



# South Tyneside Council

item

Cabinet

Date: 23<sup>rd</sup> January 2019

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## Proposal to cease to maintain South Shields School

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Report of the Corporate Director Children, Adults and Health

Cabinet Portfolio/Lead Member: Children, Young People and Families Cllr M Smith

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### **Purpose of Report**

1. This report sets out the results of the statutory representation period on the proposal to cease to maintain South Shields School, as a condition of the Secretary of State for Education's revocation of the Directive Academy Order.
2. The purpose of this report is to provide Cabinet with a factual summary of the proposal and the representations received, to enable Cabinet to consider the proposal and to allow Cabinet to make a final decision on the proposal to cease to maintain South Shields School.

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Contact Officer:

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## The Proposal

3. South Tyneside Council is proposing to cease to maintain South Shields School on 31 August 2020.
4. This proposal is not linked to any other school organisation proposal.
5. The Statutory Notice and the Statutory Proposal are set out in the background papers as Appendix 1.
6. The reports previously submitted to Cabinet (12 September 2018 and 13 November 2018) detailing the earlier stages of the statutory school organisation process are set out in the background papers as Appendix 2 and 3 respectively.

## Background

7. Following an 'inadequate' inspection judgement by Ofsted in October 2017, a Directive Academy Order was made for South Shields School by the Secretary of State for Education in November 2017. The Regional Schools Commissioner (RSC), on behalf of the Department for Education, then sought to identify an Academy sponsor for the school.
8. In gathering information to identify a sponsor, the RSC required information about the viability of the school in relation to pupil numbers, and future financial sustainability. Information was not sought in relation to standards at the school.
9. The school has undertaken a previous programme of reviews to prevent a deficit budget up until this point and, with some support from the Local Authority, has managed financial challenges within its budget. However, there is a point at which maintaining a balanced budget cannot be sustained and it is predicted that further falling numbers at the school will impact significantly upon the school budget in the future.
10. The school has a fixed cost of £400,000 per annum in relation to the Private Finance Initiative (PFI) contract. This additional fixed cost accentuates the financial challenge for the school. However the school contribution to the PFI contract does cover some core services that all schools have to fund in relation to facilities management.
11. Pupil projections for the South Shields School catchment area up to 2024/5 do not indicate any future demographic growth and so an increase in pupil numbers for the school is highly unlikely. Schools in the surrounding areas also have surplus places. Pupil projections for the borough were made available during the consultation period and can be accessed via the link attached as Appendix 4 in the background papers.
12. Admissions patterns also indicate that a significant number of families living in the catchment area for South Shields School are choosing to express a preference for these or other schools. This was the case prior to the 2017 Ofsted inspection and any local press coverage about the future of the school.
13. On the basis of the findings of the process carried out with the support of the Local Authority, the RSC failed to identify an organisation or individual to be

the Academy sponsor for the school. The RSC is no longer seeking a sponsor for the school due to viability concerns and will not do so unless there is a material change in the future viability of the school.

14. As the school remains under a Directive Academy Order but no sponsor can be found, it cannot be converted to academy status. Under the current legislation, the school also cannot continue to be a school maintained by the Local Authority. The local authority was notified in early August 2018 that the Secretary of State has agreed in principle to the revocation of the academy order on the condition that the local authority undertakes the statutory consultation process to cease to maintain the school. If the local authority fails to do this, the RSC can use the Secretary of State's powers to direct the local authority to close the school.

### **Current Position**

15. Cabinet agreed the recommendation to consult on the closure of South Shields School and set a timescale for the statutory consultation at its meeting of 12<sup>th</sup> September. This timescale is set out in the background papers.
16. It should be noted that although the timescale was agreed for the statutory process at the previous Cabinet meetings, Cabinet had the ability to halt or delay the process at any point if a credible alternative option to closure is identified during the statutory process. In reality this would have been the identification of a credible academy sponsor, if the requirements of the Regional Schools Commissioner were met, and subject to a credible plan to resolve the viability challenges of the School.
17. The previous stages of the statutory process are contained within the Cabinet reports set out in the background papers. Consultation prior to the publication of the proposal and statutory notice has been carried out in accordance with DfE guidance and the detailed responses received during the consultation period are set out in the background papers.

### **Underlying Viability Issues**

18. The key underlying viability issues for South Shields School relate to demographic growth, substantial surplus places in the secondary sector, admissions patterns and pupil numbers. This is further exacerbated by the school being subject to a PFI contract.
19. In terms of demographic growth, pupil projections show that there is no material increase in the projected numbers of pupils within the catchment area for South Shields School. Based upon actual primary data in the relevant planning area/s, numbers moving from primary schools to secondary schools is static.
20. There are substantial surplus places within secondary schools surrounding South Shields School; two of the nearest secondary schools have significant capacity to absorb numbers from South Shields School now and in the future. Admission patterns show that over a period of time parents have been expressing a preference for the other schools in the area. South Shields School has never been full (the highest number was 741 in the year after

opening against a capacity of 1000) and declining numbers have accelerated over the last two years.

