

NORTH YORKSHIRE COUNTY COUNCIL

DECISION RECORD

Re: Institution of Proceedings for Judicial Review of the School Adjudicator's Determination on Admissions to Community Schools in Harrogate

This record is produced in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000.

This form should be used to record:

- EXECUTIVE decisions (key or otherwise) taken by an individual Executive MEMBER; and
KEY decisions taken by an OFFICER (either alone or in consultation with an Executive Member)

(One form per decision)

The following executive decision has been taken: -

That institution of Judicial Review proceedings in relation to the Adjudicator's decision of 29 September 2008 be authorised.

Carole Dunn, Assistant Chief Executive (Legal and Democratic Services)

By

whom:

(insert name of Meeting, Member or Officer)

17 November 2008

On:

(insert date decision taken)

Reasons for decision: -

The contents of the report, the Adjudicator's decision of 29 September 2008, Counsel's opinion and the Treasury Solicitor's proposals in response to the Council's pre-action letter have been taken into account.

It appears that the Adjudicator, in her decision letter of 29 September 2008, has misconstrued her powers in this matter, and that the decision set out is irrational. The detailed reasons for the Council's view are set out in the pre-action letter to the Adjudicator of 30 October 2008. The Treasury Solicitor has conceded in response that the Adjudicator has arguably acted outside her powers, and that the determination should therefore be quashed. A draft Consent Order is under consideration. In these circumstances, Counsel advises that the Judicial Review proceedings still need to be commenced as the Court needs to make an Order even if agreed by consent.

Details of any alternative options considered and rejected: -

Not to bring proceedings. This is not considered appropriate as the decision of the Adjudicator is considered to be irrational and her powers have been misconstrued. It has been conceded that the Adjudicator arguably acted outside her powers.

Conflicts of Interest

Please record below details of any conflict of interest declared by a Member or Officer regarding the decision and any dispensation granted by the Standards Committee in respect of that conflict.

Conflict	Dispensation?

Signed

..... Publication Date: 18 November 2008

(Name)

Carole Dunn – 17/11/08
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Note: This decision will come into force, and may then be implemented, on the expiry of 5 clear working days after publication, unless any 6 members of the Council object to it and call it in by notice in writing (including e-mail) to the Assistant Chief Executive (Legal and Democratic Services).

Directorate

Chief Executive's Group
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Contact for further information: ...Alison Boddy (alison.boddy@northyorks.gov.uk)

Contact for copy of report considered ...Alison Boddy (alison.boddy@northyorks.gov.uk)

To: **Jackie Dawson/Alison Jones**, Legal and Democratic Services – for onward circulation to:

- All Members of the Council
- Martin Thomas – Conservative Group Research & Communications Officer
- Richard Ormerod - Lib Dem Group Research & Communications Officer
- Hannah King - Labour Group Research & Communications Officer
- Carole Dunn, Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer
- Stephen Knight, Principal Officer Democracy and Governance
- John Moore, Corporate Director – Finance and Central Services
- Hugh Williamson, Head of Scrutiny and Corporate Performance
- Amanda Fry, Staff Officer to the Chief Executive Officer

- Ray Busby, Scrutiny and Corporate Performance
- Stephanie Bratcher; Scrutiny and Corporate Performance
- Rachel Rushforth; Scrutiny and Corporate Performance
- Bryon Hunter, Scrutiny Support Officer
- Lorraine Laverton, Scrutiny Support Officer