



Leicester  
City Council

WARDS AFFECTED  
ALL WARDS

Report Ref: 09/212a

## FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

Cabinet

5 October 2009

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## OUTCOME OF CONSULTATION ON PROPOSED MOVE TO CLOSE RIVERSIDE BUSINESS AND ENTERPRISE COLLEGE

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### Report of the Strategic Director, Children

#### 1. Purpose of Report

- 1.1 This report informs Members of the outcome of the recent consultation, issues raised and seeks a decision on the proposed closure of Riverside Business and Enterprise College.

#### 2. Summary

- 2.1 At Cabinet on 11 May 2009 Members received a report and an accompanying Business Case in connection with Riverside Business and Enterprise College. This report recommended that Members consult upon a move to close Riverside Business and Enterprise College. Members agreed to undertake a consultation on this matter.
- 2.2 This report informs Members about the process adopted, the associated outcomes and the issues arising.
- 2.3 The accompanying report recommends that Members move to publish a formal Statutory Notice and Detailed Proposal stating the intent of the City Council to close Riverside Business and Enterprise College. Publication of such a Notice and Detailed Proposal will enable interested parties to register their final views on this matter over a six-week period, commencing on the 7<sup>th</sup> October 2009.
- 2.4 A further report will then be brought before Cabinet on the 14 December 2009, advising Cabinet of responses to the formal Statutory Notice and representations made during the representation period. At this point, Cabinet will be invited to take a final decision on the future of the school. *If a closure decision is taken and implemented, it is proposed that Riverside Business and Enterprise College would close on either 31<sup>st</sup> August 2011 or 31 August 2012 dependent upon decisions taken by Cabinet.*

2.5 This report is accompanied by a number of detailed appendices:

- A. Summary of consultation process outcomes, Tables 1, 2 and 3
- B. Minutes of associated meetings (Staff, governing body, parents, Schools Council)
- C. Summary of responses received and issues raised
- D. Equality Impact Assessment
- E. *Proposed Detailed Proposal*
- F. Performance: National Challenge Schools:
  - Riverside Business and Enterprise College
  - Fullhurst Community College
  - New College Leicester
  - Babington Community Technology College
  - Hamilton Community College
- G. Financial Information and Value for Money: National Challenge Schools
- H. Transition Options for Cabinet consideration

### 3. Recommendations (or OPTIONS)

Cabinet is recommended to:

- 3.1 Note the outcome of the recent consultation and officers' response to issues raised;
- 3.2 Agree to move forward proposals to close Riverside Business and Enterprise College and authorise the publication of a Statutory Notice and Detailed Proposal based upon their preferred option at 9.7 and **Appendix E** to this report;
- 3.3 Agree to seek to protect the interests of current Riverside pupils who may be displaced by ceasing all further admissions to all 2009/10 year groups at Riverside with immediate effect until 14th December 2009 (or date of final Cabinet decision upon closure) to avoid prejudicing potential outcomes for those currently at the School. This moratorium will of course be lifted on 15th December 2009 or other date should Cabinet decide at this point not to close this School.
- 3.4 Endorse the exercise by the Director of Children's Services of powers conferred upon her under the Admissions Code 2009 to offer places for September 2010 for displaced pupils at Riverside Business & Enterprise College at any maintained community secondary school within the City.
- 3.5 Agree to receive a fresh report on responses received following the publication of the Statutory Notice and Detailed Proposal and representations made during the formal representation period. This report to be received on 14 December, 2009.