21. The table below shows the number on roll in the last academic year (2017/18); the projections for September 2018 provided to the RSC based upon the numbers of first, second and third preferences; the actual numbers on roll in September 2018 and number on roll as at 17<sup>th</sup> December 2018.

<b>Year Group</b>	<b>October 2017 Census NOR</b>	<b>NOR Projections to RSC Dec 2017 (for Sept 18)</b>	<b>September 2018 Actual NOR</b>	<b>NOR as at 17<sup>th</sup> December 2018</b>
<b>7</b>	<b>73</b>	<b>65</b>	<b>77</b>	<b>50</b>
<b>8</b>	<b>129</b>	<b>73</b>	<b>77</b>	<b>43</b>
<b>9</b>	<b>133</b>	<b>129</b>	<b>130</b>	<b>76</b>
<b>10</b>	<b>115</b>	<b>133</b>	<b>135</b>	<b>128</b>
<b>11</b>	<b>102</b>	<b>115</b>	<b>108</b>	<b>107</b>
<b>Total</b>	<b>552</b>	<b>514</b>	<b>527</b>	<b>404</b>

22. As can be seen from the table above, the future viability of the school has been further weakened by the number of “in-year transfer” requests for pupils to move from South Shields School now rather than wait to move in a managed cohort in September 2019 or September 2020 as described in the transition proposal. The Council and school wrote to all parents to explain the benefits of their children remaining at South Shields School until the time came for their whole year group to move, however the risk that parents would act sooner to secure an alternative school place was always present from the point that the statutory consultation on closure commenced.
23. As at 21<sup>st</sup> December 2018 there had been 174 in-year transfer requests from parents for other schools, the vast majority being for Boldon School and Mortimer Community College. A substantial number of pupils have now been placed and those that are pending will be placed within the coming half term.
24. The Council, as admissions authority for maintained community schools, cannot lawfully refuse to admit a pupil to a school where the admitting school has available places. However, given the volume of requests, the Council’s admissions team are working with South Shields School and the receiving schools to manage these requests in order that transition times are in the best interests of pupils. An interim amendment has been added to the Co-ordinated Admission’s Scheme for 2018/19 to be able to achieve this.
25. The resulting decrease in numbers at South Shields School will further compromise its financial viability and its ability to offer a broad and balanced curriculum to the remaining pupils over the longer term.

**Publication of the Statutory Notice and the Statutory Representation Period**

26. On 13<sup>th</sup> November 2018, Cabinet agreed to publish the Statutory Notice and commence the Statutory Representation Period.

27. The Statutory Notice was prepared in accordance with government guidance and was published in the Shields Gazette and on the Council's website on 21st November. This commenced the Statutory Representation Period which ran for four weeks until midnight on 19<sup>th</sup> December 2018. The notice stated the Council's intention to discontinue South Shields School, Nevinson Avenue, South Shields, NE34 8BT on 31 August 2020 and sought formal representations from the public.
28. A copy of the Statutory Notice was posted at the following venues:
  - All entrances to South Shields School
  - Reception area at South Shields School
  - Reception area at Temple Park Centre
  - Reception area at Cleadon Park Primary Care Centre
  - Library at Cleadon Park Primary Centre
29. The full proposal set out the proposed timescales for phasing of the closure, to ensure that pupils transferring to other schools are supported during the transition period. It also set out the proposal that students already undertaking GCSEs, i.e. current Years 10 and 11, would complete their education at South Shields School.
30. Consultation information and a list of frequently asked questions, which were updated during and following the initial consultation period, were published on the Council's website. A copy of all information available throughout both consultation periods can be found in the background papers. All parents/carers received a letter notifying them of the above, along with an invitation to attend one of the drop-in sessions listed below.
31. During the Representation Period, drop in sessions for parents / carers were held at Temple Park Leisure Centre. These sessions were tailored towards specific year groups and were held on
  - Years 7 and 8 - 5 to 6pm, Monday 26 November 2018
  - Year 9 - 5 to 6pm, Tuesday 27 November 2018
  - Years 10 and 11 - 5 to 6pm, Wednesday 28 November 2018
32. A further drop in session was held for all year groups - 5 to 6pm, on Monday 17 December 2018 and a meeting with the governing body of South Shields School –took place on 10 December 2018.
33. The purpose of the drop-in meetings was to give the opportunity for questions to be asked and for concerns to be raised on an individual basis and for them to be responded to individually. There were approximately 10 attendees at each of the drop-in sessions in November and the questions were mainly focussed around issues and concerns for individual pupils.
34. The December drop-in meeting was arranged as an additional opportunity for those parents/carers who were unable to attend the earlier meetings to have their questions and concerns addressed. There were no attendees at that meeting.
35. During the representation period any person or organisation was able to submit comments on the proposal, to be taken into account by Cabinet as the

decision-maker. Cabinet must consider all views submitted during the representation period, including all support for, objections to, and comments on the proposal.

