

AGENDA SUPPLEMENT (1)

Meeting: Cabinet
Place: Council Chamber - Council Offices, Monkton Park, Chippenham
Date: Tuesday 14 June 2011
Time: 10.30 am

The Agenda for the above meeting was published on 6 June 2011 and indicated that the report/s detailed below would be to follow. These are now available and is/are attached to this Agenda Supplement.

Please direct any enquiries on this Agenda to Yamina Rhouati, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718024 or email yamina.rhouati@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225)713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

9. **Complaint - Wiltshire Involvement Network** (Pages 1 - 20)

Report of the Chief Executive is circulated

URGENT ITEM

11. **Proposed closure of Grafton Primary School** (Pages 21 - 42)

🔑 Report of the Director for Children and Education is circulated

DATE OF PUBLICATION: 8 June 2011

Wiltshire Council

Cabinet

14 June 2011

Subject: Wiltshire Involvement Network Complaint Review

Cabinet member: Cllr Jane Scott - Leader of the Council

Key Decision: No

Executive Summary

1. Following considerable public interest in the Council's handling of a complaint arising from a meeting of the Core Group of Wiltshire Involvement Network (WIN) on 10 August 2010, the Leader of Wiltshire Council asked the Chief Executive to instigate a review of the process followed by the Council in dealing with the complaint and to report the outcome to a subsequent meeting of the Cabinet.
2. The review was undertaken by the Head of Legal Services. His report concludes that it was appropriate in the circumstances for the Council to investigate the complaint but identifies a number of shortcomings in the process that was followed. The report makes the following recommendations:
 - a. The Investigation Report dated 31 August 2010 is withdrawn.
 - b. A full review is undertaken of the structure/governance/decision making process of the LINK arrangement to establish whether there is clear and appropriate governance processes in place including the following: -
 - i. dealing with Equality and Diversity issues and, in particular, complaints concerning the same.
 - ii. dealing with governance/decision making if for any reason an appointed host organisation or third party is no longer in place.
 - c. A review of Wiltshire Council's policies and procedures when dealing with complaints made to the Council about third party bodies with which the Council is involved to ensure that there are clear guidelines for officers when dealing with these issues.
 - d. The reviews set out in b. and c. above to provide the basis for a staged review of other third party arrangements within the Council.
 - e. A reminder/training to all staff to obtain legal advice at an early stage when dealing with situations which involve complexity, political sensitivity and/or governance arrangements with third parties.

Proposal(s)

Cabinet is asked to note the report and endorse the recommendations within it as set out above.

Reason for Proposal

To improve the arrangements for dealing with complaints of this nature involving third parties and to enable the Council to fulfil its responsibilities under the relevant legislation more effectively..

Andrew Kerr
Chief Executive

Wiltshire Council

Cabinet

14 June 2011

Subject: Wiltshire Involvement Network Complaint Review

Cabinet member: Cllr Jane Scott OBE - Leader of the Council

Key Decision: No

Purpose of Report

1. The purpose of this report is:-
 - (a) To advise Cabinet of the outcome of a review commissioned by the Chief Executive into the process followed in connection with the investigation of a complaint arising from a meeting of Wiltshire Involvement Network (WIN) on 10 August 2010.
 - (b) To ask Cabinet to consider the recommendations made in the review report.

Background

2. On 10 August 2010 a meeting of the Core Group of Wiltshire Involvement Network took place at the Potterne Wick Scout Centre. During the meeting a Core Group member took exception to a phrase used by the chair and a discussion occurred between some members of the Group. The member made a complaint to Wiltshire Council and an investigation was commenced. The investigation was concluded on 31 August 2010.
3. In the light of considerable public interest in the handling of the complaint during February 2011 the Leader asked the Chief Executive to instigate a review of the process followed by the Council in dealing with the complaint and to report the outcome to a subsequent meeting of the Cabinet.

Main Considerations for the Council

4. The review was undertaken by the Head of Legal Services. A copy of his report and recommendations are attached at Appendix 1.
5. The review has identified the following: -

- a. There was no host organisation in place for oversight of WIN at the material time, as required by the Local Government and Public Involvement in Health Act 2007;
- b. The making of the complaint to Wiltshire Council was appropriate.
- c. Whilst the decision by Wiltshire Council to accept and carry out an investigation into the complaint regarding equality and diversity was appropriate, best practice was not followed as WIN was not consulted before the commencement of the investigation.
- d. There was a failure to follow the rules of natural justice, as those who were the subject of the complaint investigation were not given an opportunity to make representations on the allegations.
- e. The investigation report does not set out the tests applied by the investigator and, therefore, it is difficult for the parties to be satisfied that all relevant considerations were taken into account.
- f. The decision to suspend contact was inappropriate and potentially in breach of a statutory duty imposed on Wiltshire Council.
- g. It would be difficult for any re-investigation to achieve finality that would enable the parties to go forward.

6. The review makes the following recommendations: -

- a) The Investigation Report dated 31 August 2010 is withdrawn.
- b) A full review is undertaken of the structure, governance, decision making process of the LINK arrangement to establish whether there is clear and appropriate governance processes in place including the following: -
 - i. dealing with Equality and Diversity issues and, in particular, complaints concerning the same.
 - ii. dealing with governance/decision making if for any reason an appointed host organisation or third party is no longer in place.
- c) A review of Wiltshire Council's policies and procedures when dealing with complaints made to the Council about third party

bodies with which the Council is involved to ensure that there are clear guidelines for officers when dealing with these issues.

- d) The reviews set out in b. and c. above to provide the basis for a staged review of other third party arrangements within the Council.
- e) A reminder/training to all staff to obtain legal advice at an early stage when dealing with situations which involve complexity, political sensitivity and/or governance arrangements with third parties.

Environmental and climate change considerations

- 7. There are no environmental and climate change considerations.

Equalities Impact of the Proposal

- 8. The proposal will have a positive impact on equality and inclusion and will contribute towards the Council's commitment to tackling inequalities and promoting cohesive communities in Wiltshire in accordance with its responsibilities under the Equality Act 2010.

Risk Assessment

- 9. Adoption of the proposal will reduce the risk of a challenge in respect of the Council's obligations under the Equality Act 2010 and any associated reputational risk.

Financial Implications

- 10. None arising from this report. The review work recommended in paragraph 6 above will be carried out within existing resources.

Legal Implications

- .11. These are covered in the review report.

Conclusion

- 12. Whilst it is recognised that this has been a difficult matter for all concerned, this review has provided a valuable opportunity to learn lessons from what happened. Implementation of the review recommendations will ensure that improved arrangements are in place to deal with such issues if they arise in the future.

Andrew Kerr
Chief Executive

Report Author:

Mr Frank Cain
Head of Legal Services and Deputy Monitoring Officer

Background Papers

The following unpublished documents have been relied on in the preparation of this report:

None

Appendices

WIN Review prepared By Frank Cain, Head of Legal Services

REPORT

EXECUTIVE SUMMARY

On 10 August 2011 there was a meeting of the core group of Wiltshire Involvement Network at the Potterne Wick Scout Centre. During the meeting a Core Group member took exception to a phrase used by the chair and a discussion occurred between some members of the group. The member made a complaint to Wiltshire Council Officers and an investigation was commenced.

The investigation was concluded. There has been dispute about the complaint, the investigation and the outcome. A review was undertaken in respect of the circumstances surrounding these events to establish whether Wiltshire Council's actions have been appropriate and to make recommendations for any improvements in the future.

The series of events that transpired in this matter are each unusual which would allow one to describe the overall process as unique. This series of events included the fact that the host organisation's contract had recently been terminated. During the hiatus and before the replacement host organisation had been appointed an incident occurred which raised issues of equality and diversity which potentially affected diversity which potentially affected four different organisations. There is also the failure of an email to reach the WIN Chair which resulted in what was an apparent miscommunication.

