

CYNGOR SIR POWYS COUNTY COUNCIL.

**CABINET
20th December 2016**

REPORT AUTHOR: County Councillor Arwel Jones, Portfolio Holders for Schools and County Councillor Wynne Jones
Portfolio Holder for Finance

SUBJECT: Unlicensed School Budgets
Ysgol Cedewain

REPORT FOR: Decision

1. Summary

- 1.1 Governing Bodies of maintained schools are required, under the authority's scheme for financing schools, to set and submit an annual budget for their school together with initial budget plans for a minimum of the following two financial years. Where a school is planning to set a deficit budget in the current 2016/17 financial year, this budget must be approved and licensed by the Authority.
- 1.2 A report was considered by Cabinet on the 5th July, 2016, and Cabinet approved or licensed the majority of the budgets submitted by Governing Bodies. A further report was requested for those schools submitting unlicensed deficit budgets to be brought to Cabinet during the Autumn Term 2016.
- 1.3 Ysgol Cedewain did not meet the requirements to have it's budget licensed as their projected deficit balance at 31 March 2017 is not brought back into balance within three years:
- 1.4 The Governing Body was issued with a Notice of Concern in accordance with 2.15 of the Scheme, stating that the budget plan is not in compliance with the scheme and requiring them to take urgent action to remedy the financial position and produce a recovery plan by the 16th September 2016.
- 1.5 At a Cabinet meeting on the 26th July, Cabinet received an additional report in respect of Financial Management at Ysgol Cedewain.
- 1.6 Cabinet resolved the following:-
- "That the report is noted and a further report is provided by the 27th

September outlining the findings of the work undertaken by a Headteacher from Caerphilly commissioned by Schools Service, and supported by Finance.”

The work commissioned will review the work undertaken by the school and assess the financial position of the school and its ability to balance the budget over the next few years.

- The Proposals set out in the Report of the 26th July 2016 included the following:-

“It is therefore proposed that a further report is submitted to report on the outcome of Mr Roberts work and any subsequent action required.

Mr Roberts will visit the school at the beginning of September 2016. He will be requested to submit his findings back to the Authority.

Cabinet will receive a further report on the unlicensed budgets at its meeting of 27th September, 2016. Ysgol Cedewain’s budget plan will be considered within this report”

- 1.7 Further to the original recommendation at the meeting of the 26th July, an extension to the deadline for the recovery plan was agreed for Ysgol Cedewain to give the Governing Body sufficient time to develop their recovery plan following the receipt of the report from the independent review. The revised deadline for the submission of the recovery plan was the 11th November, 2016. This deadline was not met and a letter was issued to the Governing Body by the Head of Schools Service advising that if a recovery plan was not submitted by the 3rd December, a warning notice would be issued.

A recovery plan has now been received from the School, however it is deficient for the following reasons;

- The written document refers to savings which do not appear to be reflected in the revised budget plan.
- The original budget plan submitted had a deficit of £773,021, the recovery plan deficit is £919,734, this is an increase to the deficit not a reduction in spend.
- The plan does not meet the requirements of the scheme for financing schools.
- Some suggestions from the independent review have been considered however the substantial items have not.

The independent review by Mr Roberts identified a number of actions that the school can take to reduce the deficit position.

2. **Background**

- 2.1 The Scheme for Financing of Schools requires that “*planned expenditure must not exceed the resources available to the school, taking into account any balances due to or from the school for the previous year, without specific approval by the County Council under para 4.9 (unlicensed deficits). Failure to set a budget within the resources available may lead to the issue of a notice of concern with accompanying restrictions on powers of expenditure or to the withdrawal of delegated powers from the school.*” (Section 2.2 submission of budget plans)
- 2.2 Sections 4.5 to 4.9 of the scheme provide the requirements in terms of deficit budgets, these sections are included in Appendix A.
- 2.3 The financial position of Ysgol Cedewain that was taken to Cabinet on the 5th July 2016 was as follows:

School	2015/16 Actual	2016/17 Cabinet Budget	2017/18 Draft Budget	2018/19 Draft Budget
Ysgol Cedewain	(365,984)	(517,433)	(638,958)	(773,023)

- 2.4 At the end of 2014/15 Ysgol Cedewain had accrued a deficit budget in the region of £248k.
- 2.5 The financial position of the school over the last 5 years is provided in the table below.