## REPORT

### 4. Nature and format of the Consultation Process

- 4.1 On the 11 May 2009, Cabinet agreed an officer recommendation that the City Council undertake a consultation upon the possible closure of Riverside Business and Enterprise College. This decision was taken at this point following receipt and consideration of a Business Case from officers that concluded that there were clear educational, financial and business reasons to move to close the school as soon as practically possible.
- 4.2 Consultation took place from the 1 June 2009 to 10 July 2009 – a period of six weeks.
- 4.3 The consultation process was based upon guidance from the Department for Children Schools and Families. The Consultation Strategy was detailed in letters to Riverside parents dated the 7 May 2009, 18 May 2009 and 29 May 2009. Staff at the school were advised of the process in letters to them dated the 28 April 2009, 19 May 2009 and 29 May 2009. All other principal consultees and all City Councillors were advised of the process and invited to comment in a letter dated the 29 May 2009. All the letters and questionnaires to parents at Riverside and those who had expressed an intent to attend Riverside from September 2009, were sent via Royal Mail to parent's home addresses. All letters and questionnaires to staff at Riverside were delivered by hand to the school for distribution.
- 4.4 Copies of all letters to Riverside parents and staff, questionnaires and background materials were made available at [www.leicester.gov.uk/riversideconsultation](http://www.leicester.gov.uk/riversideconsultation). Copies of the relevant Business Case were also made available at this web address, at Riverside School and all City public libraries.
- 4.5 Consultees were invited to respond by completing a six question questionnaire. They were invited to do this by completing a written questionnaire or an on-line version of the questionnaire. A modified version of the questionnaire was produced in consultation with Riverside young people themselves to provide them with an opportunity to respond. Views were also invited via a bespoke e-mail address [riverside.consultation@leicester.gov.uk](mailto:riverside.consultation@leicester.gov.uk).
- 4.6 Several meetings were arranged to promote the consultation exercise and provide Riverside parents, staff and school governing body with an opportunity to raise issues with officers in Childrens Services and for respondents to inform their personal and collective response to the consultation. Colleagues within the City Youth Service worked with the School Leadership Team and School Council to develop the questionnaire, mentioned at 4.5 above, and a process that would enable young people themselves to express their views on this matter. This aspect of the consultation process proved popular with 206 young people registering their views.

4.7 Meetings were held as follows:

Date	Stakeholder Group	Number attending
9 June 2009	Staff of Riverside	70 – 80
11 June 2009	Governing Body of Riverside	11
15 June 2009	Parents of Riverside Students	63
23 June 2009	Students of Riverside	19

Minutes of the above meetings can be found at **Appendix B**

4.8 Views were invited upon the following six questions:

1. Do you agree that there are strong educational, financial and business reasons to move to close Riverside Business and Enterprise College as soon as practically possible? YES/NO
2. Do you feel that there are aspects of Riverside's performance that the Business Case has not adequately addressed? YES/NO
3. Do you feel that there are implications that are not identified in the Business Case? YES/NO
4. If following this consultation a decision was taken to publish the Statutory Notice and a Detailed Proposal to close the school, what factors do you think the City Council should address in this proposal?
5. If a decision were taken to close Riverside what changes in the City's school admission arrangements do you feel would prove helpful to parents?
6. Do you have any other comments in connection with this consultation?

4.9 All consultees detailed above were advised that this consultation was the *first stage* in a formal *five stage* process that the City Council would need to follow if it determined to close Riverside Business and Enterprise College. Respondents were advised that publication of the consultation outcomes was likely to occur in the early autumn – September 2009. Consultees were made aware of the further stages that would need to be followed by the City Council if it wished to consider closure. These were stated as follows:

4.10 **Stage 2** - decision to publish a Statutory Notice and Detailed Proposal, or, undertake alternative course of action. Consultees had been advised that if a Statutory Notice and Detailed Proposal are published then a further six-week period will follow to allow the City Council to receive representations on this matter. Consultees have been advised that this representation period would form the *third stage* in a *five-stage*

process. This representation period would be the final opportunity for people and organisations to express their views for consideration by the Cabinet of the City Council.

4.11 The Statutory Notice and Detailed Proposal would provide detail as to the nature of any closure and any alternative provision for pupils, etc.

4.12 Consultees had been advised that upon completion of a six-week period (**Stage 3**) for representations, a further report would be required to go to Cabinet seeking a final decision upon this matter (**Stage 4**). Implementation (**Stage 5**) would follow thereafter in accordance with the process detailed in the Statutory Notice and Detailed Proposal.