The review has the benefit of hindsight and hindsight always provides twenty/twenty vision. The review does not cast any fault on any particular person or officer.

The review has identified the following: -

- a. There was no host organisation in place for oversight of WIN at the time of the incident contrary to a statutory duty imposed on Wiltshire Council.
- b. The making of the complaint to Wiltshire Council was appropriate.
- c. The decision by Wiltshire Council to accept and carry out an investigation into the complaint regarding equality and diversity was appropriate however best practice was not followed as WIN was not consulted before the commencement of the investigation.
- d. There was a failure to follow the rules of natural justice as the persons the subject of an investigation were not given an opportunity to make representations on the allegations.
- e. The investigation report does not set out the tests applied by the investigator and therefore it is difficult for the parties to be satisfied that all relevant considerations were taken into account.

- f. The decision to suspend contact was inappropriate and potentially in breach of a statutory duty imposed on Wiltshire Council.
- g. It would be difficult for any re-investigation to achieve finality whereby the parties would be able to go forward.

The review makes the following recommendations: -

- 1. The Investigation report dated 31 August 2010 be withdrawn.
- 2. A full review be undertaken of the structure/governance/decision making process of the LINK arrangement to establish whether there is clear and appropriate governance processes in place including the following: -
 - a. Dealing with Equality and Diversity issues and in particular complaints concerning the same.
 - b. Dealing with governance/decision making if for any reason an appointed host organisation or third party is no longer in place.
- 3. A review of Wiltshire Council's policies and procedures when dealing with complaints made to the Council about third party bodies with which Council have involvement to ensure that there are clear guidelines for Officers when dealing with these issues.
- 4. The reviews set out in 2 and 3 above then form a template for a staged review of other third party arrangements within Council.
- 5. A reminder/training to all staff to obtain legal advice at an early stage when dealing with situations which involve complexity, political sensitivity and or governance arrangements with third parties.

INTRODUCTION

On 10 August 2011 there was a meeting of the core group of Wiltshire Involvement Network at the Potterne Wick Scout Centre. During the meeting a Core Group member took exception to a phrase used by the chair and a discussion occurred between some members of the group. The member made a complaint to Wiltshire Council Officers and an investigation was commenced.

The investigation was concluded. There has been dispute about the complaint, the investigation and the outcome and I have been asked to review the circumstances surrounding these events to establish whether Wiltshire Council's actions have been appropriate and to make recommendations for any improvements in the future.

TERMS OF REFERENCE

1. To establish the legal relationships between:
 - a. Wiltshire Council and Wiltshire Involvement Network (W.I.N).
 - b. Wiltshire Council and Wiltshire and Swindon Users Network(W.S.U.N)
 - c. W.S.U.N and W.I.N.
2. To establish the circumstances surrounding the Complaint detailed in an investigator's report dated 31 August 2011 including why Wiltshire Council investigated this complaint and whether the investigation carried out followed an appropriate process.
3. To establish the circumstances leading to the suspension of contact with WI.N.
4. To provide recommendations based on the facts established as to a process for resolving such complaints in the future.

SCOPE OF ENQUIRIES

I have reviewed the files of the Wiltshire Council Department of Community Services relating to this incident. I have spoken to the Complainant and the Chair and Vice Chair of WIN. I have also spoken with the Service Director, Strategy and Commissioning with the Department for Community Services and the investigating officer. I have also referred to Department of Health Guidance on Local Involvement Networks (LINKs).

WILTSHIRE INVOLVEMENT NETWORK

The purpose of a LINK is to give everybody in the community a chance to say what they think about their local care services and to give people the chance to check how care services in their community are planned and run and to provide feedback of what people have said about services so that things can change for the better.¹ The Wiltshire

¹ Department of Health guidance – Local Involvement Networks explained.

Involvement Network (WIN) was formalised at a public meeting in September 2008 as the Wiltshire LINK.²

The legislation³ required Wiltshire Council to arrange for a host organisation separate from itself to be a body at “arm’s length” from the Council and for that host organisation to assist in the set up of governance arrangements for the LINK. It was anticipated that the Local Authority would be the funder, the host organisation would provide the support for the LINK at arm’s length from the Authority and the LINK would be responsible for establishing its own governance frameworks including dealing with complaints, communications between participants, use of resources and establishing a code of conduct.

In October 2008 HAP UK contracted with Wiltshire Council to be the host organisation for WIN. HAP UK was the Host organisation until its contract was terminated prior to 1 August 2010.

I have been unable to identify a formal legal structure for WIN. However WIN has identified that it does have formal governance procedures in place. I have been supplied with copies of WIN Standing Operational Procedures, Core Group Member Role, Conflict of Interest Policy, The LINK’s Complaints Policy and a document headed HAP UK draft Equality and Diversity Policy (WIN version). WIN Management advised me that these documents were all adopted by WIN whilst HAP UK was fulfilling its host role and were applicable to WIN.

I have therefore treated WIN as an unincorporated Society of the 20 core group members governed by the above documents separate from Wiltshire Council.

WILTSHIRE AND SWINDON USERS NETWORK

Wiltshire and Swindon Users Network (WSUN) is a voluntary organisation set up as a not for profit company limited by Guarantee, Registered in England and Wales No 2870293.⁴ It is therefore a stand alone legal entity separate from the Council.

As at 10 August 2010 WSUN and Wiltshire Council had not entered into a formal agreement for WSUN to provide host services for WIN. However it was intended at that time by Council that WSUN and Age UK would take over the host role in the future.⁵

Therefore at the time of the WIN meeting there was no formal host organisation in place. The signed host agreement between Wiltshire Council and WSUN is dated 15 February 2011 but indicates a start date of 1 August 2010.

THE RELATIONSHIP BETWEEN THE PARTIES AS AT 10 AUGUST 2010

Unfortunately it is not clear what the agreed relationship was at this time. It is clear under the legislation that Wiltshire Council was the funder and WIN was an un-incorporated society charged with monitoring health and social care provisions within Wiltshire.

However there was no clearly defined host organisation for WIN; a requirement under the legislation. WSUN and Age UK were jointly proposed host organisations but this arrangement had not been finalised.

² Wiltshire Council Health Overview & Scrutiny Committee 19 March 2009 agenda item 10.

³ The Local Government and Public Involvement in Health Act 2007

⁴ WSUN Website

⁵ WIN minutes of meeting 10 August 2010.

It would appear that Council Officers attending the WIN meeting considered themselves as merely observers but there is a question whether due to the fact that the host organisation was not in place they may have been obliged to fulfil a greater role to ensure that Wiltshire Council fulfilled its statutory duties.

Under legislation in place at the time the Council was obliged by law to ensure a host organisation for WIN was in place to oversee and assist WIN. Without a host organisation the legislation was not being complied with.

The legislation is silent as to what would happen if for any reason the contract between the Council and the host organisation was terminated however logic and common sense would suggest that the Council may have had to step in as the host until a new host was appointed to ensure the continuity of the LINK which was a statutory duty on the Council.

THE COMPLAINT

The WIN meeting took place between 10.30am and 12.30 am on 10 August 2010. After the meeting but on the same day the Department for Community Services received a telephone call about events at the meeting. This message identified concerns over a comment made and the response from members of various groups. The telephone message requested the equality and diversity policies for WSUN and Age UK and asked for a complaint form.

The verbal complaint was followed up with a detailed email setting out the complainant's concerns which included allegations of potential systemic failings within WIN, WSUN and Age UK and the actions of Wiltshire Council Officers attending the meeting.

A formal complaint form was forwarded to the complainant but no completed complaint form was returned.

