



Thursday 31<sup>st</sup> January 2019

**Decision on the Future of the BAWB Federation**

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At its meeting on 21st January 2019 the full BAWB Governing Body resolved not to grant the defederation of West Burton Primary School, made by The West Burton Defederation group (WBDG). The history since 11th July 2018 and reasons are set out below.

**History**

The BAWB Board refused defederation on 11th July 2018. Then between 20th and 22nd July 2018 emails were received from the LA (LA) asking for a compromise meeting to be held between the West Burton group and members of the BAWB Board. The LA confirmed that there is no appeals procedure in the regulations. The BAWB Board were prepared to meet but, before a meeting could be confirmed, a complaint was received from the West Burton Defederation Group (WBDG) against the whole Board, citing failure to comply with 6 Nolan standards set against the duties of school governors. The West Burton group also asked on 14th Aug for the Board to supply the full reasons for its decision as a matter of urgency. On 15th Aug an email was received from LA requesting a meeting between WBDG and BAWB Governors. The Board conferred via email as the school was closed for the summer holidays and concluded that in view of the ongoing complaint such a meeting would not be appropriate, but did agree to meet once the complaints process had been completed. These requests were repeated during August and on 12th September the full reasons for the BAWB decision, together with the underpinning, cross referenced evidence file were made available.

Despite the ongoing complaints process, the refusal of the BAWB Board to grant defederation in July, and no further formal request to defederate, members of the BAWB Governing Board agreed to meet members of the WBDG (but not complainants) in the presence of LA officers and Cllr Patrick Mulligan. At this meeting the WBDG submitted a request that, after defederation, they would wish to share the Headteacher and continue collaboration with Askrigg and Bainbridge school. Although the group did not have any legal status at this point, the BAWB Board nonetheless, in a spirit of cooperation, discussed their request and decided that sharing a Headteacher would not be viable, and this decision was communicated to them via the LA. The BAWB Board resolved that it could not consider any further approaches from WBDG until the complaint was concluded and the LA had reviewed and advised on the new financial arrangements that WBDG said they now had organised for donations from patrons.

The complaints investigators reported on 17th October 2018 and did not uphold any of the 6 complaints made.

Its two recommendations were that the reasons should have been made available sooner than September and that consideration be given to having a West Burton person on the Board. The BAWB Board accepts the first comment, but as the 6-week Summer holiday started the week after the decision, the emphasis had to be on ensuring that there



were appropriate arrangements in place for the children returning, or starting in September. Further, governors are not expected to work outside of school term time, but nonetheless worked over the summer to produce the required documents. Until the beginning of 2018 one of the two parent governors was from West Burton, and after he resigned, an election was held which did not return a West Burton parent. The School Governance Constitution Regulations states that there can now only be two parent governors, irrespective of how many schools are in a federation. *Ref: The School Governance (Constitution and Federations) (England) (Amendment) Regulations 2016*. In addition, the LA (Governor Support) has offered some advice on how The BAWB Board can address the feeling of lack of representation on the board by West Burton parents, beyond the current invitation for an associate member. This will be on the agenda for the next Governing Board meeting.

During October 2018 the LA considered the Patronage scheme from legal and financial perspectives and concluded that it was not lawful to set up any legal arrangements for the donation of money to the school, and that the patronage scheme was a high risk financial option and could not be supported. This viewpoint was shared in an email from the LA to Cllr Blackie and Dr Bottley on 25<sup>th</sup> October prior to the WBDG submitting their formal request for defederation to be reconsidered. Mr Stuart Carlton (Corporate Director of Children and Young Peoples Services) confirmed the LA has continued to hold the view that the patronage scheme is a high risk strategy. This was shared at a meeting with BAWB reps on 14<sup>th</sup> Dec 2018. The WBDG submitted their request for defederation to be reconsidered to the LA on 7<sup>th</sup> November 2018, based on their new financial arrangements. The request was forwarded to the BAWB Board on 16<sup>th</sup> November 2018.