### **Representation period responses**

36. Unlike the Stage 1 informal consultation, for which a structured response form was made available, comments/views on the statutory proposal must be submitted in free text format by individuals. This was to ensure that the representations could not be considered to have been “guided” in any way, and to ensure that those making representations could feel able to make whatever comments or suggestions they felt appropriate and necessary.
37. The Council had received 183 responses to the stage 1 consultation and these were included in the Cabinet report of the 13<sup>th</sup> November 2018. They are also included in the background papers at Appendix 5 for information. The Council received a further seven responses into the dedicated email inbox during the four week Representation Period between 21<sup>st</sup> November 2018 and the 19<sup>th</sup> December 2018. These responses have been copied in full and can be accessed via the link at Appendix 7 in the background papers at the end of this report.
38. The main themes from each of these responses are set out below along with a comment from officers:

#### **Respondent 1**

**This Respondent’s view is that the Council was culpable in contributing to the falling numbers at the school, reported in the press, by the initiation of the consultation to close the school and questioned the process and the Council’s ability to make decisions.**

#### ***Local Authority Response to respondent 1:***

*This is not the case. Pupil numbers have been low for a number of years but then fell significantly in the last two admission rounds to 73 in September 2017 and 77 in September 2018. The admissions period for both of these year groups took place prior to publication of the October 2017 Ofsted Inspection Report, any subsequent press coverage and the commencement of the consultation to cease to maintain the school in September 2018. Following the start of the consultation process the number of in year transfers has accelerated falling numbers (see para 23) but the original assessment of future viability was based on the admissions rounds, and a range of other information documented in the this report, that pre-date press coverage and the consultation.*

*In terms of the process and decision making the Council is adhering strictly to the statutory school organisation regulations and guidance set out in the School Organisation (Establishment and Discontinuance) 2013 and in the Statutory Guidance for Decision Makers in Opening and Closing Maintained Schools.*

## **Respondent 2**

This Respondent acknowledged the process and felt that it is likely that the school will close. The Respondent raised concerns around the planning and support for transition beyond the decision making, particularly for those pupils in current Years 7 and 8.

### ***Local Authority Response to respondent 2***

*If the decision is made to close the school a full implementation plan will be put in place to support pupils, staff and governors. The phased transition plan will include Admissions, Human Resources, Finance, School Improvement, Legal and other relevant areas. The Council will work with other secondary schools to support the transition of pupils and support for the curriculum will also be a major feature of the transition planning.*

## **Respondent 3**

**This Respondent suggested that a vocational education facility should be established, specifically for the care sector and construction, as a way to secure the future of South Shields School. The Respondent also suggested that the school be allowed to open a sixth form provision.**

### ***Local Authority Response to respondent 3***

*The school is still subject to the Academy Order. A sponsor would still need to be identified in order for the school to convert to Academy Status as the school cannot remain with the Local Authority indefinitely whilst under an Academy Order. As is the case with the alternative options already considered and which are described in the 12<sup>th</sup> November Cabinet report, the suggestion does not address the fundamental viability concerns for South Shields School for the following reasons:*

- *South Shields School is an 11-16 maintained school (subject to an Academy Order). As a maintained school, the school must follow the National Curriculum which includes core subjects such as English, Mathematics, Science and Religious Education. Over and above these core subjects, maintained schools (and indeed Academies) are required to deliver a broad and balanced curriculum which will include humanities subjects such as history and geography, modern foreign languages and, in some cases, vocational subjects such as health and social care. Most subjects are assessed through national tests i.e. GCSE. The performance of schools is measured by the percentage of children achieving English and Maths at levels 4 and 5, the percentage of children achieving the EBacc set of GCSEs, the Attainment 8 score for the school and the Progress 8 score for the school. Vocational qualifications, whilst undeniably the best routes for some young people, do not count towards the above measures. In the recent past, because of national requirements such as the new National*

*Curriculum, a revised performance and assessment framework, and the focus of Ofsted on progress and outcomes in academic subjects, schools have reduced the number of vocational qualifications on offer for 14-16 year olds. This may change if there is re-direction of national policy, but this is the position for the foreseeable future. Most vocational provision in South Tyneside is provided by Tyne Coast College.*

- *All maintained schools and academies are funded through the schools funding formula and this is almost exclusively driven by pupil numbers. No additional funding would flow into South Shields School as a result of focusing upon vocational subjects for 14 -16 year olds and indeed, because of reducing numbers in the school and the impact upon funding, it will become increasingly challenging to offer the core range of subjects identified within the National Curriculum.*
  
