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Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

Cymry Ifanc  
Young Wales

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Welsh Assembly Government

## Consultation Document

### School organisation – potential change to the process

Potential change to the legal processes relevant to school organisation, which includes changes to schools, new schools or school closures

Date of issue: **26 November 2010**

Action required: Responses by **18 February 2011**

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# School organisation – potential change to the process

- Overview** The Welsh Ministers are considering making changes to the legal processes needed in order to make changes to schools. The Welsh Ministers consider that any changes should help to streamline the process and ensure that most decisions about school organisation are made in the local area.
- How to respond** Please respond by **18 February 2011**.  
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.  
The consultation documents can be accessed on the Welsh Assembly Government website at [www.wales.gov.uk/consultations](http://www.wales.gov.uk/consultations)
- Contact details** For further information:  
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Tel: 029 2082 6064

## **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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## Introduction

1. The Minister for Children, Education and Lifelong Learning wishes to streamline the way that changes are made to schools in Wales. In particular, there is an aspiration that more decisions should be made at the local level, with Ministers becoming involved only on rare occasions. The Minister has indicated that he would be seeking a legislative opportunity to make changes to the legal process for school organisation, and wishes to consult on the principles of a potential revised process.

## Part 1

### What are the issues?

2. Welsh Ministers are concerned that the process of making changes to school organisation:

- takes too long;
- does not set out clearly enough the basis for change, in particular the benefits for the education of children and young people;
- does not engage sufficiently with those who have a legitimate interest; and
- involves too many decisions being taken by Welsh Ministers rather than locally.

### Where are we now?

#### Legal background

3. [The School Standards and Framework Act 1998](#) (SSFA 1998) gives local authorities, governing bodies of voluntary and foundation schools and others powers to make proposals to establish, alter, change the category of, or close schools. The powers apply to mainstream and special schools funded by a local authority. SSFA 1998 provides for regulations to specify how the process of using these powers is to be carried out. There are three key sets of regulations<sup>1</sup> - one each relating respectively to mainstream and to special schools, both made in 1999 and a third set relating to the change of category of schools made in 2001. There are also two guidance circulars - [Circular 9/99](#) SSFA 1998 Organisation of School Places<sup>2</sup> which describes the procedures for publishing and deciding proposals; and [Circular 21/2009](#)<sup>3</sup> School Organisation Proposals which sets out the policy considerations that proposers need to take into account when developing a proposal and the criteria Welsh Ministers apply to deciding the proposals that they are required to determine.

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<sup>1</sup> [The Education \(School Organisation Proposals\) \(Wales\) Regulations 1999](#); [The Education \(Maintained Special Schools\) \(Wales\) Regulations 1999](#); and [The Change of Category of Maintained Schools \(Wales\) Regulations 2001](#).

<sup>2</sup> National Assembly for Wales Circular 9/99 - School Standards and Framework Act 1998: Organisation of School Places.

<sup>3</sup> Welsh Assembly Government Circular No: 021/2009 - School organisation proposals.

## **Proposals and who can make them**

4. A full list of the types of proposals currently requiring statutory procedures is set out at Annex C but in brief they are:

- opening of a new community (including special), foundation (including special) or voluntary school - a local authority can be the proposer in the case of a new community or foundation school and a promoter can propose in the case of a voluntary school or foundation school;
- closure of a school - a local authority can propose closure for all categories of maintained school and a governing body of a foundation or voluntary school for its own school;
- permanent enlargement - a local authority can propose for community and foundation schools, the governing body can propose for a foundation or voluntary school;
- alterations to provision - a local authority can propose any of the alterations listed below for a community school, as can the governing body for a foundation or voluntary school. Alterations include change in age range by a year or more, addition or removal of provision reserved for pupils with special educational needs (SEN), introduction of banding admission arrangements, changes to/from single sex provision, changes in the level of English or Welsh medium provision, changes to boarding provision, transfer of a school to a site more than 2 miles away and, in the case of a special school, change in the type of SEN provision; and
- change in school category enabling a community, voluntary or foundation school to move to another of those categories - at present a local authority can only propose change from community to foundation status while, currently, a governing body of a school of any category can propose a change to any other category. However, a change of category cannot remove the religious character of a school or add a religious character where there was not one before - that is established under separate legal provisions.