At the meeting on 14<sup>th</sup> December Mr Carlton confirmed that he had had 2 meetings with the West Burton Group during the Autumn term, and it was based on the content of those meetings that he emailed the BAWB Board on 21<sup>st</sup> November, to advise that the LA would now support defederation, despite concerns about the financial strategy, and therefore recommended this outcome to the Board.

On receipt of his email of 21<sup>st</sup> November, the Board failed to see what had led to the LAs change of view and a meeting was held with senior LA officers at the BAWB Board November meeting. The questions that were posed by governors at that meeting could not be adequately answered, but the LA officers did agree to consult with Mr Carlton and reply in full. In response to these questions Mr Carlton and BAWB reps met (14<sup>th</sup> Dec 2018). He stated then that in his opinion the views of the parents had hardened and that they will now remove children if defederation does not take place. This will make West Burton School unviable in the short term and will almost certainly lead to school closure which he wanted to avoid. Whilst the funding arrangements remain high risk, he felt that if the patron's money did materialise it would give West Burton School a "fighting chance" of staying open at least in the short term, but the LA would only accept it while the school was running a financial model with a deficit recovery plan. His recommendation to defederate was based on the factors raised above and not just on the financial changes put forward by the WBDG. The BAWB representative raised a number of questions with him and he agreed to write to the BAWB Board with answers. An email was received from Mrs Judith Kirk (Assistant Director, Education and Skills, CYPS) on 10<sup>th</sup> Jan, addressing 3 of the areas which were raised.

LA officers including Mr Carlton were present at the BAWB meeting on 21<sup>st</sup> January 2019. Having listened carefully to their recommendations, the BAWB Board nonetheless agreed that defederation was not in the best interests of the children, and that there had not been sufficient developments since July for the Board to now approve defederation.

#### Educational Evidence

The BAWB Board still hold that the education provided to all of the children in all 3 schools is, and must be the prime concern of the governing board. The request to reconsider the defederation decision by WBDG is based solely on new financial arrangements, and not on any changes regarding the education of the children. Hence the view of the BAWB Board remains unchanged.



In July 2018 the BAWB Board concluded that the federation had benefitted pupils and staff, and that effective leadership had been externally validated by OFSTED 2018 and SIAMS 2017. Monitoring and moderation activities had provided assurances to the BAWB that good progress was being made by pupils. BAWB days when all three schools come together, had clearly been enjoyable and had stretched children and provided them with larger peer cohorts. By comparison, the BAWB board were concerned with the educational impact on the children of all 3 schools if defederation was granted. The WBDG were unable to show how the standard of education would be maintained post defederation, and also did not persuade the BAWB board that safeguarding would be adequately addressed.

As defederation was not approved by the BAWB board, in September 2018 option 3a was implemented:

- All reception and KS1 children are taught at Bainbridge School
- KS2 children on roll at Bainbridge and Askrigg are taught at Askrigg
- KS2 children on roll at West Burton are taught at West Burton school Monday to Thursday

There has been the introduction of Federation Fridays where KS2 from all three schools are taught together at Askrigg. The implementation of option 3a has also involved the 5 West Burton Reception and KS1 children travelling to Bainbridge on the bus with a teaching assistant. They have settled well, and are being taught as part of a larger group. This enables the curriculum, especially Early Years and year 2, where there is only one West Burton child, to be effectively delivered.

During Federation Fridays, KS2 children from West Burton meet up weekly with KS2 children from Askrigg and Bainbridge and have been able to maximise their educational, social and personal opportunities which come from being appropriately challenged within a larger cohort. Hence, there will also be an impact educationally on the pupils of both Askrigg and Bainbridge schools as they themselves will then be in smaller groups, particularly years 4-6 where there is less peer challenge due to lower numbers.

The BAWB Board has not been made aware of any adverse comments about the education being provided to any of the children. Indeed, they are aware of reports that BAWB staff at West Burton have been approached by members of the WBDG to indicate that they would wish them to continue post defederation which indicates the WBDG's satisfaction with the quality of teaching. They also had asked to share a Head teacher. As a defederated West Burton School will require a new Head Teacher, and possibly other staff; defederation may well lead to a period of instability for the children. It is therefore not clear whether the high standard of education accessed by the children currently could be maintained beyond defederation and HR cannot give guidance on ease of recruitment which makes judging the outcome for the school in recruiting high quality staff, more difficult.

