

# COORDINATING COMMITTEE

Thursday, 2 October 2014

<u>Present:</u>	Councillor	M McLaughlin (Chair)
	Councillors	P Doughty M Sullivan J Williamson T Anderson
		W Clements S Williams P Gilchrist
<u>Deputies</u>	Councillors	D Roberts (in place of A Leech) R Gregson (in place of P Brightmore) H Smith (in place of W Smith) J Crabtree (in place of J Williams) R Abbey (in place of C Muspratt) L Fraser (in place of C Blakeley) B Berry (in place of M Hornby)
<u>In Attendance</u>	Councillors	Paul Hayes (Lead Call-In Signatory) Tony Smith (Cabinet Member) Phil Davies (Witness)

## 28 APOLOGIES FOR ABSENCE

The Chair welcomed everybody to the meeting and asked if there were any apologies for absence. The Committee Services Officer advised the Committee that apologies had been received from Councillors Leech, Brightmore, Muspratt, W. Smith, J. Williams, Blakeley and Hornby. Each had nominated a deputy, who would be shown in the attendance record.

## 29 MARK DELAP

The Chair referred to the recent and sudden death of Mark Delap, Principal Committee Officer, for this Committee and the Committee stood in silent tribute to Mark's memory.

## 30 CODE OF CONDUCT - DECLARATIONS OF INTEREST RELEVANT AUTHORITIES (DISCLOSABLE PECUNIARY INTERESTS) REGULATIONS 2012, INCLUDING PARTY WHIP DECLARATIONS

Members were asked to consider whether they had any disclosable pecuniary interests and/or any other relevant interest in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

Members were reminded that they should also declare whether they were subject to a party whip in connection with any item(s) to be considered and, if so, to declare it and state the nature of the whipping arrangement.

At the request of the Chair, and in response to a question from a Member, the Head of Legal and Member Services gave advice on the matter of signatories to the call-in notice sitting on the Committee. He commented that although being a signatory to a call-in notice did not preclude a Member from sitting on the Committee hearing the call-in they would need to be mindful of pre-determination and bias. Supporting a call-in did not amount to a member accepting the reasons had been made out and proven or that one Member had reached a settled view.

Councillors Clements, Berry, Gilchrist and Anderson declared their interest in the call-in of Cabinet minute 44 by virtue of them being signatories to the call-in notice.

Councillors S. Williams declared a personal interest by virtue of him being a Governor at Foxfield School and a signatory to the call in.

Councillor Crabtree declared a personal interest by virtue of his granddaughter who previously attended Stanley School and by virtue of his employment in an educational setting.

31 **CALL-IN OF A DELEGATED DECISION - CABINET MINUTE NO. 44 - OUTCOME OF THE LYNDALE SCHOOL CONSULTATION**

In accordance with the procedure previously agreed by the Committee, the Chair referred to the decision of the Cabinet relating to Outcome of The Lyndale School Consultation (Cabinet Minute 44 (4/9/14) refers.)

The decision had been called-in by Councillors P. Hayes, J. Green, P. Gilchrist, L. Fraser, P. Williams, S. Williams, C. Blakeley, E. Boulton, G. Ellis, J. Hale, A. Hodson, K. Hodson, L. Rowlands, A. Sykes, B. Berry, C. Carubia, W. Clements, S. Kelly, D. Mitchell, G. Watt, D. Elderton, T. Anderson, M. Hornby, C. Povall, L. Rennie, T. Smith, P. Cleary and A. Brighthouse on the following grounds:

1. The Independent Consultant appointed to comment upon the options for Lyndale School was appointed unilaterally by the Local Authority, with no consultation with the Governors or Parent's of Lyndale School.
2. The Independent Consultant's report was not commissioned prior to the consultation and was published once the consultation had closed,

therefore not allowing any proper or adequate scrutiny of the aforementioned report.

3. Cabinet had prepared, prior to the meeting, a typed and printed recommendation which was moved by Cllr Tony Smith and agreed unanimously by attending members of the Cabinet. It would therefore seem that Cabinet's decision had insufficient regard to the presentations made at the Cabinet meeting, including the articulate and highly persuasive contributions from parent representative Zoe Anderson.
4. Education, Health and Care Plans are currently being drafted in respect of all pupils who attend the Lyndale School. In order for Cabinet, the Independent Consultant, or indeed the wider public, to have sufficient information to decide whether or not these pupils could continue their education at alternative schools the aforementioned plans should have been published prior to the opening of the consultation.
5. A series of questions raised by Governors and Parents of the Lyndale School to the Local Authority where not answered adequately or at all, so as to hinder the Governor's and parent's ability to fully respond to the consultation process.
6. The consultation meetings, although described as 'generous' by the Independent Consultant, where flawed, insofar as the Chair was an council officer and could not reasonably have been seen as independent given officers previous recommendations to Cabinet. Additionally no minutes of these meetings where published but rather 'high level notes' which were not conducive to the principle of a full and open consultation.
7. Owing to the above the Cabinet could not have made a properly informed decision as to whether the proposals met the SEN Improvement Test.

The Chair explained the call-in procedure and indicated that the Committee was invited to consider the decision that had been made and determine, in the light of evidence to be presented, the most appropriate course of action. The Committee had no power to overturn a Cabinet decision, or to substitute its own decision in place of the original. The options open to the Committee were

- to refer the decision back to the Cabinet Member, setting out in writing the nature of the Committee's concerns;
- to refer the matter to the Council – only where the Committee believed that the decision was outside the policy framework or contrary to or not wholly in accordance with the budget. The procedures in those rules had to be followed prior to any such referral;

- to take no further action, in which case the decision would be upheld and take immediate effect and may then be implemented.

Prior to consideration of the item, the Chair asked all Members of the Committee to introduce themselves for the benefit of the public present.

A Member requested that questions and answers during proceedings be recorded for the purposes of the Minutes.

