

Number: **087/2010**



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

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Consultation Document

Objections to statutory proposals for school organisation

Potential changes to the time available for objections to published statutory proposals which involve changes to schools, new schools, or school closures

Date of issue: **13 August 2010**

Action required: Responses by **05 November 2010**

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Objections to statutory proposals for school organisation

Overview

The Welsh Ministers are considering reducing the time available for individuals to object to published proposals which involve school organisation. The Welsh Ministers are also considering reducing the time available for local authorities to refer onwards to the Welsh Ministers objections local authorities receive at the end of the objection period. The Welsh Ministers also wish to ensure that statutory notices are published within school term time.

How to respond

Please respond by **05 November 2010**.

Response forms can be sent to the following address:

Schools Management and Effectiveness Division 3
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3NQ

Or completed electronically and sent to:

SchoolsManagementDivision3@wales.gsi.gov.uk

Further information and related documents

Large print, Braille and alternate language versions of this document are available on request.

Contact details

For further information:

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Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Assembly Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Assembly Government staff to help them plan future consultations.

The Welsh Assembly Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Assembly Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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Foreword

On 15 June 2010, the Minister for Children, Education and Lifelong Learning, one of the Welsh Ministers drew attention to the need to reduce the length of time required by the statutory process when changes to schools are proposed. The Minister considers that the current timetable set in legislation contributes to uncertainty for pupils, parents and local authorities which maintain schools. The Minister undertook to consult all those with an interest in changes to schools, on a proposal to reduce this timetable. To reduce the timetable, the existing regulations would need to be amended.

What are the main issues?

When local authorities or governing bodies decide to make changes to schools there is a statutory process which must be followed. Changes to schools include the establishment of new schools, the closure of schools, alterations such as adding a nursery, or closing a sixth form, or changing the category so that a school of one category becomes a school of another category. At the start of the statutory process there must be wide consultation with local people, and if the promoters of the proposal decide, after considering the feedback from the consultation exercise, that they wish to proceed to make the change, a statutory notice must be published in a local paper and in a prominent position at and near the school(s) in question. Any individual has the opportunity to lodge an objection to a published proposal. If objections are lodged as a response to any proposal, then the proposal must be submitted to the Welsh Ministers in order for them to make a determination as to whether the proposal can proceed. Normally, the Minister for Children, Education and Lifelong Learning makes these decisions. Once school organisation changes are proposed, parents, local authorities, and governing bodies normally prefer the issue to be resolved as soon as possible so that there is greater certainty for pupils and schools.

Where we are now - the legal background

[The School Standards and Framework Act 1998](#) ("SSFA 1998"), provides powers for local authorities, and governing bodies in the case of voluntary and foundation schools, to publish proposals to establish, alter, change the category, or close schools, including special schools, and provides that regulations will prescribe the manner in which this process is carried out.

[The Education \(School Organisation Proposals\) \(Wales\) Regulations 1999](#) set out in detail the alterations to schools (but not special schools) for which proposals must be published, the information to include in published notices and the way in which these notices must be published. The regulations specify the time scale within which objections must be lodged and which a local authority then has available to submit objections to the Welsh Ministers together with their comments. The regulations provide objectors with 2 months during which objections can be submitted unless Section 15 of the SSFA 1998 applies to the school which is subject to the proposal (Section 15 relates to schools in special measures). Currently, there is no time restriction on when notices can be published and they can be published in school

holidays, although local authorities normally try to avoid this. The regulations require local authorities to submit, to the Welsh Ministers, any objections and their comments on them, within 1 month of the end of the objection period. Where the school is in special measures, the period is reduced to 2 weeks.

[The Education \(Maintained Special Schools\) \(Wales\) Regulations 1999](#) concern special schools and set out the alterations for which proposals must be published, information to be included in published proposals, and the manner of publication. These regulations mirror the time scales relating to objections set out in the Education (School Organisation Proposals) (Wales) Regulations 1999, setting a 2 month period for objections to be made, and a 1 month period for the submission of objections by the local authority (unless Section 15 of the SSFA 1998 applies to the school, in which case the period is 1 month and 2 weeks respectively.)

[The Change of Category of Maintained Schools \(Wales\) Regulations 2001](#) make provision for all categories of maintained schools to become another category of school within the current categories. These regulations also set a 2 month period for objections to be made unless Section 15 of the SSFA 1998 applies to the school, in which case the period is 1 month.

[The Learning and Skills Act 2000](#) (“LSA 2000”) provided powers for the former National Council for Education and Training for Wales (known as “ELWa”) to propose the closure of school sixth forms that had been shown to be inadequate in 2 consecutive Estyn reports. Section 113A of the LSA 2000 enabled the former ELWa to make proposals to open, close or alter a school sixth form either to meet recommendations made in the report of an area inspection or where the reorganisation will raise standards of achievement, increase student participation or expand the range of educational opportunities. Following merger with the Welsh Assembly Government in 2006, ELWa’s powers became powers of the National Assembly for Wales. Those powers were then transferred to the Welsh Minister by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006. Welsh Ministers can delegate these powers to local authorities if the need arises.