## **Policy background**

5. This is set out in Circular 21/2009 but key considerations which local authorities, governing bodies and promoters have to take into account, in brief, are:

- the effect of potential proposals on the standard of education to be provided in the area, including provision for pupils with special education needs and/or disabilities, and the contribution of the proposals to improving educational outcomes for children and young people;
- the effect on accessibility of schools and on pupil journey times;

- the contribution to improving efficiency and the match between number and location of school places and demand, including demand for Welsh medium provision or faith based provision;
- cost-effectiveness and affordability in relation to capital and recurrent costs;
- the views of those most directly affected including children, young people, parents and other schools; and
- the contribution to delivery of the 21<sup>st</sup> century schools capital investment programme and sustainability in school design.

The first of these, impact on educational standards, is the prime consideration.

### **Current process**

6. The following are the main steps in the process of making proposals:

- the local authority, governing body or promoter prepares the proposal - collating information, applying the key considerations in Circular 21/2009 and undertaking informal soundings;
- the proposer undertakes statutory consultation with key interests - this usually involves issue of a consultation document and public meetings;
- the proposer analyses the responses to consultation and decides whether to proceed with the proposal;
- if so, notices are published which allow 2 months for any individual or organisation to lodge an objection;
- if there are **no objections** the **proposer decides whether or not to proceed with implementation** and has 2 months in which to do so;
- if **there are objections** the **decision on the proposal becomes the responsibility of Welsh Ministers** and the proposer has 1 month to submit their responses to the objections;
- Welsh Ministers consider the objections, the proposer's responses, and Estyn's assessment of the educational merits of the proposal in light of the criteria in Circular 21/2009;
- Welsh Ministers issue their decision - usually between 4 and 6 months from receipt of the proposer's response to objections; and
- if the proposal is approved the proposer has a statutory duty to implement it.

### **Why are we proposing change?**

7. Ministers believe that the current process for school organisation takes too long and potentially delays the efforts of local authorities seeking to make changes which will lead to a better use of the resources available for education.

8. Ministers also take the view that because the responsibility for planning and providing school places rests with local authorities, decisions should, in the vast majority of cases, be made at the local level.

9. Ministers also believe that current legislation, whereby a single objector, not necessarily with a direct interest in a school, can cause a referral to Welsh Ministers is inappropriate. Such occurrences can result in delays and uncertainty for local parents and children directly involved with a school who support the proposed change, and this is clearly undesirable.

10. Welsh Ministers have also noted that whilst many local authorities engage well with stakeholders and explain their intentions clearly when they consult on proposals, this is not universal and consider that standards should be raised by means of robust, binding guidance that is well understood.

### **What specific changes are we proposing and why?**

11. Welsh Ministers propose to continue the **current policy framework** as set out in Circular 21/2009 - though it is envisaged this guidance will need to be updated and re-issued in light of possible changes in the law discussed below; and a specific reference made to the need for proposers and Welsh Ministers to comply with the principles of the [UN Convention on the Rights of the Child](#) in operating their respective parts of the process.

12. Welsh Ministers also propose to largely continue current policy and procedures for changes in post 16 education provision. Such provision is directly funded by Welsh Ministers and change is driven by the Learning Pathways 14-19 and Transformation Agendas. Accordingly, **Welsh Ministers will continue to determine statutory proposals which solely involve post 16 education**, including opening, closing and expanding school 6<sup>th</sup> forms. Such proposals generally form part of wider area plans for change in post 16 education.

