

**Wiltshire Council**

**Cabinet**

**22 May 2019**

---

**Duncan Carter – Statement and questions regarding agenda item 6  
Specials Schools Consultation**

**To Councillor Laura Mayes – Cabinet Member for Children, Education and Skills**

**Statement**

Please listen now as I don't want to find the issues with this proposal exploded in all our faces later. Covering the same ground and highlighting the same issues following a recommendation which is a rehash of the previous ONE SCHOOL option proposal is eating up everyone time and my holiday entitlement.

I concede this proposal is an improvement of the original proposal. It is probably the best ONE SCHOOL option available to fulfil the North Wiltshire needs.

Having said that the ONE SCHOOL option IS fundamentally WRONG.

Who is recommending it? Why are they recommending it? Are they and the cabinet as Decision Makers truly clear as to whether the proposal is aligned to the best interests of every child? As well as all aspects of the law the proposer and new school is expected to adhere to and uphold.

The problem is it is still a ONE SCHOOL option. And that is the HURDLE this proposal and any ONE SCHOOL option actually fails at. It is ultimately a reduction to a single site for primary provision not maintaining 2, it is a single site secondary provision not maintaining 3.

I even can accept there is a balance between choice and the costs. It takes more money to deliver choice. But that argument applies to mainstream provision. The argument is ill considered, immoral and potential illegal. And if it is then pushing on this proposal is likely to cost more EVENTUALLY.

Even if the argument is that this is the best proposal for the majority, it doesn't justify the harm it could incur or allow Wiltshire to redefine legal. Attempting to fit the facts to support a one school option doesn't change the fundamental issues and also leads to the conclusion that the outcome always was PREDETERMINED.

What would need to be evidenced to show the cabinet the proposal is flawed, immoral and/or illegal, and ensure the recommendation is now not passed?

There is no denying this will incrementally increase discrimination within Wiltshire for those with specific learning difficulties.

I fear somewhere in this proposal Wiltshire has taken a Ford Pinto cost benefit analysis approach to life or worst still adopted Scrooge's mentality.

Coming back with a flawed one site proposal appears to show predetermination, unless the fact it is flawed is accepted by the cabinet here and now in today's vote.

If it isn't accepted now and the statutory notice proposal is push through, whether it is flawed may be tested later.

The plan improves in transition and in continuity. But as before there are losers. A one site fit all, may lead to a misfit for many

I did ask of the cabinet previously

IS THE PLAN BETTER FOR ALL?

The answer then and now seems to be NO, it can and will harm Wiltshire children and families.

That should in reality be the start of the discussion as to what a proposal to fit North Wiltshire should look like.

There should have been an agreed frame work up front on what is required, define the priorities from essential down to nice to have. Ensure the essential needs can be address in principle before looking at a specific proposal. There will be conflict between the needs and the costs, in the end best value is a balance. But whatever best value solution is adopted it still must be lawful, should be fair and based as far as practice on robust foundations.

What potential harm can this or any other proposal introducing. If there is no harm state it, prove it, demonstrate it. If not evidence the true risks now and in the future. The status quo is less than adequate, and this proposal is a step in the wrong direction for equality.

Give the reliance on Virgin Care inputs in evidence in mitigations or defining the extent of the risks, is Virgin underwrite their inputs into this Decision? As they are not independent does Virgin have a conflict of interest? Would it be conceivable the questions asked were loaded to obtain a particularly response? What is the increase journey time threshold considered risking increase in harmful?

If there are potential life or physical or mental health concerns, tackle them head on, tackle the concerned parents head on. Knowing or believe there are risks means we need to understand how these concerns are addressed in full, engage us, DONT ignore us.

Don't be happy with the level of your own belief, knowledge or competence in this subject.

If those voting for this truly believe this plan has no loser and risks no harm. I would like them to read the report again, despite not have a full and clear picture it still clearly shows there are losers.

An example in reading a Wiltshire Transport submission for one students.

