

**Letter from John Swinney MSP to Richard Lochhead MSP**  
**19 June 2019**



The Scottish Parliament  
Pàrlamaid na h-Alba

John Swinney MSP  
Member of the Scottish Parliament for Perthshire North

Richard Lochhead MSP  
Minister for Further Education, Higher Education & Science  
Scottish Government  
St. Andrews House  
Regent Road  
Edinburgh  
EH1 3DG

Our Ref: JS2048CS

19 June 2019

Dear Minister,

**Re: Abernyte Primary School**

I am writing to you in connection with the proposal from Perth and Kinross Council to close Abernyte Primary School in my Constituency. You will be exercising the responsibility to consider whether this decision should be called in by Scottish Ministers. I would like to set out in this letter the reasons why I believe this decision should be called in for consideration by the School Closure Review Panel.

I would preface my comments by associating myself with the submission made by the Abernyte Primary School Parent Council. This is a very substantial, well-researched and evidenced submission that raises crucial issues that I believe were overlooked in the consideration of the final proposal by Perth and Kinross Council.

I would be grateful if you would consider the following issues.

**School Roll**

In the period between the initial decision by Perth and Kinross Council to consider the closure of Abernyte School and the consideration of the final proposal, information on the School roll changed significantly. At the point of initial consideration, the School roll stood at 5. At the time of the final decision the roll stood at 9. Information provided by parents and members of the local community indicate the roll will increase to 14 in the short term. This is a very dramatic change in the size of the School roll and is significant evidence that I believe should have been given greater consideration and weight than has been the case in the final decision

by Perth and Kinross Council where this information was essentially dismissed.

### **Educational benefit**

The arguments that have been made by Perth and Kinross Council about educational benefits arising from closure do not appear to me to meet the tests that are envisaged by such a decision. The arguments set out by the Council do not, in my view, represent an enhancement of the educational opportunities that are already available to young people at Abernyte. The school offers a rich and diverse curriculum with many opportunities for young people to appreciate the full range of experiences we would all believe to be essential in the Broad General Education. The school provides fabulous opportunities for outdoor learning and takes forward the learning for young people in a range of external settings.

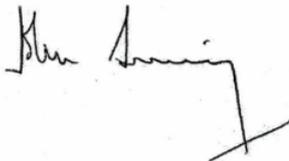
I know that such a proposition will be available at Inchtute Primary School but that does not make a sustainable argument for educational benefit from closure. Indeed the argument that is advanced by Perth and Kinross Council rests of the fact that such benefit will come from interaction with more pupils which is undermined by the expected rise in the roll at Abernyte.

### **Alternative propositions**

During the consultation period on the closure proposal, a number of propositions were suggested to expand the roll of the school including the expansion of the catchment area. Although consideration of this has been given by Perth and Kinross Council I believe that has been neither sufficient nor strategic. The Council has not in my view given sufficient account of the propulsion growth expected in the Carse of Gowrie area. There is a significant expansion in housing in the area with the likelihood that additional pressure will be placed on School capacity. Rather than reducing that capacity, the Council could have realigned catchment areas to use that capacity more effectively and sustainably.

I would be grateful if you would consider these issues as you examine the issues in connection with the calling in of this proposal.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Alan Murray". The signature is written in a cursive style with a long horizontal stroke at the end.

## **Response letter from Richard Lochhead to John Swinney MSP** **10 July 2019**

Ministear airson Foghlam Leantainneach, Foghlam Ardire agus Saidheans  
Ministers for Further Education, Higher Education and Science  
Richard Lochhead MSP



Scottish Government  
Riaghaltas na h-Alba  
gov.scot

E: CHS.Exchangeuser1@scotland.gov.uk

John Swinney MSP  
Catherine.Steven@parliament.scot

Our Reference: 201900002248

10 July 2019



Thank you for your letter of 19 June 2019 about Perth and Kinross Council's proposal to close Abernyte Primary School and your request that the proposal be called in for consideration by the independent School Closure Review Panel.

You will be aware that, under the terms of the Schools (Consultation) (Scotland) Act 2010, Scottish Government officials are currently assessing the evidence provided by Perth and Kinross Council and the representations received from the local community.

As required under the above legislation, the Scottish Government is required to notify Perth and Kinross Council of my decision about whether to call in this proposal by Tuesday, 16 July. It would therefore not be appropriate, at this stage, for me to comment on the concerns you have raised in your letter.



Richard Lochhead

**Submission on Abernyte Primary school closure proposal sent to  
Richard Lochhead MSP  
10 July 2019**

**From:** [REDACTED – s.38(1)(b)]

**Sent:** 10 July 2019 16:30

**To:** Minister for Further Education, Higher Education and Science  
<[MinisterFEHES@gov.scot](mailto:MinisterFEHES@gov.scot)>

**Cc:** DG Education, Communities & Justice <[DGECJ@gov.scot](mailto:DGECJ@gov.scot)>; Director of Learning <[DirectorofLearning@gov.scot](mailto:DirectorofLearning@gov.scot)>; Hicks C (Clare) <[Clare.Hicks@gov.scot](mailto:Clare.Hicks@gov.scot)>; [REDACTED – s.38(1)(b)]; Lord Advocate <[LordAdvocate@gov.scot](mailto:LordAdvocate@gov.scot)>; Solicitor General <[SolicitorGeneral@gov.scot](mailto:SolicitorGeneral@gov.scot)>; Troup C (Colin) (Dr) <[Colin.Troup@gov.scot](mailto:Colin.Troup@gov.scot)>; Inglis R (Ruth) <[Ruth.Inglis@gov.scot](mailto:Ruth.Inglis@gov.scot)>; [REDACTED – s.38(1)(b)]; Communications DFM & Education <[CommunicationsDFM&Education@gov.scot](mailto:CommunicationsDFM&Education@gov.scot)>; McAllister C (Colin) <[Colin.McAllister@gov.scot](mailto:Colin.McAllister@gov.scot)>; Solicitor to the Scottish Government <[solicitor@gov.scot](mailto:solicitor@gov.scot)>

**Subject:** SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010: PERTH AND KINROSS COUNCIL'S DECISION TO CLOSE ABERNYTE PRIMARY SCHOOL

PS/Minister for Further Education, Higher Education and Science

Copy as above

**SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010: PERTH AND KINROSS COUNCIL'S DECISION TO CLOSE ABERNYTE PRIMARY SCHOOL**

Please find attached the submission in relation to Perth and Kinross Council's decision to close Abernyte Primary School for the Minister's consideration.