### **Explanation of the Call-In by the Lead Signatory, Councillor Paul Hayes**

Councillor Hayes provided a brief explanation of the call-in and thanked the Committee for taking the time to consider further the Cabinet's decision of 4th September in regards to The Lyndale School.

He explained how incredibly emotive the issue of potential school closures was and highlighted the emotions which were further heightened upon consideration of this particular school.

Councillor Hayes indicated that The Lyndale School was not just any primary school; it was a school which provided a loving and caring environment for children who had the most profound and multiple learning difficulties (PMLD). So acute and extensive were the needs of the 21 children currently the school that Eric Craven, a former independent expert commissioned by Wirral Council, described them as being PMLD Plus.

Councillor Hayes commented that during the course of the evening the Committee would hear much about funding bands, PMLD, CLD (Complex Learning Difficulties) which was undoubtedly an extremely complex issue but asked the Committee to try and not become blinded by the science, and not fall into the trap of allowing confusion and contradicting opinions to lead them to the default position of "officer's know best". Councillor Hayes commented that it was to the Council's great detriment, that adopting this position did a deep disservice to residents.

Councillor Hayes urged the Committee to test the witnesses called and have some foresight and consideration to its irreversible impact. He asked that as a Council, should it really be seen as inflicting this arduous process upon families who determinedly struggle day to day with an unimaginable and ever present worry about their child's health whilst at the same time juggling those daily tribulations we all suffer but which pale into insignificance in comparison.

Councillor Hayes indicated that the parents of The Lyndale School did not want special treatment; they did not want to be cast above others. All they were asking for was that their children are safe and happy in a loving learning environment which suited their needs and which improved the quality of their

lives. He further commented that this basic right was afforded to them by The Lyndale School and parents and Governors would evidence that any other option was simply an inadequate imitation of the fantastic 'Lyndale' family they had painstakingly created.

Councillor Hayes concluded by commenting that he hoped that Members retreat from the entrenched position of any political group and instead re focus on a commitment he knew all members possessed - a commitment to the borough; a commitment to preserve all that is good about it and it was surely this commitment that would lead the Committee to urge Cabinet to think again.

**Explanation of the Decision taken by the Cabinet  
Councillor Chris Tony Smith (Cabinet Member for Children & Family Services)**

Councillor T. Smith indicated that on the 4th September a decision was taken by Cabinet to publish notices to close The Lyndale School. This difficult decision was taken for a number of reasons.

He indicated that Cabinet had given careful consideration to the representations made on the 4th September and gave further consideration to the options contained in the Cabinet Report put before it. In considering its position and the subsequent decision Cabinet listened very carefully to the representations made by parents of the school.

The options considered arose over months of discussion and debate about future provision and how support for children with Profound and Multiple Learning Difficulties could be provided. During the course of the consultation new options emerged which were also fully considered.

Cllr Smith provided the Committee with a definition of PMLD which he had used within his professional life.

Cllr Smith stated that a lengthy public consultation was carried out by officers of the Council which included six public meetings. These meetings, at different times and venues, were intended to provide maximum opportunity for the public and all the school communities to make representations, comment and to raise concerns about the proposals put forward and the options contained within the consultation document.

This wide consultation allowed members of the public, professional bodies, parents, schools, governors and many others to respond to the Council with their views.

The process was open and transparent with officers of the Council questioned and challenged about the proposals. Officers of the Council met with people

who wanted to discuss the proposals in more detail and officers responded to many letters and other representations throughout this period.

He believed that every effort was made to consult as fully as possible. Some Members of Parliament also made their views known along with Members of the Council.

Many Members took opportunity to visit the five primary and secondary schools supporting children and young people with Complex Learning Difficulties including those children with Profound and Multiple Learning Difficulties.

He acknowledged the time and commitment of the parents of children attending The Lyndale School who were vigorously involved in the process and respected their determination to present such a strong advocacy for their children.

He indicated that in considering all the factors, he took into account that the Council had a responsibility to manage the efficient use of resources and finances. This would sometimes mean that difficult and unpopular decisions needed to be taken.

The Lyndale School was recognised as a good school for the pupils it supports. However, there had been concerns about the falling numbers of pupils on roll for a number of years, and this along with the changes in Future National Funding Arrangements had given cause for concern about the future viability of the school.

Councillor T. Smith gave a view that the Council must now grasp the nettle on the question of the future of this school which had been in doubt for too long. He stressed the need to end the uncertainty for the parents, any future parent, the staff and the wider community. He gave a further view that Wirral's high quality primary and secondary schools had the capacity to provide for the current children of The Lyndale School. A final decision on the future of The Lyndale School was yet to be made and formal statutory consultation required to be undertaken.

At this point the Committee were shown a short video in relation to The Lyndale School.

The Chair welcomed the witnesses who had been nominated to give evidence to the Committee and thanked them for their attendance. She advised that, having heard their submission, the procedure then allowed for Members of the Committee to ask relevant questions.

The Chair agreed that Ms Lynn Wright, Independent Consultant who had been called by the lead signatory of the call-in and Cabinet Member that she be called only once to provide evidence /information to the Committee.

### **Evidence from Call-In Witnesses**

#### **Ms Dawn Hughes, Ms Emma Ledbetter, Ms Zoe Anderson – Parent Governors**

Q. The parents report had been circulated to all members of the Committee, which highlighted the needs of the 21 children at The Lyndale School, what are the major concerns of parents regarding their child's medical, care and educational and emotional needs?

A. The needs of the children had started to be addressed at the start of the consultation; however this was not completed prior to the consultation ending. No medical evidence or statements had been collated to date. The children attending The Lyndale School did have complex needs and were medically vulnerable, some needing ventilators, oxygen and were completely immobile. The children were categorised in Band 5 because of their recognised needs and vulnerabilities. The children can't tell a person if they are unhappy or unwell, without the level of expertise of the staff at The Lyndale School who knew the children, the children would not be able to attend school. There were no children with PMLD at Stanley School and only a small number attended Elleray Park, and although the staff were trained educationally they were not trained medically.