- *South Shields School could not automatically set up a sixth form (Years 12 and 13) as there is a separate statutory process that must be followed to establish a sixth form for maintained schools. Any sixth form proposal would have to be considered against a background of financial viability, demand for post-16 places and the proposed size of the 6<sup>th</sup> form, availability of subjects/subject breadth, and quality of pre-16 education offered at the school. In the school's current position, as a maintained school with an Inadequate Ofsted judgement and a Directive Academy Order this would not be possible to progress. Vocational education, provided by another provider such as an FE College, is a model that has been adopted in some 11-16 schools but again this would not bring funding into the school and would not address the underlying viability issues for South Shields School itself. Sixth Form provision is available within the borough at 4 mainstream secondary schools (1 non-denominational academy, 2 Roman Catholic academies and 1 Church of England academy); further post 16 provision reserved for pupils with SEN is available at 2 special schools in the borough.*

#### **Respondent 4**

The respondent was generally critical of the process and also criticised lack of support from councillors for parents and pupils throughout the process. Concerns were also raised that the proposals will have a detrimental effect on the local area, that the generation of children in the school will be failed by the education system and that closing the school will mean that the council will gain financially at the cost of pupils' education. The respondent also holds the council responsible for scaremongering and causing the movement of pupils to other schools, to create insecurity in the school.

This respondent also requested that the option of a vocational facility be considered and stated that there has been interest from FE colleges which would allow an increase in pupil numbers and that an increase in pupil numbers would allow a sponsor to come forward.

#### **Local Authority Response to respondent 4**

*As can be evidenced through the consultation process, many opportunities have been provided for parents to give their views, voice concerns and ask specific questions. The statutory proposal addresses the issue of community impact and the schools that will receive most of the pupils from South Shields School if it closes are performing well and improving pupil outcomes.*

*Declining pupil numbers have not been caused by the threat of closure. Admissions to the school for the previous two years have been low and these took place before publication of the Ofsted report and before any press coverage or communications regarding the potential risk to the school. The response to the vocational facility option is covered in the response to respondent 3 above.*

*Funding for schools comes from the Dedicated Schools Grant and is separate from Council funding. It is also pupil led and so will 'follow' pupils into their new schools. Therefore there is no financial gain to the Council whatsoever from the closure of any school.*

#### **Respondent 5**

The respondent stated that the information available throughout the consultation was very difficult to find on the council's website. The respondent also stated that information on future class sizes in receiving schools, should South Shields School close, was not available and questioned whether the impact on future class sizes had been considered, along with the impact on residents living near the schools.

The respondent stated that as a resident living close to the catchment area of the school, no notification had been received about the potential closure of the school and would presume this would be a statutory requirement when trying to close down public services within a given area.

The respondent raised concerns about increased travel and the impact on the environment and road congestion and questioned whether increased travel had been considered, stating that it had not been possible to find information on this during the consultation.

The respondent noted that in some of the paperwork it was stated that it had not been possible to find a sponsor to enable the school to become an academy and questioned why the Council had not stepped in as an academy sponsor for the school and that it should be noted that other councils have stepped in to become sponsors for local schools.

The respondent concluded that it would appear that the closure of the school was to save the council money, to the detriment of class sizes and education within the borough, whilst saving little money, as the building would still need to be maintained for educational purposes in the future.

### **Local Authority Response to Respondent 5**

*All information relating to the proposal has been available on the Council's website since the initial consultation began. The information, including 'Frequently Asked Questions', has been updated and expanded upon as the process has developed. The web address was included in the letters sent to parents at each stage of the process and was also included in the Public Notice and the Statutory Proposal. The proposal information was available on request from the Council. The evaluation of the impact of the school closure is contained within the information on the website. Paragraphs 27 and 28, above, set out where the statutory proposals were published and posted, and there is no legal requirement to notify residents on an individual basis.*

*The evaluation of the impact on travel for pupils transferring to the nearest schools with vacancies is included at paragraph 12 of the published Statutory proposal for the closure of South Shields School, and is attached in the background papers as Appendix 1.*

*When an academy order is placed on a school it can no longer be maintained by the Local Authority and, as such, the Local Authority cannot therefore become a sponsor for an academy.*

*The Local Authority Response to respondent 4, above, clarifies the position in terms of funding.*

### **Respondent 6 (The Headteacher and Governing Body of South Shields School)**

This representation reiterated some of the content of the school's response that was received during the first consultation phase. It emphasised the need to maintain a stable staffing and to maintain the arrangements for differentiated curriculum provision, including vocational training for Year 11 (currently Year 10) in the 2019/20 academic year. The need for current arrangements for staffing and support to be maintained for Years 8 and 9 (currently Years 7 and 8 respectively) in the 2019/20 academic year, was also highlighted. The representation also put forward a suggestion for modification to the transition arrangements for some current Year 9 pupils who move into year 10 in September 2019. The proposal would be that not all year 10 (currently Year 9) pupils would transition in September 2019, with a small number who may benefit from a longer transition period to continue to be supported at South Shields School whilst working alongside receiving schools and differentiated provision providers, such as colleges.

