PUTTING THE RECORD STRAIGHT

At first sight, this is some arcane argument over school buses. It is not. It is about Powys County Council taking action that is damaging the education of children in North Powys. In response to the misinformation presented by PCC, this is written as a resource for parents wishing to write to the councillors. There is a press release by Richard Lloyd (solicitor) which gives a summary of the situation. This is followed by a factual rebuttal of the claims made by Powys County Council.

Llanfyllin parents issue legal challenge over bus decision

Press Release by Solicitor Richard Lloyd

Parents have issued a legal challenge to Powys County Council over their decision to prevent Llanfyllin High School funds being spent on transport for out of catchment pupils. Parent and local solicitor Richard Lloyd, a former pupil at Llanfyllin and the senior partner at GHP Legal in Oswestry, has been coordinating the parents’ legal challenge. At a meeting two weeks ago the Friends of Llanfyllin High School agreed to spend £2000 on specialist legal advice and launched an online crowdfunding campaign.

Speaking to the County Times, Richard Lloyd said, “Over 120 parents of children from both within the catchment and out of catchment have agreed to back this action in the space of five days since we received the initial advice from the specialist barrister. A letter before action has now been sent to Powys County Council to which we require an immediate response.”

“Clearly this is an issue that affects all parents, and all parents at the school are likely to be an interested party in any judicial review proceedings that are currently being considered.”

“The letter focuses on the obligations and actions of the local authority under the Learner Travel (Wales) Measure 2008, which covers the arrangements that need to be made for all students who access their education in the local authority’s area, whether they live in that area or not.”

“At its simplest the law focuses on what is right and what is wrong. In this case, clearly what is happening is wrong. The job of lawyers is to find the points of law which allow that to be challenged and addressed. The advice we have received gives us reason to challenge the actions of the local authority in relation to 5.2 in general and Llanfyllin High School in particular.”

“At this initial stage, the letter seeks clarification and information on a number of points. It also asks for an explanation as to the basis on which the local authority claims that its blanket prohibition on the use of delegated funds for transport is lawful. Once this information has been supplied, the parents will be in a position to consider what further action to take.”

“This letter raises important issues for the County Council to answer and until it provides those answers it should desist from insisting that the School no longer funds the bussing service out of its delegated budget and the County Council should undertake not to try and interfere with the running and the funding of that service by the school until the legal position has been clarified and there has been proper consultation with the school and the parents concerned.”

“The County Council should also desist from threatening the governors with personal liability in case this brings about a premature ending of the service. Furthermore until the County Council proves that it has the legal right to act in the manner that it has it should desist from threatening the
school with the prospect of an intervention by the County Council in taking control of the delegated budget.”

“We have therefore asked the County Council to operate a self-imposed moratorium against interfering with the school’s running of the bussing service or the taking over of the delegated budget until the questions raised within this letter have been addressed and properly considered.

**Friends of Llanfyllin High School campaign in figures:**

A week ago Friends of Llanfyllin High School launched an online petition [http://chn.ge/1T89t19](http://chn.ge/1T89t19) and a crowdfunding campaign to support a legal challenge by parents [https://fundrazr.com/llanfyllin-friends](https://fundrazr.com/llanfyllin-friends)

- In just one week 3,300 have been reached by its press release about intended legal action.
- 2,100 have been reached by an infogram of cabinet members’ contacts.
- nearly 700 people have signed the online petition in less than a week.
- A closed Facebook group, Bussed up, has got 58 members since it started last week.
- More information can be found on its Facebook page [www.facebook.com/FoLHS](http://www.facebook.com/FoLHS) or [https://llanhub.wordpress.com/](https://llanhub.wordpress.com/) or email friends@llanfyllin-hs.powys.sch.uk

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Background Facts and Figures

Enforcing 5.2 is not in the interests of the Powys tax payer. Llanfyllin High School has been saving Powys County Council and local tax payers £500,000 per year for the last 5 years since 2011, a total of around £2.5m. And if the transport ban was not enforced now, then the same amount will be saved every year from now until the modernisation programme is completed – which is likely to be another 5 years at least.

- The funding formula for Powys schools allocates additional funding per pupil to smaller schools – and the smaller the school the larger the subsidy. As one of the largest schools in Powys, Llanfyllin High School currently receives one of the lowest amounts of per capita funding in the County. The loss of students that would be provoked by compliance with 5.2 will require Powys’ funding formula to pump an extra £200,000 to £300,000 per year into Llanfyllin High School, just as it does currently into other smaller schools. This money would be subtracted directly from the budgets of all other Powys schools, or paid for by Powys council tax payers.

- There are 38 Sixth form students from Shropshire at Llanfyllin High School – this brings a total of £150,000 extra into the Council’s education budget. This funds a broader range of subject options than would otherwise be possible and is of direct benefit to students at Welshpool and Caereinion High Schools who access these courses through collaborative arrangements.

- 38 Powys resident students who live outside Llanfyllin’s catchment travel on buses funded by Llanfyllin High School including some on a service bus part funded by the school. Transporting these students to their nearest school and funding the service bus would cost Powys in the region of £50,000 per year, which again would be deducted from the budgets of other schools or paid for by Powys council tax payers.

- Powys receives £50,000 funding from Shropshire to support children with Special Educational Needs who attend Llanfyllin High School. But because of the way this funding gets refracted through Powys’ funding formula (which prioritises levels of free school meal entitlement rather than individual need) Llanfyllin High School only receives £19,000 of this.