Q. SEN Test – what has been put in place ready for the children at Stanley and Elleray Park Schools?

A. Both Stanley and Elleray Park Schools need extensive building work to their existing sites to accommodate the children from The Lyndale School. Discussions had been held with the Director of Children's Services regarding the need for a sensory environment and we had been assured that this would be replicated and provisions made at both school sites. The children at The Lyndale School need both a sensory and quiet space and as some of the children utilised wheelchair bikes, neither school have the appropriate space and had totally different environments to The Lyndale School. Stanley School has no PMLD children currently attending and Elleray Park has a very small number of similar children. Unless the schools had a proper understanding of the children's needs and had staff with the necessary expertise, they simply would not be able to attend the school. Stanley School was good at providing education but not capable of providing the necessary medical support and needs that children required. To date no plans as to what provisions will be available at Stanley and Elleray Park Schools have been provided and shared. Parents do not see how the SEN test can therefore be met.

Q. SEN Test - The test details what needs to be identified/met. The description of the SEN Test is different in the documentation pack to the 2007 Test but the alternative provision must still be either the same or better than the current provision. What discussion took place with parents concerning the SEN Test and what has been put in place to meet the SEN Test requirements?

A. The assessment must meet the SEN Test, hence its inclusion. Nothing has been put in place at the Stanley and Elleray Park Schools to meet the SEN Test for The Lyndale School children. Both schools require extensions and an investment of £500,000 to £750,000. Parents were assured by the Director of Children's Services if the outside space, sensory environment, staffing levels could not be replicated, then the two schools would not meet the SEN Test. However, the expert report focuses on value and space only. At the Stanley School, 200 children play in a small space, there is a lot more noise, no proper quiet areas, no satisfactory space for wheelchair users, the outside space is inadequate and the school is predominately painted white whereas The Lyndale School has coloured walls and lights.

Q. We've heard from various sources that The Lyndale School was not an option for parents, and that numbers had fallen at the School, what happened? Eric Craven in his report stated that The Lyndale School could only take between 25-28 pupils, but only 21 are currently attending; however the school can cater for 40 pupils. Why do you think that is the case?

A. Evidence was given within the parent's feedback report indicating that parents had been refused a place at The Lyndale School. In relation to pupil numbers, The Lyndale School had never had 40 pupils, the limit was 28, and it had been 8 years or more since the school had had more than that. Parents who had attended the first call-in meeting had evidence that officers had dissuaded parents from opting for The Lyndale School and it was a testament to the school that despite its uncertain future, parents still sent their children to the school. In terms of investment, The Lyndale had only had £20,000 worth of capital investment whilst other special schools had received a lot more. The Lyndale School has had no real investment, had no proper support and not been given a fighting chance.

Q. A request was made to extend the school to encompass 2-19 year olds, is this still the case?

A. Yes, this would increase pupil numbers. The Lyndale School would be the only school to have done this.

Q. In relation to the falling numbers, what has been done by the Governing Body to tackle this? Have representations been made?



A. The issue of falling numbers had only been at the forefront in recent years as the school was always operating to full capacity, questions had been asked but had “hit a brick wall”. There had been an issue whereby pre-school health professionals had been directing parents away from The Lyndale School, but this had now been addressed.

Q. How long has the sensory garden been at The Lyndale School ?

A. Over 10 years. The garden has been added to over the years as children’s needs changed and new equipment introduced to the market. The garden had been established by the local community not by the Council.

Q. Anything else we need to know prior to the Committee making their decision?

A. No, not really. You have heard all we have had to say before. All the information is in the paperwork. We did have further representations to make but as we are only here to answer questions we are not allowed speak. We have lost faith in the democratic process and feel that officers had not been comprehensive enough in their processes; we are angry and frustrated that no one seems to listen to our views.

The Chair apologised to the Parent Governors and indicated that unfortunately this was the process used for dealing with Call-in items; witnesses were called to answer questions from the Committee not necessarily to simply make representations.

Q. What do you think the Cabinet and Cabinet Member had to gain by making this decision?

A. You would have to ask the Cabinet themselves, but our view is that the decision was made for purely financial reasons.

At the request of the Chair and in response to a question from a member, the Head of Legal and Member Services gave advice on the matter of written statements by witnesses. He commented that the procedure agreed by Committee did not allow for witnesses to submit written statements and then not attend the meeting given that they could not be questioned on their evidence.

Q. Anything else you wish to add?

A. In relation to the Education and Health Care Plans, the Cabinet were told that these were undertaken at the beginning of September 2014; however these have yet to be completed and at the meeting on 4 September it was resolved that a deadline of October 2014 be given for these plans to be completed. These plans have not yet reached the draft stage. Education and

Health Care Plans were only recently introduced and were designed to stay with the child until they reached 19 years, it will take time for staff to complete these given the complex needs of the children at The Lyndale School.

Q. Please clarify as to why you feel the Cabinet had not listened to you?

A. There is nothing in place in the other two schools. We have done everything we can, but have yet to be supplied with the details regarding the future plans. We feel Cabinet does not really understand our children. We have attended several working meetings with the Director of Children's Services throughout the summer and very little has been achieved. Instead officers have gone off in another direction. It was hoped that the Cabinet would have considered every bit of evidence we have provide but we feel Cabinet has ignored our evidence and will go on to close the school.

Q. At the public consultation meeting 16 June 2014 you asked if within the "special arrangements" the Department would take into account the needs of non-verbal children, the importance of the environment, friends, a sense of place and a safe environment which may prove difficult if mixed with CLD children, how do you feel this question was answered?

A. This question was asked of us prior to this event taking place. We understood that a picture of each child's needs was to be done for the purpose of the SEN Test and to inform the consultation. This information was subsequently used for the child's Education and Health Care Plans. You need to know the children's needs before you can conclude whether or not their needs were being met. Ms Wright never made any reference to this within her report.

It was commented that there is no reference to any evidence from medical experts within Lynn Wright's report.

