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Dear Mr Armstrong,

SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010: ANGUS COUNCIL – TARFSIDE PRIMARY SCHOOL

I refer to your email of 19 September 2018 notifying Scottish Ministers of Angus Council's decision of 18 September 2018 to implement the proposal to close Tarfside Primary School.

A three week period began on 18 September 2018 for any person to make a representation to Scottish Ministers requesting that the decision should (or should not) be called in by them for further investigation (as provided for by section 15(4) of the 2010 Act). That period expired on 8 October 2018 and one representation was received.

Under section 17 of the 2010 Act, the Scottish Ministers may only issue a call-in notice if it appears to them that the education authority may have failed:

- (a) in a significant regard to comply with the requirements imposed on it by (or under) this Act so far as they are relevant in relation to the closure proposal, or
- (b) to take proper account of a material consideration relevant to its decision to implement the proposal.

Having reviewed Angus Council's Proposal Paper and Consultation Report, the Scottish Ministers consider that Angus Council has fulfilled its obligations under the 2010 Act and consequently have decided not to issue a call-in notice for this proposal.

However, in reaching this decision, Ministers had concerns in two respects, which in other circumstances might have been found to be material, and reminds the Council that it is the Government's expectation that the requirements of the 2010 Act are complied with in full.

The Council initially proposed that the requirement to hold a public meeting should be met through public drop in sessions rather than a formal public meeting. A public meeting was

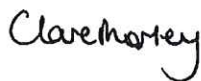


later added. The Government considers a formal public meeting of this nature to be an essential part of any school closure consultation and draws the Council's attention to paragraphs 84 to 87 of the Statutory Guidance on the 2010 Act (<https://www.gov.scot/publications/schools-consultation-scotland-act-2010-statutory-guidance/>). We would also draw to the Council's attention that while section 7(4) of the 2010 Act provides that "[more] than one proposal may be the subject of the same public meeting if the proposals are included in the same proposal paper", it is expected that where the proposals are the subject of separate proposal papers, these should be the subject of separate meetings for each proposal. This would ensure that such public meetings offer each school closure proposal the opportunity to be considered fully.

Secondly, we note the questions that arose during the consultation regarding the financial information provided by the Council. In particular, the Council's Consultation Report noted an error in the transport costs set out in its Proposal Paper, but that this was not considered under Section 5 as it had been discovered after the end of the consultation period. It is clear that financial information, including this figure, was under close scrutiny during the consultation period and it is arguable that this scrutiny should have prompted the Council to take further steps to verify the data and remedy this at an earlier stage. While it is helpful that the Council used the financial template recommended to local authorities, and Ministers understood that the Council did not consider the proposal to be based on saving money, it is essential that the financial information which informs consultees' understanding of a proposal is accurate.

Angus Council may now implement its decision to close Tarfside Primary School in line with the timescales set out in its proposal paper.

Yours sincerely



CLARE MORLEY
School Infrastructure Unit