13. Welsh Ministers are considering whether to introduce, in future, **new legislation** on school organisation to replace the relevant provisions of SSFA 1998 and the current regulations; and to put in place a **Statutory Code** on school organisation, for handling proposals for changes in school organisation.

14. **In particular, this consultation proposes:**

- retaining powers for local authorities and governing bodies to propose alterations to schools, including special schools;
- consultation and other arrangements prescribed by a statutory code modelled on best practice;
- that Estyn will comment on proposals during the consultation process;
- more informative consultation documents and statutory notices;
- a two-tier system for determining proposals which attract objections, allowing more scope for local independent determination, supported by provision for call-in by the Welsh Ministers; and
- streamlined arrangements for closure of schools with few or no pupils.

15. The remainder of this consultation document sets out in detail what is being considered and invites views.

16. Consultation has recently been undertaken on some limited changes to current procedures - August 2010 'Objections to statutory proposals for school organisation'. The consultation period ended on 5 November 2010 and the outcomes are now being considered. Any decisions to reduce the periods allowed for making objections to statutory proposals from 2 months to 1 and the period for proposers to submit their responses to objections from 1 month to 2 weeks will be reflected in the new arrangements discussed in this consultation paper, if they are put into operation.

17. Finally, there is an intention to introduce an Education Measure before the end of this year, one of the effects of which would be to prevent the establishment of new foundation schools or proposals for the change of category to foundation. This consultation document needs to be considered alongside that development.

### **What outcomes are we seeking?**

18. Welsh Ministers want to secure arrangements for handling proposals for changes in school organisation which:

- command the confidence of parents, pupils, school staff and governors and local communities that the educational well-being of children and young people is at the heart of what is proposed;
- ensure that consultation is meaningful, providing proper opportunity for concerns to be voiced and responded to;
- lead to more decisions being taken locally, given the responsibility of local authorities to provide and fund school places and to address local needs; and
- lead to speedier and more efficient decision making - thereby reducing the costs of the process and the uncertainty for those directly affected.

## Part 2

### Detail of the proposals

#### Changes requiring statutory proposals

1. Some changes are proposed to the list of school organisational changes (see Annex C) which require consultation, statutory notices and formal determination. It would be necessary to amend the current regulations<sup>4</sup> in order to effect these. The changes proposed follow the list of current requirements in Annex C. We would welcome views on the proposed changes which will provide, in brief, for:

- a requirement for a prescribed alteration<sup>5</sup> for the reduction in the capacity of a mainstream school, where there is an intention that a school should accommodate a smaller number of pupils than that on roll at the time closely preceding a proposal. Local authorities or governing bodies might perceive such a change is in the interests of strategic planning, e.g. if a popular school is acting as a magnet for pupils and, at a time when there is significant surplus school capacity overall, this is perceived as counter to the sustainability or effectiveness of other schools that are required in the area; and
- the provision around transfer of any school is proposed for simplification so that any transfers of less than 1 mile would be permitted without a proposal, regardless of the complexities around size and condition of buildings that related to the previous prescribed alteration relating to transfers of mainstream schools. Currently, for special schools a transfer requires a proposal unless it is to former playing fields<sup>6</sup>.

Q1. Is the current list of circumstances in which statutory proposals are required appropriate? If not, what would you want to add, remove or modify?

Q2. Do you think that the following amendments proposed are suitable?  
a) prescription about reduction in capacity; b) prescription about transfers of school site (for all schools including special); and if not, what would be preferable?

#### Who should propose changes?

2. Annex D identifies which organisations or individuals are currently able to make proposals for changes to school organisation. There is no present intention to alter this position.

<sup>4</sup> The Education (School Organisation Proposals) (Wales) Regulations 1999.

<sup>5</sup> This means an alteration that is 'prescribed' in Regulations. For example, adding nursery provision to a primary school or adding a sixth form to a secondary school.

<sup>6</sup> Paragraph 8 of Schedule 2 to the Education (School Organisation Proposals) (Wales) Regulations 1999.

