

CYNGOR SIR POWYS COUNTY COUNCIL.

CABINET EXECUTIVE

7th February 2017

REPORT AUTHOR: Councillor Arwel Jones, Portfolio Holder for Education

SUBJECT: Llanfyllin High School Whistleblowing Report

REPORT FOR: Recommendation

1.0. Background

1.1. In late October 2016, the Council received a whistleblowing complaint about a number of matters concerning the governance of Llanfyllin High School. The Council and the Governing Body agreed that the concerns should be conducted by an independent person under the provisions of the school's and the council's Whistleblowing Policies. It was agreed that independent investigation should be carried out by Jonathan Walters, a Barrister and part-time Employment Tribunal Judge.

1.2. A copy of the investigation report by Jonathan Walters was received on Tuesday 31st January 2017 and a redacted copy of that report is attached as Appendix A.

2.0 The Investigation Report

- 2.1. The methodology in the preparation of the report is set out in Section 4 of the Report on pages 8 – 10, but essentially some witnesses were interviewed and some were asked to comment in writing upon the whistleblowing allegations.
- 2.2. The Investigator has considered each of the 28 allegations made by the Whistle-blower and Members will see that 11 of the allegations was upheld by the Investigator and 17 of the allegations were not upheld by the Investigator.
- 2.3. Section 7 (page 53) of the Investigator's report contains 11 recommendations and the purpose of this report is for Cabinet to consider what action, if any, should be taken upon receipt of the findings and recommendations in the report.
- 2.4. The Investigator's recommendations and the reasons for each recommendation are as follows:-

“RECOMMENDATION 1

That the governing body establishes a committee with the sole purpose of analysing the academic results in order to better understand the reasons for poor performance and to address the same.

REASON

I am not satisfied that any adequate attempt has been made to address the matters in order for the school to make progress in meeting its aims and objectives.

RECOMMENDATION 2

That in so far as the finance policy is still not fit for purpose that immediate action is taken to remedy this.

REASON

The school is in breach of the 2000 Regulations if a credible plan is not in place.

RECOMMENDATION 3

That the governing body ensures that terms of reference are in place for all the committees it operates. The terms of reference need be no more onerous than those set out by Governors Wales.

RECOMMENDATION 4

That terms of reference are devised for the chair and acting chair.

REASON

I am concerned that transparency of action is maintained and that the chair/vice-chair of the governing body understand the parameters in which they must operate. Powers which are to be delegated should be made expressly clear and terms of reference are an essential part of that process. Too many informal ad hoc chats with head teachers leads to a misalignment and blurring of the roles and responsibilities of both the chair/vice-chair and head teacher.

RECOMMENDATION 5

The minutes of meetings should include areas of disagreement and reasons for the same. They should include all papers and reports referred to and they should be appended.

REASON

To comply with the 2005 Regulations and to ensure transparency of process.

RECOMMENDATION 6

That the draft minutes of every meeting are circulated to all governors well in advance of the next meeting and certainly not less than seven days before the next meeting.

REASON

It is important that the minutes of meetings are properly scrutinised and not rubber stamped.

RECOMMENDATION 7

That the head teacher and the chair of governors should provide a written report to the governors meeting which should be circulated to all governors not less than 7 days before the date of the meeting at which the reports are to be considered. Where reports refer to data or are based upon the same then the data should also be provided at the same time. The reports should set out a full history of the actions of the chair and any interactions with the head teacher and vice versa (subject to any confidentiality issues).

REASON

To allow for meaningful consideration and discussion, and to avoid a situation where facts are known to some but not all governors and to avoid unilateral and unaccountable actions.

RECOMMENDATION 8

That the governing body makes immediate progress in identifying how it proposes to deliver a curriculum in the years ahead in order that realistic financial planning can occur.

REASON

In light of the likely falling roll due to compliance with the council's Delegated Scheme for the Financing of Schools the school needs to ensure that it is not operating a deficit budget. Early planning is essential in order to avoid catastrophic consequences including compulsory redundancies.