“An example case would be George (not his real name). George has extremely complex needs as he has a genetic condition effecting his respiratory muscles meaning he is fully dependant on a ventilator to help him with his breathing. George needs to travel carrying specialist equipment to support his needs and specially trained staff to support him, he is probably our most complex child on transport. Following many multiagency meetings and time with George and his parents, it was agreed that he would require individual transport and two specialist trained staff provided by health to meet his needs on transport. It was agreed that two fully trained staff would reduce risk substantially if one member of staff became incapacitated. Having individual transport enabled the flexibility if his needs should suddenly change route, whilst maintaining his dignity if the staff travelling with him should be required to give medical intervention whilst on his journey. We did several versions of the risk assessments, thinking through what would happen in different situations e.g. if we had to turn back, if mum and dad weren't there when we got home and particularly if the ventilator failed. Full consideration has been given to the route travelled to minimise the journey time and the parking arrangements in school to enable his needs can be met fully before travelling.”

Given the stated many multiagency meetings how different was the original transport proposal, and how much did this require parents and/or health professional to challenge and enhance the original proposal.

It leads to the question will Wiltshire be guaranteeing that similar suitable safe provision will be available and provided for all from the first day a 4 year or 5 year old arrives at school.

How does distance become a consideration in this proposal. In what ways are and will the impacts be addressed in full of all children, parents, and staff.

Given there are loser, which needn't be the case. When you vote consider this, do you truly know what this plan will do to the lives of each children. For each family, each child, what personal and public costs will be incurred. Who will be required to pick up those costs and when?

Given this backdrop I question the integrity of the statistical used in the report. While 45% of responses agree with the proposal against 55% of the responses disagreed. This tell us very little.

Firstly I said responses not respondents as there appeared to be no checks in place to avoid multiple submissions or this survey. therefore what guarantees do we have

that every response is from a separate individual. As without this what confidence can be given that these statistics are in anyway meaningful.

If we do take them as meaningful, then what do they tell us?

Do they tell us.

1. As to the difference in opinion across the three schools
2. The difference of opinion of parents with children at different stages of their school careers
3. As to the opinions of prospective primary school and secondary parents for each school location
4. As to the difference in opinions of parents with children of different learning and disabilities designations
5. As to the difference of opinion of parents with and without other school age siblings
6. As to the opinion of non-verbal and verbal pupils at different stages of their school careers.

Therefore, it can be argued the opinions of relocated/realigned students and their parents holds more weight with respect to the closures than impacts them directly, and the opinion of students and parents at the other schools are of limited or no relevance. Therefore, can it be agreed the next consultation or representation needs to provide clear and clean data to the decision maker?

Further the opinion of those who would or could still be involved directly in the closing establishment or sites at the time of closure also need to be identified to ensure their inputs are given the appropriate weight.

I ask these questions to point out when constructing the statutory proposal and the associated representation period data collection that these details appear to be needed as outline in government guidance. It states level of impact matters more than the number of respondents. With this in mind the belief is any statutory proposal will need to be robustly constructed to allow the decision maker to make an informed decision based on the requirements of Annex B of that document and the way responses are collected and collated.

To put in prospective St, Nicholas School is currently grieving the death of a student. Impacts doesn't come any higher.

If I hadn't already composed a draft I probably wouldn't have included at this time, but I wonder "who is legal responsible if this plan directly harms, or kills a child". More student and staff will add and prolong health risks and illnesses within the school. Please help by showing how these impacts have be incorporated and addressed, without restricting educational opportunities for our children.

Onto the transport statistics I ask how well these address Marlborough's future needs? Whether the centre of gravity of pupils is distorted due to inclusion of South Wiltshire pupils in the statistics? Whether Trowbridge and Chippenham pupils not on transport have been correctly included in the statistics and whether parent

transported pupils have been correctly included? If these have been addressed where the data is and how the corrections are incorporated?

I even wonder if a school in the middle of Salisbury Plain could fit the criteria as well as or better than Rowdeford for the entire county on the criteria used.

Whether the same process and approach has been used for the “as-is” and future transport data? And whether a transport models for a 3 equal sites future has been created to demonstrate the benefits that avoiding pupils drive by’s gives?