It would be helpful to have your decision by **Monday 15 July** to ensure that preparations can be made to issue the outcome letter to Perth and Kinross Council. The DFM would normally consider such closure proposals but as this case relates to a school in his constituency, he has withdrawn himself from this process.

If you have any questions please let us know.

Kind regards,

[REDACTED – s.38(1)(b)] Policy Officer | School Infrastructure Unit  
Area 2B North | Victoria Quay | Edinburgh | EH6 6QQ | [REDACTED – s.38(1)(b)]

Minister for Further Education, Higher Education and Science

**SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010: PERTH AND KINROSS COUNCIL’S DECISION TO CLOSE ABERNYTE PRIMARY SCHOOL**

[REDACTED – 30(B)(I)]

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Minister for Further Education, Higher Education and Science	X				

DG Education, Communities & Justice  
 Graeme Logan, Director of Learning  
 Clare Hicks, Workforce, Infrastructure and Reform  
 [REDACTED – s.38(1)(b)]  
 [REDACTED – s.38(1)(b)]  
 Lord Advocate  
 Solicitor General  
 Colin Troup, LSLA  
 Ruairaidh Macniven, Solicitor to the Scottish Government  
 Ruth Inglis, SGLD  
 [REDACTED – s.38(1)(b)]  
 [REDACTED – s.38(1)(b)]  
 Communications DFM and Education  
 Colin McAllister, Special Advisor

**ANNEX A**

**Report by Education Scotland addressing educational aspects of the proposal by Perth and Kinross Council to close Abernyte Primary School, move pupils to Inchturre Primary School and that the delineated catchment area of Inchturre Primary School be permanently extended to subsume the whole delineated catchment area of Abernyte Primary School from July 2020.**

1. Introduction

1.1 This report from Education Scotland has been prepared by Her Majesty’s Inspectors of Education (HM Inspectors) in accordance with the terms of the Schools

(Consultation) (Scotland) Act 2010 (“the 2010 Act”). The purpose of the report is to provide an independent and impartial consideration of Perth and Kinross Council’s proposal to close Abernyte Primary School, move pupils to Inchtute Primary School and that the delineated catchment area of Inchtute Primary School be permanently extended to subsume the whole delineated catchment area of Abernyte Primary School from July 2020. Section 2 of the report sets out brief details of the consultation process. Section 3 of the report sets out HM Inspectors’ consideration of the educational aspects of the proposal, including significant views expressed by consultees. Section 4 summarises HM Inspectors’ overall view of the proposal. Upon receipt of this report, the Act requires the council to consider it and then prepare its final consultation report. The council’s final consultation report should include this report and must contain an explanation of how, in finalising the proposal, it has reviewed the initial proposal, including a summary of points raised during the consultation process and the council’s response to them. The council has to publish its final consultation report three weeks before it takes its final decision. Where a council is proposing to close a school, it needs to follow all statutory obligations set out in the 2010 Act, including notifying Ministers within six working days of making its final decision and explaining to consultees the opportunity they have to make representations to Ministers and the special provisions that apply to proposals to close a rural school.

#### 1.2 HM Inspectors considered:

- the likely effects of the proposal for children of Abernyte Primary School and Inchtute Primary School; any other users; children likely to become pupils within two years of the date of publication of the proposal paper and other children in the council area;
- any other likely effects of the proposal;
- how the council intends to minimise or avoid any adverse effects that may arise from the proposal; and
- the educational benefits the council believes will result from implementation of the proposal, and the council’s reasons for coming to these beliefs.

#### 1.3 In preparing this report, HM Inspectors undertook the following activities:

- attendance at the public meeting held on 14 November 2018 in Inchtute Primary School in connection with the council’s proposals;
- consideration of all relevant documentation provided by the council in relation to the proposal, specifically the educational benefits statement and related consultation documents, written and oral submissions from parents and others; and
- visits to the sites of Abernyte Primary School and Inchtute Primary School, including discussion with relevant consultees.

1.4 As the proposal will lead to the closure of a rural school, HM Inspectors also took account of the council’s consideration of any reasonable alternatives to closure of

Abernyte Primary School, the likely effect on the local community and the likely effect of any different travelling arrangements of the proposed closure.

## 2. Consultation process

2.1 Perth and Kinross Council undertook the consultation on its proposal(s) with reference to the Schools (Consultation) (Scotland) Act 2010.

2.2 The formal consultation ran from 29 October 2018 to 14 December 2018. Copies of the proposal were made available electronically on the council website with a link to an online response form. Letters were issued to statutory consultees with a link to the proposal paper and details of where and how to obtain a paper copy. A public notice advert was placed in the local press on 29 October 2018. Public meetings were held at Abernyte Primary School on 12 November 2018 and at Inchtute Primary School on 14 November 2018. Twenty-nine members of the public attended the public meeting at Abernyte Primary School. Five members of the public attended the public meeting at Inchtute Primary School. Almost all were not in favour of the proposal.

2.3 The council received 26 online responses, including seven from parents and two from children. Of the 26 responses, one response agreed with the council's proposal, 24 disagreed and one neither agreed nor disagreed. In addition, 27 written responses were received. These included responses from the Abernyte Parent Council, the local community council, MP and MSP. All of the written responses disagreed with the proposals. Key areas of concern included: challenging the idea that experiences in Inchtute would provide educational benefit to Abernyte children through attending a larger school, the potential impact on the community of the proposed school closure and aspects of detail and procedure in the council's processes and conclusions.

## 3. Educational aspects of proposal

3.1 Abernyte Primary School is a non-denominational school providing education to P1-P7 pupils from the village of Abernyte and the surrounding area. There is no nursery provision at Abernyte Primary School. Local nursery provision is located at Inchtute Primary School. The school structure has one composite class across stages P1-P7. At the time of the HM Inspector's visit, the school roll had recently increased to eight children. The class consisted of one P2, one P4, one P5, three P6 and two P7 children. In January 2017, Abernyte Primary School was rated as 'B' (satisfactory) for building condition and 'A' (good) for educational suitability. Inchtute Primary School was rated as 'B' (satisfactory) for building condition and 'B' (satisfactory) for educational suitability. Data indicates that the roll of Abernyte Primary School has been falling over the last five years. Future projections indicate that pupil numbers are unlikely to increase above their current level. Currently, six catchment children attend neighbouring schools. If this pattern of parental choice continues, then the future sustainability of Abernyte is challenging.