RECOMMENDATION 9

Governors should be provided with additional support by way of training in order to undertake their duties in accordance with legislation and good practice. This may involve 'shadowing' other governing bodies or governors in order to understand best practice.

REASON

I am not convinced that all governors understand the predicament that the school is facing. This has occurred in part because of a longstanding failure to hold the SLT to account for performance. This is a failing of members of the governing body both collectively and individually.

RECOMMENDATION 10

Governors should receive training on whistleblowing and the proper treatment of whistle-blowers.

REASON

Some of those who have provided evidence have spoken in intemperate language about the perceived whistle-blower and the events leading to the complaint.

RECOMMENDATION 11

On his return from his sabbatical the chair of governors should meet as soon as practicable with the acting head teacher and the council's education officers in order to ensure that there is a strategy in place to avoid the school entering into special measures.

REASON

In my view the governing body was treading water during the autumn term of 2016 waiting for the return of Mr. Mayor as a governor. His month long sabbatical in January 2017 was most unfortunately timed. No doubt it was long planned. If it was then it should have been made clear to the other governors prior to the election in early December 2016 and not shared for the first time with the whole governing body on the 31st December 2016. In my judgment such conduct fell below the high standards I would ordinarily expect of Mr. Mayor. Another month has past, therefore, and in my judgment time is now of the essence for the school. It is essential that progress is made in addressing weaknesses and failings.”

3. Proposal

- 3.1. In light of the concerns raised by the Investigator in the report particularly in relation to the Governing Body's failure to deal with the school's finances and falling educational standards within the school, I consider that the Governing Body require additional support to enable them to deal with these issues, and accordingly I recommend that the Council use its best endeavours to appoint up to 3 additional Governors to the Governing Body.
- 3.2. The school has been classified by Estyn as 'in need of significant improvement' and more than 10 days has elapsed since the Estyn Chief Inspector gave notification of such categorisation to the Local authority. As such, the Council is able to take appropriate action without the need to first send the Governing Body a warning letter. Sections 4 and 6 of the Schools Standards and Organisation (Wales) Act 2013 allows the Council to appoint additional Governors to a Governing Body. In the circumstances described above, I recommend that up to 3 additional Governors should be appointed to provide additional support to the Governing Body.
- 3.3. I also recommend that Cabinet require the Governing Body to provide a written response and action plan setting out the measures which they intend to put in place to deal with all the recommendations in the Investigation Report (save for recommendations 9 and 10 which are matters for the Council). I consider that the action plan is urgent and I therefore propose that the action plan should be made available and presented personally to me within 28 days.
- 3.4 If I consider the action plan does not adequately deal with the recommendations in the Investigation Report, I would intend to

bring a further report to Cabinet on the 14th March, (before the start of Purdah) so that Cabinet can consider what further action, if any, would be appropriate.

- 3.5. Numbered recommendations 9 and 10 in the Investigation Report require actions by the Council, and in the circumstances I would propose that the Cabinet require the Head of Schools to produce a written action plan and present it to me dealing with those recommendations within 28 days.

Local Member(s)

In light of the short time available between the receipt of the report and the publication of the report it has not been possible to obtain the views of local Members prior to publication. In the circumstance Local Members who wish to comment may submit written comments which will be provided to Cabinet before the Report is considered. Alternatively, Local Members may wish to attend the Cabinet meeting and could indicate to the Leader before the start of the meeting that he/ she wishes to speak. Local Members may wish to submit a written comment and attend the meeting to speak.

Comments from Chair and Vice Chair of Governing Body

On page 4 2.9 says that the exam results were 'a lot worse than anticipated'. This was only true for Maths. The statement to me suggests the poor results were spread across the curriculum.

At 2.11 it says Mr Mayor was reappointed. It should read [REDACTED].

At 6.7 e it was not true that we had at least 5 working days from when I was aware that we should have held an election. It was 4.
I am concerned that the advice I was given was perhaps incorrect and I hope it will be made clear to the council's officer's that I was acting on best advice.