Year	2011/12	2012/13	2013/14	2014/15	2015/16
Balance B/F	99,785	94,712	88,951	(3,272)	(247,757)
In Year Position	5,073	(5,761)	(92,223)	(244,485)	(118,227)
Balance C/F	94,712	88,951	(3,272)	(247,757)	(365,984)

- 2.6 The school projected a surplus in 2013/14 of £46,472 but actually ended the year with a deficit of £3,272 and this has continued to rise.
- 2.7 The school have submitted a document however the content does not bring the budget back to a position that complies with the requirements of the Scheme for Financing schools.

3. **Further Action and Proposal**

- 3.1 The Head Teacher and representatives of the Governing Body of the school are required to attend a meeting with the portfolio holder and officers on 9th January 2017 to analyse the budget recovery plan and

to establish what further action is required from the school and the timescales for doing so. The portfolioholder to have delegated authority to take such action (if any) as he considers appropriate.

4. Further Action available to Cabinet / Portfolioholder

- .1 The School Standards and Organisation (Wales) Act 2013 (“the Act”) consolidates, clarifies and reforms the law in relation to intervention in schools causing concern.
- 4.2 The Welsh Government have issued statutory guidance under section 20 of the Act. The guidance is Guidance Document 202/2016 issued in March 2016 (Schools causing concern- Statutory guidance for schools and local authorities.)
- 4.3 A school will be “eligible for intervention” where one or more of the six grounds identified below exist
 - **Ground 1**- the standards of performance of pupils at a school are unacceptably low
 - **Ground 2** - there is a breakdown in the way a school is managed or governed
 - **Ground 3** -the behaviour of pupils at the school or any action taken by those pupils or their parents is severely prejudicing, or is likely to severely prejudice, the education of pupils at the school.
 - **Ground 4** -the safety of pupils or staff is threatened whether by a breakdown of discipline or otherwise
 - **Ground 5** –the governing body or Headteacher has failed, or is likely to fail with a duty under the education acts
 - **Ground 6** -the governing body or Headteacher has acted, or is proposing to act unreasonably in the exercise of any of its or his or her functions under the Education Acts
- 4.4 Where an authority has specific concerns about a school related to the above, a warning notice must be given in writing to the governing body of the school and must set out
 - The grounds for intervention
 - The reasons why the authority is satisfied that the grounds exist
 - The action the governing body is required to take in order to deal with the grounds for intervention
 - The period in which the action is to be taken by the governing body (this is “the compliance period”)
 - The action the local authority is minded to take if the governing body does not take the required action

Where a warning notice has been given which has not been complied with, to the satisfaction of the Local Authority within the compliance period, the school is eligible for intervention.

Where a school is “eligible for intervention” there are a number of powers the Local Authority may use. Where a local authority decides that sufficient evidence exists to warrant the formal use of its powers of intervention, the Welsh Ministers should be notified of the type of intervention that the authority has put in place.

4.5 Local Authority Intervention Powers

1. Requirement to secure advice or collaborate

Purpose of intervention; to require a school to secure advice or collaborate in order to secure improvements

Best used; where the school or key figures within it refuse to collaborate with an appropriate partner

2. Appointment of additional governors

Purpose of the intervention; to strengthen the Local Authority’s voice on the governing body and /or provide additional expertise to the governors in key areas to support school improvement

Best used; where the governing body needs additional expertise , or the Headteacher and senior management team need further challenge.

3. The suspension of delegated authority for the governing body to manage a school’s budget

Purpose of the intervention; to secure control over staffing and spending decisions in order to secure improvements

Best used; where the governing body is providing insufficient challenge to the Headteacher or senior management team of the schools, or where the management of the budget is providing a distraction from the improvement priorities for governors

4. The Appointment of an Interim Executive Board(IEB)

This requires an application to Welsh Ministers for consent to constitute the governing body as an IEB. It is a specially constituted governing body which replaces a school’s existing governing body

Purpose of the intervention; to secure a step – change in the leadership and management of the school through the use of a specially- appointed governing body for a temporary period

Best used; where the governing body is providing insufficient challenge to the Headteacher or senior management team of the school, is providing an obstacle to progress, or where there has been a breakdown in working relationships that is having an impact on standards

5. One Powys Plan

5.1 This proposal supports the key areas prioritised for improvement within the One Powys Plan.

- Transforming learning and skills - All children and young people are supported to achieve their full potential.
- Financially balanced and fit for purpose public Services - Enabling 'joined up' services for Powys citizens through public and third sector partnerships.