In relation to the banding system, this was not based on the needs of the children at The Lyndale School, as no assessments of their needs had been completed.

Q. In relation to the meetings held by the independent consultant, what happened?

A. An expert was instructed for 18 days, we were told that she was coming into the school at short notice and would be holding one meeting only. None of the parent governors could make this meeting due to its short notice. No other meeting was arranged or offered. The first time we had met the independent consultant was at the Cabinet meeting.

In relation to the Independent Consultant's report which listed the documentation she had considered, this made reference to the parent's report

which was not the right report as we had submitted a report in June not March as stated in the report.

Q. Parents have concerns about the proposal to mix PMLD and CLD children. They say it's dangerous, why is that?

A. It would be dangerous given that CLD children are very mobile and lack an understanding of authority. Some of the parents at Stanley School had raised concerns about this proposal as they felt their children may be a danger to those more vulnerable children with PMLD. Some schools do have specialised units within their schools for children with PMLD but not together within the same building.

Q. Is there any evidence of incidents that have occurred due to the mix of CLD and PMLD children?

A. No. However, we have requested incident records from the schools but have not been provided with information about any incidents.

Q. The two schools, Elleray Park and Stanley, do they suit the needs of the children of The Lyndale School? And do you feel that the alternative schools will provide the care and level of safety provided now at The Lyndale School?

A. We don't know as we have not seen any plans. However, nothing is in place as yet.

### **Tom Harney – Chair of Governors**

Q. Confirm how long you have been a Chair or on the Board of Governors at The Lyndale School?

A. I have been a Member of the Board for 20 years and been the Chair for 17 of those years.

Q. In relation to a question you asked at Council on 12 July 2010 (Minute 19 refers) do you remember it? What was your reaction to the response given 4 years ago?

A. Reaction came from the parents regarding having to move their children to a new environment. Parents were concerned by the stress that would be caused by such a move, they were worried given the conditions of their children. Parents expressed the view that The Lyndale School should remain open until there was clear evidence that an alternative school would be provided that was better. The Director of Children's Services at the time interpreted that to mean "close the school". It is important you put yourself in the position of the children so that you understand their needs.

Q. With no financial or political gain to the Council why do you feel the decisions have been made?

A. I cannot look into the minds of others but I want to see a full analysis of the decisions made by the Council. My view is that all the options regarding creating specialised units etc need to be reconsidered. The decision taken should have started with an appropriate planning process in the first instance, assessing the needs of the children with PMLD and Autism. There should be a plan of provision for vulnerable children available but this has not yet been done.

Q. Due to the falling numbers and decrease in finances, do you think that parent Governors at The Lyndale School need to now start making plans to safeguard their children at the school going forward?

A. The Lyndale started in Clatterbridge and when the decision was taken to specialise in PMLD the numbers at the school decreased as the site didn't have the space. Discussions were held to find an alternative site to the current Lyndale site. Parents have raised concerns regarding the lack of apparent space at both Elleray Park and Stanley Schools.

Q. Would you agree that although the decision taken was not for financial gain, there is a financial gain of £2.7 million to the Council?

A. There would be a financial capital gain in that the sum would be deducted from the Council's capital debt. There has always been a plan for two schools to provide the provision and this proposal is the final stage of that plan.

### **Nicola Kenny – Teaching Assistant**

With the permission of the Chair Ms Kenny read out the following statement.

"I am going to say a few words tonight about the Lyndale School, what we do and the impact that this whole process has had on us as a family, ever since the Council announced back in December 2013 that they were 'minded' to close the school.

I have written down my thoughts and feelings as they are from my heart, and I feel that without them being written on paper, I may become too emotional and forget all the points I feel you need to hear. I am sure that a few of you will think you have heard parts of this before, and that will be because you have. I originally prepared this speech for the Cabinet meeting on 4<sup>th</sup> September, but on 3<sup>rd</sup> September, the school was told only one person could represent Lyndale, but Zoe Anderson kindly read out some parts of my speech. The care that is provided at the Lyndale School should never be simply measured in terms of money, as staff and parents all know that every child who attends the school is priceless.

The care and education requirements of these most vulnerable children should never be evaluated by people who have not personally worked with P.M.L.D. This is because they lack the insight and knowledge of how best to provide the care and education for children with such unique individual needs. I feel that the people who put these proposals forward may have had the best intentions, but do not understand and recognise that this small and intimate school is the perfect setting to cater for, and is tailored to all the needs of these children. For example, our teaching staff are experts at giving the children equal opportunities to access the National Curriculum, but by adapting it to a very multi-sensory approach.

Everything is bright, colourful and stimulating, if we can make it smell we will and if it can be tasted it will be done. From knowledge of working with children with CLD, this teaching style is not always suited to their requirements and they are less tolerant of the multisensory approach. We question how the two very differing needs can be taught in conjunction.

We have heard many times that our small school is not financially viable, but it is in this small environment that these children flourish as part of a small, safe, happy family. Where they can receive the 1-1 individual attention they need, and allowing for a strong bond of trust to be built up between staff and pupils, making a job at the Lyndale a vocation, backed up by the very small turnover of staff.

The future of the school has been under a cloud for many years, it has been admitted by officers that this uncertainty has contributed to what the Council cite as "a drop in pupil numbers over the years". We have also been told that parental preference has had an impact on our pupil numbers. We feel proud to say that parents are still choosing the Lyndale School for their children, despite all the issues surrounding our future, and we have recently had two new admissions, and another two children who are due to start.

It is a devastating reality that whilst at Lyndale, some children are at end of life care, and I can say with great sadness that 12 of our beautiful children have gained their Angel wings and lost their fight for life. This is also tragically reflected in our pupil numbers.

As a parent of a four year old boy who has just started reception years in a mainstream school, I had a range of worries, and for any parent placing their trust in school staff to care for their child as well as they do is hard. I am fully aware that my concerns were relatively small and insignificant compared to the anxieties that our parents at Lyndale must face, when leaving their precious children in our care, given some of their very complex medical requirements. The fact that these amazing parents give us their full trust to care for these fully dependant and vulnerable children, is a testament to the

excellent skills set, knowledge and large caring hearts displayed by my colleagues and all of the multi professional team involved.