I do not see anything untoward in the fact that a formal complaint form was not received. The details of the complaint were communicated to Wiltshire Council in a format where the issues could be clearly identified.

THE DECISION TO INVESTIGATE

Wiltshire Council Officers had received a complaint alleging use of racist words. The complaint also raised issues as to whether Wiltshire Council and its sub-contractors had sufficiently robust procedures in place to meet the statutory duties placed on it and its sub-contractors by the Race Relations Act 1976. The complaint raised issues relating to actions of WIN itself, WSUN and Age UK Officers (the Potential Host organisations) and Wiltshire Council Officers.

The Complainant had also contacted WSUN and Age UK and identified that she wished to lodge complaints with these organisations.

Wiltshire Council in carrying out its functions was obliged to have due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity and good relations between persons of different racial groups.⁶

Paragraph 2.9 of the statutory code on the duty to promote racial equality (which applied at the time of this incident) provided: -

⁶ Section 71 Race Relations Act 1976 this was repealed and replaced by the Equality Act 2010 on 1 October 2010.

When a public authority has a contract or other agreement with a private company or voluntary organisation to carry out its functions and the duty to promote race equality applies to those functions, the public authority remains responsible for meeting the general duty and any specific duties that apply to those functions.

Therefore the Council had a statutory duty to consider the complaint and if not vexatious act on it. I am of the opinion that it was appropriate for Wiltshire Council to take forward the complaint. I base this opinion on a number of factors: -

- a. The then operative Code of Conduct identified that notwithstanding an agreement with a third party to carry out its functions the responsibility under the Race Relations Act remained with the Local Authority.
- b. The complaint if true raised issues of potentially discriminatory words and actions and it would have been difficult for the Council to have ruled it vexatious.
- c. While it was intended that WSUN and Age UK were to become the Host organisation this agreement had not been formalised as at the date of the complaint. Therefore Wiltshire Council stood in the role of the Host Organisation.
- d. The complaint identified allegations of a systemic nature that related to the actions of Officers from all parties including WIN, WSUN, Age UK and Wiltshire Council.
- e. While the complaint relating to the words used could have been referred to WIN who had their own complaints procedure WIN was unlikely to have had the ability to investigate issues relating to WSUN and Age UK in their role as the potential host organisation nor Wiltshire Council Officers.
- f. There was a discussion between Council Officers and WSUN and Age UK officers and it was agreed that Wiltshire Council would take the lead on all complaints.

The Wiltshire Constitution requires that a complaint relating to allegations of potentially discriminatory behaviour be dealt with under stage two of the corporate complaints procedure⁷.

In Wiltshire Council's complaints procedure the investigation under stage two is to be conducted by the Corporate Complaints team. In the present case the Investigation was carried out by an experienced Head of Service who is however not one of the corporate Complaints team.

I understand that the complaint was not taken through the formal corporate complaints procedure as the thinking at the time was that it did not fit the criteria. It appears that the thinking was that Wiltshire Council should only take complaints about staff employed by Wiltshire Council and that matters relating to third parties should be considered contractually⁸.

For the reasons outlined above I do not agree with this thinking in respect of this particular complaint. However the issue highlights the difficulty when dealing with third party groups when clear governance arrangements have not been put in place or where the original arrangements between third parties break down.

⁷ paragraph 8 of Protocol VIII

⁸ Refer email of 11 February 2011 from Mark Edwards to Sue Redmond

I note that legal advice was not taken at the time of this complaint. However legal advice had been earlier sought earlier by the Department regarding a similar complaint involving a third party organisation. That legal advice was supplied when there was a clear contractual relationship with the host organisation. In that case the Host Organisation had requested assistance and the investigation was carried out following the complaints procedure but not utilising the Corporate Complaints Team for the investigation.

I have not found any evidence that Council spoke to WIN before deciding to take forward this complaint. While this failure would not invalidate the investigation I am of the opinion that this was not best practice. The alleged actions of members of the group were not necessarily the actions of the group and the fact that WIN had its own complaints procedures meant that they also could have investigated part of the complaint.

WIN could have been approached, the complaint identified with a proposal that either a joint investigation be conducted with WIN investigating the allegations relating to its members and the Council investigating the allegations relating to the other groups or alternatively seeking WIN's agreement for the one investigation to cover all groups such as had been reached with WSUN and Age UK.

THE INVESTIGATION

The report correctly identifies the complaints that had been raised.⁹ These were three in nature, firstly, an allegation that the words spoken by the chair were racist, secondly the actions of key organisational representatives were not sufficient to meet equality and diversity requirements and thirdly a response allegedly made by one of the core group members was inappropriate and failed to meet equality and diversity standards.

The files indicate that by 5pm on 11 August 2010 the complainant was advised of the name of the investigating Officer. Council's files indicate that the investigation was carried out between 11 August 2010 and 31 August 2010.

Natural Justice issues

When an allegation is made which may adversely affect an individual the allegation should be put to person with sufficient detail for them to consider the allegations and to make representations (one of the rules of natural justice). . These representations may involve more than just establishing the facts. The report identified that the persons the subject of allegations 1 and 3 were not spoken to¹⁰.

On or about 12 August 2010 an invitation was extended to the Chair of WIN to attend a meeting with the investigating officer on 18 August 2010. This invitation appears to have been accepted at 9.49am on the 12th August.

The same day the Chair of WIN emailed the investigating Officer asking for the purpose of the meeting, why it was being called and who would be attending. The investigating Officer attempted to reply immediately setting out the answers to these queries. Unfortunately the WIN Chair never received this email.

On 16 August 2010 the WIN chair again contacted Wiltshire Council Officers asking for the information relating to the meeting and indicated that they needed this information before deciding whether to attend the meeting or not. The original email of the 12th was resent to the WIN Chair on 17 August 2010.

⁹ Part B of the investigation Report dated 31 August 2011.

¹⁰ Part A of the investigation report.

Therefore by 17 August 2010 WIN was aware that there a complaint about the Core group meeting held on 10 August 2010 and that Wiltshire Council had received a complaint and was dealing with that complaint.

I have been unable to ascertain why the meeting did not go ahead. The report records that the request to attend was declined and that is the investigating officer's recollection and the chair denies this. The only documentary evidence I could find is equivocal. It is contained in an email where a Council officer reports a telephone discussion where the Chair is reported as saying that she was unwilling to attend without knowing the purpose of the meeting (which is understandable) and that she had apologized and that as far as she was concerned the case was closed.

It is apparent on the documents that both parties were aware that the meeting on 18 August 2010 was not going ahead. However there appears to have been a miscommunication as why it was not going ahead.

Unfortunately there does not appear to have been any follow up to re-arrange this meeting or to put the specific allegations to the Chair. This should have been done to ensure that rules of natural justice were met.

In respect of the person the subject of allegation 3 the report merely records that the investigator has been unable to meet with the subject. There is no documentary evidence to record why this was so. The investigator's recollection was that this person had also declined to meet however this is not recorded within the files and is not reflected within the report.

The same considerations in respect of the rules of natural justice would apply in respect of this allegation and therefore I would have expected this person to have been spoken with or at the least for the allegations to be put to them and for them to be invited to make any representations.

The failure to ensure the rules of natural justice had been met would be likely to invalidate the report itself.

Referral of complaint/draft report to persons the subject of the complaint:

This is a different aspect to that set out above under the heading Natural Justice. This relates to two aspects; the first being a failure to identify to WIN Officers that a complaint had been made and secondly once the investigation had been concluded providing a copy of the draft report to WIN for their comment before finalising the report.

Identification that Complaint made:

I have already identified a failing in best practice to refer the complaint to WIN at the outset in the section dealing with the decision to investigate,

WIN has complained that they were not aware of the complaint until they received the concluded report on or about 16 November 2010. In strict terms WIN and/or its Officers were or should have been aware that a complaint made been made by 17 August 2010 when the chair received the investigator's email (refer detail above).