### **Local Authority Response to Respondent 6**

*The Local Authority fully supports the Governing Body's view of the importance of the transition arrangements and the need to ensure stability of leadership and staffing within the school as far as we are able to do so. The expectation would always be that all Year 11 pupils remaining at South Shields School would receive their entitlement to a*

*broad and balanced curriculum and would be fully supported to continue on whichever pathway they embarked upon in Year 10. Similarly, Years 8 and 9 would continue to receive appropriate education and support until they transfer to their new schools in September 2020. Appropriate support for the transition at that time would also be a high priority.*

*The governing body submission includes a proposal to change the transition arrangements for Year 10 pupils (current Year 9 pupils) so that a small, undefined, number of Year 10 pupils remain at South Shields School and transfer to a different school or alternative provider at the appropriate time in Year 10 or in September 2020 going into Year 11.*

The governing body submission also sets out the benefits of a longer transition period, including continuation of bespoke pathway programmes for a small number of students, as well as potential benefits for those students of an alternative curriculum, including qualifications gained through South Tyneside College or placements linked to future apprenticeships alongside other academic qualifications and school support.

It is the Council's view that any arrangement for an individual child outside of the proposed transition plan would need to strongly evidence why the educational needs of the child could not be met by a receiving school. Any arrangement which meant that a child did not transition until Year 11 (i.e. a current year 9 child who did not move to the new school until September 2020) would be potentially disadvantageous to the learner and problematic for the receiving school. There is no reason why bespoke provision could not be delivered by a receiving school or other provider, with careful planning and strong collaboration between the current school and receiving schools/providers, to ensure all pupils are effectively supported through the transition and beyond. In terms of the type of support pupils would receive, Boldon and Mortimer Schools, the closest two secondary schools with vacancies, both have strong links with alternative providers and work collaboratively to ensure that pupils are supported in the most appropriate provision for their needs.

It is also worth noting that parental preference would override the judgement of the school that a Year 9 pupil would benefit from an additional period of time, beyond September 2019, in South Shields School.

The Statutory Proposal is for the whole of the year group to transfer to their new schools/providers in September 2019. The transition would be implemented in a planned and managed way with full support for pupils, parents/carers and receiving schools to ensure that the pupils move with their peer groups is as smooth as possible. As part of that transition, all parents/carers would be offered the opportunity to express a preference for an alternative school, to begin September 2019. There is no legal basis on which the Council can mandate and enforce that the current Year 9 cohort be split into pupils identified to remain at the school and those identified to transfer to a different school.

**Respondent 7 (The Member of Parliament for South Shields, Emma Lewell – Buck)**

This representation stated that the Council had not considered all options in order to retain South Shields School, despite improvements to results in 2018 and the fact that other schools in similar positions nationally had been allowed to remain open with a Directive Academy Order and no identified sponsor.

***Local Authority Response to Respondent 7***

*South Shields School's results in the summer of 2019 did improve, particularly in English and Mathematics, however remain at a low level in comparison to other South Tyneside schools. Therefore whilst improved in 2018 results are not at a level that could be expected to have any material impact on admissions preferences.*

*It is correct that a small number of schools have had a Directive Academy Order in place for two or more years. However, each school has its own specific individual factors that apply to them so a direct comparison is not possible. The impact on outcomes in those schools also needs to be considered and in many cases remaining open in 'limbo' is not a positive option for the education of their remaining pupils. There is also a key difference that the RSC is not seeking a sponsor for South Shields School due to the particular local context that impacts on its viability.*

*In terms of revocation of an Order, we are only aware of 4 secondary schools that have had a Directive Academy Order removed since the 2010 Academies Act came into force. There are specific factors in each of those cases that are not relevant for South Shields School.*

39. In addition to the Representation responses set out in paragraph 38, two petitions to save South Shields School were also received during the stage 1 consultation. The first petition was an online petition with approximately 3,000 signatures; the second petition was a hard copy petition with approximately 3,800 signatures. It should be noted that the cumulative total number of signatures was not 6800 as the majority of respondents had signed both petitions.
40. In accordance with the Council's Constitution these petitions were presented to the meeting of the Council on 29 November 2018. As this meeting took place during the Representation Period the petitions were accepted as formal submissions to be considered by Cabinet alongside all other responses received during the Representation period. The petitions can be found in the background papers as Appendix 8.
41. The consultation process focused on a wide stakeholder audience, inviting comments and views. In addition to the petitions a relatively small number of respondents (seven) responded to this stage of the statutory consultation. These responses were supportive of the school remaining open and were critical of the local authority's proposal to cease to maintain the school.