The long and drawn out process has taken its toll on all concerned with the school, and I feel could have been handled better, with staff not knowing from one week to the next what their future may be. The Cabinet recommendation states:

“The Director of Children’s Services will investigate if staff could be employed at receiving schools”.

In the consultation paper which staff were all told was a legally binding document, it states staff are “eligible for redeployment”. This was a thoughtless mistake to make, with staff feeling they may have some stability, and be able to ensure that the transition even though unsettling, would have been made smooth, and ensured the childrens’ maximum safety.

This was a misleading statement for parents, staff and the public alike. We are all confused how a legal document can simply be altered later to suit the Council.

From December 2013 the Council maintained they were ‘minded’ to close the school, and have produced a document in order to show this is the best option. In the interest of fairness the Council paid £10,000 for the services of an independent advisor to provide evidence of this. I have worked with these children since I was 21 and I am now 35; that is 14 years’ experience. There are over 30 staff members who work with the children including nurses, physiotherapists, occupational therapists, who have similar amount if not more years of experience than myself. The parents are easily the most experience, knowledgeable and qualified experts on the needs of these children. Look behind me, these are the people you should be listening to, but yet the Council chose to spend a huge amount of money for the advice of someone who has not worked with P.M.L.D children.

This has been an incredibly challenging time for the school and all involved, and has coincided with the death of one of our precious children in July, meaning this has been the toughest period that the school has known. Despite the anguish that many staff are feeling, we are all 100% determined not to let this affect our performance levels. The children come first. At the last call-in meeting one of the children became poorly, his monitors alarmed and he required a medical intervention called ‘suction’. This is one of the procedures we had explained to the councillors not five minutes earlier, is a daily occurrence at the school, and that staff are equipped to deal with such situations. One of the councillors became visibly upset and distressed, this councillor felt they couldn’t continue with the meeting and went home. Whilst I have every sympathy with the councillor, our parents and staff have been suffering from anguish caused by the Council for 10 months.

From the beginning, it seems there is a policy of divide conquer with the three special schools seen as rivals. I very sincerely say that the staff of the Lyndale School have nothing but the utmost respect and admiration, for the children, staff and parents at Stanley School and Elleray Park School. But as a united family we at Lyndale feel our “unique and caring environment”, the Council’s words, best serves the interests of our children, and we are the best school to meet their needs.

I repeat again that it has been a long and emotionally draining 10 months for all connected with the school but we will fight the decision to close with all we have.

To conclude I would like to use a quote from the American actor, Morgan Freeman,

“Attacking people with disabilities is the lowest display of power I can think of”.

Q. Would you move with the children to a new school?

A. Yes probably, I’d want to look after their health and safety needs and to ensure they were safe. I think most staff at The Lyndale School would feel the same.

Q. Did you attend any of the consultation events?

A. Yes, I attended two at Acre Lane. I felt staff and parents were not listened to and the Chair of the meeting was not very considerate to staff.

Q. You indicated that you were unhappy with the Independent Consultant who was appointed to undertake the review, why do you feel she was not qualified?

A. I saw her only for a few minutes as I worked part time but from what I saw there was no interaction with the children but I could be mistaken.

Q. Do you not think she is qualified to undertake the review?

A. This should have been done by parents or staff who had experience of children with PMLD.

Q. What are Lynn Wright’s qualifications?

A. I don’t know you will have to ask Lynn Wright.

Q. Why do you think she is not qualified?

A. She is not as qualified as me having worked with these children for the past 15 years.

**Ian Harrison - Governor**

Q. What has been invested in the school over the years?

A. We've had £15,000 invested in The Lyndale School when I started. This had now reduced to £4,000.

Q. In the independent report, it stated that to extend both Elleray Park and Stanley schools would be more cost effective, what is your view?

A. Would be more cost effective to extend The Lyndale School. Elleray and Stanley Schools are not large enough.

Q. What has been done by the Authority to help you through your financial difficulties?

A. When I started the school's 2013/14 funding was for 40 places. The Local Authority had funded about 15 places as the funding formula did not give the school the funding needed.

Q. Would there be an overspend year on year if admissions reduced?

A. The financial problems were due to the funding band which was inadequate to meet the needs of the children. The school would be in deficit. The previous arrangement for funding meant that the school received £23,000 per child but under the new arrangements the maximum funding they would receive is £28,000 per child.

Q. Would you say it was reasonable to say that the school was facing closure due to financial reasons?

A. Not if you look at the needs of the pupils. Such needs require more funding than what had been decided by local authority. The top up for band 5 had not been given correctly.

Q. Over time the Council were funding 40 places but you only had 26 places, you don't have the top you need. Is the funding you now receive inadequate?

A. Yes, SEN test is wrong as the new schools couldn't possibly meet the needs of the children under the new funding arrangements.

Q. Was the formula change a decision of Central Government?

A. No, top ups are set by the Local Authority.



Q. The financial challenges you faced were these revenue not capital? And what steps have you taken with the financial challenges you face?

A. We've had no financial challenges due to funding by the local authority. We had no problems until the new arrangements were introduced.

Q. So the Council have been subsidising a non sustainable school?

A. No, the Council have funded what was needed for the school to meet the needs of the children. Top up funding is a lot lower now.

Q. In relation to band 5 set by this Authority and any school in your opinion taking on 21 children with PLMD will suffer?

A. Yes, the funding is inadequate.

**Christopher Locke - Parent of a previous pupil at the school and fundraiser**

Q. What is your relationship to Lyndale School?

Mr Locke described attending the school as a child, when it was based at the Clatterbridge site. He advised that he lived close to The Lyndale School and was fully aware of the school and its sensory garden. Over the years Mr Locke indicated that he had raised over £80,000 for Lyndale. He commented that he lived very close to the school and had a close relationship with the staff, parents, ex-pupils etc.