4.13 All consultees have been advised of the following:

a) No decision has been taken to close the school at this point in time.

b) Until such decision is taken, the City Council will continue to admit Year 6 to Year 7 secondary transfer pupils in September 2009 where parents express a preference for Riverside. (Parents were advised of this in their letter dated the 19 May 2009.)

c) The City Council has, in conjunction with Schools Forum, made additional financial provision to support the continued operation of the school in 2009/10 and 2010/11; a commitment of up to £800,000 in each of these years.

d) There is no intent to close Riverside immediately, and if Cabinet should agree closure, then closure would only occur in a planned and phased fashion. In this event, consultees have been advised that the City Council would work with staff and trades union and parents to secure the best outcomes for pupils and staff at the school.

**4.14 Further information to parents on revised admission arrangements for September 2009 Year 7 intake in the event of the closure of Riverside School.**

4.14.1 Following advice from the Department for Children Schools and Families and *without prejudice to any decision by Cabinet on this report*, the City Council has been *required* to publish arrangements for Year 7 intake to Riverside in September 2010 in the event of a decision being taken and implemented to close the School. This is to enable parents making admissions choices between 1 September and 23 October 2009 the opportunity to make an informed decision when registering their three preferences. This information is summarised below and reflected within the Detailed Proposal at **Appendix E**. In preparing this information the City Council has had regard to provisions within the Admissions Code 2009.

4.14.2 Parents of pupils in the transfer group for year 7 in September 2010, i.e. those starting in Year 6 in September 2009, have received information about applying for secondary school at the beginning of September 2009. Parents of pupils in this cohort need to

make their applications, including three preferences, by 23 October 2009. This is before a final decision will have been made about Riverside.

- 4.14.3 Riverside will continue to appear in the listing of secondary schools. In the event of a decision to close Riverside being taken and implemented however, the City Council has made clear that it will amend its admission arrangements to give pupils in the 2010 Year 7 intake cohort only who are resident in Riverside's Priority Area a higher priority when applying for other community maintained schools within the City. This will offer greater certainty for parents and will be accompanied by other practical arrangements described in the accompanying Detailed Proposal.
- 4.14.4 In summary, in the event of closure any year 7 preferences for Riverside by this limited cohort would be ignored and other preferences considered on the basis of the above. In this event, place allocations would be completed by 15 January 2010 and all parents notified on national offer date – 3 March 2010.
- 4.14.5 To effect the above, the following text has been inserted within the relevant secondary transfer booklet:
- 4.14.6 *"The City Council has recently completed a period of consultation about the possible closure of Riverside Business and Enterprise College. At the time of printing this booklet no decision had been made; if it is decided to move to the next stage of the process, a further period for representations will take place. A final decision could be made by the end of 2009.*
- 4.14.7 *If the decision is for Riverside to remain open, then all preferences for the school will be considered in the normal way. If the decision is for Riverside to close, pupils living in the current Priority Area (and Linked Area) for Riverside who apply on time (23<sup>rd</sup> October 2009) will have a priority for all of the other Community Secondary Schools in the City. This Priority will come immediately after the first two and before the third admissions rules. Please remember that in order to be considered for any school you must include it amongst your three preferences.*
- 4.14.8 *We are providing you with this information so that you are fully aware of the options and can make your preferences with all the knowledge that you need. We are not pre-judging in any way the decision that will be made about the possible closure of Riverside.*
- 4.14.9 *If you would like to discuss this further, please contact the School Admissions Team on 252 7009."*
- 4.15 Revised admission arrangements for other year groups in the event of the closure of Riverside School.**
- 4.15.1 These arrangements, which are of course subject to decision by Cabinet, are detailed in Section 11 of the accompanying Detailed Proposal (**Appendix E**) agreed by

Cabinet and are supported by Sections 1.18, 1.19 and 1.21 of the Admissions Code 2009.