3.2 The council has set out a number of reasonable arguments in support of its proposal. The council states there will be educational benefits for children if the proposal goes ahead. These include improved social interaction opportunities from

attending a larger school among children of their own age. Participating in larger year groups will increase the opportunity for collaborative working with children of a similar age and stage of development. Opportunities to engage in a broader range of activities which enrich the curriculum will be increased. Children will benefit from participating in a wider variety of after school activities and the Inchtire House System. The proposal will assist the council to make efficient and effective use of its resources as it will not incur costs for running Abernyte Primary School. Inchtire Primary School has the capacity to accommodate additional children should Abernyte Primary School close. However, parents of children attending Abernyte believe that there are inaccuracies in the outline of council's financial costs, roll projections and educational benefits statement. HM Inspectors agree that the financial arguments are not evidenced clearly enough in the council's proposals. Inspectors also agree that the educational benefits statement does not give an appropriately balanced view of the improved outcomes for children should Abernyte Primary School close. Whilst there are many accurate and sound arguments within the council's outline of educational benefits, there are some instances where the council overstates the advantages for children should they move to Inchtire. For example, in its assessment of the school grounds, the environment for learning, the school's work as an Eco school or being twinned with a school in France and the support of the Parent Council, the council fails to acknowledge that Abernyte Primary School provides these equally well. The local community believes the council is wrong about the impact on the wider community should Abernyte Primary School close as they believe that the school is used for a greater range of community activities. In finalising its proposal, the council needs to reconsider any further relevant information on this aspect.

3.3 Parents and children from Abernyte Primary School who met with HM Inspectors did not support the proposal. Parents did not agree that there would be educational benefits for Abernyte children. Concerns were expressed about the perceived loss of the inclusive, supportive environment the children currently experience. Children enjoy the relaxed atmosphere and the space within and outside of the school building. The outdoor space is used imaginatively by children, sometimes directed by staff. Both parents and children were concerned about the potential for greater noise in a larger school. Parents felt there would be a reduction in the quality of the educational experience and individual attention. Parents did not accept the projected roll figures. They felt that in the future the school roll could increase. Parents acknowledged that the lack of nursery provision and parents exercising the right to send their child to other schools contributed to the lower numbers at Abernyte. Significant concern was expressed about the loss of the school as a community facility. Parents raised a legitimate concern regarding requiring greater clarity with regard to the approximate costs of upgrading the school fabric in the medium term. Whilst HM Inspectors acknowledge the legitimate concerns of parents, there is no evidence to suggest children would not make appropriate progress and enjoy rich educational experiences should they move to Inchtire.

3.4 Staff and children in Inchtire Primary School who met with HM Inspectors were supportive of the proposal. Staff thought that engagement with a wider peer group of similar age and stage would improve children's learning. They felt that transitions were easier for children both from the nursery into P1 and from P7 to secondary education in a much bigger school. They felt that children would benefit from access

to a wider pool of staff. Teachers thought that a larger staff provided more opportunities for moderation activities and professional learning. Inchtur children would welcome the chance to develop new friendships. Children from Abernyte currently join some classes in Inchtur Primary School for art on a weekly basis. Children in Inchtur thought Abernyte children would benefit from having access to an increased range of school teams. They also felt that their P7 residential trip was one of the highlights of their school experience and children from Abernyte missed out on this kind of opportunity. Parents, staff and children did not have any concerns about the potential increase in the school roll if the proposal proceeds.

3.5 During the consultation period, parents alleged inaccuracies in the proposal. The council will need to ensure that it takes the necessary steps to investigate these alleged inaccuracies. In its final consultation report, the council will need to set out a more balanced educational benefits statement and outline the actions it has taken to address any alleged inaccuracies notified to it, including a more transparent financial case.

3.6 As the proposal will lead to the closure of a rural school, HM Inspectors also took account of the council's consideration of the factors to which it should have special regard. In arriving at its proposal the council has assessed the likely benefits to children and in doing so has given due consideration to any reasonable alternatives. The council carried out a detailed options assessment in which it considered four options. These included: keeping Abernyte Primary School open with the existing catchment area; mothballing Abernyte Primary School and moving children to Inchtur Primary School; reviewing the catchment area of Abernyte Primary School to determine whether or not this would increase the roll to a sustainable level; and closing Abernyte Primary School and moving children to Inchtur Primary School. Due to insufficient demand, coupled with parents choosing to place their children at other primary schools, none of the options bar closure were considered as viable or sustainable. The council considers that the current school building is not used sufficiently regularly for community activity to impact negatively. Inspectors note, however, that in the last year the school has extended its activities with the local community through, for example, the community café. The proposal does not impact negatively on children at Inchtur Primary School. Abernyte children will be entitled to free transport. The journey time is not unreasonable when compared with other parts of the authority and is likely to have limited environmental impact.

#### 4. Summary

Perth and Kinross Council's proposal to close Abernyte Primary School, move pupils to Inchtur Primary School and permanently extend the Inchtur Primary School delineated catchment area to subsume the whole delineated catchment area of Abernyte Primary School has some potential educational benefits. The council will need to balance these potential benefits against the potential loss to the children, families and community of the local village school. Abernyte Primary School children currently enjoy learning in a bright, attractive, inclusive and supportive environment. Children currently have access to an extensive and varied outdoor area to play and learn. HM Inspectors agree that Abernyte children will have access to wider experiences and increased socialisation through being part of a larger school at Inchtur. Opportunities to engage in assemblies, after school and team events will

be increased. Transition from the nursery class to the P1 class will be enhanced. Projected numbers of children within the catchment do not indicate that the roll at Abernyte is likely to grow significantly. An important factor in this is parental placing requests to other schools in recent years. The small number of pupils and earlier gender imbalance at Abernyte Primary School have proved to be important factors for some families making choices about the kind of school they want for their children. Inchtute Primary School has the capacity to accommodate additional children. The proposal will assist the council to deliver 'Best Value' through making more efficient and effective use of its resources. Should the council decide to take forward the proposal for closure, it should set out how it will ensure that current Abernyte children are supported to positively make the transition to Inchtute Primary School. It should also work with parents to address, and correct where necessary, any inaccuracies as outlined by the Abernyte Parent Council. The council should also consider carefully how the vacant school might be used to the benefit of the local Abernyte community.