However this communication merely identified a complaint had been made. It did not identify the specifics of the complaint. Unfortunately due to the failure to meet no further details were supplied to WIN or its Officers until 16 November when the Host Organisation shared the completed report with the WIN Chairs.

While I do not consider this oversight fatal to the report I do consider it not good practice as it is important that any one the subject of a complaint is aware that the complaint has been received the basic detail of the complaint and the fact that it is being investigated as a formal complaint.

Referral of draft report to WIN:

The report was referred to the complainant and amended as a result of comments made by the complainant on two occasions (15 September and 19 October).

On occasions it is acceptable to refer a draft report to a complainant to ensure that the report fully covers the issues that the complainant has raised and that the report accurately reflects any comments made by the complainant.

However if this approach is adopted then the terms of the referral need to be carefully communicated to the complainant and any amendments and the reasons for the amendment need to be carefully and accurately documented to ensure that no suggestion of bias or influence can be sustained.

While on occasions it is also acceptable to refer a draft report to a person the subject of a complaint this would normally be when the facts are particularly complex and the subject has been spoken to. Again the draft report would be provided for the purpose of ensuring that the report accurately reflects any comments made by the complainant.

In this case as there had been a failure to give the subjects an opportunity to make representations I therefore would not have expected the draft report to be referred to them as a draft as there had not been any comments made that needed the accuracy checked.

THE DECISION

In any investigation the test that is to be applied should be identified. It allows both the complainant and the person/persons the subject of the complaint to know exactly what standard is being applied. In the investigator's report the investigator has not identified the test that she applied when reaching her conclusions.

As the meeting occurred in August 2010 section 3A of the Race Relations Act 1976 would have been applicable.

The test that should have been applied is whether having regard to all the circumstances, including in particular the perception of the receiver of the words or actions the conduct could reasonably be considered to have violated another's dignity or created an intimidating, hostile, degrading, humiliating or offensive environment.

Therefore all the circumstances have to be considered including the perception of the recipient. I am of the opinion that part of this test would be a consideration as to whether it is a reasonably held perception.

A similar test is prescribed in section 26 (1), (4) & (5) of the Equality Act 2010 which replaced the Race Relations Act on 1 October 2010. This provision is in similar terms to s3A of the Race Relations Act 1976 however it specifically requires consideration of whether it is reasonable for the conduct to have that effect.

I am not tasked with re-investigating the complaint however in reviewing the original complaint I do need to consider whether the investigator's decision has followed a lawful process.

The investigating Officer has advised that the test that she applied was “were words said that offended somebody?” The investigating officer indicated she then considered all the circumstances as to the reasonableness. The investigating officer felt that the resistance to an apology was a factor to take into account.

While the term “jungle drums” could, at first glance, meet the tests required under either equality and diversity legislation as somebody could feel humiliated or offended by the term’s use it is impossible for me to conclude whether the conclusions reached by the investigator on the facts of this case are or are not sustainable as neither person subject to allegation 1 or 3 was given the opportunity to make representations on the specific allegations. I am therefore unable to have “regard to all the circumstances” as required by section 3A.

The investigation report is signed off by the Head of Service tasked with conducting the investigation. I have not found any documentation to confirm whether it was or was not placed before the Corporate Leadership Team for confirmation before sign off. The investigating Officer confirmed that she had referred the report to the lead officer before signing it off.

THE SUSPENSION

Council officers were faced with an investigator’s report which had determined that there were unresolved equality and diversity issues. Council Officers were trying to engage with WIN Officers to address these issues. WIN officers had made it plain that they did not accept the findings of the investigation and therefore were not prepared to meet for several months.¹¹.

On 14 January 2011 a letter was sent to the WIN Chair. I set out the contents of this letter in full: -

I refer to the investigation into the complaint made regarding racist remarks at a meeting. The Council takes seriously any allegations of racial abuse.

I would like to meet with you to discuss the report into the complaint. I understand from our telephone conversation that the WIN group do not agree to the recommendations in the report.

Having discussed this within Council I must inform you that until we meet I will be suspending any contact between the existing WIN group and the Council. I will be discussing with Louise Rendle of WSUN how the Council and WSUN will now manage the work of the WIN.

In the meantime I have also asked WSUN to suspend all contact with the WIN.

I have asked my PA Jane Worrall, to arrange a meeting as soon as possible. The onus will be upon you to meet the Council and until this meeting occurs the Council will not be supporting the work of the existing WIN group. Jane can be contacted directly on 01225 713921.

Please do not hesitate to contact me to discuss this matter.

I have not been able to clearly establish the basis for the decision to suspend contact. There is no clear documentation as to why this decision was made nor the basis for this decision. There is an indication that the decision may have been taken because the relationship was

¹¹ Refer email of James Cawley to Mark Edwards of 6 January 2011.

considered contractual in nature and therefore there were only the two options available; try to negotiate or to terminate the contract

The difficulty is that there does not appear to be clear governance arrangements relating to Wiltshire Council's obligations when dealing with equality and diversity issues relating to all three organisations (the LINK, the host organisation and Wiltshire Council). This compounded the difficulty that the Officers faced.

I am concerned however that the decision to suspend contact may have compromised Wiltshire Council's ability to fulfil the statutory duty imposed on it. Wiltshire Council was obliged to put in place provision for hosting a LINK. The suspension of contact meant that WIN was left without any host organisation.

OTHER POINTS:

Decision on Process to Follow

The Officers dealing with this matter were in a difficult position. Any complaint relating to equality and diversity must be treated as serious. It requires sensitive handling because it can generate strong emotions. A complainant can feel intimidated, dis-empowered and/or minimised. A person the subject of the complaint can feel that an unfair allegation has been made against them and/or their own cultural heritage is being challenged. At the same time the Officers were trying to maintain equilibrium in an organisation which was statutorily set up for the public good.

It is therefore important that the Officers decide at the outset the progress of the investigation and what their role is. Is it to attempt conciliation/reconciliation or is it to follow a due process. On occasion the communications appear to have blurred this line thereby creating different expectations from the parties as to the process.

Seeking Legal Advice

The Council files show that the Legal Unit at Wiltshire was only contacted in this matter on 28 January 2011. This was after the investigation had been completed, a decision made on suspension and the parties had become polarised.

Several opportunities were missed to seek legal advice which may have minimised the difficulties that ensued. There were: -

- a. At the time of receipt of the complaint. I note that historic legal advice had been received on a similar complaint which the Officers relied upon. However the circumstances were different with no Host Organisation in place and therefore that advice in its entirety would not have applied.
- b. At the time of appointment of the investigator or during the investigation which would have assisted the investigator to obtain advice on the test to be applied, the rules of natural justice and consideration and methodology for referring the draft report to the complainant/the person the subject of the complaint.
- c. At the time of the decision to suspend contact which would have established whether there was a legal basis for such suspension and the appropriate form of delegation for such a decision to be made.

Benefit of Hindsight:

This review has been completed with the benefit of hindsight and with the benefit of the increased knowledge of the parties and the issues faced. This review is not intended as a criticism of any person but has rather been an examination of the systems in place as at 10 August 2010.

It is apparent that parties have become polarised with their respective views as to whether the words used are or are not racist. It would be difficult for any re-investigation of this issue to achieve finality where the parties would be able to go forward.

The complainant's original complaint rightly focussed on wishing to ensure appropriate equality and diversity policies and procedures were in place with any third party groups linked with Wiltshire Council and I would recommend that this is the appropriate way forward.

The host organisation is now in place. LINK's are an important check and balance within health and social care provision and therefore my recommendations have been focussed on a way forward.