- 4.15.2 The City Council is mindful of the potential implications of this decision for those children who are currently at Riverside Business and Enterprise College who might be directly displaced as a consequence of school closure. For this reason the City Council propose, under the provisions of Section 1.24 of the Admissions Code 2009, to cease further admissions to relevant year groups at Riverside with immediate effect until 14th December 2009 (or date of any final Cabinet decision upon closure) to avoid prejudicing potential outcomes for those currently at the School in these year groups. This moratorium will of course be lifted on 15th December 2009 or otherwise should Cabinet decide at this point not to close this School.
- 4.16 Following receipt of legal advice and discussion between the Strategic Director Invest in Children and the Cabinet Lead for Children and Young People, the revised contingency arrangements at 4.14 above have been agreed as a variation to the published Admission Arrangements and are authorized under the provision of Regulation 21 School Admissions (Admission Arrangements) (England) Regulations 2009 and under paragraphs 1.47b and 3.44 of the Admissions Code 2009 (displaced pupils). In support of these changes the City Council will also make variations to the Fair Access Protocol if required. The City Council has made explicit in its secondary admissions literature its right and intent to investigate addresses at any stage during the admissions process (in effect 1 September 2009 to 31 August 2010) in line with 1.50 and 1.51 of the Admissions Code 2009. Proposals to cease immediate admissions detailed at 4.15.2 above are subject to approval of recommendation 3.3 above.

## 5. Consultation outcomes

- 5.1 An analysis of responses received to questions (1) to (3) of this consultation has been undertaken and is detailed in the respective Tables at **Appendix A**.
- 5.2 Overall the response to this consultation has been limited. The City Council issued 597 questionnaires to the parents of children currently at Riverside or allocated a place from September 2009. Of these questionnaires, only 69 were returned from this group, a response rate of 11.3%. When 12 on-line responses were added from this declared group this figure rises to 13.6%. The comparable figure for Riverside staff was 28.3%.
- 5.3 In total the City Council received 422 responses across all groups consulted. 206 of these responses (or 48.8%) however came from Riverside pupils and, of these 206 responses, 28 (13.5%) agreed with the business case.
- 5.4 Question 1: Do you agree that there are strong educational, financial and business reasons to move to close Riverside Business and Enterprise College as soon as practically possible? In summary the majority of respondents did not agree that there are strong educational, financial and business reasons to move to close Riverside

Business and Enterprise College as soon as practically possible. School closures are seldom popular and given the balance of responses (344 out of 422 declaring an immediate connection with the school this outcome is not surprising. Committee will be interested to note, however, that of the 31 responses in support of the Business Case, 28 (90.3%) of those however came from students at the School.

- 5.5 Question 2: Do you feel that there are aspects of Riverside's performance that the Business Case has not adequately addressed? In summary the majority of respondents (78.4%) state that the business case has not adequately addressed Riverside's performance.
- 5.6 Once again this response is not surprising given that the high proportion of respondents are associated with Riverside School.
- 5.7 Question 3: Do you feel that there are implications that are not identified in the Business Case? Similar figures present themselves when the third question is explored in terms of implications not identified in the Business Case – 316 people stated that there were implications that are not identified as opposed to 48 who feel that the business case adequately identified these.
- 5.8 A spreadsheet detailing all narrative responses with regard to questions (4), (5) and (6) is available to Elected Members.
- 5.9 Narrative and supplementary responses have been reviewed. Respondents in their responses to all questions have raised a number of recurring issues and these may be summarized as follows:
- a) Concerns that the Local Authority has selectively edited source materials.
  - b) That the Business Case and its accompanying Equality Impact Assessments are inadequate.
  - c) That there is a lack of transparency evidenced in the fact that the Local Authority did not make available minutes of the meetings during the course of the consultation itself.
  - d) That there is a failure to compare objectively against other Local Authority schools in terms of school performance, for example, Fullhurst and New College and school places, for example, New College and Babington. That the Local Authority has already made plans to dispose of the site and make use of the land or accompanying revenues.
  - e) That promises to rebuild Riverside have been broken.
  - f) That the Local Authority Admissions Service has systematically discriminated against Riverside over several years by turning away parents and stating that the school is full.
  - g) That the Local Authority has failed to translate materials.
  - h) That the closure of the school will deprive the neighbourhood of a valuable facility and neighbourhood school.
  - i) That residents were not informed and not provided with an opportunity to respond.