Mr Locke commented that Lyndale was "unique". The meaning of "unique" in the dictionary is "something that cannot be replicated, or improved upon and does not have an equal".

Consultation documents and the reports relating to The Lyndale School indicated that "many" of the children at the school have PMLD and then sometimes it was "some" of the children. Mr Locke stated that the correct figure is 90% of the children have PMLD. The terminology used has been misleading.

The meeting was adjourned at 8.25pm

The meeting reconvened at 8.35pm

**Emma Howlett - Parent of a previous pupil at the school**

Q. Did you attend any of the consultation meetings?

A. Yes, I came to the one at Wallasey Town Hall.

Q. How do you feel it went?

A. I felt like we were not listened to, and we were shrugged off.

Q. Did your child have PMLD?

A. Yes.

Q. Would send you child to the alternative schools (Elleray Park and Stanley)?

A. My child went to a mainstream school and to a PMLD school. Then schools were unable to meet his needs and he was then moved to The Lyndale School and spent 5 terms there.

Q. Were you at the September Cabinet meeting?

A. No.

Q. Were you surprised at the speed of the decision?

A. There was no full consultation and I was surprised by the speed of the decision.

### **Evidence from Cabinet Member's witnesses**

**Julia Hassall – Director of Children's Services; David Armstrong – Deputy Chief Executive and Andrew Roberts, Children and Young Peoples Department.**

Q. Was the option to keep the school open ever considered?

A. Yes, it was one of eight options considered, as detailed with the Cabinet report. The report also gave details regarding the concerns in relation to the falling numbers and funding which were considered regarding the future of the school. I am trying to end uncertainty for parents, staff and pupils.

Q. Was the formula set by the Schools Forum?

A. It was set by the Council based on advice by the Schools Forum, following consultation with the schools. The Council does not usually go against the Schools Forum recommendations.

Q. What is the Schools Forum?

A. It consists of representatives from various education bodies and it was chaired by an independent person.

Q. Referring to the comments made regarding there being a financial gain to the Council of £2.7 million if the land was sold off, has this even been discussed?

A. No, we have not had this discussion. This had been raised at the last call-in meeting. There was a process to be followed regarding disposal of school land. If the school land was to become available, it would first need to be offered as a site to become a free school or an academy. If this was not required it would then have to be considered by Sport England as a site for sports and recreation. If they did not require it and the Council wanted to dispose of the land, the Secretary of State for Education needs to approve it.

In terms of the valuation, councillors asked for a list of assets to be given. It is a financial procedure, to put a figure next to anything the Council owns.

Q. What is the value of the land/building? I also asked this question at the "Call-in", as Head of Asset Management, why didn't you know?

A. The £2.7m is an accountant's value to take account of depreciation in assets. It is not a market value figure. There is no reason why I would know this figure as it was purely for accounting purposes.

Q. Other schools have closed with housing now built on them. You have said it is not a difficult process. Would the Council make money on the sale and development of the land given that the Council would receive £10,000 per new house built.

A. In relation to other site, for example Acre Lane, if the playing fields are not used as playing fields for more than 10 years, you do not need to get permission to sell. We did not have to for Poulton Road land and we don't have to for the new Foxfield site. We were going through processes now and it's not an easy process.

Q. What is the capacity of Stanley School? Is it at capacity?

A. Plans were shared at the School Forum to extend capacity. Papers for this were made available on the website today. Two site visits had been undertaken to see if there is capacity at Stanley or whether with increased capacity they could take children from Lyndale.

Q. Are you happy for children from Lyndale to go to Elleray Park/Stanley School?

A. No, not happy. We held detailed meetings and I am confident both schools, following development, could meet the children's needs.

Q. Why has the Local Authority spent £1.7 million on sending children to West Kirby Residential School? It has received more funding than any other school. If Elleray Park is fabulous, why don't those attending West Kirby go there?

A. There are very few primary schools like West Kirby. It is not a PMLD school. The children of Elleray Park have very complex needs. Children at West Kirkby have behavioural/emotional problems.

Q. So you're quite happy to lump children together with PMLD, CLD and Autism but children with behavioural needs are kept separate?

A. We currently have two Primary CLD schools. Both have capacity. The children of The Lyndale School could have their needs met at both schools. Children at West Kirby have a different set of needs. That is the reason why at this point in time, the school cannot meet their needs but can for those who attend Lyndale.

Q. In relation to funding, West Kirby Residential School received funding of £37,000 per child for 46 children which was double what The Lyndale School received. The Authority was not prepared to do this for The Lyndale School. Why not? Why not just give The Lyndale School the funding need? Why is it so low given you pay for West Kirby Residential School?

A. A banding system was introduced this April. The banding needed to address different needs of our special schools - not an easy task. After all Schools were consulted it was recognised that the new system may cause problems. There was a further plan to review the system in the next 12 months.

In respect of the West Kirby School, this is independent provision and the Council has to pay commercial rates.

Q. When banding agreed where the Schools Forum informed of the difficulties schools may face?

A. This was detailed within the report to the Schools Forum, a "double top up" was introduced also use of school contingency fund.

Q. Was there recognition of the needs of children over a band 5?

A. Yes, there was an introduction of a Band 5 plus.

Q. If the Band 5 could be expanded to a place a child outside the authority. Why not inside the authority?

A. Provision outside the borough is paid at market rates.

Q. Over the transition period, what have you got in place, for supporting the parents?

A. The Principal Educational Psychologist and key health professionals. Staff and parents will meet to assess each child at the Lyndale School. It was hoped this would be done quicker, but it is difficult due to the complexity. Cabinet confirmed October for completion of the Education Health Care Plans but we will do them as soon as possible. It is important the Plans are thorough to ensure all needs are met. It is essential we take the time to get the Plans right for each child.

Q. What about the capital?

A. It's a ring-fenced, in the capital plan.

Q. At the consultation meeting at the Williamson Art Gallery, if there are concerns raised regarding the bandings could it go back to the Schools Forum?