Whilst the WBDG assert that following defederation there would be a number of children coming to the school, the Board do not have evidence of sufficient F/KS1 children wanting to come from out of area to make a viable class for West Burton school and are not aware that any approaches by such parents have been made either informally, or formally, to the LA. Further, the house building works which were referred to by the WBDG in the summer, have not yet started 6 months on, and so it remains impossible to know how many of any children in these 2 small scale developments would come to West Burton school.

The BAWB Board have also made it clear that option 3a is in response to only having 5 reception/KS1 children currently, as the curriculum for EYFS relies on communication and interaction with peers. There would be a lack of challenge, independence, and resilience amongst the class. However, if there were sufficient reception/ KS1 children a class could be reinstated.

West Burton School, if defederated, will be a very small stand-alone school and as such, the board believes that it will not be able to deliver the breadth or depth of education that the children currently enjoy through being in the feder-



ation. Where small schools have defederated, most, such as Kettlewell, have refederated to remain viable educationally and financially. The other benefit of federation for the education of children, is in terms of staff development, staff support and the sharing of good practice. The benefits of this for West Burton has been externally validated, OFSTED 2018, and will be lost through defederation. Children's education has benefitted through the establishment of subject leaders and through having more staff available to develop skills and new approaches to teaching and learning.

Close partnership work between small schools remains the policy for North Yorkshire County Council (see NYCC document: 'A Guide to Models of School Organisation') as it is a way of working with small numbers of pupils and keeping schools open. This is supported by the Diocese of Leeds which also has some evidence that when one school defederates there are negative impacts on the remaining schools. School closure is therefore more likely to follow in such circumstances. Hence there are also implications too in defederating West Burton for Askrigg and Bainbridge schools. Therefore, having weighed up the evidence again, and in the light of the successful operation of option 3a, the Board finds that there is no new evidence that defederation is in the interests of the children's education and so cannot agree on educational grounds to the defederation of West Burton school.

#### Financial Management

The BAWB board considered the financial arrangements presented by the West Burton group on July 11th and again on 21st September, considering their patronage scheme.

As there have been no other budgets presented by the WBDG, the BAWB board conclude that the economies in the July budget remain. At that time the LA officers advised the board that these economies may not be realistic or realisable. Some of the economies such reductions to the LA catering contract and cleaning and caretaking services also have a negative impact on Safeguarding which the BAWB board takes seriously. Notwithstanding these economies, at the time of the first application in 2018 the defederated West Burton school financial forecast still showed deficit position, so by July 2018 the WBDG presented a range of suggestions to underwrite shortfalls in core funding, which together were not considered sufficiently robust by the LA, Diocese, or BAWB Board.

In order to address these concerns, the West Burton group have asked the BAWB board and LA to consider a patronage scheme which replaces their previous fund raising schemes. This would entail donations being received and then used by the defederated board, presumably to top up core funding, and to minimise any deficit. The LA have advised that it is unlawful to put in place any legally binding arrangements or guarantees for amounts of money donated, and periods for their donations. It is not clear if there can be any legal arrangements to prevent patrons having any controls on how their donations are spent or invested although the LA are clear that patrons cannot exert influence over the school board. The LA advised orally on 27th October 2018 that they did not believe that the arrangements for patrons voluntarily paying for 3 years was sufficiently robust to be supportable as a viable option. Even with donations of £30,000pa the school would need to recruit more pupils, or financial forecasts undertaken by the LA show that the school would still remain in a deficit position, which the LA has stated it could not support.