CONCLUSION

The series of events that transpired in this matter are each unusual which would allow one to describe the overall process as unique. This series of events included the fact that the host organisation's contract had recently been terminated. During the hiatus and before the replacement host organisation had been appointed an incident occurred which raised issues of equality and diversity which potentially affected four different organisations. There is also the failure of an email to reach the WIN Chair which resulted in what was an apparent miscommunication.

There is also the ambiguity inherent in the governance/complaints procedure relating to 3rd party contractors/bodies and the over arching duty imposed on public bodies regarding equality and diversity.

RECOMMENDATIONS

I would recommend the following actions: -

1. The Investigation report dated 31 August 2010 is withdrawn.
2. A full review be undertaken of the structure/governance/decision making process of the LINK arrangement to establish whether there is now clear and appropriate governance processes in place including the following: -
 - a. Dealing with Equality and Diversity issues and in particular complaints concerning the same.
 - b. Dealing with governance/decision making if for any reason an appointed host organisation or third party is no longer in place.
3. A review of Wiltshire Council's policies and procedures when dealing with complaints made to the Council about third party bodies with which Council

have involvement to ensure that there are clear guidelines for Officers when dealing with these issues.

4. The reviews set out in 2 and 3 above then form a template for a staged review of other third party arrangements within Council.
5. A reminder/training to all staff to obtain legal advice at an early stage when dealing with situations which involve complexity, political sensitivity and or governance arrangements with third parties.

F.C.CAIN
Barrister
Head of Legal Services and Deputy Monitoring Officer

This page is intentionally left blank

WILTSHIRE COUNCIL

CABINET

14 JUNE 2011

Subject: Proposed Closure of Grafton Primary School

Cabinet member: Councillor Lionel Grundy – Children’s Services

Key Decision: YES

Executive Summary

This report sets out the background to, and results of, the statutory consultation proposing the closure of Grafton Primary School undertaken between 21 April and 2 June 2011.

In February and March 2011 consultation on the proposed closure was undertaken with the school, parents, governors and the local community. On 12 April 2011 the Cabinet Member for Children’s Services considered the consultation responses and approved the publication of a statutory notice to discontinue Grafton Primary School.

During the 6 week notice period interested parties were able to object and one such objection was received on 1 June 2011. As an objection has been received Cabinet is required to consider the objection along with a commentary on the objection and decide whether to proceed with the closure.

Proposal

That Cabinet considers and determines:

- (a) That the objection to the proposal to close (discontinue) Grafton Primary School is considered and noted;
- (b) That the commentary on the objection is considered and noted;
- (c) That in accordance with section 15(1) of the Education and Inspections Act the closure (discontinuation) of Grafton Primary School with effect from 31 August 2011 be agreed.

Reason for Proposal

Cabinet is required to consider the objection that has been received, the commentary on this objection and decide whether to proceed with the closure.

Carolyn Godfrey
Director for Children and Education

WILTSHIRE COUNCIL

CABINET

14 JUNE 2011

Subject: Proposed Closure of Grafton Primary School

Cabinet member: Councillor Lionel Grundy – Children’s Services

Key Decision: YES

Purpose of Report

1. This report sets out the background to, and results of, the statutory consultation proposing the closure of Grafton Primary School undertaken between 21 April and 2 June 2011.

Background

2. Pupil numbers at the school have been subject to fluctuation. Over the last 10 years the highest number was 35 in 2007 and the previous lowest number was 16 in 2004. In recent years the number of pupils at the school has declined and in January 2011 there were 12 pupils at the school. Numbers for September 2011 will be a maximum of 12. There are no signs of future growth in pupils, with no applications for reception places in September 2011.
3. The reducing number of pupils has led to increasing levels of concern from staff and governors, Salisbury Diocese and Wiltshire Council, about the quality of provision at the school. Although the high staff: pupil ratios mean that children receive high levels of individual attention, the key issue is that pupils do not benefit from the stimulus of other children around them. This will affect their educational and social development. The school has worked hard to mitigate this through collaborative projects with other local schools which provide pupils with opportunities to work with larger peer groups on a regular basis, and the children do make good progress from their individual starting points. However the reducing number of pupils is now felt to be adversely affecting the quality of education.
4. The Governors, Diocese and Local Authority have worked together to meet these challenges. Results of a research project carried out by Governors with Parish parents in February 2010 gave Governors clear indication of the issues which needed to be addressed in order to become a school of choice. Governors, in particular, have explored a range of possibilities since 2005, including a number of models involving federation with other schools and the development of an Early Years/Infant model in partnership with a local school

- to which pupils would transfer for KS2. However these efforts have not been successful.
5. In January 2011, the Governing Body of the school, the LA and the Diocese of Salisbury all recognised that because of the declining pupil numbers it was not possible to sustain the school. All three parties agreed that it was necessary to consult on a proposal to close the school, Appendix 1 shows the Consultation Document.
 6. A public meeting was held at the school on 17 February 2011. Notes are shown at Appendix 2.
 7. In total there were 213 consultation responses received, of these 65% agreed with the proposed closure of the school, 30% disagreed and 5% did not express an opinion. A summary of the responses can be seen in Appendix 3. Many respondents expressed regret at the proposed closure of the school but recognised that with such a small number of pupils the school was no longer viable.
 8. A key issue in this matter was to determine an alternative school to serve the current Grafton designated area. At the public meeting there was an overwhelming view (63%) that the current designated area should be reallocated as a “whole”. Less than 5% of respondents suggested that the existing designated area should be split amongst the other local schools. In addition, 77% of respondents stated a preference that the designated area should be reallocated to Great Bedwyn Church of England Primary School.
 9. It was therefore proposed that if Grafton were to close, Great Bedwyn VC Church of England Primary School should become the designated primary school for the current area served by Grafton Primary School.
 10. On 12 April 2011 the Cabinet Member for Children’s Services considered the consultation responses and approved the publication of a statutory notice to discontinue Grafton Primary School and name Great Bedwyn VC Church of England Primary School as the future designated school.
 11. The statutory notice (Appendix 4) was published on the 21 April and gave interested parties until the 2 June to object to the proposed closure. One objection was received on 1 June from a potential local resident. This can be seen in Appendix 5. The objection can be summarised as follows:
 - There has not been a robust enough analysis of why the numbers attending the school are low,
 - The impact on the Pre-school located on the school site has not been fully considered,
 - That numbers may increase if the school became a feeder school for Marlborough St John’s Secondary School.

Main Considerations for the Council

12. The decline in pupil numbers at Grafton Primary School to 12 in January 2011 means that it is not possible to continue to deliver high quality education at the school. No applications for places were received for September 2011 intake

even though there are 15 prospective reception aged children living within the school's designated area.