Q3. Do you agree with the current division of responsibilities in respect of making proposals for changes to school organisation?

## Consultation procedures

3. Proposers - local authorities, governing bodies or promoters as appropriate - are required to consult on their proposals. However the current guidance says very little about the content and form of consultation or the timescale. Nor does the guidance specify how consultation responses should be treated. The only detailed guidance relates to who should be consulted.

4. Many local authorities have effective arrangements for consulting and handling responses, but this is not universal; and there is little advice for promoters or governing bodies to draw on when they consult.

5. Drawing on existing good practice, Welsh Ministers have it in mind to issue a **Statutory Code** on School Organisation which proposers would be **required** to comply with. As regards to consultation, the key provisions would include a requirement to publish a consultation document containing, in summary, the following:

- a description of the proposal;
- the reasons for it and explanation of how it would benefit overall education provision in the locality, drawing on the most recent inspection evidence;
- how it fits in with the maintaining local authority's overall policy for school provision as set out in its Children and Young People's Plan and, as appropriate, in its Welsh Language Education Scheme;
- how the proposal will benefit children and young people, in accordance with the provisions of the UN Convention on the Rights of the Child;
- in the case of a new school - its proposed admission number, number of year groups, capacity, its location and accessibility, details of the proposed accommodation and, in the case of an SEN resource base in a mainstream school or a special school, information on the SEN of pupils;
- how the proposals will contribute to enhancing the quality of education and support for children with SEN;
- in the case of closure or reduction of age range - the quality of education provided at the school, the alternative schools to which pupils would go, the quality of education at those schools and the impact on journey times for pupils and on school transport;
- the impact on other schools or providers - particularly on alternative schools named in a closure proposal;

- the impact of proposals on the local community, particularly in rural areas;
- the impact of proposals on the Welsh language, where any school involved provides teaching through the medium of Welsh;
- the impact on SEN provision where proposals relate to a special school or involve dedicated SEN provision in a mainstream school;
- the impact on faith-based provision where the proposal concerns a school with a religious character;
- forecasts of pupil rolls at all schools likely to be affected by the proposal;
- information about the capacity of all schools likely to be affected by the proposal;
- the impact on staff of schools named in a proposal;
- the costs of the proposal - capital and recurrent, how funding will be provided and/or how any capital receipts or recurrent costs savings will be deployed;
- the projected timetable for statutory procedures and for implementation of the proposal;
- details of how people can make their views known including consultation meetings and in writing and the deadline for written comments; and
- a pro-forma for comments, including an opportunity for consultees to register their wish to be notified of publication of the consultation report.

6. The Welsh Ministers consider that the **Statutory Code** approach will require all those involved in putting forward school organisation proposals to adhere to best practice when they do so, which should result in better understood proposals, more thoroughly tested at consultation stage and before, and capable of implementation with reduced disruption. A template consultation document is included at Annex E, together with a list of those who should be consulted.

Q4. Should proposers be required to publish a consultation document?

Q5. If so, should the content of the consultation document (and other matters) be specified in a Statutory Code?

Q6. Is the list of matters to be included, as set out in the template document appropriate? Should anything else be included?

Q7. For promoters: Would the template document contained in Annex E be a useful tool in producing future consultation documents?