5.10 In addition to the above, Cabinet will wish to note that the City Council has received a number of identical responses. The key points raised in these photocopied responses are as follows:

- j) No context or comparator information has been provided for financial data used in the report.
- k) Other city schools performing at similar levels (Fullhurst and New College) and places unfilled (New College and Babington) have not been used for comparative purposes.
- l) That the equality impact assessment presented is illegal.
- m) That facts in the business case are mistruths.
- n) That the impact on the local area has been overlooked.
- o) That insufficient assessments on the impact of young people has occurred.
- p) That subsequent admissions allocation policies have mitigated against the school and that there is a lack of choice without travel.
- q) Provision for SEN will be placed at risk.
- r) Parents require choice and assistance with increased costs.
- s) That the format of the consultation form used was difficult to understand.
- t) That the panel of local authority officers were unable to answer many questions by parents – that there is a lack of trust in those carrying out the process.
- u) No opportunity to discuss alternative options.
- v) That the local authority has consistently failed riverside school.
- w) That current and future turbulence (if closure occurs) will present a far bigger problem than the local authority admits.
- x) That lies have been told that the consultation meeting regarding riverside remaining in the building schools for the future programme.
- y) That the Local Authority has a short-term focus.

## 6. City Council response to issues raised in the Consultation.

6.1 Clearly the responses above indicate a wide range of concerns in connection with the proposal itself, and the adequacy of the planning and execution of the consultation. The Local Authority does not however accept the above concerns and summary responses to these key points are detailed in **Appendix C**.

6.2 In terms of the broader educational agenda, Cabinet will wish to note the responses received from the Schools and Settings Consultative Committee and NUT in this matter discussed at 6.3 and 6.4 below.

6.3 The response received from the National Union of Teachers and the Schools and Settings Consultative Committee Teachers' Panel indicates that *"the Teaching Unions recognise that on current student number projections, Riverside BEC is not sustainable, both financially and in curriculum terms. We further recognise that in these circumstances the local authority has a duty to act to resolve the situation in the best interests of students and education in the City"*. These comments are predicated

upon recognition that viability cannot be secured within the current 11-16 model. Schools and Settings Consultative Committee Teachers' Panel and the NUT responses state however "*closure is neither the best option for students and families in that part of the City, nor for the future of education provision in the City as a whole*". The response proposes what the respondents call an "*innovative and coherent alternative to closure retaining secondary education at Riverside*". The respondents propose an alternative model based upon a continuum of provision of mainstream and special education around the Ellesmere offer. It is suggested that this includes an intensive language intervention centre as part of this continuum and that, taken collectively, a Centre of Excellence complex is developed. This of course reflects a re-presentation of Option 4 within the original Business Case, that of establishing flexible, collaborative arrangements amongst local authority maintained schools (see paragraphs 14.6 and 14.7 within the Business Case).

- 6.4 Although respondents at 6.3 above propose a further development this is predicated upon similar premises to that contained within Option 4 of the original business case, the Authority notes the inclusion of an Intensive Language Intervention Centre but feel that this itself runs contrary to national guidance upon inclusion and placement of new arrivals. In any event the material factors cited within the business case remain unchanged and such a development is believed unlikely to secure increased parental support and will do little to address the pressing immediate need to secure improved learning outcomes for Riverside students.

## **7. Duty to secure improved standards and inappropriateness of National Challenge Trust Model.**

- 7.1 During the course of the consultation a number of respondents have raised issues about the data used and judgements made by officers in connection with performance at Riverside. The Authority has been asked by parents to provide comparative data for similar schools within the City. The most appropriate benchmark group here is of course those schools who have been identified by the Department for Children, Schools and Families as being part of the National Challenge initiative. **Appendices F and G** provide comparative achievement and financial data for these schools together with summary judgments about value for money.
- 7.2 Members will be aware that the Secretary of State recently announced a review of the adequacy of the City Council's response to this initiative. This review was undertaken in late August and early September 2009 and focused on three of our five National Challenge Schools; Fullhurst, New College and Babington. The review officer, Professor David Woods did not deem it necessary to consider the position at Hamilton and has stated that it would be inappropriate to include Riverside in this review at this point.
- 7.3 After extensive exploration of the Academy option for Fullhurst Community College, Riverside Business & Enterprise College and Babington Community Technology College, it was decided that this option was inappropriate for a number of reasons. DCSF have advised that the minimum size for an Academy is 600.