At 6.17 It is true that there had not been a curriculum meeting at the time of the complaint but this did not mean that matters weren't being addressed. In fact the first teachers twilight session of the year in early autumn was all about how to improve teaching and, work was being undertaken to compare the performance of different members of staff and how those who were performing less well could be supported. The school was also working closely with ERW and PCCI. I had accompanied the head and deputy head to an improvement board meeting and they had gone straight back to school to implement suggested changes. They were also monitoring closely the Post Inspection Action Plan. More information would have been reported back to governors sooner if we hadn't got so tied up in process.

At 6.26 Mr Walters does not seem to have taken into account that nobody seemed to know how the new e-Fins system was going to work. I believe

Llanfyllin was the first school in Powys to introduce it and the process was unclear.

At 6.27 b. This is very unfair. The [REDACTED] did nothing to hide the results and was quite open about the fact that they were poorer than expected. There was no unwillingness to engage with the governing body, but the governing body was struggling with the lack of a clerk and an acting chair which was why we hadn't had a full meeting earlier in the academic year. It was also untrue that the governing body thought it could 'tread water' but for the same reasons we were struggling to move forward. This was very much exacerbated in my view by the constant questioning and criticism of [REDACTED] who made it almost impossible to move forward as we were unable to take a sensible pragmatic (and legal) approach to progress. The head teacher was already showing signs of ill health and needed support. I hope the council takes this into account.

There are a number of occasions when the WB has made allegations which I don't not believe to be true , however the specific detail hasn't been investigated because it doesn't change the outcome of the finding. This is all well and good except that an outsider reading the report would infer that I have said or done things that I haven't. An example of this is on page 21 at the end of para c. There was one aspect of the TOR for vice chair that I contested which was that 'live' action points had to be taken using a laptop or tablet and projected onto a screen during the meeting. I did not contest the TOR for chair and certainly not that the chair should report back to the Governing Body if there was something to report. I did, in advance of one of the meetings say that I had nothing to report that wouldn't be picked up elsewhere on the agenda.

Another example at 6.9 g where the [REDACTED] said that the 'excuse' for not updating the finance policy was that the [REDACTED] did not know how the e-fins system worked. It was my understanding that he and [REDACTED] had sought advice and no-one knew how it would work in schools as ours was the first to start to use it.

And at 6.14 k [REDACTED] did not replace his PA with a new member of staff as this suggests but gave an existing member of staff SOME of the duties previously carried out by his PA.

On Page 30, under Allegation 2 at a. the WB demonstrated a lack of understanding of what had been done within school. The English results for instance had been tackled the previous year and the curriculum committee had discussed the results and what could be done to improve them. Staffing had been a particular problem for the English department with the head of English off sick for some considerable period of time but since that member of staff has moved on the department has been working hard to improve results and provide pupils with additional help where needed.

When it comes to the recommendations

1. I believe this is the role of the curriculum committee and indeed we met on the 19th Jan and discussed what was being done to ensure the Maths and English results were improved and the reasons for the dip in performance. (This was discussed last year for English when the results were poor, they are better this year). It should also be noted that as a result of the work that has already been done the Nov exam results were much improved.
2. Work has already been done on this.
3. Done
4. The existing ones just need to be simplified. TOR's will be adopted at the next full governing board meeting
5. Areas of disagreement are currently included but there is still a discrepancy about the advice from Governors Wales on the detail of minutes required and that of Mr Walters. Currently we are keeping more detailed minutes. I still feel uncomfortable attaching the paper [REDACTED] presented about [REDACTED].
6. Now we have a clerk in place this is happening. The last lot of minutes for full governors were circulated within a week following the meeting being held.
7. I debate this. I think it depends what they have to report, especially if it is covered elsewhere on the agenda. It is our current practice that both the chair and head give a verbal report on any meetings they have had with each other or with outside agencies that have any bearing on the governance of the school in order for full transparency and discussion by the full GB if needed
8. The governing body is addressing this but there have not been staff available to provide governors with the information necessary to do this. We hope this will be resolved imminently with a temporary change to the structure of the senior management team. A joint finance and curriculum meeting was agreed at last week's governors meeting. furthermore due to the uncertainty of future school numbers brought about by the implementation of Reg 5.2 it will be very difficult to model the financial implications on the school. we will do our best but until the full impact of implementing Reg 5.2 is known a robust financial plan outlining how we can deliver a dual stream curriculum over the next few years within budget will be extremely difficult.
9. Accept this but I believe governors are well aware of the seriousness of the situation. we welcome whatever support the LEA can give to further equip the GB but we need to be mindful that all though fully committed to their role all governors volunteer for this roe and many are professional people making many sacrifices ton their time to fulfil this role..
10. I can't comment. this would be welcomed and I suggest that an officer attends aa GB meeting to conduct such training

