

**The Convener of the School
Closure Review Panels**



School Closure
Review Panels

ANNUAL REPORT

2019





School Closure
Review Panels

Deputy First Minister and Cabinet Secretary for Education and Skills
St. Andrew's House
Regent Road
Edinburgh
EH1 3DG

Dear Mr Swinney

I have pleasure in submitting this, the fifth Annual Report of the School Closure Review Panels, to the Scottish Ministers.

Mr Iain Nisbet
Convener

School Closure Review Panels

PO Box 24071 Edinburgh EH3 1FB

tel 0131 225 8133 fax 0131 240 0830 email admin@scrp.scot web www.scrp.scot

The office of the Convener of the School Closure Review Panels and the School Closure Review Panels were established by virtue of section 17A of the Schools (Consultation) (Scotland) Act 2010.

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Foreword

by the Convener of the School Closure Review Panels

I am pleased to present my fifth annual report as Convener of the School Closure Review Panels. It has been a busy year as the Scottish Ministers called in two school closure decisions which were taken by North Ayrshire Council and Perth and Kinross Council respectively. The Panel constituted to consider the former decision published its decision on 29 October 2019. The Panel considering Perth and Kinross Council's decision has been suspended pending the outcome of judicial review.

Ongoing training for School Closure Review Panel members has continued. The annual training day took place in October this year. The varied programme included input from Children in Scotland, the National Parent Forum of Scotland and the Scottish Government's School Organisation Team. Panel members also had the opportunity to hear from their colleagues who were serving on the live Panels.

The training was well attended, and participation never less than enthusiastic. I am extremely fortunate to have such a dedicated and experienced pool of panel members who remain engaged and committed to the process of review.

As always, I would like to conclude by commending and thanking the staff of the Scottish Arbitration Centre, for their invaluable support and assistance to both the panel and myself - which has been greatly appreciated.

Iain Nisbet

Convener
January 2020



ABOUT THE CONVENER AND THE PANELS

The School Closure Review Panels and the Convener of the School Closure Review Panels are independent statutory bodies which have been created to enhance and strengthen the process of local authority school closures in Scotland.

Scottish local authorities proposing to close a school within their area must do so in line with the requirements of the Schools (Consultation) (Scotland) Act 2010 (“the 2010 Act”) and it is for the Scottish Ministers to decide whether the authority has met these statutory requirements. The 2010 Act contains the power for Ministers to “call in” a local authority school closure decision, if there is evidence that the requirements may not have been met. When the Scottish Ministers decide to call in a decision, they refer the decision to the Convener, who appoints a Panel of three to review the closure decision.

In making decisions on appointments of Panels, the Convener is independent of the Scottish Government and any other body or individual. The Convener is also independent of the Panels and has no input on review decisions made by a Panel. The Convener is responsible for providing the Panels with necessary staff and services for the delivery of their functions as well as making appropriate arrangements for training the persons eligible to be selected to serve as Panel members. The Convener is appointed for a period of up to five years and is eligible for reappointment thereafter. The current holder of the Office of the Convener, Iain Nisbet, is appointed for five years. Mr Nisbet’s first term of office came to an end on 11 January 2020. His reappointment has been agreed. He will serve a second term lasting three years until 11 January 2023.

The main statutory function of a Panel is to review a called in closure decision of an education authority. Each Panel is independent of other Panels, the Convener, the Scottish Government and any other bodies or individuals. School Closure Review Panels cannot become involved in any school closure unless the decision is called in by Scottish Ministers. The Convener appoints persons eligible to serve as a member of a Panel for a period of up to five years and each individual is eligible for reappointment thereafter. Currently there are nine persons eligible to serve as a member of a Panel.

Further details on the Convener and Panels can be found at www.scrp.scot.



**Biographies
can be found at
www.scrp.scot.**

PERSONS ELIGIBLE TO SERVE AS MEMBERS OF A PANEL



**Dr. Charles S.
Bestwick**



**Russell
Ellerby**



**Patricia
Susan
Quigley**
(Stepped down
September 2019)



**Helen
McGhee**



**Forbes
Mitchell**



**Lesley
Ward**



**Catriona
Waddington**



**Sally
Wainwright**



**Robin
Johnston**



**Justin
Willey**

Administrative Support Services

The Scottish Arbitration Centre (the Centre) provides administrative support to the Convener and the Panels, including the coordination of training for the Panels. The Centre is a not for profit company providing an administrative service to the Convener and Panels, and is not involved with the decision making of the Panels.

For more about the staffing structure of the Centre, see
http://www.scottisharbitrationcentre.org/?page_id=1668.



THE YEAR 2019

There were two call-ins of school closure decisions in 2019. The first was a call-in of the decision taken by North Ayrshire Council to discontinue the early learning and childcare provision at Garnock Valley Early Years Centre and relocate the provision to St Bridget's RC Primary School. The Panel published their decision in line with the statutory timescales. The second was of Perth and Kinross Council's decision to close Abernyte Primary School.