- 7.4 In view of the above conclusion the City Council has determined to implement alternative governance arrangements in a number of these schools as detailed in a separate report on this current agenda.
- 7.5 With regard to Riverside School and the possibility of the creation of a National Challenge Trust School the City Council are of the view that this would not address the fundamental issue – the collapse in parental preference, underpinning financial viability and secure lasting sustainable change for this School.
- 8. Extended service provision, community impact analysis and community strategy considerations**
- 8.1 Guidance from the Department for Children, Schools and Families makes clear that consideration must be given to the impact of any closure proposal where a school is providing a focal point for family and community activity and providing extended services for a range of users (Guidance - Paragraph 4.36). There is also a need to acknowledge and address concerns raised by respondents during the recent consultation process.
- 8.2 Riverside School is part of the South West Integrated Services Cluster. A 'Core Offer' audit of extended service provision at Riverside was carried out in 2008. The School advised that they offered a Breakfast Club, Food Club and a range of after school activities including a neighbourhood monthly coffee morning and lunch club. In addition the School also indicated that they provide parenting support via a literacy parents group and paired reading training. There were no specific funding applications in 2008/09 and 2009/10 related to extended services provision at Riverside.
- 8.3 The City Council is currently implementing the extended services strategy and is moving towards a neighbourhood model of delivery. The City Council has recently appointed an extended services co-ordinator who will be working in the locality to develop a neighbourhood needs based extended services delivery plan in consultation with key partners and stakeholders. This will enable a co-ordinated approach to the delivery of extended services across the neighbourhood that will meet the needs of the families, children and young people that currently receive extended services through Riverside. This matter is addressed in the attached Detailed Proposal options at **Appendix E**.
- 8.4 A number of respondents have raised concerns about the impact of school closure upon the immediate school community and the broader West Leicester community. Respondents have drawn attention to the performance of neighbouring City schools (e.g. Fullhurst, Samworth Academy, New College, Babington) and expressed a view that these in some way have been favoured by the City Council to the detriment of Riverside. Concerns have also been raised about divisive community and school based behaviours across West Leicester. This finds expression in respondents' views that primary schools have specifically briefed against Riverside at secondary transfer and concerns about behaviour management and bullying in other secondary schools

within the area. These reflect deep-seated tensions within communities and may themselves mitigate against community cohesion. It is clear that the majority of parents (>90%) within the Riverside priority area have in recent years expressed preference for schools other than Riverside even if this has entailed travel outside the immediate local community.

- 8.5 The proposed closure of Riverside School will help ensure more sustainable schools within this immediate part of Leicester. The proposed closure and revised admission arrangements documented in the attached Detailed Proposal options will help open up access to improved educational opportunities for young people – something that parents within the current priority area who are expressing preferences for alternative schools are clearly trying to achieve. In this sense the proposed closure of this school contributes not only to improved individual outcomes but greater social mobility, inclusion and ultimately improved community cohesion itself.
- 8.6 In considering the phased closure of Riverside School the City Council has been mindful of respondents views about vulnerable groups and the potential impact of these proposals upon particular cohorts and their families. Related issues and strategies for addressing these are detailed in the accompanying Detailed Proposal options which, if implemented, will result in closure in either August 2011 or August 2012 dependent upon the Detailed Proposal option agreed by Cabinet.
- 8.7 These options are summarized below and are presented for Cabinet consideration and inclusion at **Appendix E**.