The LA has told the BAWB Board that they do not know the amount of the patrons' donations. They confirmed that Patrons could not become governors, but until amended by an email on 11th Jan 2019, they stated that governors could retrospectively become patrons after a due diligence process. The LAs position now is that a governor cannot become a patron, but the issue of influence still remains, as does the lack of secure finance without any contracts in place, and the deficit position which West Burton will be in, if, notwithstanding the patron's donations, they are unable to recruit more children or lose children currently on roll.

By 21st Jan 2019 the BAWB board had received from the LA only outline plans and early thoughts on some governance issues relating to the patronage scheme. Questions relating to access, accounts and accounting procedures, the role of the LA finance team and the use of patron funds had not been definitively answered by the LA, and so the BAWB board, in making its decision on 21st January, could only take into consideration the evidence of the very limited financial governance arrangements presented to it.



There are concerns about the precedent this creates for other small schools and for the LA as there are no other known such schemes within county or nationally. The Diocese of Leeds also has concerns about the scheme and have sought an urgent meeting with the LA.

At the meeting between Mr Carlton and BAWB board reps on 14th Dec 2018, his stated view was that it gave West Burton School “a fighting chance” of survival, although he was not optimistic for its future. It did though mean that school closure probably would not happen imminently, which he feared may be the case if defederation did not happen.

The BAWB board continue to have concerns about the impact that defederation will have on Askrigg and Bainbridge schools as well. The financial projections continue to show an in year deficit until 2022/23 and by then the accrued deficit would be larger and greater than if the three schools stayed in a federation. Further, financial forecasts for the current year show an in year deficit of £3K which is an improvement on previous years and is clear evidence that the federation is moving in the right direction to becoming financially sustainable with the current arrangements in place in the longer term, and with more children, would be on a solid financial foundation.

At the meeting on 21st Jan:

The BAWB Board reflected that in July 2018 the LA eventually supported defederation after previously informing the BAWB board that the finances were not sufficiently robust. On 11th July, the BAWB board concurred with the first LA advice, as there had been no evidence presented to explain their change of view. The BAWB board again were presented with a similar scenario. The original advice by the LA was that they could not support the patron arrangements, but are now recommending defederation which does not seem to be based on a reappraisal of the financial risks, but more on their concerns about the intended actions of the WBDG and possible school closure. The BAWB board concur with the first LA judgement that this arrangement is not robust and is a high risk financial strategy, and the arrangements for the governance of the scheme has not been evidenced to the BAWB board satisfaction to make a decision to defederate on 21st Jan 2019 despite efforts by the Board to gain clarification. The Board too wishes West Burton to stay open, but does not consider that the patronage scheme will achieve this and after due diligence, remain concerned about the governance of the scheme. Finally, it is clear that the Federation as it stands provides a secure funding base, and with the current in year position improving, together the 3 schools will have the greatest chance of staying open. Therefore The BAWB Board finds that defederation cannot be supported on financial grounds.

#### Community Issues

The BAWB board has responsibility for the schools at Askrigg, Bainbridge, and West Burton, and to date, there are good working relationships with the parents and a growing working relationship with the Askrigg and Bainbridge village communities.

In his letter of 21st November 2018, Mr Carlton reiterated on many occasions that the West Burton Community and parents had lost confidence in the BAWB Board and that there was unresolvable discord between BAWB board and the “community”. The BAWB Board challenged the assertions about the community. The director and LA officers have ONLY spoken with the defederation group, many of whom do not live in West Burton. It is not clear what “community” refers to, but the BAWB board are aware of support from many longstanding residents of West Burton, at least 2 of whom have now written to him. The BAWB board are concerned that the LA have demonstrated a clear lack of impartiality by relying solely on evidence given to them by the group seeking defederation, and then repeating this in writing without any checks or clarity of definition. In view of this, the BAWB board are concerned about how such inaccuracies and partiality might underpin other advice they have given to the BAWB board.

Only the parish councils whose members / clerk sit on (or are associated with) the WBDG, wrote to the LA supporting defederation. Other local councils did not. Hence it is not possible to know what the communities served by the schools believe without undertaking extensive impartial research.