### **Financial or value for money implications**

42. The RSC's inability to find a sponsor confirms serious concerns about the future financial viability of the school given that the school budget is based upon pupil numbers. The school was built under the Private Finance Initiative (PFI) in September 2011 and therefore has a number of years remaining on the contract. Currently, the local authority and the school make a contribution to the PFI costs and these will need to continue to be met for the remainder of the contract. No decision as to the future of the school site has been made and this will not be considered until the outcome of the statutory process is finalised.
43. The school has undertaken a previous programme of reviews to prevent a deficit budget up until this point and, with some support from the Local Authority, has managed financial challenges within its budget. However, there is a point at which maintaining a balanced budget cannot be sustained and it is predicted that further falling numbers at the school will impact significantly upon the school budget in the future.
44. Costs in respect of a school closure are difficult to predict as a number of factors such as staffing changes, pace of transition and any future use of the site are unknown at this stage. For example it is likely that a number of staff would seek and obtain alternative employments before being made redundant, which would mitigate and reduce the redundancy costs. In the longer term the reduction in surplus places across the secondary system will lead to a more efficient use of the ringfenced Dedicated Schools Grant.

### **Legal Implications**

45. Section 4(A1) of the Academies Act 2010, places a duty on the Secretary of State to make an academy order for any maintained school that is eligible for intervention because it has been found by Ofsted to be inadequate. This is a mandatory duty. The Secretary of State retains the power under the Academies Act 2010 (s.5D) to revoke an academy order where it had been made because the school was eligible for intervention. The exceptional circumstances in which this power is used includes where the maintained school is not considered to be viable and therefore it is most appropriate to close.
46. The academy order will only be revoked on the basis that the local authority goes on to consult on the statutory process to close the school. Consultation is the first step in the statutory process as set out in the Education and Inspections Act, and is a legal requirement. If the local authority fails to so implement the statutory process, the RSC can use the Secretary of State's power under section 68 of the Education and Inspections Act 2006 to direct the local authority to close the school.
47. The statutory process for closing a maintained school is set out in the Education and Inspections Act 2006 and in the School Organisation (Establishment and discontinuance) Regulations 2013 before publishing proposals to discontinue a school, the local authority must consult with such persons as are statutorily prescribed and other such persons as appears to the local authority to be appropriate. The statutory notice is an extract of the complete proposal. The complete proposal contains all of the information required by Schedule 2 of the School Organisation (Establishment and

Discontinuance) Regulations 2013 and described in statutory guidance. This describes the impact on the community of the closure of the school including any measures proposed to mitigate any adverse impact and a link to the regulations is included at Appendix 9.

48. The Council has complied with the statutory requirements for school reorganisation and has had regard to the statutory guidance published by the Department for Education on the process for ceasing to maintain a school.
49. The responsibility for decisions on school reorganisation proposals for the closure of a maintained school rests with Cabinet. Should Cabinet fail to make a decision on a proposal within two months of the end of the Representation Period, the proposal must be referred to the Office of the Schools Adjudicator. In order for Cabinet's decision to be valid, it must be made by no later than 18 February 2019.
50. The proposal relates only to the closure of South Shields School and is not linked to any other proposal.

### **Risk Implications**

51. The high level of requests for in-year transfers presents a risk both to South Shields School and the receiving schools. As well as further impacting on the viability of South Shields School it is important to ensure an effective transition of pupils to minimise any impact on the receiving schools. The Council is working with schools to support them in mitigating this risk.
52. Any delay to a decision on the future of the school is likely to have a detrimental impact on the school, its pupils and staff. Ongoing reduction in pupil numbers leads to greater financial challenges impacting on staffing and the schools ability to deliver a full and balanced curriculum for its remaining pupils. The phasing of the closure as it impacts upon individual year groups is proposed to mitigate this risk as much as possible, however, parents may choose to apply for an alternative school place at any time.

### **Equality and Diversity Implications**

53. The Equality Act 2010 includes a public sector equality duty which came into force on 6 April 2011. The duty covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race religion or belief, sex and sexual orientation.
54. The Act requires the Council, in exercising its functions to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; advance equality of opportunity between people who share a protected characteristic and those who do not and foster good relations between those people who share a protected characteristic and those who do not. In determining the proposals, Cabinet should have satisfied that to do so is a reasonable exercise of its discretion having considered all of the relevant matters and disregarding irrelevancies and having had regard to all guidance that it is statutorily required to consider.
55. The school does not have a denominational status and the proposed closure will not change the number of secondary schools within South Tyneside with denominational status. There will continue to be 3 schools with

denominational status (1 Church of England Academy and 2 Roman Catholic academies).

56. The school does not provide provision that is considered to be reserved for children with special educational needs.
57. The school does not provide sixth form provision and the proposed closure will not change the number of secondary schools within South Tyneside which offer post-16 provision.
58. The school provides community use of its facilities outside of school hours on Mondays for karate and on Thursdays for football. The PFI facilities management company also provides access to the school premises for Adult and Youth Football between 9.00am and 12.30pm on Saturday and Sunday mornings. Suitable alternative facilities are available at various nearby locations e.g. Temple Park Leisure Centre and Chuter Ede. There is also likely to be the opportunity to continue the existing community use facilitated by the ongoing delivery of services under the PFI contract.