## Handling of consultation

7. Welsh Ministers have it in mind that the **Statutory Code** on School Organisation would also specify:

- consultation to commence during the term time of the schools affected;
- consultation to run for a minimum of 6 weeks with at least half of the consultation period falling in term time; and
- that the consultation document be issued to:
  - any local authority likely to be affected - including in the case of dedicated SEN provision any authority placing or likely to place statemented pupils in it;
  - diocesan authorities for the area affected;
  - the governing bodies of any school which is the subject of the proposal and of other schools likely to be affected by the proposal, including those that might receive any displaced pupils;
  - parents, teachers and pupils of those schools;
  - in the case of 11-18 schools any Further Education Institution serving the area of the school;
  - in the case of proposals affecting secondary provision, parents and pupils of feeder primary schools;
  - in the case of nursery provision any independent providers who may be affected;
  - in the case of nursery provision, early years and childcare partnerships;
  - in the case of SEN provision, any relevant health or voluntary bodies with an interest;
  - Members of Parliament (MPs) and Assembly Members (AMs) representing areas affected by the proposal;
  - any community or town council for the area of the school subject to the proposal;
  - the Welsh Assembly Government (DCELLS); and
  - Estyn
- that the proposer publish a **consultation report** following the end of the period allowed for response:
  - summarising each of the issues raised by consultees;
  - responding to these by means of clarification, amendment to the proposal or rejection of the concerns;
  - identifying any issues raised by the Welsh Assembly Government and how these have been addressed;

- setting out Estyn’s view of the overall merits of the proposal in terms of school provision in the local authority area; and
- that recommends to the decision maker - normally the Cabinet of the local authority or the Governing Body or the sponsoring body in the case of a promoter - how to proceed i.e. to publish proposals as consulted on with any appropriate modifications, to abandon the proposals and retain the status quo or to significantly recast the proposals and re-consult.
- that the consultation report be sent to Welsh Assembly Government, Estyn, MPs, AMs, relevant community or town councils, governing bodies of affected schools.
- that the report be published electronically and consultees who had requested notification advised of its availability.

8. The Welsh Assembly Government would, in considering the consultation document during the consultation period, challenge the proposers if it considered that the basis of the proposal or the handling of the consultation were deficient in any significant way. If the Welsh Assembly Government took the view that the consultation did not meet requirements, proposers would be expected to re-start the process.

9. The **Statutory Code** on School Organisation might place a time limit of 3 months from close of consultation to taking a decision on how to proceed. If that could not be achieved the proposer would have to apply to Welsh Ministers for an extension of time, otherwise the proposal would lapse and a new consultation would be necessary to revive it. The proposer could decide to abandon the proposal, to amend significantly the basis of the proposal, in which case a fresh consultation would be necessary, to modify the proposal or to proceed without any modification.

Q8. Do you agree:

- a. consultation documents should only be published during term time?
- b. consultation should run for a minimum of 6 weeks, with at least half of the consultation period falling in term time?
- c. with the list of those who should be consulted?

If not, what would you wish to change/add?

Q9. Do you agree that the proposer should publish a consultation report setting out the issues raised and the responses to them; Estyn’s assessment; and recommending how to proceed?

Q10. Should a time limit be set on deciding how to proceed? If so, should that limit be 3 months from the close of consultation? Should proposers be able to apply to Welsh Ministers for an extension of time?

## Publication of statutory proposals

10. In the event of a decision to proceed, the proposer would be required to publish the proposal in a local newspaper; on its website if it had one and on the website of the (proposed) maintaining authority; and to post it at the main entrances of the school specified in the proposal. Copies would also have to be sent to the Welsh Assembly Government, Estyn, MPs, AMs, any community or town council, the governing bodies of affected schools and, in the case of proposals affecting 11-18 provision, Further Education Institutions serving the area.

11. Publication would have to be timed so that the majority of the 4 week objection period fell in term time.

Q11. Are the proposed publication requirements appropriate? If not, what would you want to change?