**HM Inspectors  
January 2019**

**Clearance from Minister – Richard Lochhead MSP content to call-in school closure proposal**  
**15 July 2019**

From: [REDACTED – s.38(1)(b)]

On Behalf Of Minister for Further Education, Higher Education and Science

Sent: 15 July 2019 11:58

To: [REDACTED – s.38(1)(b)]; Minister for Further Education, Higher Education and Science <MinisterFEHES@gov.scot>

Cc: DG Education, Communities & Justice <DGECJ@gov.scot>; Director of Learning <DirectorofLearning@gov.scot>; Hicks C (Clare) <Clare.Hicks@gov.scot>; [REDACTED – s.38(1)(b)]; Lord Advocate <LordAdvocate@gov.scot>; Solicitor General <SolicitorGeneral@gov.scot>; Troup C (Colin) (Dr) <Colin.Troup@gov.scot>; Inglis R (Ruth) <Ruth.Inglis@gov.scot>; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; Communications DFM & Education <CommunicationsDFM&Education@gov.scot>; Solicitor to the Scottish Government <solicitor@gov.scot>; Campbell J (Jeanette) (Special Adviser) <Jeanette.Campbell@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>

**Subject:** RE: SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010: PERTH AND KINROSS COUNCIL'S DECISION TO CLOSE ABERNYTE PRIMARY SCHOOL

[REDACTED – s.38(1)(b)]

Mr Lochhead is content to call in Perth and Kinross Council's decision under section 15(3) of the 2010 Act for the reasons set out.

regards

[REDACTED – s.38(1)(b)]

Deputy Private Secretary

Minister for Further Education, Higher Education and Science

[REDACTED – s.38(1)(b)]

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**Call in decision letter**

**16 July 2019**

**From:** [REDACTED – s.38(1)(b)]

**Sent:** 16 July 2019 10:02

**To:** John.Swinney.msp@parliament.scot

**Subject:** Abernyte Primary School

Dear Mr Swinney MSP

Please see attached a letter that has been sent today to Sheena Devlin, Executive Director of Education and Children's Services at Perth and Kinross Council regarding the proposal to close Abernyte Primary School. Scottish Ministers have decided to "call-in" the proposal and it will be reviewed by School Closure Review Panel as set out in the letter attached.

Many thanks

[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)]

School Funding, Infrastructure and Organisation | Workforce, Infrastructure and Reform Division | Scottish Government

2-B North | Victoria Quay | Edinburgh | EH6 6QQ

T: 0131-244 8261  
E: jerry.o'connell@gov.scot

Sheena Devlin  
Executive Director of Education and Children's Services  
Perth and Kinross Council  
2 High Street  
Perth  
PH1 5PH

16 July 2019

Dear Ms Devlin,

**CALL-IN NOTICE UNDER SECTION 15(3) OF THE  
SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010  
PERTH AND KINROSS COUNCIL – DECISION TO ABERNYTE PRIMARY SCHOOL**

I refer to Karen Robertson's email of 27 May 2019 notifying Scottish Ministers of Perth and Kinross Council's decision of 22 May 2019 to implement its proposal to close Abernyte Primary School.

As required under section 15(2) of Schools (Consultation) (Scotland) Act 2010 ("the 2010 Act"), a three week period began on 22 May 2019 for any person to make a representation to the Scottish Ministers requesting that the decision should (or should not) be called in by them for further investigation. That period expired on 11 June 2019 and 52 representations were received in total, which almost all requested that Scottish Ministers call in this decision.

Under section 17(2) 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.*

After consideration of the information provided by the representations received, together with Perth and Kinross Council's consultation report and Education Scotland's report, the Scottish Ministers have concluded that there are grounds on which to call-in the decision to implement the closure proposal with reference to sections 17(2)(a) of the 2010 Act.

### **Financial information**

The Scottish Ministers have concerns about Perth and Kinross Council's assessment of the financial savings that would result from the closure of Abernyte and that these savings have been overstated.

The Scottish Ministers are also concerned about the high refurbishment costs for a school with a "B" condition rating. In the Council's final report, it provided a detailed breakdown and rationale for the £330k refurbishment costs, however, in our view these costs appear to be high for a school with a "B" condition rating and are also stated to be "outwith five years" and therefore should not be included in costs the Council says are required in the next 2-5 years.

**After careful consideration, the Scottish Ministers have concluded that further investigation is merited into the Council's assessment of the future capital costs the Council would incur if Abernyte were to remain open. There may be a failure with reference to section 17(2)(a) of the 2010 Act – that is, that Perth and Kinross Council may have failed *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, in that the financial information the Council provided in terms of section 4(2A) of the 2010 Act appears to have been inaccurate.***

### **Previous actions taken to address falling pupil rolls**

The Scottish Ministers note that the Council has failed to describe in their report the actions they have taken in the past to address the reasons for closure and the reasons for not taking any steps, or to explain why it did not take any such steps (as required by section 13(2)(b) and (c) of the 2010 Act, respectively). In addition, the Scottish Ministers are concerned by representations they have received which contend that the Council has not taken the appropriate steps to address these issues despite evidence of letters from the local community to the Council about their concerns dating back to 2012. The Council's reports also appears to focus primarily on the pre-consultation activity undertaken by the Council in the run up to formally consulting on closure and do not appear to describe explicitly the previous action the Council had taken, nor why they did not take steps to address the problems identified.

**After careful consideration, the Scottish Ministers have concluded that further investigation is merited into the efforts the Council has made to describe what steps it took to address the reasons for closure which is a requirement under section 13(2)(b) of the 2010 Act. There may be a failure with reference to section 17(2)(a) of the 2010 Act – that is, that Perth and Kinross Council failed *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.* Given the centrality of the unsustainably low pupil roll to the Council's proposal, such a failure would be considered to be a failure in a significant regard.**

### **Community impact**

The Scottish Ministers note that the 2010 Act requires that the local authority consider the impact on the community's future sustainability, availability of the school's premises and facilities for use of the community. There appears to have been significant distance between the local community and the local authority on the impact Abernyte's closure will have on the

community and, in the case of ownership of the playing field, a lack of knowledge on the part of the Council of the local position. This casts significant doubt as to whether the Council has had "special regard" to the likely effects of the proposed closure on the local community, as they are required to under section 12(2) and (3)(b) of the 2010 Act.

