

**The Convener of the
School Closure Review Panels
Annual Report
2017**



School Closure
Review Panels







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Review Panels

Cabinet Secretary for Education and Skills
St. Andrew's House
Regent Road
Edinburgh
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Dear Mr Swinney

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

Mr Iain Nisbet
Convener

School Closure Review Panels

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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 third annual report as Convener of the School Closure Review Panels. The past year saw local authority elections across Scotland and consequent changes in education authority administration. Possibly as a result, there were no school closure decisions called in by Scottish Ministers for review this year.

However, much work continues behind the scenes, including ongoing training for School Closure Review Panel members. That training covered data protection obligations for the panels and the Convener and a further consideration of the first appeal case under the Schools Consultation (Scotland) Act 2010, brought by Highland Council following a decision of the School Closure Review Panel. We were also pleased to have input from Education Scotland on Education Benefit Statements.

For this year's annual report, I have invited some guest contributors to provide articles. I hope that this will give a broader perspective on issues which are relevant to the work of the panels. The focus in this report is on the obligation to consult with school pupils on relevant proposals under the 2010 Act. I am very grateful to Donna Manson of Scottish Borders Council, Bruce Adamson, the Children and Young People's Commissioner Scotland, and Claire Cassidy from the School of Education, University of Strathclyde, for their useful and interesting articles.

Finally, I would like to take this opportunity to thank the Panel members for their continued enthusiasm and commitment and the staff of the Scottish Arbitration Centre, who provide invaluable administrative support to both the Panels and myself. Their patience, hard work and support during this last year has been greatly appreciated, as ever.

Iain Nisbet

Convener
January 2018

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.

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 twelve persons eligible to serve as a member of a Panel.

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



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 **www.scottisharbitrationcentre.org/?page_id=1668**.

Persons eligible to serve as members of a Panel



Dr. Charles S. Bestwick



Russell Ellerby



Donald Gillies



Helen McGhee



Forbes Mitchell



Patricia Susan Quigley



Catriona Waddington



Sally Wainwright



Lesley Ward



Justin Willey



Alison Cook



Robin Johnston

Biographies can be found at www.scrp.scot.

The Year 2017

There were no new call-ins of school closure decisions in 2017. The year has seen the continuation of work around the practicalities associated with the establishment of new statutory bodies. For example, the Convener has created a conflicts of interest schedule for Panel members, and has adopted guidance on data protection and freedom of information. How the two bodies of the Convener and the Panels have exercised their main functions in the year 2017 is set out in the subsections below.

The Convener

This section sets out how the Convener has exercised his 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 April 2017, a training day was arranged to bring the pool of persons eligible to serve on a Panel together to reflect on the two review processes of the preceding year, and to remind the Panel members of the review process and of their statutory duties. The decision of the first Panel of 2015 was appealed by Highland Council, and reflections from the appeal process also formed a part of the day. Training sessions included talks by members of previous Panels on their personal experience of chairing a Panel and working on a Panel, and a data protection update by guest speakers from Thorntons Law LLP.

Feedback suggested that the training day was well received. Most participants found all sessions useful and of good quality, and in particular the talk by Scott Blair from Terra Firma on his consideration of the Highland Council appeal.

Appointment

Following a recruitment process in late 2016, in January the Convener confirmed new appointments of persons eligible to serve as a panel member. In addition to the existing ten eligible panel members; Alison Cook and Robin Johnston were successful in their application.

Finance

Background

The Convener and the Panels were initially funded by grants paid by the Scottish Government. The Scottish Arbitration Centre has provided administrative services to the Convener and Panels since the establishment of the two bodies. In April 2016 Scottish Government began a procurement process for the provision of administrative services for the Convener and the Panels. The contract notice for “Support Services to the Convener of the School Closure Review Panels” was published in the Official Journal of the European Union (OJEU), and the closing date for tenders was 22 July 2016.

During the procurement process, the Scottish Government paid for the provision of these services by means of a services contract with the Scottish Arbitration Centre. The Centre bid to continue providing administrative services to the Convener and Panels, and its bid was successful. The Scottish Government then entered into a new Administrative Services Contract with the Centre on 1 October 2016. Payment for service is now provided following monthly invoices.