Next, I ask has the Cabinet ensure it has clear unambiguous guidance that a single school away from the principle settlement of Trowbridge and Chippenham proposal can fulfil the councils legal obligations. There are protections in regulations related to

Right to a family life,  
All aspects of the Public Sector Equality Duty and Equality Impact Assessment  
Which should i believe include ensuring the plan delivers a reduction in decriminalisation, or at least does increase decriminalisation.

Additionally, there are environmental concerns in the report for a council that agreed there is a “climate emergency” that will except to

Promote a reduction in car use  
&  
Reducing the carbon footprint due to transport

Avoid excess pollution in and around Rowde and the school with such a high concentration of buses and other transport.

Please can evidence used to ensure compliance to regulations be provided now and with any statutory proposal for wider scrutiny.

I understand it is a balancing act but less schools, less organisations, less choice, leads to more eggs in one basket. With that comes risk.

Risk that current guidance becomes regulation, how will Wiltshire cope if 45 minutes is a mandated maximum for 5 year old children. Or with limited exceptions 150 minutes per day on transport is mandated as the maximum permitted cumulative time on transport attending regular school and educational excursions for secondary school pupils.

Risks that Wiltshire has no in county option to address parental breakdown of trust in the new school’s management.

Risk that the secretary of state closes the school, even before it opens on safety grounds. Simply due to its size or catchment.

Risk that an independent special school establishes itself on Melksham and cherry picks pupils from Trowbridge and Chippenham. And increasing the overall revenue costs to Wiltshire.

Risk that parents invoke choice and choose to go out of county.

Risk of legal action on health or discrimination grounds.

Risks and harm while on transport.

Given the lack of clarity during the realigned consultation It is possible Annex A may still be in breach, ultimately my personal opinion is this could only be technical given the media attention.

How are the stated transport statistics aligned to address the following stated example. How many students now and in the future will require this level of support. Does the risk of this support increase with increased transport distances. Is this transport now or in the future to be available at any time if the pupil deteriorates during the school day.

“An example case would be George (not his real name). George has extremely complex needs as he has a genetic condition effecting his respiratory muscles meaning he is fully dependant on a ventilator to help him with his breathing. George needs to travel carrying specialist equipment to support his needs and specially trained staff to support him, he is probably our most complex child on transport. Following many multiagency meetings and time with George and his parents, it was agreed that he would require individual transport and two specialist trained staff provided by health to meet his needs on transport. It was agreed that two fully trained staff would reduce risk substantially if one member of staff became incapacitated. Having individual transport enabled the flexibility if his needs should suddenly change”

I take that to be divert to home or hospital if his health deteriorates in transit. And to which hospital as in certain circumstances Bristol Children Hospital may be the preferred destination.

Is there a robust process in place today to ensure that every child that should have an individual transport health plan actually has one? And transport routes used in the report aligned to the details in terms of restrictions based on needs. I ask in part as our daughters Epilepsy had been overlooked until earlier this year. Something that was acceptable but not desirable to us when our journey time to school was 15 minutes, but not with great distances and time.

Additionally, even now relief Passenger Assistants are not Buccal trained for our daughter. A situation that shouldn't be acceptable even today.

How will the proposal address and support the families and pupils if they have medically shorten days?

When Epilepsy is particularly bad we don't manage transport and a full day already. To achieve the same level of rest and recuperation with a longer journey we will require even shorter days due to later starts, will probably have more days our threshold of risk is crossed and take longer to drive her to/from school being

more disruptive to home life, being even more inconvenience by before or after attending school not being in a location well align to social or domestic needs.

As with Threeways I have to assume many Rowdeford parents today make the value judgement to compromise travel distance to access the best provision for their child. Anecdotal evidence suggests friends and neighbours who see Rowdeford in their child's future, are less sure that a school increasing to 350 pupils has the same value to them.

Will cabinet concede many of the concerned parents have decided that it is preferable to prioritise quality of or even life. And that this should not to be ignored.