The Scottish Ministers consider that the Council appears to have underestimated the level of community use currently and restricted its interpretation of that to non-school related groups. The Council also relies on the use of the local Church as an alternative venue, which based on the information provided by respondents appears a doubtful alternative.

**After careful consideration, the Scottish Ministers have concluded that further investigation is merited into the Council's assessment of the impact of the proposal (if implemented) on the local community. There may be a failure with reference to section 17(2)(a) of the 2010 Act, that is, that Perth and Kinross Council failed *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*, in that they may have failed to have special regard to the factors for proposals for rural school closures in terms of section 12(2) and (3) of the 2010 Act. It appears that the potential failure would be a failure in a significant regard, as the enhanced protections for rural schools provided for in the 2010 Act requires the Council to have "special regard" to the rural factors.**

### **Conclusion**

Therefore, in line with the powers available to them under section 15(3) of the 2010 Act, the Scottish Ministers are calling in the proposal under section 17(2)(a) of the 2010 Act for the reasons set out above.

As required, under section 17A(2) of the 2010 Act following call in, the Scottish Ministers are referring the proposal to the Convener of the School Closure Review Panel. The Convener is required to constitute a School Closure Review Panel which will review the proposal and reach a decision in terms of sections 17B and 17C of the 2010 Act.

Perth and Kinross Council may not implement the proposal (either in whole or in part) unless the School Closure Review Panel grants consent to the proposal (either with conditions or unconditionally) and either the period for making an appeal to the Sheriff has expired without any appeal being made, or, if an appeal is made, it is abandoned or the Sheriff has confirmed the Panel's decision (in terms of section 17A(4) of the 2010 Act).

Yours sincerely,



**Jerry O'Connell**  
**WIR : School Funding, Infrastructure and Organisation**

**Mr Lochhead MSP has noted Perth and Kinross Council's decision to lodge a Judicial Review: Abernyte Primary School**  
**27 August 2019**

**From:** [REDACTED – s.38(1)(b)] On Behalf Of Minister for Further Education, Higher Education and Science  
**Sent:** 27 August 2019 17:40  
**To:** [REDACTED – s.38(1)(b)]; Minister for Further Education, Higher Education and Science <MinisterFEHES@gov.scot>  
**Cc:** DG Education, Communities & Justice <DGECJ@gov.scot>; Director of Learning <DirectorofLearning@gov.scot>; Hicks C (Clare) <Clare.Hicks@gov.scot>; Lord Advocate <LordAdvocate@gov.scot>; Solicitor General <SolicitorGeneral@gov.scot>; Troup C (Colin) (Dr) <Colin.Troup@gov.scot>; Inglis R (Ruth) <Ruth.Inglis@gov.scot>; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; Communications DFM & Education <CommunicationsDFM&Education@gov.scot>; Solicitor to the Scottish Government <solicitor@gov.scot>; Campbell J (Jeanette) (Special Adviser) <Jeanette.Campbell@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]

**Subject:** RE: SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010: PERTH AND KINROSS COUNCIL'S DECISION TO CLOSE ABERNYTE PRIMARY SCHOOL

[REDACTED – s.38(1)(b)]

Mr Lochhead has noted.

[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)] | Private Secretary | Minister for Further Education, Higher Education and Science

[REDACTED – s.38(1)(b)] St Andrews House, Regent Road, Edinburgh, EH1 3DG

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**From:** [REDACTED – s.38(1)(b)]

**Sent:** 26 August 2019 15:51

**To:** Minister for Further Education, Higher Education and Science <[MinisterFEHES@gov.scot](mailto:MinisterFEHES@gov.scot)>

**Cc:** DG Education, Communities & Justice <[DGECJ@gov.scot](mailto:DGECJ@gov.scot)>; Director of Learning <[DirectorofLearning@gov.scot](mailto:DirectorofLearning@gov.scot)>; Hicks C (Clare) <[Clare.Hicks@gov.scot](mailto:Clare.Hicks@gov.scot)>; Lord Advocate <[LordAdvocate@gov.scot](mailto:LordAdvocate@gov.scot)>; Solicitor General <[SolicitorGeneral@gov.scot](mailto:SolicitorGeneral@gov.scot)>; Troup C (Colin) (Dr) <[Colin.Troup@gov.scot](mailto:Colin.Troup@gov.scot)>; Inglis R (Ruth) <[Ruth.Inglis@gov.scot](mailto:Ruth.Inglis@gov.scot)>; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; Communications DFM & Education <[CommunicationsDFM&Education@gov.scot](mailto:CommunicationsDFM&Education@gov.scot)>; Solicitor to the Scottish Government

<[solicitor@gov.scot](mailto:solicitor@gov.scot)>; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; Deputy First Minister and Cabinet Secretary for Education and Skills <[DFMCSE@gov.scot](mailto:DFMCSE@gov.scot)>; [REDACTED – s.38(1)(b)]

**Subject:** RE: SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010: PERTH AND KINROSS COUNCIL'S DECISION TO CLOSE ABERNYTE PRIMARY SCHOOL

**PS/Minister for Further Education, Higher Education and Science**

Copy as above

You will recall that on 15 July, you took the decision to call in Perth and Kinross Council's proposal to close Abernyte Primary School. That decision was referred to you rather than the Cabinet Secretary for Education and Skills given Mr Swinney's constituency interest in the case.

We wanted to make you aware that late on Friday we received a petition for Judicial Review, from Brodies LLP, on behalf of Perth and Kinross Council (PKC) in relation to the decision by Ministers to "call-in" PKC's proposal to close Abernyte Primary School.

PKC argue that Ministers have acted unreasonably as they failed to provide adequate reasons for their decision. The petition also includes a request for the suspension of the proceedings of the School Closure Review Panel (SCRIP) that is currently examining PKC's proposal to close Abernyte Primary (the panel is expected to complete its review by 17 September).

There will be a Court hearing, most likely tomorrow, which will examine whether to permit the suspension of the SCRIP. A further hearing will follow to decide whether to grant permission for the Judicial Review. We have engaged Ruth Charteris as our Counsel for these proceedings.

We will provide you with regular updates as the case proceeds. We also copy this email to DFM's office so he is aware of the proceedings.

We are not aware of any publicity regarding this, but that may follow the hearing this week and we will prepare a brief line to be used in the event of enquiries.

Many thanks

[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)]

School Funding, Infrastructure and Organisation | Workforce, Infrastructure and Reform Division | Scottish Government

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[REDACTED – s.38(1)(b)]



We have received a media inquiry from Ross Gardiner at the Courier on the suspension of the process after the council's proposal to close Abernyte School was called in.