A. Yes

Q. Was there any professional advice given to the Schools Forum when setting the bandings?

A. Officers advised on the rules but no advice was given regarding the bandings. Two working groups had been set up by the Forum and had come up with the banding proposals.

Q. In relation to the January report, was there a reference to Lyndale?

A. Yes.

Q. Where is the "contingency"? Can this be used to allow The Lyndale School to continue?

A. This is normally used to fund unforeseen costs.

It was commented that the Authority funded empty places at The Lyndale School because of the situation there.

Q. What would we have done if the decision on The Lyndale School had not been taken?

A. The whole national system had changed but beyond 2015/16 it will be unknown as to what funding will be allocated.

Q. The consultation on changes to top-up funding has been going on for some time hasn't it?

A. Yes. Since 2005 it has been a constantly evolving issue.

Q. Looking at Appendix 2 of the report, do we have up to date figures?

A. Yes, these figures are updated each term.

Q. In relation Educational Health Care Plans, should these have been done prior to Cabinet considering the options?

A. We felt that we had done enough to do the SEN Test and had spoken to parents and Head teachers. Educational Health Care Plans are private to parents and the children and are designed to ensure they meet the needs of each child.

There extensive discussions regarding an additional option to be considered regarding Foxfield which was submitted late into the consultation. However, Foxfield School confirmed that this was not a viable option for it.

Q. Was there an under spend in the SEN budget last year?

A. Yes.

Q. How much?

A. £1.4 million under spend last year; £600,000 this year for special schools

Q. Why the big under spend?

A. This is a £230million budget, although the under spends are large sums of money, they are not that considerable given the size of the budget. These resources were not committed through the year.

Q Where is it? What's happened to it?

A. This is ring-fenced for the schools, the Council cannot touch it. Where there is an underspend in the school budget, the regulations state that it must be taken forward to the next year's budget.

Q. Where is the under spend?

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Q. If there was an under spend, why wasn't it spent on SEN or Lyndale?

A. There was no need to use the contingency or underspend, as they have had a balanced budget.

Q. Why close it?

A. Falling numbers on roll at the school. There are 21 children in the school currently. There is a need to ensure funding is spent wisely and the number of pupils at the school is falling. Our view is based on all options. PMDL children's needs at The Lyndale School can be met at Ellery Park and Stanley Schools more effectively.

Q. Whilst Educational and Health Care Plans were being written, what Paediatrician or Medical professionals were in attendance?

A. Health professionals could have an input if parents requested it.

Q. Did any parents request this?

A. I don't know, the Educational Psychologist advised me that health professionals had been involved.

Q. In the previous consultation document, it was stated that the staff at The Lyndale School would be redeployed, However, at Cabinet you advised that this was an error. How can you change that mistake?

A. There is no redeployment policy for school staff as they are employed by governing bodies. The responsibility of employment of staff falls under the remit of the relevant Governing Body. The Department will be assisting teachers and assistants to find alternative employment. In the original consultation document, we corrected the error with HR and staff. Officers indicated that they would be speaking to both Heads to look favourably to employ staff if needed. For example, Stanley Park needed maternity cover and contacted the Acting Head of The Lyndale School to see if this would provide an opportunity for a member of staff at The Lyndale School.

Q. Do you have any knowledge that The Lyndale School took action regarding their financial position?

A. Governors had taken action and reduced staff costs.

Q. Does the DfE guidance on banding take into account the child's needs?

A. Yes.

Q. Why not give more funding to The Lyndale School? DfE says that you can.

A. Schools Forum could look at this. They would have to consider whether other schools can accommodate those children.

Q. What factors would be considered?

A. Factors such as falling numbers, what are the best options for the child.

### **Councillor Phil Davies – Leader of the Council**

Q. How did you come to make the decision at Cabinet?

A. Speaking on behalf of the Cabinet, everyone had an open mind during the consultation. All Members had read the papers prior to the meeting. On the day of the meeting, we had a lunchtime meeting with the Cabinet Member (Cllr Tony Smith) a Lyndale Parent Governor and a parent thereby giving them a further opportunity to highlight any further points/information they wanted to.

The Cabinet Member had drafted a draft resolution which was tabled on the evening of the Cabinet meeting. Cabinet Members had not reached a settled view prior to the meeting. They were aware that further information received at the meeting could result in the draft resolution being amended or replaced entirely. In fact that was actually happened, after consideration of the representations, evidence etc, I proposed a change to the proposed resolution which related to the completion of the Care Plans. Neither I nor other Cabinet Members attended Cabinet with a predetermined view. The Cabinet listened to all views at the meeting before reaching its decision.

Q. Why did the draft resolution not also include the possibility of keeping the The Lyndale School open?

A. It was a draft resolution. Cabinet Members and I were all free to change, disagree or approve the resolution that had been moved.

Q. Why not adjourn the meeting to discuss and draft a resolution and then come back to give your decision? The only amendment you made to your draft was in relation to the completion of the Education Health Care Plans. Do you think completion of these plans are essential to ensure the needs of the children of the children are met?

A. We felt that the Education Health Care Plans were not needed to make the decision. The Cabinet had sufficient evidence to make an informed decision.

Q. Do think that as you have given officers until October to complete the plans, the decision to close the school should wait until after October?



A. No, felt we could proceed to the next stage of the process that proposed closure of the school given the evidence considered.

Q. Was it pre-determined?

A. Cabinet members did not decide until after they considered the outcome of the consultation, heard all the presentations at the Cabinet and considered the evidence. There was no predetermination on my part or other Cabinet members.

Q. You've heard that parents were unhappy about the consultation. They felt they were not been listened to. Given that, why was an officer chairing the public meeting and not a Cabinet member or councillor or at least a Head of the Department?

A. I do not know, I cannot answer that. I know with absolute confidence that officers had taken an open view and showed no bias and behaved correctly at those meetings.