### **Environmental and Sustainability Implications**

59. The local authority has addressed issues of transport in the statutory proposal. The alternative schools with available places are either within acceptable walking distances or are accessible by public transport. The statutory proposal sets out the full analysis of the impact on pupil travel (as at 21 November 2018).
60. It is anticipated that the majority of pupils will walk, cycle or use public transport to travel to alternative schools and therefore any impact upon road traffic would be minimal. There are sufficient public transport routes available to cover the routes from home to school of current pupils.
61. It is recognised that some pupils may have further to travel and a review of the positioning of school crossing patrol points will be carried out with a view to relocating those patrol points if necessary.
62. Any pupils whose home to school journey changes to the point where they will become eligible for support with home to school transport will be identified and suitable transport arrangements will be identified for them in accordance with the Council's home to school transport policy.
63. No decision as to the future of the school site has been made and this will not be considered until the outcome of the statutory process is finalised. The Council owns the freehold of the site of the school and the site remains subject to the PFI arrangements.

### **Factors to be considered by Decision Makers**

64. Cabinet is the decision maker for this proposal and must make a decision on the proposal within two months of the end of the representation period, otherwise the Local Authority must forward the proposal and any representations received to the Schools Adjudicator for a decision to be made.

65. The Secretary of State has issued statutory guidance to assist decision makers, and Cabinet must have regard to the statutory guidance when it takes a decision on statutory proposals. The statutory guidance “Opening and Closing Maintained Schools: Statutory guidance for proposers and decision-makers” is included as a link at Appendix 10 in the background papers.
66. Before considering the merits of the proposal, Cabinet must be satisfied that the following elements have been complied with:
- That comprehensive information has been supplied to Cabinet and that all information required is available to make a decision;
  - That the published statutory notice complies with statutory requirements;
  - That the statutory consultation has been carried out prior to the publication of the Notice; and
  - Whether the proposal is related to any other proposals.
67. Cabinet as the decision maker must have regard to the following:
- Cost effective provision of education and the removal of surplus school places;
  - How the proposal will impact upon local diversity.
  - The effect on standards and school improvement;
  - Types of schools available within the borough;
  - The impact on community cohesion and race equality;
  - The impact on the provision of extended services and travel;
  - The impact of the proposal on Special Educational Needs (SEN) provision;
  - The views of interested parties: Cabinet should consider the views of all those affected by the proposal or who have an interest in them, including but not limited to pupils, families of pupils, staff, governors, local residents, and local Diocesan bodies.
68. In developing the proposal a detailed case has been made about the viability of South Shields School and the unsustainability of maintaining a school with such significant numbers of surplus places. With regard to diversity of provision, whilst the proposal will result in parents being able to express a preference for one less community school, the low numbers of admissions in recent years would suggest that South Shields School has not been a first choice for many families living in the local area. Should the proposal be approved, there will be eight mainstream secondary schools (four community and four academies) within South Tyneside, four of which have sixth form provision (one which is Church of England academy, and two which are Roman Catholic academies).

69. Although it has been stated throughout that the proposal to close South Shields School is not purely related to standards, the viability issues brought about by low numbers will seriously affect the school's ability to maintain a broad and balanced curriculum. Ultimately this will negatively impact upon standards and pupil outcomes.
70. The Statutory Proposal as set out in the background papers provides more detailed information in relation to the types of schools available within the borough, the impact on the provision of extended services and travel and the impact of the proposal on Special Educational Needs (SEN) provision. The community impact statement did not identify any risks to the impact of the proposal on community cohesion or race equality. Paragraphs 53-58 above describe in more detail the considerations that must be taken with regard to equality and diversity in determining the proposal.
71. All responses and views from interested parties have been included in background papers to this report.

### **Alternative Options to Closure**

72. A number of alternative options were explored to support sustainability of the school following the Stage One consultation. These are set out in Appendix 6 of the background papers below.
73. A further alternative was suggested by a respondent as part of the Representation Period for the creation of vocational provision to keep the school open. This option has been explored and, along with the response, is set out fully at paragraph 38 above. All alternative options suggested and explored would fail to resolve the underlying viability issues described in paragraphs 18-25 of this report to enable the RSC to resume the search for a credible academy sponsor for the school.

### **Timescale for Implementation**

74. The proposer intends for the decision to be implemented in a phased manner and for the local authority to cease to maintain the school with effect from 31 August 2020. The proposed phased implementation is:

September 2018 to July 2019:

No changes - Years 7, 8, 9, 10, 11 to continue at South Shields School

September 2019 to July 2020:

No year 7

Years 8, 9, 11 remain at South Shields School

Year 10 pupils allocated to receiving schools to begin GCSE courses for September 2019

School is closed from 31st August 2020 with Years 9 and 10 allocated to receiving schools for entry in September 2020

75. Cabinet must be satisfied that the implementation dates, including the proposals for any phased implementation are achievable in light of the evidence submitted by the proposer.
76. Paragraph 38 above sets out a proposal from the Governing Body of South Shields School (Respondent 6) for a small, undefined, number of Year 10 (current Year 9) pupils to remain at the school for an extended transition period. The response to the proposal is also set out at paragraph 38. There is no legal basis on which the Council can mandate and enforce that the cohort of pupils can be split into those identified to remain at the school and those who transfer. The Council acknowledges that parental preference to move their children to a school at a time of their choice would remain, irrespective of the transition plan.
77. Should Cabinet approve the proposal, transition planning would begin straight away, involving pupils, parents and staff at South Shields School and the preferred receiving school (when parental preference known). Individual transition plans would be developed for pupils based upon need.