It leads back to the absolute key questions, is this plan moral, honest, legal. And who will have the decency to take the legally responsible if a child death is directly or indirectly attributed to this proposal?

Duncan Carter

### **Question 1**

Can the cabinet confirm it has obtained legal advise that the proposal to consolidate provision reducing primary options from 2 to 1 and secondary from 3 to 1 is not fundamentally flawed, and does not go against Equality Duties and would not be deemed increasing discrimination in respect to reducing choice of provision for a group of disabled pupils, relative to the current status quo.

### **Response**

The proposals under consideration have been reviewed from a legal perspective and are compliant with the duties and obligations placed upon Wiltshire Council. These have been addressed within the cabinet paper under legal implications.

### **Question 2**

Has a proposal been worked up that can and will address all the legal and procedural obligations that will exist to close maintained schools, addressing the discrimination, displacement, access and environmental obligations which will be placed on the proposer and the decision maker.

### **Response**

The proposals under consideration have been reviewed from a legal perspective and are compliant with the duties and obligations placed upon Wiltshire Council. These have been addressed within the cabinet paper under legal implications and takes account of the legal process for the closure of maintained schools.

### **Question 3**

As a starter for 10, will this new school once collapsed onto a single site have the largest catchment area of any single primary designation school in England? If not what schools have bigger catchments and covering what designations.

### **Response**

We have visited and contacted with a number of large schools but have not explicitly asked about their catchment areas.

### **Question 4**

Who made the recommendation in the proposal? When ? And Why?

### **Response**

The structure of the cabinet report requires that recommendations are made, cabinet will however make their own decisions.

### **Question 5**

Will all pupils EHCP need to be re-agreed with parents in 2021 if the schools are close?

### **Response**

No. However, transitions will be discussed in annual reviews.

### **Question 6**

Will all pupils being relocated between sites again need to have their EHCP re agreed with parents in 2023?

### **Response**

Please see answer above.

### **Question 7**

Given the volume of responses and the size of the report can, has and does the following need to be fulfilled before the cabinet sit on 22nd May (as outlined on page 75) "The Cabinet, as the decision maker on behalf of the Council, is now asked to make a decision on the options presented. In doing so Cabinet must have regard to the above guidance. They will need to be satisfied that the consultation carried out to



date was appropriate, fair and open, and that full consideration has been given to all the responses received.”?

**Response**

The Cabinet, in making their decision, will have due regard to all guidance and legal requirements placed upon them.

**Question 8**

When was the Equality Impact Assessment last reviewed / updated?

**Response**

12 May 2019

**Question 9**

Are all parental and wider community impacts and concerns raised during all consultation to date related to the current preferred ONE SITE SCHOOL proposal appear in the current Equality Impact Assessment with appropriate impacts and mitigations to address the Cabinets legal obligations related to this decision?

**Response**

A thorough Equality Impact Assessment has been undertaken.

**Question 10**

Within the Equality Impact Assessment I do see some foot note or additional comment references, but can't locate these, therefore would it be possible to provide the full reference to the Equality Impact Assessment which addresses the risk of death and injury while in parental care travelling to or from school?

**Response**

The protected characteristic of disability has been thoroughly considered.

**Question 11**

Is it possible to obtain assurances that all cabinet member are fully conversant with the obligations and requirement placed on them in making their decision to proceed to ensure legal compliance and statutory processes obligations are adhered to, including those outlined on pages 74-76 of the report?

**Response**

Cabinet members are appointed democratically to fulfil their responsibilities including legal obligations.

### **Question 12**

It would also be helpful to understand what powers are in reality being authorised by the following? “Authorises the Executive Director of Children’s Services, after consultation with the Cabinet member for Children, Education and Skills, the Director of Legal, Electoral and Registration Services and Chief Finance Officer/Section 151 Officer to take all necessary steps to implement Cabinet’s decision.” As it creates the impression that an open cheque book approach to progressing and enforcing the decision is being approved

### **Response**

Officers and Cabinet members will always take due regard to their responsibilities to secure best value in their capacity as public servants.