Expenditure 2017

Payment for service and other expenses by Scottish Government.

The actual expenditure for the period 1 January 2017 to 31 December 2017 was £59,303.52. This is a £12,230.48 decrease on the expenditure for 2016.

Expenditure breakdown 2017

Administrative, business, financial and payroll services, including staff costs and office overheads	£53,125.00
Training and development and accommodation hire	£1,130.70
Additional costs, including annual report, IT and postage	£1,738.92
Fees for Convener	£900
Fees for Panel Members	£2,100
Expenses for Convener and Panel Members	£308.90
Total	£59,303.52

Guest Contributions

Scottish Borders Council

Consulting with Young People in respect of the Schools (Consultation) (Scotland) Act 2010

Scottish Borders Council embarked on a strategic review of the School Estate in February 2016. The Council decided to hold events in each secondary school in the Local Authority whereby guiding principles were set out for discussion and consultation with regards to the School Estate. A key set of questions were set out for each community to respond to. The Council was very clear in advertising these events and that they were open to children and young people as equal voices and consultees. The Council briefed Headteachers at their meetings regarding these events and very much promoted that young people should be encouraged to attend.

The response was very positive. In particular at Jedburgh Grammar School the young people set up a corner of the room where they led their own consultation and discussed with Members of the Public attending the meeting how they planned to respond to the consultation. It was fantastic to see the young people in action: their passion, their commitment and their desire to get an improved school estate for the young people they were representing. As a result the Jedburgh community contributed to the consultation much more than any other community; the young people's passion and energy had an impact upon the other stakeholders within Jedburgh.

The results of the Consultation were taken to the Executive Committee of the Council and as a result Jedburgh was agreed to be a priority for a further consultation. Again the Headteachers made it a priority for the young people across the town to attend the consultation events that were held throughout the day; children were brought over in classes to be part of the consultation. Young people interviewed and filmed the event; they also had the confidence to share opinions and have conversations with the adults in the community as they expressed their views.

The outcome of the consultation was a proposal to close the existing 3 schools in the town and establish a new 0-102 years intergenerational learning campus. The feedback from Education Scotland in their report is that they had never witnessed such a positive consultation process in respect of the Act that had captured so importantly the pupil voice from the very beginning and given young people their rightful place in a consultation which had over 99% of respondents agreeing to close three schools and open one new school.

The Council learned from this process that the voice of the young people i.e. those most likely to be affected is key in all consultation processes. Jedburgh is one example of how Scottish Borders has put the voice of the young person at the heart of a consultation but this was also evident in the 'mothballing of Hobkirk Primary School' when we listened to what the young people were saying about the type of learning opportunities they were looking for.

Scottish Borders Council recommends that a strategic approach is taken to any School Estates Review process; that all the information that the Council holds on the School Estate is shared transparently with the public before any formal consultations begin and that the young people are at the very heart of the process.

Children and Young People's Commissioner Scotland

7 Golden Rules for Participation – good practice in consulting with children and young people

The Children and Young People's Commissioner Scotland developed a key good practice resource called the 7 Golden Rules for Participation <https://www.cypcs.org.uk/education/golden-rules>. The 7 Golden Rules help adults understand what the United Nations means by participation, and aids their understanding as to what they should do when helping children and young people take part in decision-making. They are also designed to help children and young people to think about how adults can support them to participate as well as learn about their participation rights under Article 12 of the UN Convention on the Rights of the Child.

A core principle of the United Nations Convention on the Rights of the Child (UNCRC) is a commitment to ensuring that children and young people have the opportunity to participate in the decisions that affect them. The UNCRC defines participation as "ongoing processes, which include information-sharing and dialogue between children and adults based on mutual respect, and in which children can learn how their views and those of adults are taken into account and shape the outcome of such processes". In line with the UNCRC, all public bodies have a duty to ensure that the views of children and young people are sought in matters which impact on their lives.

The Golden Rules can provide support to local authorities in putting children's human rights at the centre of local authority school closure processes in Scotland. They can be used to help plan work with children and young people, inform the dialogue around school closures and enhance relationships with children and young people. It can help with decisions on which approaches will be used to engage children and young people in the process, to check on progress, and to aid decision-making on next steps.

