10 Clearly a decision to close the School will impact upon staff and the local authority has indicated that it wishes to work with trades unions and professional associations to support staff and minimise the impact through a range of strategies including potential redeployment. No assurance has been given that there will not be compulsory redundancies however the City Council will actively seek to avoid this.

## **8. Seeking the best education solution for current Riverside pupils**

- 8.1 With good co-operation between the School and the LA, and early consultation with other Headteachers, the School believe that there is time to make the transfer of the current Year 9 work well this year.
- 8.2 This includes time to provide individual support for parents of special needs pupils in choosing a school and making alternative option choices.
- 8.3 The School is of the view that transferring the current Year 9 to another school in 2010 is the best option for this particular group and that this is the only way in which the School can guarantee to meet their educational entitlement.

## **9. Future involvement of stakeholders in change management arrangements**

- 9.1 In recognition of the issues raised in the sections above and concerns expressed during the recent Consultation, the City Council propose to establish a Transition Group to address operational issues associated with this school closure and to assist the smooth transition of pupils to other schools.
- 9.2 This Group would work closely with local schools, agencies and services to ensure that curriculum offer and extended services offered to pupils formally at Riverside would be maintained and, wherever possible, improved.

## **10. Financial Implications**

- 10.1 As previously reported, significant additional financial support has been provided to Riverside Business and Enterprise College. If the School were not to close, this would need to continue until such time (if ever) that a larger pupil cohort is achieved, together with a reasonably consistent number in each year group. This would have an impact upon the funding available for schools across the City and arguably would not represent value for money.
- 10.2 If closure is agreed as proposed in this report, then the additional financial support would need to continue until August 2011. Additional costs specifically associated with closure would be incurred; these include redundancy costs; protection of pay where applicable for staff who are redeployed elsewhere; potential transport of pupils to other schools; and funding other schools for the



dispersed pupils. Costs would subsequently be incurred upon maintaining the school as a vacant property until longer-term plans for the site are determined. It is not possible to accurately quantify these costs at this stage, although they could be significant.

(Colin Sharpe, Head of Service, Finance and Efficiency, 297750)

## 11. Legal Implications

11.1 Detailed legal advice has been provided on all aspects of the Council's responsibilities in this process, including the following:

- a) compliance with legislative provisions relating to admissions, as well as the requirements of the Admissions Code 2009.
- b) compliance with equalities duties. The Equality Impact Assessment (**Appendix F**) attempts to address the range of considerations. Specific reference must be made to s.49A DDA 1995 (and the Disability Rights Commission Statutory Code of Practice) which states that:

[49A General duty]

[(1) Every public authority shall in carrying out its functions have due regard to-

- (a) the need to eliminate discrimination that is unlawful under this Act;
- (b) the need to eliminate harassment of disabled persons that is related to their disabilities;
- (c) the need to promote equality of opportunity between disabled persons and other persons;
- (d) the need to take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons;
- (e) the need to promote positive attitudes towards disabled persons; and
- (f) the need to encourage participation by disabled persons in public life.

and Cabinet (as well as officers throughout the process) must be mindful of their obligations under this provision when making decisions. These obligations require robust and proactive consideration.

- c) Human Rights considerations.
- d) Statutory Guidance in relation to proposals to close a maintained mainstream school. The lodging of objections during the period of Representations does not preclude the Decision Maker from making a decision. There are very limited rights of appeal (to a very limited class of appellant) beyond this.

(Kamal Adatia, Barrister, ext 297044)

## 12. Other Implications

OTHER IMPLICATIONS	YES/NO	Paragraph Within Supporting Information	References
Equal Opportunities	Yes	<b>See EIA at Appendix F</b>	
Policy	Yes		
Sustainable and Environmental	Yes	<b>Appendix F</b>	
Crime and Disorder	No		
Human Rights Act	Yes	<b>Appendix F</b>	
Elderly/People on Low Income	No		

## 13. Risk Assessment Matrix

Risk	Likelihood L/M/H	Severity Impact L/M/H	Control Actions (if necessary/appropriate)
1. A formal objection to processes followed is upheld.	L	H	Continued operation of School – rerun of process with reduced timeframe/ immediate rather than phased closure.
2. Demographic and financial projections prove inaccurate	L	H	Figures have been subject to scrutiny by Partnership for Schools. Contain within DSG reserves and seek further deployment of extra funds via Schools Forum.
3. Closure decision leads to unplanned exodus of pupils and staff in advance of closure timetable	M	H	Establishment of retention and redeployment plans to retain staff.  Deployment of exceptional cost pressure funds to assist other schools experiencing impact.  Revisions to curriculum delivery arrangements to support pupils.  Revisions to curriculum delivery arrangements to support pupils.  Review and potential variation of school closure timeline.
4. Adverse impact on pupils, families and staff	M	H	Implement measures contained with Detailed Proposal

**14. Background Papers – Local Government Act 1972**

14.1 Representation responses – **Appendix E**

**15. Consultations**

15.1 This paper is wholly concerned with the outcome of a recent consultation exercise and representations received as a result of a subsequent publication of a Statutory Notice and Detailed Proposal.

**16. Report Author**

**Dr Trevor Pringle**  
**Divisional Director, Planning and Commissioning**

<b>Appendix A</b>	<b>Statutory Notice</b>
<b>Appendix B</b>	<b>Detailed proposal</b>
<b>Appendix C</b>	<b>Representations from Schools and Settings Consultative Committee Teachers Panel (ASCL, ATL, NAHT, NASUWT, NUT, VOICE)</b>
<b>Appendix D</b>	<b>Representations from the Governing Body of Riverside Business and Enterprise College</b>
<b>Appendix E</b>	<b>City Council response to Representations received</b>
<b>Appendix F</b>	<b>Equality Impact Assessment</b>
<b>Appendix G</b>	<b>Minute of Full Council “call-in” of the Statutory Notice and Detailed Proposal (To follow)</b>
<b>Appendix H</b>	<b>DCSF Guidance for Decision Makers on Closing a Maintained School</b>

<b>Key Decision</b>	Yes
<b>Reason</b>	Is significant in terms of its effect on communities living or working in an area comprising more than one ward
<b>Appeared in Forward Plan</b>	Yes
<b>Executive or Council Decision</b>	Executive (Cabinet)