13. The objection made reference to an increasing birth rate generally, however this is not the case in the Grafton Parish. Health Authority Data taken from registrations at Doctors' surgeries, indicates that the number of reception aged children living in the school's designated area will drop from 15 this year to less than 10 in the next three years.
14. As detailed above the Governors have explored a variety of possibilities to increase the popularity of the school in the community, however, all attempts have been unsuccessful. The situation has been exacerbated as two adjacent schools were graded as 'Outstanding' by Ofsted. These other schools can admit a total of 38 children per year group but currently have only 13 reception age children living within their designated areas. There are clearly a large number of spaces still available for children from the Grafton parish should their parents state a preference for them. The other schools are very popular with parents and Great Bedwyn, in particular, admits a large number of pupils from the Grafton Parish.
15. Grafton Primary School and the neighbouring schools can admit between them a total of 95 pupils into each year group. At present there are only 64 reception aged children living across the area. This level of surplus places creates an environment in which parents have wide choice and Grafton Primary School has not been seen by many parents as the school of choice.
16. The Grafton parish is in the designated area for Pewsey Vale Secondary School. This does not prevent parents from expressing a preference for their child to attend Marlborough St John's Secondary. Given the circumstances above it is doubtful that changing the designated secondary school to St John's would sufficiently increase numbers on role at Grafton. It is often the case that parents who live within the designated area of Grafton and express a preference for St John's are able to secure places at the secondary school of their choice. Of the five children that transferred from Grafton to secondary school in September 2010, 3 secured places at St John's whilst 2 went to Pewsey Vale.
17. The 11 pupils still at Grafton Primary School have all been allocated places at alternative schools for September 2011. All parents were invited to state their preference for places at alternative schools. The Local Authority has been able to offer places to all applicants at their first preference school as stated on the application form.
18. The Grafton Primary School buildings are owned by the Diocese of Salisbury. Sunflowers Pre-School currently use one classroom at Grafton Primary School and wish to continue to do so. Wiltshire Council has requested that the Diocese support the Pre-School to remain on site, hence all parties are currently in discussion regarding future lease arrangements.

Environmental Impact of the Proposal

19. As a small school, energy consumption levels are low. In 2010/11 the school consumed 12,318kWhs, which equates to 6.74 tonnes of CO₂. In terms of energy spend this is approximately £985 a year at £0.08 per unit. As a result the CRC liability for the first year of the scheme is only £80.88. The CRC (carbon reduction commitment) is a Government scheme where the Council have to pay for the Carbon emission we emit. The total liability for the council is around £600,000.

Geographically speaking the impact of the closure may result in a small amount of additional travelling. The new designated school for the children is 3.6 miles away (one way), but I would suspect that some families will live closer to the new school so the impact of travel will be negligible

Risk Assessment

20. If the closure does not proceed the Council will continue to maintain a school that is not able to deliver high quality education and in which financial viability will become an increasing issue. If action is not taken now and there are further pupil reductions, or staffing issues develop, the quality of education will deteriorate further.

Financial Implications

21. If the school closes there will be some additional costs for the Council:

- transport costs to alternative schools for pupils currently at Grafton – approx £15,000 per annum in the short term. These costs will be met from within the existing home to school transport budget.
- redundancy costs – approximately £70,000. This cost would fall to the overall schools budget, funded by the Dedicated Schools Grant and would therefore not be a pressure on the local authority budget. In future years there will be savings to the overall schools budget as a result of the closure.

Legal Implications

22. School closures must be undertaken in accordance with the Education and Inspections Act 2006. This proposed closure has been dealt with in accordance with section 15(1) of this act for the discontinuation of a maintained school.

Decision Making

23. In considering proposals for discontinuing a school the Decision Maker (i.e. the Local Authority) can decide to:

- Reject the closure proposal
- Approve the closure proposal
- Approve the closure proposal with a modification e.g. the closure date
- Approve the closure proposal subject to its meeting a specific condition

Conclusion

24. Cabinet is invited to approve the closure of Grafton Primary School with effect from 31 August 2011 in accordance with section 15(1) of the Education and Inspections Act.

Carolyn Godfrey
Director, Department for Children and Education

Report Author

Clara Davies – School Buildings and Primary Place Planning Coordinator - School Buildings and Places

Background Papers

The following unpublished documents have been relied on in the preparation of this report: None

Appendices

Appendix 1 – Consultation Document

Appendix 2 – Notes of Public Meeting

Appendix 3 – Summary of Consultation Responses

Appendix 4 – Statutory Notice

Appendix 5 – Objection from Mr M. Armstrong

PROPOSAL TO CLOSE GRAFTON CHURCH OF ENGLAND PRIMARY SCHOOL

1. **Purpose of this Consultation Document**

1.1 Before any major decision can be made about the future of a maintained school, there has to be consultation with those people likely to be affected by the change. The purpose of this document is to consult with the Grafton School community, and all others with an interest in the future provision of education for children from the Grafton area. This document gives background information and asks for your views.

1.2 The document has been circulated to:

- Parents of current pupils
- Parents of children not yet of school age in the designated area of the school
- Staff
- Governors
- Diocese of Salisbury
- The Local Wiltshire Councillor
- The Local M.P.
- The County Secretaries of the relevant professional associations
- Primary Heads Forum
- Heads and Chairs of Governors of nearby primary schools
- Heads and Chairs of Governors at nearby secondary schools
- Grafton Parish Council.

Further copies have also been made available at the school, on the school website, the nearest library, and on the Council website.

2. **Why it is proposed to close the school**

2.1 Pupil numbers at the school have always been subject to fluctuation. Over the last 10 years the highest number was 35 in 2007 and the previous lowest number was 16 in 2004. In recent years the number of pupils at the school has declined and in January 2011 there are 12 pupils at the school. Numbers for September 2011 will be a maximum of 12. There are no signs of future growth in pupils, with no applications for reception places in September 2011.

2.2 The reducing number of pupils has led to increasing levels of concern from staff and governors, Salisbury Diocese and Wiltshire Council, about the quality of provision at the school. Although the high staff: pupil ratios mean that children receive high levels of individual attention, the key issue is that pupils do not benefit from the stimulus of other children around them. This will affect their educational and social development. The school has worked hard to mitigate this through collaborative projects with other local schools which provide pupils with opportunities to work with larger peer groups on a regular basis, and the children do make good progress from their individual starting points. However the reducing number of pupils is now felt to be adversely affecting the quality of education.

2.3 The Governors, Diocese and Local Authority have worked together to meet these challenges. Results of a research project carried out by Governors with Parish parents in February 2010 gave Governors clear indication of the issues which needed to be addressed in order to become school of choice. Governors, in particular, have

explored a range of possibilities since 2005, including a number of models involving federation with other schools and the development of an Early Years/Infant model in partnership with a local school to which pupils would transfer for KS2. However these efforts have not been successful.

- 2.4 The likely effect of the discontinuance of the school on the local community has been considered very carefully. It has been concluded that it is not possible to develop other services that would enable the continuance of the school around a school with so few pupils. Part of the school is already let to a pre school provider and there no further spaces that could be let. The key issue is the quality of education.
- 2.5 At a number of Governing Body meetings, and meetings with Local Authority and Diocesan staff from September 2010 the realistic prospects of sustaining the school both educationally and financially in the longer term were discussed. On 19th January the Head teacher and Co-Chairs met with Local Authority and Diocesan staff and agreed that it is now in the best interests of pupils and staff to consult on a managed closure of the school. Both the Local Authority and Diocese expressed the view that Governors should consult on closure and the Full Governing Body agreed to do so at their meeting of 19th January.
- 2.6 Parents were advised of this verbally by the Head teacher on 20th January and in writing by Governors in a letter dated 21st January. Parents have been offered assistance with possible transfer arrangements and the Local Authority is working with them to achieve this.
- 2.7 During the consultation period Governors will continue to actively pursue any opportunities which may offer the possibility of maintaining a school in Grafton.
- 2.8 In the absence of any realistic options it is proposed to formally close the school on 31 August 2011, with current pupils being offered places in schools of choice from September 2011. A new school(s) will be identified as the designated primary school(s) to serve the area currently being served by Grafton Church of England Primary School.

3 What is the Council's policy on village schools?

3.1 The Council's policy on village schools is as follows:

The Local Authority recognises the Government's presumption against the closure of village schools, and will not normally bring forward proposals to close a village school unless it can be demonstrated that one or more of the following criteria apply:

- There is only very limited demand for places at the school for children coming from the designated area.
- Standards are low and there is low confidence in the likelihood of improvement.
- Recruitment of a Head teacher has not proved possible.
- The necessary improvements to the school accommodation are either not possible or cost effective.
- The school has a deficit budget without realistic prospects of recovery.