I am sorry parents felt they weren't listened to. I have been to The Lyndale School, met parents and read their submissions. The fact is I don't agree with their views - but I have listened to them. Sadly, the school has a falling roll and other schools have excellent facilities.

Q. Obviously you must have felt Education Health Care Plans were crucial as you wanted them completed by October. What qualifications do you have to make the judgement they were not needed as part of the decision making?

A. I don't have any qualifications but I felt we had enough information on which to base our decision.

Q. When are the Education Health Care Plans going to be done if not by the end of October?

A. I can't answer that.

Q. What advice had you been given to set 31 October as the deadline for the Education, Health Care Plans to be completed?

A. I was advised by the Director of Children's Services that these plans should be completed sooner rather than later. The date of 31 October was ambitious but she felt it could be done.

**Witness Lynn Wright – Independent Consultant**

Ms Wright introduced herself to the Committee and commented that she had 30 years experience in education and working with children at senior level in relation to financial management, project management and Special Educational Needs reorganisation.

Q. Looking at your C.V. are you qualified to judge children with SEN, or the school's situation?

A. This was a far more detailed review and report. I could not have done it if I was a PMLD teacher as the review requires an understanding of strategy too.

Q. How do you define a child with PMLD?

A. The definition I used is detailed on Page 39 in the report pack. I used this reference for the Lyndale children.

Q. Why did you not make more appointments with parents or spend more than 2 hours with them?

A. These meetings were arranged with the Acting Head. Three meetings were arranged and letters were sent out inviting parents to a meeting to be held on a Wednesday. On that day four or five parents were there, but Parent Governors could not attend. I also read the document submitted by parents in March 2014 and the responses from June. I took into consideration all the letters from officers and Governors.

Q. Did you take into account the findings from the Educational Psychologist?

A. Yes, I relied on her as my expert.

Q. In relation to the SEN Improvement Test, do you agree that provision has to be existing to enable it to be assessed? The provision in Stanley and Elleray Park Schools can only be based on a theoretical basis?

A. I have met with all schools and in my opinion both schools can provide just as well, if not better than The Lyndale School.

Q. Have you seen the building plans and staff models for both schools?

A. Yes, I have seen the plans. However, it is up to the Head and Governors to determine staffing.

Q. How much were you paid to write the report and will you be paid for coming here tonight?

A. I am not prepared to answer that question.

Q. What's your experience with PMLD that enables you to say that the children will benefit from the move to the two schools?

A. I have worked with children with PMLD for five years, my experience tells me that the children will benefit from being with other children who have different needs.

### **Summary of the Lead Signatory -Councillor Paul Hayes**

Councillor Hayes thanked the Committee for its consideration of his call-in. He commented that meeting had provided a contrast in the argument from the parents to that of the Cabinet's views.

Councillor Hayes referred to the Cabinet who had asked for trust in their decision, but felt that parents shouldn't be asked to take a gamble on their child's educational future.

He commented that with a review of the funding banded yet to undertaken, Education Health Care Plans yet to be done and building plans being produced after the decision being made, parents shouldn't have to put up with this uncertainty,

Councillor Hayes urged the Committee to consider the video shown at the meeting earlier and the fact that there was no evidence to say the SEN Test was met.

He urged the Committee to show Cabinet that we care and send it back to Cabinet to think again.

### **Summary of the Cabinet Member Councillor Tony Smith (Cabinet Member for Children and Family Services)**

Councillor Smith in response to comments made earlier regarding the chair at the consultation meeting indicated the decision as to who would chair these meetings was taken by officers and me. He explained that he wanted to listen to all that was said at that meeting. The officer in attendance who chaired the meeting was new to authority, therefore had no prior dealings with previous discussions in relation to The Lyndale School.

Councillor Smith indicated that extensive consultation had been undertaken and he had considered all the written representations received, he had met the leader of the Council and had met with parents, staff and Governors and considered all the papers carefully.

Councillor Smith indicated that this was not a political or financial decision, but The Lyndale School was not sustainable. The Council had undertaken an independent consultation and considered all options, including further options.

In the long term, this is the best thing for the people of Lyndale and we do have an outstanding provision at primary level.

### **Committee Debate**

In opening the matter for debate the Chair set out the options available to the Committee upon making their decision as detailed within the Call-in Procedure.

It was moved as an amendment by Councillor Gilchrist and seconded by Councillor T.Anderson –

“That this Committee has heard evidence of dissatisfaction with the consultation process; it has also heard that Parent Governors were given no real opportunity to have meaningful discussion with the independent consultant, although some parents were able to attend the meeting.

This Committee believes there should be ongoing discussion with the Schools Forum to review the banding, especially the high needs band.

We believe money has been found in the past to stabilise finances of The Lyndale School.

We recognise that an underspend has been reported and we recommend to the Schools Forum that this be released to support The Lyndale School.

We appreciate the commitment of officers to supporting children but note that work on the Education, Health & Care Plans is still in process. A full picture of the needs of children has yet to be put together.

We recommend that Cabinet be requested to suspend the proposal to publish Notices until outcomes and further discussion with the Schools Forum has been reported to Cabinet and considered by Council”.

It was moved as an amendment by Councillor S. Williams and seconded by Councillor Fraser –

“That Committee, having listened to evidence cannot agree with the Cabinet’s decision to proceed with steps to close the school.

Committee believes that due to the excellent job that The Lyndale School does in caring for and educating their pupils with PMLD, the school should remain open.

We recommend Cabinet reconsiders its decision and asks Officers to work with Wirral Schools Forum to ensure reform of the current banding system to truly reflect the needs of each child”.

It was moved by Councillor Doughty, seconded by Councillor Sullivan:

“That the Cabinet minute 44 – 4 September 2014 (Outcome of The Lyndale School Consultation) be upheld”.

The first amendment was put and lost (3:12)

The second amendment was put and lost (6:9)

The Substantive Motion was put and carried (9:6)

**RESOLVED: (9:6)**

**That the Cabinet minute 44 – 4 September 2014 (Outcome of The Lyndale School Consultation) be upheld.**