#### **Decision Options Available to Cabinet**

78. Cabinet must consider the available evidence, including the comments and objections generated during the Representation Period. Cabinet must then decide, having considered the merits of the proposal, whether to:
  - reject the proposal;
  - approve the proposal without modification;
  - approve the proposal with such modifications as they think desirable;  
or
  - approve the proposal – with or without modification – subject to certain conditions being met

#### **Officer's Recommendations**

79. Cabinet is recommended to approve the proposed closure of South Shields School to be implemented in accordance with the consultation document and as set out in paragraph 74 above.

#### **Reasons for Recommendations**

80. The school remains subject to a directive academy order in circumstances where the RSC is not actively searching for a sponsor; no viable sponsor has come forward either through the RSC's processes or during the consultation and representation period.
81. The consultation and representation periods did not bring forward any viable new or alternative ideas for consideration, nor are there any other viable alternatives to the closure proposal as published.
82. There are key underlying viability issues for South Shields School relating to demographic growth, substantial surplus places in the secondary sector, admissions patterns and pupil numbers. Pupil projections show that there is no material increase in the projected numbers of pupils within the catchment area for South Shields School. Based upon actual primary data in the relevant

planning area/s, numbers moving from primary schools to secondary schools is static. Admission patterns show that over a period of time parents have been expressing a preference for the other schools in the area. South Shields School has never been full (the highest number was 741 in the year after opening against a capacity of 1000) and declining numbers have accelerated over the last two years with 73 pupils admitted into Year 7 in September 2017/18 and 77 admitted into Year 7 in 2018/19.

83. Ongoing reductions in pupil numbers leads to greater financial challenges impacting upon staffing and the schools ability to deliver a full and balanced curriculum for its remaining pupils.
84. The wider school community have expressed support for the school remaining open, however, despite this public support, a significant number of parents have chosen to remove their children before the statutory consultation and representation periods were completed. This has had a further negative impact upon the school's viability.
85. The recommendations are made in order to determine the Council's response to the requirement imposed by the Secretary of State for Education to consult on the closure of South Shields School as a condition of the directive Academy Order being revoked.

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South Shields School: Proposals for consultation

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The following is a list of the background papers (excluding exempt papers) relied upon in the preparation of the above report and can be accessed here:

[www.southtyneside.gov.uk/southshieldsschool](http://www.southtyneside.gov.uk/southshieldsschool)

Background Paper	File Ref:	File Location
Statutory Notice & Statutory Proposal	Appendix 1	<a href="http://www.southtyneside.gov.uk/southshieldsschool">www.southtyneside.gov.uk/southshieldsschool</a>
Cabinet report: 12 <sup>th</sup> September 2018	Appendix 2	<a href="http://www.southtyneside.gov.uk/southshieldsschool">www.southtyneside.gov.uk/southshieldsschool</a>
Cabinet report: 13 November 2018	Appendix 3	<a href="http://www.southtyneside.gov.uk/southshieldsschool">www.southtyneside.gov.uk/southshieldsschool</a>
Information and response forms, including pupil projections	Appendix 4	<a href="http://www.southtyneside.gov.uk/southshieldsschool">www.southtyneside.gov.uk/southshieldsschool</a>
Notes from consultation meetings & written responses to informal stage of consultation	Appendix 5	<a href="http://www.southtyneside.gov.uk/southshieldsschool">www.southtyneside.gov.uk/southshieldsschool</a>
Options Appraisal	Appendix 6	<a href="http://www.southtyneside.gov.uk/southshieldsschool">www.southtyneside.gov.uk/southshieldsschool</a>
Statutory representations received	Appendix 7	<a href="http://www.southtyneside.gov.uk/southshieldsschool">www.southtyneside.gov.uk/southshieldsschool</a>
Petitions Received	Appendix 8	<a href="http://www.southtyneside.gov.uk/southshieldsschool">www.southtyneside.gov.uk/southshieldsschool</a>
Schedule 2 of the School Organisation (Establishment and	Appendix 9	<a href="http://www.southtyneside.gov.uk/southshieldsschool">Department for Education Website</a>

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Discontinuance) Regulations 2013 Statutory Guidance		
Opening and Closing maintained schools: Statutory guidance for proposers and decision makers	Appendix 10	<a href="#">Department for Education Website</a>