Having considered community issues the BAWB board were not persuaded that the arguments made outweighed the strength of concerns about the educational and financial downsides of defederating. Whatever decision the board made on 21.1.19 it would not be welcomed by a section of the wider community, and as the views in the community are varied, the Board can only justify making a decision in the best interests of the children.

### Addressing the LA's Recommendation

The LA recommended that the BAWB board grant defederation. The LA also strongly emphasised that the decision was nevertheless a decision for the BAWB Board, not the LA. Naturally, the LA's recommendation was a very important factor in the BAWB Board's considerations and was taken very seriously. It is important that it is explained to parents and the community why the BAWB board departed from this recommendation.

The LA's recommendation for the Board to grant defederation was based on the following premises:

- a) Parents had tried option 3a, and could not accept the transport arrangements
- b) The view of the parents had "hardened" and they would now remove children if defederation did not occur as the relationship has broken down between the parents and the school
- c) The resulting loss of children would make West Burton School financially unviable
- d) The BAWB Board would therefore have no option but consider school closure in the very near future
- e) The LA wanted to avoid school closure; for it to be the last option
- f) The patronage scheme from the WBDG gave the school a "fighting chance" of remaining open at least in the short term and presented an option which could avoid imminent closure.
- g) Through the WBDG there appeared to be other parents considering the school for their child/ren if defederation occurred. This would further improve the prospects of the school staying open
- h) Whilst the LA accepted that there is a good standard of education provided by all 3 BAWB schools, continuing with the federation would mean that there would be no children to educate at West Burton, so this became a questionable moral decision
- i) Askrigg and Bainbridge were financially capable of standing alone and the LA would ensure that their support for this was in writing. The BAWB Board could then continue with the governance issues it needs to address and to provide the high quality of education to the pupils in both of these schools.

The BAWB Board considered each point carefully and the conclusions to each point are outlined below.

- a) The school transport arrangements have worked well, and other than comments for one parent at the start of the Autumn Term, there had been no adverse comments to school or governors. Since September 2018, option 3a has been in place. This involves the EYFS and KS1 children of West Burton being transported to Bainbridge (accompanied) each day. Other than some feedback about one child being particularly tired at the start of the academic year, transport has not been raised with staff as a problem, through the home-school link books, nor through any written or oral correspondence. It was raised at the first parent-teacher consultation in this academic year regarding the tiredness of the child. There remains the option for parents to take their children themselves to Bainbridge, as the parents of nursery children currently do, or to develop a hub where children can access transport to Bainbridge school more directly. Children appear to have settled well, they say that they are enjoying being at school, and they are making good progress.
- b) The BAWB Board support parental choice in choosing a school for their children. The WBDG have made it clear through wishing to share a Headteacher and asking the current staff to stay beyond any defederation that they are happy with the education their children receive, which has been externally validated through OFSTED 2018. WBDG is comprised of people who care about education and West Burton school. They have gone on public record to state that their reason for defederating is to keep the school open. They will be aware that withdrawing children necessarily reduces pupil numbers, thereby inevitably weakening the viabil-



ity of the school; an outcome that the BAWB Board and the WBDG both wish to avoid. The BAWB Board believes that prioritising educational standards and keeping the schools open are best served by continuing with our federation. The BAWB board have made it clear that the current arrangements are in response to low pupil numbers and financial necessity, but they would change if pupil numbers increased sufficiently and the BAWB board have invited the WBDG to work together with the current board to achieve this. This invitation was extended to Cllr Blackie at the meeting of 11<sup>th</sup> July. The BAWB Board also extends this invitation to all parents and hope that they will continue to support the school, thereby maintaining or, better still, improving its viability. The BAWB board accept the view of the Diocese of Leeds that the best way forward for the school is everyone working together, and the BAWB board are still prepared to work toward this happening.