11. I think we are already working hard to achieve this and this work has continued in the chairs absence. This recommendation suggests that we haven't been making progress in Darren's absence and this simply isn't true, although of course we will be glad to have him back. whilst away on sabbatical - which was not "long planned" - the GB was not treading water in my opinion. before the end of the Autumn term I ensured that a full program of meetings were planned for January ensuring that many issues were discussed and action taken to ensure that the school moved forward. on my return I am confident that the school has moved forward.

In putting together the report to the council I hope that perhaps there will be some recognition of the problems that the governing body was facing at the time of the complaint, with an acting chair, a head teacher who was suffering from ill health and needed support, no clerk at the start of the year and as mentioned above a member of the governing body whose constant questioning of process and procedure made it impossible to function effectively.

Other Front Line Services

N/A

Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)

Legal – The recommendations can be supported from a legal point of view.

Local Service Board/Partnerships/Stakeholders etc

N/A

Corporate Communications

Statutory Officers

The Solicitor to the Council (Monitoring Officer) has commented as follows: “ I note the legal comment and have nothing to add to the report

Strategic Director – Resources (Section 151 Officer) comments will be given at the meeting.

Members' Interests

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

Recommendation:	Reason for Recommendation:
<p>1) That the Portfolio holder for Education is granted delegated authority to use his best endeavours to appoint up to an additional 3 Governors to the Governing Body of Llanfyllin High School.</p> <p>2) That the Governing Body of Llanfyllin high School is required to provide a written action plan dealing with the numbered recommendations 1 to 8 (inclusive) and 11 in the Investigators Report and present the Action Plan to the Portfolio holder for Education within 28 days.</p> <p>3) That the Head of Schools Service is required to produce an Action plan to deal with numbered recommendations 9 and 10 of the Investigation Report within 28 days.</p> <p>4) In the event that the Portfolio Holder for Education is not satisfied with either of the action plans referred to in 2 and 3 above, that the Portfolio Holder brings a further report to Cabinet on the 14th March 2017 to enable Cabinet to consider what, if any, further action is required.</p>	<p>To provide additional support to the Governing Body</p> <p>To ensure that the recommendations in the Investigation Report are properly dealt with</p> <p>To ensure that the recommendations in the Investigation Report are properly dealt with</p> <p>To ensure that the recommendations in the Investigation Report are properly dealt with</p>

Relevant Policy (ies):			
Within Policy:	Y	Within Budget:	Y

Relevant Local Member(s):	Cllrs Arwel Jones; Barry Thomas; Peter Lewis; Aled Davies; Gwynfor Thomas; Darren Mayor
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Person(s) To Implement Decision:	Head of Schools
Date By When Decision To Be Implemented:	As soon as possible

Contact Officer Name:	Tel:	Fax:	Email:
Clive Pinney	01597 826746		clive.pinney@powys.gov.uk

Background Papers used to prepare Report:

Confidential Background Papers - containing a file of witness evidence collected by the Investigator (with the exception of evidence from the Whistleblower whose identity must remain protected)