



JOINT SCRUTINY COMMITTEE – (POLICY AND RESOURCES AND EDUCATION)

**MINUTES OF THE MULTI-LOCATIONAL MEETING HELD IN PENALLTA HOUSE
AND VIA MICROSOFT TEAMS ON TUESDAY 28TH FEBRUARY 2023 AT 5.30
P.M.**

PRESENT:

Councillor G. Johnston – Chair
Councillor T. Parry – Vice-Chair

Councillors:

M. Adams, E. M. Aldworth, A. Broughton-Pettit, M. Chacon-Dawson, C. Cuss, G. Enright, A. Farina-Childs, A. Gair, C. Gordon, C. P. Mann, A. McConnell, B. Miles, L. Phipps,
J. E. Roberts, J. Taylor, J. Winslade, K. Woodland, C. Wright.

Co-opted Members: Mr M. Western (Cardiff ROC Archdiocesan Commission for Education Representative)

Cabinet Members:

Councillors J. Pritchard (Deputy Leader and Cabinet Member for Prosperity, Regeneration and Climate Change), C. Andrews (Education and Communities), N. George (Corporate Services and Property), E. Stenner (Finance and Performance)

Together with:

R. Edmunds (Corporate Director for Education and Corporate Services), S. Harris (Head of Financial Services and S151 Officer), R. Tranter (Head of Legal Services and Monitoring Officer), S. Richards (Head of Transformation and Education Planning and Strategy), K. Cole (Chief Education Officer), A. West (21st Century Schools Manager), L. Thomas (21st Century Schools - Principal Officer), J. Southcombe (Finance Manager), M. Jacques (Scrutiny Officer), J. Lloyd (Committee Services Officer), R. Barrett (Minute Taker)

Also in attendance:

M. Read (Project Director with Local Partnerships LLP)

RECORDING, FILMING AND VOTING ARRANGEMENTS

The Chair advised those present that due to technical difficulties, the meeting would not be live-streamed, but would be recorded and made available to view following the meeting via the Council's website – [Click Here to View](#). Members were advised that voting on decisions would be taken via Microsoft Forms.

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors C. Bishop, D. Ingram-Jones, M. P. James, M. Powell, D.W.R. Preece, J. Rao, J. Reed, C. Thomas, A. Whitcombe and L.G. Whittle.

2. DECLARATIONS OF INTEREST

The following declarations of interest were received and are also minuted with the respective item.

Councillor C. Mann declared a personal interest in relation to Agenda Item No. 3 – Proposed Voluntary Termination of the Caerphilly CBC School PFI Contract, as an LEA appointed Governor for Ysgol Gyfun Cwm Rhymni. As the interest was personal only, there was no requirement for him to leave the meeting, he took full part in the debate and vote.

Councillor L. Phipps declared a personal interest in relation to Agenda Item No. 3 – Proposed Voluntary Termination of the Caerphilly CBC School PFI Contract, as her sister works in an educational role at Ysgol Gyfun Cwm Rhymni, Y Gwyndy Campus, and her niece attends the school. As the interests were personal only, there was no requirement for her to leave the meeting, she took full part in the debate and vote.

Councillor C. Wright declared a personal interest in relation to Agenda Item No. 3 – Proposed Voluntary Termination of the Caerphilly CBC School PFI Contract, as her son attends Ysgol Gyfun Cwm Rhymni. As the interest was personal only, there was no requirement for her to leave the meeting, she took full part in the debate and vote.

Councillor T. Parry declared a personal interest in relation to Agenda Item No. 3 – Proposed Voluntary Termination of the Caerphilly CBC School PFI Contract, as her granddaughter attends Ysgol Gyfun Cwm Rhymni. As the interest was personal only, there was no requirement for her to leave the meeting, she took full part in the debate and vote.

Councillor J.E. Roberts declared a personal interest in relation to Agenda Item No. 3 – Proposed Voluntary Termination of the Caerphilly CBC School PFI Contract, as his grandchildren attend Ysgol Gyfun Cwm Rhymni. As the interest was personal only, there was no requirement for him to leave the meeting, he took full part in the debate and vote.

REPORTS OF OFFICERS

Consideration was given to the following report.

3. PROPOSED VOLUNTARY TERMINATION OF THE CAERPHILLY CBC SCHOOL PFI CONTRACT

Declarations of interest were received from Councillors C. Mann, L. Phipps, C. Wright,

T. Parry and J.E. Roberts. All declarations related to a personal interest only, with full details minuted above, and the Members remained in the meeting during consideration of the item.