6. Options Considered/Available

The Authority also has the option to withdraw delegation from the Governing Body and manage the budget from within the Authority. This can only be done following the issuing of a formal warning notice and non-compliance within a set timeframe

7. Preferred Choice and Reasons

N/A

8. Sustainability and Environmental Issues/Equalities/Crime and Disorder, /Welsh Language/Other Policies etc.

N/A

9. Children and Young People's Impact Statement - Safeguarding and Wellbeing

N/A

10. Local Member(s)

Cllr G J Bowker

Ysgol Cedewain is working incredibly hard to address its Budget problems but has been hit in recent years by a number of one-off costs outside its control and is further hampered by the challenges of delivering high quality education across a wide range of needs at a site that ranges across ten separate buildings, each presenting its own challenges, and is bisected by a public footpath.

The school and governing body are keen to work in collaboration with the authority in achieving a solution to the current deficit that ensures standards, wellbeing and safety at the school are not compromised and I wholeheartedly welcome the plan to dedicate officer time to working together to tackle this challenge. I would also urge Cabinet members who are not familiar with the school to visit the school if they can in order to see it first-hand. A number of efficiency opportunities have been identified and have begun to be implemented and significant

further savings have been proposed by the Recovery Plan at the request of Cabinet and in response to the recommendations made by Mr Roberts. The Recovery Plan was submitted in time for the December 3rd deadline for consideration by Cabinet and will, I hope, form the basis for constructive discussions to be held in January that will lead to a licensed Budget for the school.

Cllr B Mills

I feel that this report is very unfair, as I feel the costs of running this establishment far outway the needs and requirements of this school, I feel that if this school was energy efficient this school would be in credit other than overspend.

We all know that wooden huts are not the most cost effective or efficient way of delivering education, and on these grounds alone an allowance over the top should be considered.

The needs of a school such as Ysgol Cedewain, which deal with children with learning difficulties takes far more input, and staff, than an ordinary school of this size, and I feel that a consultation with the school perhaps by the Cabinet and Education department is taken before any decisions are made.

1. The questions are, why are they over spent,
2. What have they done that caused the over spend,
3. Was the overspend needed or unneeded.
4. Was the overspend essential to the running of the school.
5. Can it be seen that the budget is sufficient to the needs of the school.
6. and what can be taken away to ensure the school runs in budget.

Are we fully aware of the needs of Ysgol Cedewain before we start putting pressure on over the budget.

Cllr J M Williams

Did not wish to comment.

11 Other Front Line Services

Schools service – The school service will work with the finance team to provide support and challenge to the school in order to ensure the schools budget meets the requirements of the scheme for financing schools

12 Support Services (Legal, Finance, HR, ICT, BPU)

The Finance Business Partner for Schools – Finance support the action that is being taken by the Head of Schools Service to follow up on the recovery plan that has been submitted.

HR – The Schools HR Team will, when requested, provide the necessary advice to the Headteacher and Governors, in line with the HR service level agreement, to support them to manage any workforce implications arising from their budget deficit.

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

13. Local Service Board/Partnerships/Stakeholders etc

N/A

14. Communications

The report is of public interest and requires use of news release and appropriate social media to publicise the decision.

15. Statutory Officers

The Strategic Director Resources (Section 151 Officer) comments

The Strategic Director Resources (S151 Officer) notes the school’s proposal falls short of the requirement to produce an effective recovery plan within the scheme’s requirement. Whilst noting the difficult position faced by the school the recovery plan must provide assurance about the school’s financial position. The recommendation that the school meets with the Portfolio Holder and Officers on 7th January is supported.

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

16. Members’ Interests#

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

Recommendation:	Reason for Recommendation:
1. That Cabinet note that the recovery plan submitted by Ysgol Cedewain does not address the deficit in full.	To comply with the Authority’s scheme for the financing of schools

<p>2 The Head Teacher and representatives of the Governing Body of the school are required to attend a meeting with the portfolio holder and officers on 9th January 2017 to analyse the budget recovery plan and to establish what further action is required from the school and the timescales for doing so.</p> <p>3. The portfolioholder to have delegated authority to take such action (if any) as he considers appropriate.</p>	

Relevant Policy (ies):	Scheme for the Financing of Schools		
Within Policy:	Y	Within Budget:	Y

Relevant Local Member(s):	<p>Cllr G J Bowker Cllr B Mills Cllr J M Williams</p>
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Person(s) To Implement Decision:	Schools Finance Manager and Senior Schools Staff
Date By When Decision To Be Implemented:	

Contact Officer Name:	Tel:	Email:
Marie James	01597826459	maries@powys.gov.uk

Background Papers used to prepare Report:
Scheme for the Financing of Schools

Extract from the Scheme for the Financing of Schools

4.5 Obligation to carry forward deficit balances

A deficit balance at the end of a financial year will be treated as a deduction from the following year's budget share.