The Convener

The Convener has exercised his statutory functions during the year. These functions include appointment of persons eligible to be selected as a member of a Panel, making arrangements for training of these persons, and selection of Panels.

Training

One of the statutory responsibilities of the Convener is to make appropriate arrangements for the training of the persons eligible to be selected as a member of a Panel.

In October 2019, a training day at the Scottish Arbitration Centre was arranged to bring the pool of persons eligible to serve on a Panel together.

Training sessions included talks by Jerry O'Connell (School Organisation Team at Scottish Government), Emma Rogan (Children in Scotland) and Cheryl Burnett (National Parent Forum of Scotland). There were also opportunities for Panel members working on the live panels to reflect and share their experiences. The feedback for the training day was extremely positive.

Resignation

In September 2019 Patricia Quigley stepped down from her role as a panel member. Patricia served as Chair of the Panel that reviewed Highland Council's decision to close Dunvegan PS and Nursery School; Struan PS and Nursery Class; Knockbreck PS and Nursery Class and Edinbane PS and Nursery Class in 2015. Patricia's work on that decision contributed to the development of the law and practice on reviews, and her influence will be felt for years to come.



FINANCE

Background

The Scottish Arbitration Centre provides administrative services to the Convener and Panels and has done since the establishment of the two bodies.

Expenditure 2019

Payment for service and other expenses by Scottish Government.

The actual expenditure for the period from 1 January 2019 to 31 December 2019 was £79,217.06. This is an increase of £19,540.64 on the expenditure for 2018. This increase is a result of the two call-ins which has led to increased expenditure under Panel member fees and legal advice.

Expenditure breakdown 2019

Administrative, business, financial and payroll services, including staff costs and office overheads	£57,825.00
Training and development and accommodation hire	£1,823.57
Additional costs, including annual report, IT and postage	£1,195.00
Fees for Convener	£1,300.00
Fees for Panel Members	£10,700.00
Expenses for Convener and Panel Members	£1,388.09
Legal Advice	£4,985.40
Total	£79,217.06



THE CALL – INS

THIS YEAR SAW TWO CALL-INS BY THE SCOTTISH GOVERNMENT.

North Ayrshire Council

North Ayrshire Council's decision to discontinue the early learning and childcare provision at Garnock Valley Early Years Centre and relocate the provision to St Bridget's RC Primary School Early Years Class was called in and referred to the Convener of the School Closure Review Panels on 8 July 2019. The grounds for the call-in detailed in the call-in notice fell under the category of procedural failures, more specifically, the requirement to notify the Scottish Ministers and the requirement to publish of a notice confirming the Council's decision.

A Panel was convened on 10 July to review the decision. The convener appointed Forbes Mitchell, who was made Chair, Sally Wainwright and Catriona Waddington to the Panel. The Panel considered several documents provided to them by the Scottish Ministers and North Ayrshire Council.

The Panel spent a total of 16 weeks from the date on which it was convened, to consider all the information available to them and issue its decision. This was in line with the statutory timescales.

On 29 October 2019, the Panel granted consent to North Ayrshire Council's proposal subject to three conditions. The conditions were; (1) a requirement to carry out a full impact assessment of the proposal to remove free transport, (2) preparation of a detailed report outlining the proposed changes to staffing levels, and (3) the submission of a progress report to the Scottish Ministers to inform them of the Local Authority's compliance with the first two conditions.

The full decision can be viewed on the SCRP website.



Perth and Kinross Council

Perth and Kinross Council's decision to close Abernyte Primary School was called in and referred to the Convener of the School Closure Review Panels on 16 July 2019. The call-in notice was issued with reference to the grounds set out in s.17(2)(a) of the Schools (Consultation)(Scotland) Act which states that the Scottish Ministers can issue a call-in notice if it appears to them that the education authority may have failed in a significant regard to comply with the requirements imposed on them under the Act.

A Panel was convened on 23 July 2019 to review the decision. The persons appointed to the Panel were Lesley Ward, who took the role of Chair, Helen McGhee and Justin Willey.

In August the proceedings for the call-in were suspended following an order being granted for interim suspension pending the outcome of judicial review. The judicial review is sought by Perth and Kinross Council in relation to the Scottish Ministers' decision to issue a call-in notice under the 2010 Act. As of December, the Panel's proceedings remain suspended.

Conclusion

The Convener and the Panels have had a busy year with two call-ins and continued training. The Convener will begin the recruitment process for new Panel members in early 2020. There will also be an opportunity for the Panels to reflect on their experiences and their feedback will inform the Convener's plans for 2020 to ensure that both he and the Panels are fully prepared for any future call-ins.



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Edinburgh
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fax **0131 240 0830**
email **admin@scrp.scot**
web **www.scrp.scot**