## 9. Transition Options

- 9.1 In response to recent representations received from the School Leadership Team and Governing Body, revisions have been made to the transition options presented to Scrutiny on 23<sup>rd</sup> September 2009.
- 9.2 Cabinet is invited to consider two transitional options/closure pathways and identify one for publication within **Section 2** of the Detailed Proposal at **Appendix E**.
- 9.3 These options are summarized in **Appendix H**.
- 9.4 **Option 1** is that presented to Scrutiny on 23<sup>rd</sup> September 2009 – namely phased closure of the School in August 2012. This option avoids the need to disperse the incoming year 10 group at September 2010.
- 9.5 The City Council's Equality Impact Analysis (**Appendix D**) has identified that this particular cohort has the highest proportion of students with statements of special educational needs and that such an alternative path might impact adversely upon this group.
- 9.6 **Option 2** enables completion of key stages and would enable closure to be brought forward to 31<sup>st</sup> August 2011. This option has been proposed by the School

Leadership Team and Governing Body. Both indicate that this may have greater benefits for pupils and minimise adverse impact on staff and pupils.

9.7 Cabinet is invited to express a clear preference for either **Option 1** or **Option 2** for inclusion within **Section 2** of the Detailed Proposal at **Appendix E**.

9.8 The City Council recognise that school organisation decisions contribute towards community cohesion and community safety for young people and their families. The City Council acknowledge that ideally there should be an accord with stakeholders on this; there is of course also a requirement upon the Authority to reconcile this with its duty to secure school improvement, deliver value for money and meet public law obligations. These matters are addressed below.

## **10. Reconciliation of European Human Rights Legislation concerns and public law duty.**

10.1 If Cabinet implement the recommendations within this Report it is possible that some parents will express concerns about the curtailment of their parental choice and issues raised in connection with the fact that some of the nearest local secondary schools with the shortest travel time are single sex entry or a City Academy.

10.2 Officers have considered this potential concern and in response recommend to members an alternative admission arrangement that maximizes choice for affected cohorts within the Riverside priority area, see Sections 4.14 and 4.15 above. Officers are also mindful of the need to be alert to potential abuse of this alternative arrangement and have therefore sought to make clear the terms under which alternative admission arrangements will be agreed and indeed challenged by officers under the Admissions Code, 2009.

10.3 In considering the content of this report and recommendations below, Cabinet must of course be mindful of its duty to promote and protect individual rights to “choice” in the context of its broader public responsibilities. In this context this means that the Council must seek to promote a higher quality education for all while exercising prudence with public resources and use proportionate means to secure better outcomes for the pupils and the wider community and City.

10.4 It is the view of officers that the Council has, throughout the Consultation process to date, done this fairly, lawfully and proportionately.

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

11.1 This report contains a clear recommendation that Cabinet publish a Statutory Notice and Detailed Proposal stating intent to close Riverside School. In recognition of the issues raised in the sections above and concerns expressed during the 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.

- 11.2 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.

## **12. FINANCIAL, LEGAL AND OTHER IMPLICATIONS**

### **12.1. Financial Implications**

- 12.1.1 Schools are funded through the local schools funding formula, which is driven largely by the number of pupils on roll in the January preceding the financial year.
- 12.1.2 Due to the decreasing number of pupils on roll and the uneven distribution of those pupils across the year cohorts, Riverside Business and Enterprise College finds it increasingly difficult to operate within its formula funding. Therefore the school has required significant additional financial support to enable it to continue to offer appropriate levels of teaching and learning. It received an additional £250,000 in 2007/08, £300,000 in 2008/09 and £815,000 was set aside for the College for 2009/10 as part of the budget planning process. Officers are working with the school to establish how much of this sum will be required in 2009/10.
- 12.1.3 Further work will need to be completed to assess the ongoing costs at the school according to the curriculum needs of the pupils at Riverside dependent upon the Detailed Proposal option agreed by Cabinet. However if, in due course, a decision is taken to effect a phased closure of the College then additional costs will be incurred in the short term over the closure period. These will include additional funding to maintain the appropriate levels of teaching and learning for the remaining pupils; potential redundancy costs and additional transport costs. This will be covered in more detail in future reports.
- 12.1.4 However some estimates can be made. For example, the College's formula funding would progressively reduce each year as the larger year groups leave at the top end of the school. The College's current formula budget allocation is £3.1m for 2009/10, which would potentially reduce to approximately £2.5m, £1.6m and £1.2m in the following financial years.
- 12.1.5 It should be noted that these estimates are for a full financial year; under national regulations, schools must be funded on the basis of the pupil numbers in the January preceding the financial year (e.g. the pupil numbers at January 2010 will drive the 2010/11 formula budget). This does lead to the possibility that the College would be funded on a pupil roll for the whole financial year, whereas that number of pupils only apply until August with a much reduced roll at September. However it may be possible to fund the College for part year pupil numbers, which would considerably reduce the formula budget. The regulations state that an element of the formula can relate to "whether a school is to be discontinued in the financial year or the following financial year". Advice will be sought from the DCSF concerning funding part year pupil numbers for a school that is being closed on a phased basis over a number of years,

along with considering the method of funding for schools who are taking in relocated pupils.