- The total of all these – subsidy, loss of post-16 funding, extra transport costs, loss of SEN funding – adds up to £500,000 per year.

The transport ban will also prevent the ongoing modernisation review from considering what are likely to be the most effective proposals for reorganisation. If student numbers, staffing levels and curriculum breadth at Llanfyllin High School have been undermined before the review takes place then this will exclude a successful and viable dual-stream bilingual 11-18 Llanfyllin High School from the process. If this distortion of the modernisation process was allowed to happen and this prevented the best-value configuration of schools from being chosen, that would not be in the interests of Powys council tax payers.

The Cabinet claimed on April 12 2016 that Powys council tax payers are subsidising the Shropshire students by £86,000 per year because of a gap between the funding received
from the Welsh Government and the amount delegated to Llanfyllin High School. In fact the County Council receives other funding from the Welsh Government towards the cost of providing secondary schooling for all these students – funding that wasn’t mentioned in the cabinet papers. This covers all of the funds delegated to Llanfyllin High School - and if this wider context is taken into account the Shropshire students are not a cost to Powys council tax payers. A misleading impression has been created that Shropshire students have been benefitting at the expense of Powys residents. The opposite is in fact the case – the people who benefit most from the current transport arrangements are ALL the students at Llanfyllin High School in both the English and Welsh streams because of the additional curriculum opportunities provided. Sixth form students in neighbouring schools who have more subject options to choose from also benefit; and all other Powys schools who avoid unnecessary additional cuts to their budgets also benefit. In total, Powys council tax payers benefit to the tune of £500,000 per year.

Llanfyllin HS’s non-compliance with 5.2 was always in plain sight of the Council. Llanfyllin began to subsidise the travel to school of out of catchment students twenty years ago, and it has been part of its business model ever since. The Council were aware of this and there was never an attempt to hide it. Llanfyllin’s transport arrangements were clearly shown in the annual budgets submitted to the Council and approved by them every year.

The subsidising of buses for out of catchment students is a successful way to overcome the low population density in Powys. The proof is in the thriving school that Llanfyllin became – always in budget, with the largest sixth form in Powys throughout this period, and the widest curriculum offer in Powys, currently the largest year 7 in Powys. The benefits of the business model were widely understood and this is likely to have been one of the reasons why the Council turned a blind eye to it year after year. 171 out-of-catchment pupils (129 11-16 year olds and 42 sixth formers) come to the school, which allows the school to offer more subject choices at GCSE, in the 6th form and in Welsh medium than would otherwise be possible. ALL pupils at the school benefit from this increased breadth of opportunity.

Regulation 5.2 is entirely Powys-made. It does not come from outside the county, either from the Welsh government or Westminster. Powys Cabinet could choose to drop it if they wished. They justified their enforcement of it in April – and since - as if it was their duty to do so, when in fact it was their choice.

Powys claimed that Llanfyllin High School was the only school not complying with 5.2. It is now known that two other schools in Powys are also using their delegated budgets to subsidise transport for out of catchment students – Llanidloes and another as yet unnamed school – because it is a way of attracting students that benefits an entire school. Llanfyllin High School has consistently argued that this is a practice that could be of benefit to other Powys schools, especially in border areas, but to be judged on a case by case basis. The recent news that a total of three schools were not complying with this regulation just reinforces this point – the problem is with the regulation itself not the policing of it.
Powys County Council have shown a disregard for the impact of their decision on individual students and their families to whom they owe duty of care no matter which side of the border they live. The Council’s decision will force Llanfyllin High School to end its current charging structure overnight. 45 students currently benefit from a discount scheme for low income families. There is also a discount scheme for families with two or more children. The scrapping of these schemes means that many pupils will be forced to change school: some families on low income with more than two children in the school will have to pay a minimum of an extra £2000 per year. Because the Council require the school to recover the full cost of every seat on the bus, seat prices will rise every time a family decide they cannot afford to continue. The school is also required to tender for new bus contracts in September - with all these constraints it is far from clear that the school will be able to provide any bus services from September.

Powys County Council have shown a lack of concern for these impacts on individuals and families. Some students are in the middle of GCSE and A level course combinations which will not be available at other schools, so will have to retake a year. Some children have special educational needs which will make a forced move to a different school particularly difficult and disruptive. Many low income families will not be able to afford the increased charges. Others students will be denied the opportunity to learn Welsh or study through the medium of Welsh when they had particularly chosen Llanfyllin High School for this reason.

Many of the Shropshire students have family connections with Wales and the Welsh language and this is in part why they choose to travel to Llanfyllin. Powys has a responsibility to support and extend participation in the Welsh language which it is not recognising in this instance. Many of these students who live in Shropshire have a parent or grandparent who is a Welsh speaker or who comes from Wales or Montgomeryshire. Some have chosen to study through the medium of Welsh and some value the opportunity to study Welsh as a second language and be involved in a bilingual community.

Powys County Council seem to have an inflexible view of the border. There is more concern with lines on a map than with responding to the needs of a border population. And if Powys County Council treats students from Shropshire like this because of where they live, what impact might this have on the health services that Powys residents access in Shropshire. We need a more balanced approach to the complexities of provision of public services in border areas that responds to the particular circumstances in different areas.