Grateful for clearance on lines below as agreed with policy colleagues and spads.

NB: Sending to Minister for clearance as school is in DFM's constituency.

Thanks

[REDACTED – s.38(1)(b)]

(Late and duty comms colleagues copied in.)

### **MEDIA INQUIRY**

In the middle of July, Scottish Ministers called in Perth and Kinross Council's decision to close Abernyte Primary School.

The process of examining the decision is underway but I believe that the investigation has been put on hold due to either a complaint or possibly legal proceedings pushed for by PKC.

Can you please provide me with an update on this?

- if the case is still being reviewed by Ministers,
- if there has been a pause of some sort, what communication has come from PKC, if there has been any complaint(s) from the local authority regarding the case, if so when and what about
- and can you confirm the next stages as to when the results are likely to be published, providing the call-in is being resumed.

### **LINE TO CLEAR**

A Scottish Government spokesperson said:

“A petition for Judicial Review has been raised by Perth and Kinross Council against the decision by Scottish Ministers to call in the council's proposal to close Abernyte School, and to refer the proposal to the independent School Closures Review Panels.

“An order for interim suspension of the School Closures Review Panels consideration of the decision to close the school was granted by the Court of Session on Tuesday. This order was unopposed by the Scottish Ministers.

“As this is now a matter of live litigation, it would be inappropriate for the Scottish Ministers to comment further.”

[REDACTED – s.38(1)(b)]

Senior Media Manager

Newsdesk

[REDACTED – s.38(1)(b)]

Scottish Government | [news.gov.scot](https://www.news.gov.scot)

**Richard Lochhead noted [REDACTED – s.38(1)(b)] email regarding the hearing held in front of Lord Bannatyne to examine Perth and Kinross Council’s (PKC) application to suspend the School Closure Review Panel that is looking at the Abernyte Primary School closure proposal**  
**29 August 2019**

**From:** [REDACTED – s.38(1)(b)] On Behalf Of Minister for Further Education, Higher Education and Science  
**Sent:** 29 August 2019 15:26  
**To:** [REDACTED – s.38(1)(b)]; Minister for Further Education, Higher Education and Science <MinisterFEHES@gov.scot>  
**Cc:** DG Education, Communities & Justice <DGECJ@gov.scot>; Director of Learning <DirectorofLearning@gov.scot>; Hicks C (Clare) <Clare.Hicks@gov.scot>; Lord Advocate <LordAdvocate@gov.scot>; Solicitor General <SolicitorGeneral@gov.scot>; Troup C (Colin) (Dr) <Colin.Troup@gov.scot>; Inglis R (Ruth) <Ruth.Inglis@gov.scot>; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; Communications DFM & Education <CommunicationsDFM&Education@gov.scot>; Solicitor to the Scottish Government <solicitor@gov.scot>; Campbell J (Jeanette) (Special Adviser) <Jeanette.Campbell@gov.scot>; McAllister C (Colin) <Colin.McAllister@gov.scot>; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]  
**Subject:** RE: SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010: PERTH AND KINROSS COUNCIL’S DECISION TO CLOSE ABERNYTE PRIMARY SCHOOL

[REDACTED – s.38(1)(b)]

Mr Lochhead has noted your email below.

[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)] | Private Secretary | Minister for Further Education, Higher Education and Science

[REDACTED – s.38(1)(b)] St Andrews House, Regent Road, Edinburgh, EH1 3DG

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**From:** [REDACTED – s.38(1)(b)]

**Sent:** 28 August 2019 14:12

**To:** Minister for Further Education, Higher Education and Science <[MinisterFEHES@gov.scot](mailto:MinisterFEHES@gov.scot)>

**Cc:** DG Education, Communities & Justice <[DGECJ@gov.scot](mailto:DGECJ@gov.scot)>; Director of Learning <[DirectorofLearning@gov.scot](mailto:DirectorofLearning@gov.scot)>; Hicks C (Clare) <[Clare.Hicks@gov.scot](mailto:Clare.Hicks@gov.scot)>; Lord Advocate <[LordAdvocate@gov.scot](mailto:LordAdvocate@gov.scot)>; Solicitor General

<[SolicitorGeneral@gov.scot](mailto:SolicitorGeneral@gov.scot)>; Troup C (Colin) (Dr) <[Colin.Troup@gov.scot](mailto:Colin.Troup@gov.scot)>; Inglis R (Ruth) <[Ruth.Inglis@gov.scot](mailto:Ruth.Inglis@gov.scot)>; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; Communications DFM & Education <[CommunicationsDFM&Education@gov.scot](mailto:CommunicationsDFM&Education@gov.scot)>; Solicitor to the Scottish Government <[solicitor@gov.scot](mailto:solicitor@gov.scot)>; Campbell J (Jeanette) (Special Adviser) <[Jeanette.Campbell@gov.scot](mailto:Jeanette.Campbell@gov.scot)>; McAllister C (Colin) <[Colin.McAllister@gov.scot](mailto:Colin.McAllister@gov.scot)>; Deputy First Minister and Cabinet Secretary for Education and Skills <[DFMCSE@gov.scot](mailto:DFMCSE@gov.scot)>; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]  
**Subject:** RE: SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010: PERTH AND KINROSS COUNCIL'S DECISION TO CLOSE ABERNYTE PRIMARY SCHOOL

## **PS/Minister for Further Education, Higher Education and Science**

Further to my email below. A short hearing was held yesterday morning in front of Lord Bannatyne to examine Perth and Kinross Council's (PKC) application to suspend the School Closure Review Panel that is looking at the Abernyte Primary School closure proposal.

Lord Bannatyne accepted PKC's arguments that the current panel should be suspended while their petition for Judicial Review proceeds. We did not oppose the PKC motion. Therefore, the Court will issue an order requiring that the current panel suspend their review of the Abernyte Primary School closure proposal. Please note that if permission to proceed with the JR is refused, or the JR ultimately falls, the panel's deliberations will resume according to the statutory timescale.

We are currently considering [REDACTED – 30(B)(1)], whether we have grounds to oppose permission and if so, will lodge Answers in approximately 3 weeks. If we do not have grounds to oppose permission we will lodge a notice of intention to contest within this timeframe. Thereafter it will be for the court to determine if permission should be granted. This normally takes place around 4 to 6 weeks after Answers or a notice of intention to contest is lodged. We will keep ministers updated on progress and on timescales.