In the present circumstances Grafton meets the first criterion. Only one pupil joined the Reception Class in September 2010 and there are currently no applications for a Reception place in September 2011.

4 Future demand for school places from the Grafton designated area

4.1 Information provided by the Health Authority suggests that there is an average of 9 pre-school children per age cohort born within the Grafton catchment area in the next few years. This figure does not take into account any children of that age who may move into or out of the area. However given the recent history of admissions to the school it is unlikely that many of these will apply to the school which suggests that the long-term numbers at the school are unlikely to increase. As the table below indicates, there are sufficient places for current pupils, and likely future pupils in other local schools.

4.2 Other nearby primary schools

Details of other nearby primary schools are given in the table below:

School	Capacity of School	September 2011 Forecast Roll	September 2014 Forecast Roll	Distance from Grafton by Road (miles)
Burbage	203	122	116	2
Gt. Bedwyn	210	195	177	3.6
Shalbourne	60	33	32	4.6
Easton Royal	60	44	47	3.6
Colingbourne	119	125	122	6.6

4.3. A survey by Governors identified 57 primary age children in the Grafton Parish catchment area. These pupils attend the following schools:

Great Bedwyn	37%
Grafton	21%
St Katherine's Savernake	11%
St Francis	11%
Burbage	9%
Others	11%

5 Options for the future of the school's current catchment area

- 5.1 A decision needs to be made on which Primary School (s) the current catchment area should be designated to in future years and views from all interested parties are welcomed on this particular point.
- 5.2 The nomination of a future school to provide places for children from Grafton does not interfere with the parents rights to express a preference for a different school. However, school transport entitlement is linked to the designated area school, unless an alternative school is closer to the child's home address.
- 5.3 The reallocation of the school's current catchment area may have implications for secondary school catchment areas and local secondary schools will be consulted on this point.

6 What happens next

- 6.1 You are invited to make your views known using the attached proforma or by sending a letter to the address shown on the proforma. The closing date for responses is **Monday 7th March at 5p.m.**
- 6.2 There will be a public meeting at the school on Thursday **February 17th at 7pm** at which you may wish to ask for further information or make your views known. Meetings are also being arranged with staff and governors.
- 6.3 Following the consultation period a report and recommendation will be produced by the Local Authority. The outcome of the consultation will be considered by the Cabinet Member for Children's Services who will decide whether or not to publish a public notice proposing the closure of the school. There will then be a six week period for formal representations to be made. If there are objections to the public notice the matter will be considered and determined by the Cabinet of the Council.

7 Other questions you may have

- 7.1 Admissions: the current Grafton catchment area will be linked to an alternative designated school(s). This does not interfere with the parents rights to express a preference for a different school. However, school transport entitlement is linked to the designated area school, unless an alternative school is closer to the child's home address. The current Transport Policy is to provide for all children who live more than 2 miles (if under 8) or 3 miles (if over 8) from the designated school by the shortest walking route, or for whom where is not a safe walking route.
- 7.2 Future of the buildings and playing field: there will be further consultations with the local community before making any decision on these. The future use of the buildings by Sunflowers Pre-school will be a key issue in these consultations.
- 7.3 Financial implications: if the school closes the Council will incur additional transport costs, depending on how parents express their preferences, and some redundancy costs. Pupil funding will follow the pupils to their new schools.

**RESPONSE TO CONSULTATION ON THE FUTURE OF GRAFTON CHURCH OF
ENGLAND PRIMARY SCHOOL**

1. Please give your name and your interest in the future of the school (e.g. current parent, parent of pre-school child, village resident).

2. Do you agree with the proposed closure of the school?

YES NO Please tick appropriate box

If you wish to give your reasons for supporting the closure please do so below.

If you do not support the closure, and believe that there are other options that should be considered, please give details below.

3. Do you have any views on how the current catchment area should be redesignated?

Please return this form to:

Director, Department for Children and Education (Ref: NH/CD), Wiltshire Council, County Hall, Bythesea Road, Trowbridge, Wiltshire, BA14 8JB by **5 p.m. on Monday 7th March**

This page is intentionally left blank

Consultation on the Proposal to Close Grafton Primary School

Minutes of Public Meeting – 17th February 2011

Present:

Nigel Hunt	NH	Head of School Buildings & Places, WC
Anne Davey	AD	Assistant Director, Salisbury Diocesan Board of Education
Chris Harries	CH	Primary School Adviser, WC
Nick Glass	NG	Education Officer and note taker

Also in attendance were 40 local residents and the Headteacher.

Nigel Hunt opened the meeting by introducing himself and the representatives of the Local Authority and Diocese present. He welcomed everyone and explained that the purpose of the meeting was to give people more information on the closure proposal to enable them to make a considered consultation response.

NH explained that there was a legal consultation process that must be followed, hence this public meeting and the wide circulation of the consultation document.

NH explained that the number of pupils attending Grafton School had declined and this was possibly due to two factors. Firstly, parents may have recognised that a higher quality of education was being provided at other schools in the area and secondly that there were fewer children in the catchment area than previously. There had been a significant drift of pupils towards other local schools. Only one pupil had joined in September 2010 and information had been received that there were no pupils joining in September 2011 out of the 10 that could have applied. NH stated that he believed that the staff and Governors had worked hard to find alternative solutions but believed that there was now no other option but to consult on closing the school. The Governors had tried to Federate with a number of local schools but these were rebuffed. The LA cannot force another school to federate with Grafton. The Council had to be mindful of the quality of education provided and high standards are difficult to achieve with small numbers.

NH went on to discuss the future of the school buildings should the decision be taken to close the school.

NH asked for any questions about the process of consultation.

Questions

1. What part does finance play in the closure of the school?

The school is increasingly difficult to sustain with small numbers. The cost of transport to the local schools, or school, will be taken into account by the LA but the decision about closure is made with full consultation not solely on financial grounds. NH believed that Grafton is the smallest school in the LA and that although the numbers have fluctuated over the years it was time to bring the uncertainty in the

community to a close through consultation. A resident pointed out the school grew to around 40 pupils in the nineties. As a small school there is a financial protection that is Wiltshire Council policy.

2. Will the consultation responses make a difference?

NH assured the meeting that they do make a difference and that the Cabinet Member that makes the recommendation takes the responses into account.

3. What will happen to the school building and playing fields if the school closes?

The Parish Council could decide to take on the playing field along with the school building for community use. Any local groups interested in using the building should also contact NH. The intention of the pre school group that are already housed in the building is to remain. The Council and the Diocese will continue to maintain the building if no suitable provider comes forward who will take on the liability.

4. Residents asked questions that if the school closed it was important that the community was not split. It was important that the young people from the local community were all designated to go to the same primary school?

NH suggested that this should be written in the returned consultation document. There was a general consensus from parents present that it would be best to redesignate the Grafton catchment area to Great Bedwyn as the latter feeds St Johns School in Marlborough, the preferred choice of secondary school for the majority of parents and pupils. The meeting was assured that if this happened then the cost of transport would, under current regulations, be borne by the LA. There was some dissent about the necessity as well as the environmental and social implications for transporting young people long distances to school. There was also some support for Pewsey Vale to remain the designated secondary school.

5. As the school was Voluntary Aided what is the view of the Diocese to closure?

Anne Davey stated that the Diocese of Salisbury were supportive of the Governors' consultation on closure as they, too were worried about the standards in small school and the social and emotional development of the pupils.

6. Can it be explained why it is considered that the young people are not getting a good education?

CH: The teaching of a number of age groups in one class is challenging for any teacher. The pupils often do not have the range of children to mix with socially in a very small school. The activities that are available in a very small school like Grafton can be much more limited than in a larger school due to the resources that are available. Staff recruitment is more difficult in a small school due to the range and scope of the work involved being unattractive.