4.6 Planning for deficit balances

A governing body has no legal right to set a deficit budget without the consent of the Authority and should not presume that such consent will be granted. The Authority will consider approving a licensed deficit to a school in certain approved circumstances (see para. 4.9).

4.7 Charging of interest on deficit balances

The Authority will charge interest on deficit balances. The charge will be based on the school's closing cumulative balance at the end of the financial year. To ensure that the school will effectively repay, in real terms, the deficit sum its value will be increased each year in line with any inflation increase applied to school budget shares.

4.8 Writing off deficits (see also section 3.6)

The Authority has no power to write off the deficit balance of any school except for a closed school, subject to authorisation of the Portfolio Holder for Education.

4.9 Licensed deficits

The detailed arrangements applying to this scheme are set out below:

- (a) the maximum length of time over which a school may repay a deficit is three years, except where a longer period, not exceeding five years, has been agreed in exceptional circumstances and with the support of the Head of Schools and the Section 151 Officer. In practice the timescale will depend on the extent of the deficit and the school's ability to take early action.
- (b) deficit arrangements may be agreed in the following circumstances:
 - falling pupil numbers;
 - to spread the cost of cyclical maintenance works over two or more years;
 - other circumstances agreed by the Authority to be reasonable

In the primary sector the maximum licensed deficit which may be approved will be up to 10% of the school's budget share (including any amounts for pupil number adjustments), but with a ceiling of £50,000.

In the secondary and special sectors the maximum licensed deficit which may be approved will be up to 7½% of the school's budget share (including any amounts for pupil number adjustments), but with a ceiling of £100,000 for special schools and £150,000 for secondary schools.

A school with a planned deficit of less than £500 and a planned underspend in the following financial year will not have to apply to have the deficit approved.

Up to a maximum of 40% of the collective school balances may be used to back the arrangements for licensed deficits. Schools holding balances in their own bank accounts may be invited to participate.

The arrangements for licensed deficits will be operated by the Strategic Director: Resources, working within the accounting requirements of the County Council as set out by the Section 151 Officer.

Schools wishing to apply to the Authority to set a deficit budget will be subject to detailed terms and conditions agreed between the governing body, headteacher and the Authority's officers. Restrictions on expenditure and a higher level of budget monitoring will be required by the school and the Authority for the period of the deficit and until such a time as the Authority is satisfied that the school has met repayment targets and is in a position of financial stability. The Authority will appoint a named officer / adviser to support the school in analysing its finance, curriculum and staffing needs.

Requests for licensed deficits will not normally be approved unless the school can produce a recovery plan which, in the view of the Authority, is realistic, prudent and does not exceed three years (exceptionally 5 years). The Authority's named officer / adviser will have a key role in determining whether the recovery plan can be recommended to the Authority as fulfilling these criteria.

Schools have a duty to identify potential deficits and to plan recovery action early. The Authority expects the recovery plan to be submitted by 1st May. The format of the recovery plan, and arrangements for its submission, will be specified by the Authority. The recovery plan will have to be updated at least annually until the school returns to a cumulative surplus budget and is in a position of financial stability. Failure to comply with the agreed recovery plan will mean the re-activation of the process set out in para 2.16.

The Authority will impose additional restrictions on a school during the term of the licence, as part of the licence, including but not limited to:

- the right of approval of staffing appointments and any other changes to staffing that increase costs;
- the right of approval of contracts over a specified value;
- restriction of expenditure to agreed plans and removal of powers of virement;
- a requirement to purchase the full Local Authority financial support package;
- agreed repayment targets, etc.

- the written agreement to the terms by the Chair of Governors, following a resolution passed by the full governing body.

The named officer / adviser will be the first point of contact for the school in relation to these restrictions. He or she will make appropriate recommendations to the Strategic Director: Resources and Head of Schools Service. The need for and extent of such restrictions will be assessed on a school by school basis