- 12.1.6 The precise manner in which the formula budget would be reduced to reflect the part-year pupil numbers, and indeed the extent to which the budget could in practice be reduced given that meeting the needs of the remaining pupils will be a priority, cannot be accurately quantified at this stage,
- 12.1.7 Estimates for potential redundancy costs have been made and these are in the region of £1.5m. This exercise has been calculated on the current staffing, so it is possible that this cost could reduce should staff find other jobs, including through redeployment.
- 12.1.8 It should be noted that it is likely that home to school transport costs to the schools at which pupils are relocated may also be significant.
- 12.1.9 In terms of funding sources, all of the above costs, with the exception of home to school transport, would be chargeable to the overall Schools Budget, funded by Dedicated Schools Grant. Additional support to the Riverside budget would place pressure on the Schools Budget and reduce the funding available for other schools or school-related purposes; however it should of course be noted that one of the drivers for closure is the additional funding that is currently having to be found to support the uneven year cohorts and in particular the very low pupil numbers in the lower years. The one-off redundancy costs would create a significant pressure, however it is possible that these could be capitalised and repaid from DSG over a number of years if necessary.
- 12.1.10 The home to school transport costs would be an extra pressure on the Children's Services General Fund revenue budget, for which there is no identified provision at this stage. This would need to be considered in future years' General Fund budget processes.

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

## **12.2 Legal Implications**

- 12.2.1 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. References to these are found in the main body of the report and more specifically at 4.15 to 4.16 of this report.
  - b) compliance with equalities duties. The Equality Impact Assessment 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 - again, these are referenced in the report (section 9) and the appendices.
- d) Statutory Guidance in relation to proposals to close a maintained mainstream school. Cabinet are advised that this stage represents Stage 2 of the process. After the Statutory Notice and Detailed Proposals are issued there commences a six week period for representations. Cabinet, as the 'Decision Maker' will then be asked to make a final decision (probably in December 2009). 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. This matter, as well as the questions which the Decision Maker needs to consider at the decision-making phase, will be set out in more detail in the next report to Cabinet in readiness for the December meeting.

(Kamal Adatia, Barrister, ext 297044)

**13. Other Implications**

OTHER IMPLICATIONS	YES/NO	Paragraph Within Supporting information	References
Equal Opportunities	Yes	<b>See EIA at Appendix D</b>	
Policy	Yes	<b>Sections 8 – 10</b>	
Sustainable and Environmental	Yes	<b>Section 8</b>	
Crime and Disorder	No		
Human Rights Act	Yes	<b>Section 9</b>	
Elderly/People on Low Income	No		

**14. 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. Revised admissions criterion leads to oversubscription of Riverside Yr 7 cohort in September 2010 and subsequent pressure on other City schools' admissions	L	M	Promote robust measures to combat potential fraudulent applications.  Robust implementation of transport assistance/ distance based criteria as per Detailed Proposal  Provide additional places in target schools as required.
4. 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

			<p>schools experiencing impact.</p> <p>Revisions to curriculum delivery arrangements to support pupils.</p> <p>Revisions to curriculum delivery arrangements to support pupils.</p> <p>Review and potential variation of school closure timeline.</p>
5. Adverse impact on pupils, families and staff	M	H	Implement measures contained with Detailed Proposal

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

Consultation responses – available in members' library.

**16. Consultations**

This paper is wholly concerned with the outcome of a recent consultation exercise.

**17. Report Author**

**TREVOR PRINGLE  
DIVISIONAL DIRECTOR  
PLANNING AND COMMISSIONING**