NH concluded the meeting by explaining that once the consultation period had ended a report would be taken to the Cabinet Member for Education which would summarise the responses and main points raised. All individual responses would also be made available. The Cabinet Member would then have to decide whether to proceed with the closure of Grafton Primary School and if so, decide what was the best solution for the community and young people. If the decision is taken to close the school, statutory notices would then be published for 6 weeks. At the end of this statutory consultation period, another report

detailing any objections would be taken to the Cabinet Member to enable a final decision to be made.

NH thanked everyone for attending.

This page is intentionally left blank

	Should Grafton be Closed?			Views on Catchment Area Redesignation
	Yes	No	No Opinion stated	
Local Parents of Pre-School Children*	10	5	3	94% would prefer Great Bedwyn, one respondent would prefer Easton Royal and another suggested both Great Bedwyn and St Katherine's, Savernake. 78% also stated that they would like the whole parish to fall within the catchment area of one school.
Parents of children at Grafton School*	9	5	0	57% would prefer Great Bedwyn, 14% would prefer Burbage or St Katherine's, 29% did not express an opinion. 36% also stated that they would like the whole parish to fall within the catchment area of one school.
Parish residents with children at other local schools*	31	3	0	100% would prefer Great Bedwyn. 79% also stated that they would like the whole parish to fall within the catchment area of one school.
Local residents	78	51	6	78% would prefer Great Bedwyn. Other suggestions included Shalbourne, St Katherine's and splitting the catchment amongst the other local schools. There was also strong support for Marlborough St John's to be the catchment secondary school. 64% also stated that they would like the whole parish to fall within the catchment area of one school.
Governing Body of Grafton School	1	0	0	This decision should be based on views across the community, specifically those of the Parish Council and parents.
Governing Body of Easton Royal Primary School	1	0	0	Should reflect the wishes of the local community.
Governing Body of Great Bedwyn School	1	0	0	Great Bedwyn Governors are prepared and have agreed to incorporate Wilton catchment area into Great Bedwyn due to its geographical proximity.
Governing Body of Shalbourne Primary School	0	0	1	Parents should have the option to send their children to a small school. Shalbourne would welcome the opportunity to be that school.
Governor of Shalbourne School	1	0	0	Shalbourne is well placed to take children from Grafton School.
Grafton Parish Council	0	1	0	The natural catchment area for schooling lies with Great Bedwyn because both Grafton and Great Bedwyn are founded on an identical pastoral basis. Essential that the whole parish stays together as one catchment area.
Chair of Neighbouring Parish Council	1	0	0	Split the catchment area amongst the other local schools by postcode
Sunflowers Pre-School	0	1	0	The catchment area should move as one and not be allocated across two or more schools.
Grafton School Staff	3	1	0	Two respondents did not express a view, one suggested Burbage and the other suggested that you should go to the school nearest to where you live.
Total	136	67	10	
	65%	30%	5%	

* In some cases separate consultation responses were received from each parent of a child

This page is intentionally left blank

Notice of Proposal to Discontinue Grafton C of E Primary School

Notice is given in accordance with section 15(1) of the Education and Inspections Act 2006 that Wiltshire Council, County Hall, Trowbridge BA14 8JN intends to discontinue Grafton C of E Primary School, East Grafton, Marlborough SN8 3DB on 31 August 2011.

It is proposed that the entire Grafton catchment area is allocated to Great Bedwyn C of E Primary School, Farm Lane, Great Bedwyn, Marlborough SN8 3DB. Admission may also be sought to other schools which have places available.

The arrangements for the transport of displaced pupils will be determined by Wiltshire Council's School Transport Policy. The Council will provide transport for displaced catchment area children to the new designated area school in accordance with this policy.

This Notice is an extract from the complete proposal. Copies of the complete proposal can be obtained from: School Buildings & Places, Wiltshire Council, County Hall, Bythesea Road, Trowbridge BA14 8JN or by telephoning 01225713969. Details are also available on the Council's website www.wiltshire.gov.uk

Within six weeks from the date of publication of this proposal, any person may object to or make comments on the proposal by sending them to Director for Children & Education, Wiltshire Council, School Buildings & Places, County Hall, Bythesea Road, Trowbridge BA14 8JB.

Signed: **I R Gibbons**

Solicitor to the Council

Publication Date: **21 April 2011**

Explanatory Notes

From 1 September 2011 the current designated secondary area for Grafton C of E Primary School will be amalgamated with the secondary designated area for Great Bedwyn C of E Primary School. The newly created designated area for Great Bedwyn C of E Primary School will form part of the secondary designated area of St John's School & Community College, Orchard Road, Marlborough SN8 4AX.

The reasons for these proposals are set out in the consultation document circulated in February 2011, further copies of which are available on request from School Buildings & Places by contacting 01225 713969.

Copies of the Wiltshire Council School Transport Policy are available upon request from Passenger Transport on 01225 713580.

Copies of the Admission Arrangements for Voluntary Controlled Schools are available upon request from the School Admissions team on 01225 771697.

This page is intentionally left blank

Mikael Armstrong
Hockham House
Hockham Road
Compton
Newbury
Berkshire
RG20 6QN

Tel: 07903936613
Fax: 0845 805 2300

Director for Children & Education
Wiltshire Council
School Buildings & Places
County Hall
Bythesea Road
Trowbridge
BA14 8JB

31 May 2011

Dear Sir/Madam,

I am writing to you with regard to the proposed closure of Grafton Primary school.

My wife and I and our 1 year old son will be moving to East Grafton in the near future. We may in future have more children too. We are therefore very interested in the school and the facilities it provides.

Having read the various documents associated with the proposed closure of Grafton Primary school, I do not believe that there has been a robust enough analysis of why the numbers attending the school are low, the future growth in school numbers or what the impact will be with the possible loss of the school building for the very popular pre-school group.

It would appear that one of the main reasons for the school having a lower intake is that it is not currently a feeder school for the well respected St John's school in Marlborough.

Given that the Great Bedwyn Primary school is a feeder school to St John's, it is of no surprise that parents would like to send their children there instead. The proposed closure of Grafton Primary school appears to also involve modifying the catchment area of Great Bedwyn Primary school, so pupils displaced by the closure of Grafton Primary school will get places at Great Bedwyn. Given that this will effectively mean that the new catchment area would lead to a feeder into St John's at Marlborough for pupils currently residing in the catchment area for Grafton Primary school, it is obvious to me that the first thing to try to improve numbers at the Grafton Primary school would be to make it into a feeder school too. This must be possible given how this closure is proposed to be carried out.

It is criminal to close a school just because people would appear to have effectively lost interest in running it, and have resigned themselves to closure. Discipline in small schools is no doubt easier to maintain and there are many positive things about small schools which appear to get forgotten.

The birth rates in recent times have been rising and the population of the UK is increasing. These facts do not appear to have been properly considered, as a large emphasis has been placed on the reduction of pupil numbers in years gone by, with the assumption that this reduction would continue.

I fully believe the school would be successful at attracting more pupils if instead of closure it became a feeder school for St John's in Marlborough and the uncertainty of closure was removed.

It also appears that there has been insufficient consideration of what will happen to the pre-school if the Grafton Primary school is closed. The pre-school may not be the responsibility of those who run the

primary school, but it is significant for the development of children and it needs to be fully considered. The site and future for the pre-school should be fully determined before and proposed closure of the primary school ever goes ahead.

It is for the reasons stated above that I believe that more can still be done to turn the school around and the closure is at least premature, and at most a waste of a potentially good school.

Last of all, I would be more than happy to dedicate some time to working with anyone who wishes to try and keep the school open.

Yours Faithfully,

Mikael Armstrong