

## Bath & North East Somerset Council

MEETING: **Council**

MEETING DATE: **14<sup>th</sup> July 2011**

TITLE: **Call-in of Cabinet decision E2233 “Determination of the Statutory Notice to close Culverhay School” – referred to Council from Children and Young People’s Overview and Scrutiny Panel**

WARD: **ALL**

### **AN OPEN PUBLIC ITEM**

#### **List of attachments to this report:**

Appendix 1 Copy of Decision Register Entry Sheet for Decision E2233

Appendix 2 and 2a Children’s Services Officers original report from the Weekly List dated 23<sup>rd</sup> February 2011.

Appendix 3 Original Call-in request signed by 18 Councillors from March 2011.

Appendix 4 Constitutional rules relating to the call-in process

Appendix 5 Terms of Reference for the Call-in as agreed at the Children and Young People Overview and Scrutiny Panel meeting on the 21<sup>st</sup> March 2011

Appendix 6 Minutes from the Children and Young People Overview and Scrutiny Panel meeting on the 21<sup>st</sup> March 2011

Appendix 7 Children’s Services Officers update report on options for the future of Culverhay School

## **1 THE ISSUE**

- 1.1 As part of the Council’s Constitution, Cabinet decisions that have been made but not yet implemented can be “called in” by a request from any 10 Councillors who are not part of the Cabinet. The call-in request is considered by the relevant Overview and Scrutiny Panel, who can decide whether to dismiss the call-in request, uphold it (ie: refer the decision back to the Cabinet for reconsideration) or refer the issue to Council to carry out the role of the Panel.
- 1.2 In late February 2011, a Cabinet decision was made about Culverhay School that was then called in during early March. The Children and Young People Overview and Scrutiny Panel considered the reasons for submitting the call-in request, with additional information and evidence, and decided to refer the call-in request to Council.
- 1.3 In carrying out the role of the Panel, the Council has to decide if the call-in request should be dismissed (i.e: allow the decision to proceed as originally set out) or upheld (referred back to the Cabinet for re-consideration in the light of reasons stated by Council).
- 1.4 As a result of the 2011 local elections, there has been a break in the usual call-in process and a change of Administration and Cabinet. The background to the review of Bath secondary schools and previous decisions made including the proposal to close Culverhay are set out in Appendix 7, together with information on the issues and risks associated with both the possible closure of Culverhay or its retention as part of secondary school provision in Bath.

## 2 RECOMMENDATION

- 2.1 In light of the reasons in the call-in request, and those expressed by the Children and Young People Panel when referring the issue to Council, Council is asked to decide to either;
- a) Dismiss the call-in request (in which case the decision can be put into action immediately); **OR**
  - b) Uphold the call-in request, and therefore refer the decision back to Cabinet for reconsideration, setting out the reasons why it has decided that the decision should be reconsidered.

## 3 FINANCIAL IMPLICATIONS

The call in process has no financial considerations

## 4 RISK MANAGEMENT

Not applicable

## 5 EQUALITIES

Equalities implications need to be taken into account in both the original and any reconsidered decision but are not applicable to the call in

## 6 BACKGROUND

- 6.1 Under the Council's Constitution, any 10 Councillors (not in the Council's Cabinet) may ask that a Cabinet or Single Member Decision is reconsidered by the person or body who made it. This request or "call-in" must be made during a 5 working day period immediately after the decision, and before it is put into action. If a call-in request is received, it then prevents any action being taken until the call-in request is considered by an Overview and Scrutiny Panel.
- 6.2 Decision E2233 "Determination of the Statutory Notice to close Culverhay School" was made on 23<sup>rd</sup> February 2011 and published on the Weekly List on the 25<sup>th</sup> February 2011 (Appendix 1) following consideration of the officer report (Appendix 2 and 2a). It was a Single Member Decision made by the then Cabinet Member for Children's Services (Councillor Chris Watt). This decision was part of a larger process regarding the future of secondary school provision in Bath and North East Somerset; more details can be found from the background papers mentioned at the end of this report.
- 6.3 A call-in request for this decision was made by 18 Councillors - received on 3<sup>rd</sup> March 2011 and validated on 4<sup>th</sup> March 2011. The Monitoring Officer, on behalf of the Chief Executive, validated the call-in and confirmed that it conformed to constitutional requirements in terms of time of receipt and number of Members validly subscribing to it. Appendix 3 sets out the reasons for the call-in request.
- 6.4 A call-in meeting was held by the Children and Young People Overview and Scrutiny Panel on the 21<sup>st</sup> March 2011, where the Panel considered the reasons for the call-in request that had been submitted, with additional information and evidence (see Appendix 6 – for the full minutes of this meeting). The Panel were asked to decide whether to uphold or dismiss the call-in request, or refer the issue to the Council to undertake the role of the Panel.
- 6.5 The Panel decided to refer the issue to the Council to undertake the role of the Panel for three reasons:

- (1) The Panel felt that a full Equalities Impact Assessment should have been carried out
- (2) The Panel were concerned that the parent survey should be validated by the Authority
- (3) That it was the wrong time in the electoral period for this decision to be made

## 7 PROCESS

7.1 To conduct the Panel's role in the call-in process, Council should

7.1.2 remind itself of the issues to be considered and consider any additional written information supplied;

7.1.3 adhere to the original terms of reference (including scope) of the consideration of the call-in request, as agreed by Children and Young People's Panel and set out in appendix 5;

7.1.4 debate and determine the Council's response to the referred "call-in" request in accordance with usual council procedures by making proposals and counter proposals in the form of motions and amendments; and

7.1.5 Decide to either

- a) Dismiss the call-in request, in which case the decision shall take effect immediately; OR
- b) Uphold the call-in request, and therefore refer the decision back to the decision-maker for reconsideration, setting out the reasons why it has decided that the decision should be reconsidered.

## 8 CONSULTATION

The Terms of Reference for consideration of the "call-in" request were drafted in consultation with the Chair and members of the Children and Young People Overview and Scrutiny Panel.

<b>Contact person</b>	Lauren Rushen, O&S Project Officer 01225 394456
<b>Background papers</b>	<p>Agenda and Minutes from the following meetings:</p> <ol style="list-style-type: none"> <li>1. Cabinet 21<sup>st</sup> July 2010 'Review of Secondary Schools in Bath'</li> <li>2. Children and Young People Overview and Scrutiny Panel 10<sup>th</sup> August 2010 'call-in of Decision E2097 A Review of Secondary Schools in Bath'</li> <li>3. Cabinet 18<sup>th</sup> August 2010 'Consideration of Call-in Referral'</li> <li>4. Cabinet 25<sup>th</sup> November 2010 'Consultation on the Proposal to Close Culverhay'</li> <li>5. Children and Young People Overview and Scrutiny Panel 14<sup>th</sup> December 'Call-in of Decision E2181 Consultation on the Proposal to Close Culverhay School'</li> </ol> <p>Councils Constitution.</p>