We will also engage with communications colleagues to develop the response we will use to any media queries. Our expectation, subject to Comms approval, is that our top line will be, "Scottish ministers will robustly defend the school closure process and have appointed Counsel to oppose Perth and Kinross Council's petition for Judicial Review."

Many thanks

[REDACTED – s.38(1)(b)]  
[REDACTED – s.38(1)(b)]

School Funding, Infrastructure and Organisation | Workforce, Infrastructure and Reform Division | Scottish Government  
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[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)]



**Richard Lochhead MSP noted submission**  
**2 October 2019**

**From:** [REDACTED – s.38(1)(b)] **On Behalf Of** Minister for Further Education, Higher Education and Science  
**Sent:** 02 October 2019 16:00  
**To:** [REDACTED – s.38(1)(b)]; Minister for Further Education, Higher Education and Science <MinisterFEHES@gov.scot>  
**Cc:** Director of Learning <DirectorofLearning@gov.scot>; Hicks C (Clare) <Clare.Hicks@gov.scot>; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; SGLD School Education <SGLDSE@gov.scot>; Communications DFM & Education <CommunicationsDFM&Education@gov.scot>; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]  
**Subject:** RE: SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010: PERTH AND KINROSS COUNCIL'S DECISION TO CLOSE ABERNYTE PRIMARY SCHOOL

[REDACTED – s.38(1)(b)]

Mr Lochhead has noted your submission below.

[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)] | Private Secretary | Minister for Further Education, Higher Education and Science

[REDACTED – s.38(1)(b)] St Andrews House, Regent Road, Edinburgh, EH1 3DG

Mr Lochhead's preferences can be found [HERE](#)

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**From:** [REDACTED – s.38(1)(b)]  
**Sent:** 27 September 2019 17:23  
**To:** Minister for Further Education, Higher Education and Science <[MinisterFEHES@gov.scot](mailto:MinisterFEHES@gov.scot)>  
**Cc:** Director of Learning <[DirectorofLearning@gov.scot](mailto:DirectorofLearning@gov.scot)>; Hicks C (Clare) <[Clare.Hicks@gov.scot](mailto:Clare.Hicks@gov.scot)>; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; SGLD School Education <[SGLDSE@gov.scot](mailto:SGLDSE@gov.scot)>; Communications DFM & Education <[CommunicationsDFM&Education@gov.scot](mailto:CommunicationsDFM&Education@gov.scot)>; [REDACTED – s.38(1)(b)]; - [REDACTED – s.38(1)(b)]  
**Subject:** FW: SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010: PERTH AND KINROSS COUNCIL'S DECISION TO CLOSE ABERNYTE PRIMARY SCHOOL

**PS/Minister for Further Education, Higher Education and Science**

Please see attached further advice on the progress of the JR against the decision to call-in the Perth and Kinross Council's proposal to close Abernyte Primary School.

Thanks

[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)]

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[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)]



From: [REDACTED – s.38(1)(b)]  
Learning Directorate, WIR  
27 September 2019

Minister for Further Education, Higher Education and Science

**JUDICIAL REVIEW OF DECISION TO "CALL-IN" ABERNYTE PRIMARY SCHOOL CLOSURE**

**Purpose**

[REDACTED – 30(B)(I)]

[REDACTED – s.38(1)(b)]  
Learning Directorate WIR  
[REDACTED – s.38(1)(b)] 27 September 2019

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Minister for Further Education, Higher Education and Science			X		

Graeme Logan, Director of Learning  
Clare Hicks  
[REDACTED – s.38(1)(b)]  
[REDACTED – s.38(1)(b)]  
[REDACTED – s.38(1)(b)]  
[REDACTED – s.38(1)(b)]  
SGLD Education  
Comms DFM & Education  
Colin McAllister, Special Adviser

**Note to Mr Lochhead regarding court granting permission for Perth and Kinross's petition for a judicial review**  
**11 October 2019**

**From:** [REDACTED – s.38(1)(b)]

**Sent:** 11 October 2019 16:27

**To:** Minister for Further Education, Higher Education and Science  
<MinisterFEHES@gov.scot>

**Cc:** Director of Learning <DirectorofLearning@gov.scot>; Hicks C (Clare)  
<Clare.Hicks@gov.scot>; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)];  
[REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; SGLD School Education  
<SGLDSE@gov.scot>; Communications DFM & Education  
<CommunicationsDFM&Education@gov.scot>; McAllister C (Colin)  
<Colin.McAllister@gov.scot>; [REDACTED – s.38(1)(b)]

**Subject:** RE: SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010: PERTH AND KINROSS COUNCIL'S DECISION TO CLOSE ABERNYTE PRIMARY SCHOOL

[REDACTED – s.38(1)(b)]

I'd be grateful if you could let Mr Lochhead know that we have heard that the court has granted permission for Perth and Kinross's petition for a judicial review to proceed. There will be an initial procedural hearing on 24 October. As yet no date for the main hearing has been set. We will keep the minister informed of progress with the judicial review and provide further advice as necessary.

Thanks

[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)]

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[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)]



**Media Enquiry from Perthshire Advertiser**  
**28 October 2019**

**From:** [REDACTED – s.38(1)(b)] **On Behalf Of** Minister for Further Education, Higher Education and Science  
**Sent:** 28 October 2019 14:36  
**To:** [REDACTED – s.38(1)(b)]; Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>  
**Cc:** [REDACTED – s.38(1)(b)]; News Desk <Newsdesk@gov.scot>; Hicks C (Clare) <Clare.Hicks@gov.scot>; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; SGLD School Education <SGLDSE@gov.scot>; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; McAllister C (Colin) <Colin.McAllister@gov.scot>; McFarlane J (John) <John.McFarlane@gov.scot>; Lord Advocate <LordAdvocate@gov.scot>; Solicitor General <SolicitorGeneral@gov.scot>; Minister for Children and Young People <MinisterCYP@gov.scot>; Minister for Further Education, Higher Education and Science <MinisterFEHES@gov.scot>  
**Subject:** RE: Line to clear - Abernyte School closure - Perthshire Advertiser

Mr Lochhead is content to clear.