[The School Organisation Proposals by the National Assembly for Wales Regulations 2004](#) (“the 2004 Regulations”) provide that for proposals under section 113A, any person may object within 2 months of the date of publication of proposals. These regulations also provide that objections and observations should be submitted to the Welsh Ministers within 1 month of the end of the objection period. The 2004 Regulations also set out that if proposals are published under Schedule 7 to the LSA 2000 (where the sixth forms had been shown to be inadequate in 2 consecutive inspection reports), the objection period is reduced to one month, with objections to be submitted directly to the Welsh Ministers. Guidance which accompanies the 2004 Regulations indicates that proposals should **not** be published on a date which causes the objection period to be mainly in school holidays.

All current regulations which set out timetables for the making of objections in relation to school closures, openings, changes of category, and alterations to schools therefore provide common timetables for changes affecting all schools, but none specify that proposals cannot be published during school holidays. Local authorities sometimes propose changes affecting more than one type of school, such

as a mainstream school and a special school. Occasionally, they have exercised powers under different legislation. If changes are made to one set of regulations which affects the time available for objection, it seems logical to ensure that all timetables are common in future, so as to reduce complexity on the occasions when individuals may wish to object to published proposals. In other words, if the timetable is changed for one type of proposal, others should also be changed. New regulations would need to be made which amend all 4 sets of current Regulations.

Why is a change proposed?

At present, as a result of the Regulations described above, a total of 3 months normally elapses between the time a statutory notice is published, and the time that the Welsh Ministers receive all the papers from the promoters, at which point full consideration can start to be given to the proposal.

Since the assessment that then follows normally takes a minimum of 3 months, and sometimes more, at least 6 months goes by until final decisions are known. The Welsh Ministers want to reduce this time so that parents and others have a quicker resolution. Information from local authorities also indicates that most of the objections to a proposal reach the local authority within a very short space of time, usually in the last week before the end of an objection period. Many individuals who object put forward similar reasons for their opposition to a proposal as they have already put forward during the statutory consultation that takes place prior to the publication of a proposal, therefore it is not believed that the change would prevent interested parties making their views fully known. Similarly, local authorities are already normally well aware of the concerns of those opposed to change, and may be able to submit their views on those concerns within less than the current 1 month available.

What do we propose to change?

- We propose that the time available for individuals to lodge an objection will be reduced to 1 calendar month instead of 2 months.
- We propose that the time available for local authorities to submit the objections and their comments to the Welsh Ministers will be reduced to 2 weeks instead of 1 month.
- We propose that if the period for objection is reduced to 1 month, to specify that statutory notices must be published on a school day and that the objection period should not extend into school holidays to any significant extent.
- We anticipate that these changes will enable proposals to be determined 6 weeks earlier than they would have been as a result of the current regulations.
- We will need to alter current guidance to draw further attention to the changes, if they are made.

Annex A - Related documents

- School Standards and Framework Act 1998.
- The Change of Category of Maintained Schools (Wales) Regulations 2001.
- The Education (Maintained Special Schools) (Wales) Regulations 1999.
- The Education (School Organisation Proposals) (Wales) Regulations 1999.
- The Learning and Skills Act 2000.
- The School Organisation Proposals by the National Assembly for Wales Regulations 2004.