The office has also developed the resource by creating a symbol-supported version which is to support the participation of children and young people who are non-verbal, have speech and language difficulties or additional support needs. The resource can also be used to help communicate ideas and information about participation for children and young people with English as an additional language or with younger children. For more information on the 7 Golden Rules for Participation, contact Sarah-Louise Davies, Participation & Engagement Officer on 0131 346 5350 or sarah-louise.davies@cypcs.org.uk. www.cypcs.org.uk

Guest Contributions Continued

University of Strathclyde Consulting Children on Educational Decisions

The United Nations Convention on the Rights of the Child (UNCRC) was published in 1989 and was ratified by the UK in 1991. Within the Convention, Article 12 states clearly that children should be consulted in matters affecting them. Biesta, Lawy and Kelly (2009) are clear that children 'are part of the social fabric' (p.20). In effect, this means that they are not as separated from society as much activity would suggest. Indeed, it is difficult to find an aspect of society that does not affect children, for example, war, the economy, climate change, poverty, all have a bearing on children's lives; these matters affect them (Cassidy, 2016). Often there is a failure to consult children in matters affecting them because the view of children is that they are not (yet) full members of society and that adults ought to retain control and the social order (Kennedy, 2003; Cook, 2009). Seeing children as having a lesser status than adults will inevitably limit their opportunities to express their views and to ensure their participation.

Bacon and Frankel (2014) are clear that children's lack of status sees children as less than competent and that they cannot be trusted to participate. Instead, they suggest that children should be seen as social actors, which recognises that they are able to express their views and participate in decision-making that shape elements of society's structures. Cassidy (2016) outlines several studies that explore children's participation in social structures and considers Wall's (2012) work that compares the involvement in children in decision-making around the world. For instance, Wall highlights the likes of Rajasthani children's parliaments for children between six and fourteen years-old; Brazil's children from Barra Mansa who have 'extensive powers over issues concerning children and control parts of the city budget' (p.88), and New Zealand's 'Agenda for Children' where there is an expectation that children are consulted on a range of issues within society.

Conrad, Cassidy and Mathis' (2015) study that asked children between the ages of five and seventeen what kind of society they wanted to live in demonstrated that the children had clear ideas of what they thought would make an ideal society and that their views ranged from issues relating to equality and social justice to notions of friendship and commerce.

It is clear from such international work that children are able to contribute meaningfully to society, and that involving children early in democratic decision-making is important, say Gündoğdu and Yildirim (2010), 'to safeguard and perpetuate democracy and human rights' (p.525).

If there is one thing, though, about which we can be certain that children will have views, it is in relation to education and schooling. In fact, this is anticipated in the Standards in Scotland's Schools etc. Act (2006). Under Section 6 of the Act, head teachers must demonstrate in their school development plans the ways in which children will be consulted when decisions have to be made about the day-to-day running of the school.

This goes beyond the tokenistic consultations on school uniform, the condition of the school toilets and the offerings for lunch or snacks that children often encounter (Cassidy, 2010). The day-to-day running of the school extends beyond these three elements; it reaches into the classroom to impact upon curriculum content and approaches to teaching and learning, it opens the door for children to express views on approaches to behaviour management and also, as often happens, in the case of appointing new teachers.

It seems obvious that consultations on the day-to-day running of the school would include any discussions on the likes of school closures and educational implications arising from such decisions. Not including children in these discussions perpetuates the idea that children do not have a full place in society and that their views do not matter. This should be taken further, and attention should be paid to Lundy (2007) who asserts that opportunities should be provided for children to have their voices heard by an appropriate audience and that they should also, importantly, have influence. In making decisions that are central to children's lives, such as school closures and other educational changes, it is imperative to address children's status by treating their views seriously and ensuring that their involvement in decisions affecting them have influence.

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Conclusion

The third year of the existence of the Convener and Panels has seen training being provided for all persons eligible to serve as Panel members. Internal systems have been evaluated to ensure that they are fit for purpose and further internal guidance has been developed. As a result of this activity, the Convener and Panels are well prepared to deal with any future call-ins which may arise in 2018 or beyond.





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