- c) The BAWB board accept that a significant loss of children will destabilise the financial position of the school and may lead to closure. However, the WBDG budgets do not appear to have changed since July, when the LA reported that they did not believe that the economies proposed by the WBDG were achievable and could not be supported. The BAWB Board were also concerned that the economies would impact negatively on safeguarding and could undermine the quality of education provided to the children. The WBDG scheme of patron funding is untried anywhere, and the LA concur with the BAWB board that it is high risk given that the donations must be voluntary. The LA did not cite the scheme as a reason that defederation would be a success, but only as giving the school “a fighting chance” if it worked and there were sufficiently robust governance arrangements underpinning it. Even with the £30,000pa donations to top up core funding and the economies in place, the school would remain in financial deficit unless it attracted more pupils and did not lose any. Therefore it would remain at financial risk for the foreseeable future with the ongoing and real threat of closure.
- d) The BAWB board has tried to work with the LA to consider issues of strategic planning for the Dale, and options to keep all 3 schools open. Should pupil numbers fall to a degree which jeopardises the school’s viability, the BAWB board would be open to consider any alternatives the LA could put forward for it to remain open.
- e) Whereas the BAWB Board concur that a school closure should only be considered when all else has failed, the governors are also committed not just to preserving a building, but also to ensuring that what takes place inside, that is the education of the children, is of the highest quality and is safe for all of the children. As there are real concerns about this through a process of due diligence, the BAWB board believe that it would be making an irresponsible decision to support the school remaining open as a stand-alone school.
- f) The Patrons scheme is of concern to the LA who have only minimal information from the WBDG and little independent evidence of how the scheme would work and be managed. Up until December 2018, the LA did not know who the patrons were or whether governors could retrospectively become patrons. There was some clarification by January 2019. However, whilst this scheme remains high risk in terms of its ability to deliver financial security to West Burton, the current financial forecast for BAWB schools as a federated group shows an improving picture, with the in-year deficit being reduced to £3k in the current year. Clearly the financial future for all 3 schools should be based on secure funding, and it is this security that will ensure the viability of all 3 schools into the future.
- g) The LA has been told by the WBDG that there are likely to be increased numbers of pupils following defederation. However, the LA does not have any independent evidence that this will happen. Further, the BAWB Board is aware that not all of the current West Burton children will be removed, and if defederation did occur, some parents may remove their children. Some local people in the community are openly supportive of the continuation of West Burton school within the federation. The BAWB board are concerned that a potential increase in pupil numbers has been overestimated and without independent evidence supporting those numbers, the BAWB board cannot base its decision on this. Further, the BAWB Board remains very happy to work alongside WBDG and other parents to try to increase pupil numbers.



- h) The BAWB board's decision is based on educational grounds and underpinned by financial realities. It is the view of the BAWB board that the education of the children is paramount. If the children leave through parental choice, then they will be having one disruption to their education. It is likely that if defederation had been granted, there would have been significant changes to management through a new Headteacher, teaching and other staff and governing body. The stability currently enjoyed by the children and quality of education would be disturbed, without the probability of a secure future as it would be underwritten by economies and a high risk financial strategy. This might be thought to give the school a "fighting chance" of staying open. However, the BAWB Board believes that continuing in a federation, for reasons stated above, gives the school a better "fighting chance" of staying open and, vitally, gives the children the "fighting chance" they need to maximise their potential, achieve their educational goals, and build social and personal relationships.
- i) Without doubt, defederation would impact on Askrigg and Bainbridge pupils who have been forming relationships with West Burton children. Whereas Askrigg and Bainbridge could be financially viable in the longer term supported by the LA, this cannot be guaranteed with the deficit remaining in place for longer.

### Conclusions

At the meeting on 21<sup>st</sup> January the BAWB Board was not convinced by the LA that their recommendation was based on robust evidence, nor was it sufficiently underpinned by a consideration of the children's education.

The BAWB Board therefore again on the basis of educational and financial evidence remains convinced that continuing in a federation as three schools represents the best option for pupils, the greatest opportunity for all three schools remaining open, and therefore the best option for the communities they serve.

The BAWB board continues to be committed to working with the WBDG in order to continue with the federation which brings stability to education in the mid dale and provides a good educational experience for local children. The Board believes that by working together and building on BAWB and WBDG strengths, all three schools can have a much more secure future.