Many thanks,  
[REDACTED – s.38(1)(b)]

**From:** [REDACTED – s.38(1)(b)]  
**Sent:** 28 October 2019 13:30  
**To:** Deputy First Minister and Cabinet Secretary for Education and Skills <DFMCSE@gov.scot>  
**Cc:** [REDACTED – s.38(1)(b)]; News Desk <Newsdesk@gov.scot>; Hicks C (Clare) <Clare.Hicks@gov.scot>; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; SGLD School Education <SGLDSE@gov.scot>; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; McAllister C (Colin) <Colin.McAllister@gov.scot>; McFarlane J (John) <John.McFarlane@gov.scot>; Lord Advocate <LordAdvocate@gov.scot>; Solicitor General <SolicitorGeneral@gov.scot>; Minister for Children and Young People <MinisterCYP@gov.scot>; Minister for Further Education, Higher Education and Science <MinisterFEHES@gov.scot>  
**Subject:** Line to clear - Abernyte School closure - Perthshire Advertiser

Good afternoon

The Perthshire Advertiser has called up looking for information on the status of the P&K council decision to close Abernyte school. The journalist believed it would be considered by the Court of Session in February and asked that we confirm the date. I have directed the journalist to the Court and Tribunal Service for information on timings for proceedings and they have asked for an SG comment.

I would be grateful for clearance of the following line agreed with policy and spads.

A Scottish Government spokesperson said:

“It would be inappropriate for Scottish Ministers to comment on live litigation.”

Thanks

[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)]

Newsdesk

[REDACTED – s.38(1)(b)]

**Note to Mr Lochhead regarding Abernyte Primary School Closure -  
Judicial Review**  
**18 February 2020**

**From:** [REDACTED – s.38(1)(b)] On Behalf Of Head SFIO

**Sent:** 18 February 2020 17:49

**To:** Minister for Further Education, Higher Education and Science  
<MinisterFEHES@gov.scot>

**Cc:** [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; Drought A (Andrew)  
<Andrew.Drought@gov.scot>; Director of Learning <DirectorofLearning@gov.scot>; SGLD School Education <SGLDSE@gov.scot>; [REDACTED – s.38(1)(b)]

**Subject:** RE: Abernyte Primary School Closure - Judicial Review

[REDACTED – s.38(1)(b)]

Just to let Mr Lochhead know that the substantive hearing of the Abernyte Primary School Judicial Review before Lady Wise did take place today, as scheduled, but due to a delay in starting was not completed in one day as expected. Instead, it will finish tomorrow, Wednesday, 19 February.

We will provide a further update tomorrow once the hearing is completed.

Kind regards,

[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)]

Learning Directorate | Scottish Government | Victoria Quay | Edinburgh | EH6 6QQ

[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)]

**Note to Mr Lochhead to confirm rescheduled date**  
**3 February 2020**

**From:** [REDACTED – s.38(1)(b)]

**Sent:** 03 February 2020 13:47

**To:** Minister for Further Education, Higher Education and Science

<[MinisterFEHES@gov.scot](mailto:MinisterFEHES@gov.scot)>

**Cc:** [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; [REDACTED –

s.38(1)(b)]; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; Drought A

(Andrew) <[Andrew.Drought@gov.scot](mailto:Andrew.Drought@gov.scot)>; Director of Learning

<[DirectorofLearning@gov.scot](mailto:DirectorofLearning@gov.scot)>; SGLD School Education <[SGLDSE@gov.scot](mailto:SGLDSE@gov.scot)>

**Subject:** Abernyste Primary School Closure - Judicial Review

[REDACTED – s.38(1)(b)]

I would be grateful if you could let Mr Lochhead know that the substantive hearing for the Judicial Review about the closure of Abernyste Primary school did not go ahead.

[REDACTED – s.38(1)(b)]. Therefore, the hearing has been rescheduled and will take place on **Tuesday 18 February**.

We will provide a further update to the Minister following the hearing.

Many thanks

[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)]

School Funding, Infrastructure and Organisation | Workforce, Infrastructure and Reform Division | Scottish Government

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[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)]



**Richard Lochhead MSP noted the Court of Session hearing for the Abernyte Primary School Judicial Review decision**  
**20 February 2020**

**From:** [REDACTED – s.38(1)(b)] On Behalf Of Minister for Further Education, Higher Education and Science  
**Sent:** 20 February 2020 16:31  
**To:** [REDACTED – s.38(1)(b)]; Minister for Further Education, Higher Education and Science <MinisterFEHES@gov.scot>  
**Cc:** [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; Drought A (Andrew) <Andrew.Drought@gov.scot>; Director of Learning <DirectorofLearning@gov.scot>; DG Education, Communities & Justice <DGECJ@gov.scot>; SGLD School Education <SGLDSE@gov.scot>; [REDACTED – s.38(1)(b)]  
**Subject:** RE: Abernyte Primary School Closure - Judicial Review

[REDACTED – s.38(1)(b)]

Mr Lochhead has noted your email below.

Thanks,

[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)] | Private Secretary | Minister for Further Education, Higher Education and Science  
[REDACTED – s.38(1)(b)] 426 St Andrews House, Regent Road, Edinburgh, EH1 3DG

Mr Lochhead's preferences can be found [HERE](#)

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**From:** [REDACTED – s.38(1)(b)]  
**Sent:** 19 February 2020 18:32  
**To:** Minister for Further Education, Higher Education and Science <MinisterFEHES@gov.scot>  
**Cc:** [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; [REDACTED – s.38(1)(b)]; Drought A (Andrew) <Andrew.Drought@gov.scot>; Director of Learning <DirectorofLearning@gov.scot>; DG Education, Communities & Justice <DGECJ@gov.scot>; SGLD School Education <SGLDSE@gov.scot>; [REDACTED – s.38(1)(b)]  
**Subject:** RE: Abernyte Primary School Closure - Judicial Review

[REDACTED – s.38(1)(b)]

Please let Mr Lochhead know that the Court of Session hearing for the Abernyte Primary School Judicial Review concluded this afternoon. As expected, Lady Wise

did not give any indication of her views and a written judgement will be provided in due course. We think that this is likely to take at least six weeks (the end of March).

[REDACTED – 30(B)(I)]

[REDACTED – 30(B)(I)]

There was brief press coverage of the case in the Courier today, and the same reporter also attended Court today so a further article may be expected.

Please let me know if any further information would be helpful.

[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)]

Learning Directorate | Scottish Government | Victoria Quay | Edinburgh | EH6 6QQ

[REDACTED – s.38(1)(b)]

[REDACTED – s.38(1)(b)]