The Cabinet Member for Finance and Performance presented the report, which provided details of a proposal to voluntarily terminate the Caerphilly CBC School PFI Contract and sought Joint Scrutiny Committee endorsement of the proposal prior to Cabinet and Council consideration.

Members were advised that the Welsh Government has requested that all Welsh local authorities with PFI contracts review them to assess whether they continue to offer value for money. Over a number of years, the Council has sought to achieve savings from the School PFI Contract, to ensure value for money services are being provided to the schools and to minimise affordability implications. The Council has considered all options, including increasing the contract management, reviewing the services provided to identify and implement savings, and using mechanisms in the Contract such as benchmarking to reduce costs. However, despite the funding support from Welsh Government, there continues to be a significant affordability gap between the Council's normal school funding levels and the payments made to the Contractor. As such, a business case has been prepared setting out details of a proposal to voluntarily terminate the School PFI Contract. Members were therefore asked to consider the content of the report and to support the proposal to voluntarily terminate the Caerphilly CBC School PFI Contract prior to Cabinet and Council consideration.

The Cabinet Member emphasised that this is purely a contractual matter between the Council and the School PFI Contractor on a number of non-educational services, including building maintenance, catering, cleaning and grounds maintenance and would have no impact on pupils or teaching staff at either school. Should the proposals be supported, these will bring equity to the way that schools across the county borough are funded and operated by the local authority, ensuring a fairer approach to funding across all schools, and will also produce a significant annual saving through the early termination of the PFI Contract. Assurances were given that both schools would be kept informed and updated throughout the process.

The Joint Scrutiny Committee discussed the report and one Member asked what the preferred option for providing maintenance services would be should the current PFI Contract be terminated at the two schools, and whether future provision would be provided in-house or via private operators. Mr Steve Harris (Head of Financial Services and Section 151 Officer) advised that it would be for both schools to determine individually whether they choose to stay with existing providers or seek a new provider, and that whatever decision the schools make, the Council will do whatever they can in terms of providing support.

A Member observed that if the contract was terminated, she would like to see any consequential savings retained within the Education service area. Mr Harris explained that a process to agree compensation would follow a decision to voluntarily terminate the PFI Contract under discussion. It was also outlined how the joint meeting of both Scrutiny Committees would be reconvened in the future to discuss options around any potential savings.

One Member asked why it had taken so long to reach this stage of the process, given that Local Partnerships LLP provided their original report to Council in 2018. Members heard how the original decision to commission the development of a business case was made in 2018 and that a review of the subsequent findings had been delayed by the need to redirect resources due to the national Covid-19 pandemic. The Member

also asked if legal considerations had been fully explored around the fact that the original successful bidder for the PFI contract (Ballast Wiltshier) no longer existed. Members received assurances that such matters had been fully considered. Mr Mike Read (Project Director with Local Partnerships LLP) also outlined how the terms of the agreement had not changed, how the contract was now with Machrie Limited, and that external legal advice would be sought if the Council decided to voluntarily terminate the PFI contract.

A Member expressed concern over the lack of consultation and information as highlighted by the Ysgol Gyfun Cwm Rhymni governing body within Appendix 1 of the report. Mrs Sue Richards (Head of Transformation and Education Planning and Strategy) highlighted the commercially sensitive nature of data contained within the Business Case, and provided details of meetings that have taken place with both schools and the support that would be made available to them if the process progressed.

One Member wished to know if there was a risk that the level of compensation due as a result of terminating the PFI contract would make the decision economically unviable. Mr Harris advised that the contract would not end until a notice of termination was officially served and that this would not happen if it was not deemed financially viable for the Council. The Member asked why the original contract had not been circulated as it was not confidential due to being initially signed by school representatives. During the ensuing discussion, the need for commercial confidentiality was highlighted and it was suggested that distribution of the original contract should be discussed outside of the meeting. It was also suggested that the contract with sensitive information redacted could be circulated to Committee Members. Members also heard how the release of the contract was the subject of a recent Freedom of Information request, and that this had been refused by the provider on the basis that putting the PFI contract into the public domain could affect their commercial interests.

A query was also received on the provision for any slippage in terms of the timescales set out in the report, and Mr Harris gave assurances that this would not materially affect the figures included in the business case and should not have a significant impact on the final termination sum.

Having noted the content of the report, it was moved and seconded that the following recommendation be forwarded to Cabinet for approval. By way of Microsoft Forms (and in noting there were 18 for, 0 against and 1 abstention) this was agreed by the majority present.

RECOMMENDED that Cabinet and Council support the proposal to voluntarily terminate the Caerphilly CBC School PFI Contract.

The meeting closed at 6.08 p.m.