Annex B - List of schools consulted

- The Croft Nursery School
- Bute Cottage Nursery School
- Grangetown Nursery School
- Ysgol Gynradd Kingsland
- Ysgol Gynradd Caergeiliog
- Ysgol Gynradd Abersoch
- Ysgol Bodfeurig
- Ysgol Gynradd Edern
- Ysgol Llidiardau
- Ysgol Gymuned Penisarwaun
- Ysgol Gynradd Bontnewydd
- Y.G. Abergynolwyn
- Ysgol Dyffryn Ardudwy
- Ysgol Foel Gron
- Ysgol Llandygai
- Ysgol Gynradd Tal-Y-Bont
- Ysgol Pendorlan
- Ysgol Babanod Llanfairfechan
- Ysgol Llangelynnin
- St George Controlled Primary School
- Ysgol Llanddoged
- Ysgol Bodafon
- Ysgol Y Plas
- Bodnant Junior School
- Ysgol Gynradd Henllan
- Clocaenog C.P. School
- Rhewl C.P. School
- Ysgol Bro Cinmeirch
- Gwynedd C.P. School
- Gwernymynydd C.P. School
- Queens Ferry C.P. School
- Wat's Dyke Infants School
- Drury C.P. School
- Broughton Junior School
- Abbots Lane C.P. School
- Ysgol Cynddelw
- Brynteg County School
- Rhostyllen C.P. School
- Barker's Lane C.P. School
- Gwersyllt Primary
- St Mary's Primary (Ruabon)
- Abermule Primary School
- Llanfair Caereinion C.P.
- Llanidloes C.P. School
- Hafren C.P. Junior School
- Llanfechain C.I.W. School
- Castle Caereinion C.I.W.
- Clyro C.I.W. School
- Llangors V.P. School
- Whitton (Aided) School
- Ysgol Gynradd Aberaeron
- Comins Coch C.P. School
- Ysgol Syr John Rhys
- Plascrug C.P. School
- Ysgol Penrhyn Coch
- Ysgol Gynradd Eglwyswrw
- Solva C.P. School
- Angle V.C. School
- St Francis V.R.C. School
- Ysgol Gynradd Brechfa
- Ysgol Gynradd Hendy Gwyn Ar Daf
- Llangennech Infants School
- Pembrey C.P. School
- Penygroes C.P. School
- Burry Port Infants
- Ysgol Gruffydd Jones
- Tremoilet V.C.P.
- Ferryside V.C.P. School
- Pentip V.A. C.I.W. Primary School
- Brynhyfryd Junior School
- Brynmill Primary School
- Gendros Primary School
- Mayals Primary School
- Whitestone Primary School
- Gorseinon Junior School
- Penclawdd Primary School
- Penllergaer Primary School
- Ysgol Gynradd Gymraeg Bryniago
- Craigfelen Primary School
- Glyncollen Primary School
- St Josephs Catholic Primary School
- Bryn Primary School
- Neath Abbey Infants
- Traethmelyn Primary School
- Y.G.G. Blaendulais
- Tairgwaith Primary School
- Crynallt Infant School
- St Therese's R.C. School
- Mynydd Cynffig County Junior
- Mynydd Cynffig Infants

- Llanfyllin C.P. School
- Presteigne C.P. School
- Glanrhyd C.P. School
- Penycae C.P. School
- St Nicholas C.I.W. Primary
- Gwenfo C.I.W. Primary
- Llwyncelyn Infants School
- Tonyrefail Primary School
- Trealaw Primary School
- Tref-Y-Rhyg Primary School
- Y.G.G.G. Llantrisant
- Gwaunmeisgyn Primary School
- St Margaret's R.C. Primary School
- Abercanaid Community School
- Ysgol Santes Tudful
- Bedlinog Primary School
- Trelewis Primary School
- St Illtyds R.C. Primary School
- Nant Y Parc Primary School
- Upper Rhymney Primary School
- Abertysswg Primary School
- St James Primary
- Glanhwy Primary School
- St Illtyd's
- Pontnewynydd Primary
- Cwmffrwoer Primary School
- Ysgol Bryn Onnen
- Penygarn Primary School
- Thornwell Primary School
- Llandogo C.P. School
- The Dell Primary School
- Cantref Primary
- Usk C.V. Primary School
- Raglan V.C. Primary School
- St Mary's R.C. Primary School
- Archbishop Rowen Williams School
- Llanfair Kilgeddin V.A. Primary
- Maesglas C.P. School
- Somerton Primary School
- Fairwater Primary School
- Marlborough Junior School
- Glyncoed Infant School
- Llysfaen Primary School
- Ysgol-Y-Wern
- Ysgol Gymraeg Treganna
- Ysgol Pencae
- Ysgol Gymraeg Bro Ogwr
- Oldcastle Primary School
- Sully Primary School
- Ysgol Sant Curig
- Ysgol Uwchradd Caergybi
- Ysgol Tryfan
- Ysgol Dyffryn Conwy
- Ysgol Dinas Bran
- Connah's Quay High School
- Ysgol Y Grango
- Llanfyllin High School
- Ysgol Uwchradd Tregaron
- The Greenhill School
- Ysgol Gyfun Y Strade
- Dylan Thomas Community School
- Llangatwg Community School
- Porthcawl Comprehensive School
- Ysgol Bro Morgannwg
- Cardinal Newman R.C. Comprehensive
- Afon Taf High School
- Pontllanfraith Comprehensive
- Brynmawr School
- Fairwater High School
- King Henry VIII Comprehensive
- Bassaleg School
- Rumney High School
- Corpus Christi Catholic High
- Ysgol Heol Goffa
- Ysgol Erw'r Delyn
- Crownbridge Special Day School
- The Hollies Special School
- Hawthorn Primary School
- St Alban's R.C. Primary School
- St Paul's C.I.W. Primary School
- Llandaff City C.I.W. Primary School
- Ysgol Newydd - Ninian Park Primary
- Ysgol y Berllen Deg
- Ysgol Newydd - Oakfield Primary
- Ysgol Gymraeg Nant Caerau