## Content of the statutory notice

12. The statutory notice content would be substantially similar to the present requirements except that that time limit for objections could be set at 4 weeks instead of 2 months, and other minor additions, noted below in bold. The notice would have to include:

- the name of the persons or body publishing the proposal;
- the planned date or dates if implementation is to be staged;
- details of how to obtain a copy of the consultation report; and
- the date by which objections should be sent and the address to send them to, **and the form of objection so as to ensure that those objecting clearly identify their interest in the proposal.**
  
- for proposals to establish a new school:
  - its location [**with detail of address**];
  - its category - community, foundation, voluntary, community special, foundation special;
  - for a special school, information on the SEN of pupils;
  - whether it will be single or mixed sex;
  - whether the admission arrangements will make any provision for selection by aptitude or banding;
  - whether it will have a religious character, and if so the nature of that character;
  - **the proposed linguistic character of the school;**
  - proposed arrangements for transport of pupils;

- the number of pupils to be admitted in each relevant age group in the first year of implementation or at each stage of implementation;
  - **the proposed capacity of the school;**
  - **the age range of the school; and**
  - whether the governing body or the local authority will be the admissions authority.
- for proposals to alter a school:
    - a description of the proposed alteration;
    - where the alteration involves enlargement, **or a reduction in capacity**, the current number of pupils, the capacity of the school and the proposed capacity;
    - the number of pupils to be admitted in each relevant age group in the first year of implementation or at each stage of implementation; and
    - in the case of a change in the type of SEN provision, the alternative provision for pupils and the impact on school transport.
  - for proposals to close a school:
    - details of the alternative school(s) which pupils can attend, including any interim arrangements;
    - details of any measures being taken to increase the number of places available in alternative schools; and
    - arrangements for transport of pupils to alternative schools.

Q12. Do you agree with the proposed content for statutory notices? If not, what should be added or removed?

## Making objections to proposals

13. Currently objections are submitted to the local authority when it is the proposer and to the Welsh Ministers in the case of proposals by promoters or governing bodies. Where the objections are made to the Welsh Assembly Government, it seeks responses from the promoters or governing bodies. Welsh Ministers have it in mind that in future all objections should be lodged with the proposer, as this will reduce risk of unnecessary delay in the process. Proposers would be expected to proactively prepare a response to the objections submitted to them, as local authorities are required to do now. The purpose of, and process for dealing with, the resultant report, is detailed at paragraph 20 below.

Q13. Do you agree that in future all objections should be lodged with the proposer?

## Who can object?

14. Currently anyone is able to object to a proposal on any grounds. A single objection triggers determination of the proposal by Welsh Ministers. This is costly and time-consuming for all concerned; and means that decisions which should be made locally are often handled at Welsh Minister level. For example, of 42 notices for school reorganisation published between 1 August 2009 and 31 July 2010, 24 gave rise to objections requiring Ministerial decision. Of these, 7 proposals had resulted in single objections, and a further 5 resulted in 5 or fewer objections. This suggests that most people directly affected by these specific proposals did not oppose them. Rejections by Welsh Ministers are uncommon. In the case of new or expanded provision rejections occur mainly because demand for such provision is judged not to have been proven. In the case of closures rejections occur mainly because the alternative provision is judged unsuitable in terms of quality of education, capacity, or type of provision. Approval of proposals modified by Ministers to address objections is more common.

15. The suggested tightening of the requirements at consultation and statutory notice publication stages is designed to improve the quality of proposals and address shortcomings of the sort which at present lead to rejection of proposals or their modification by Welsh Ministers.

16. Against that background it is envisaged that in future proposals would only be determined by Welsh Ministers if the objectors included:

- a local authority; i.e. the maintaining authority in the case of a proposal by a promoter or a governing body or a neighbouring authority,
- a diocesan authority for the area affected by proposals, or
- in the case of proposals for 11-18 education, a further education institution drawing post 16 students from the area affected by proposals.

17. Objections from these bodies are likely to indicate that the proposal has more than local impact and Ministerial determination would be appropriate.

18. Welsh Ministers envisage that objections by other categories of objector would lead to local determination. Those other categories of objector would be limited to:

- MPs and AMs representing areas affected by the proposals;
- governing bodies of schools named in proposals;
- staff of schools named in proposals;
- children and young people attending, or who might reasonably have wished to attend schools named in proposals;

- parents<sup>7</sup> of children attending schools named in proposals or parents who might reasonably wish their children to attend such schools i.e. parents of children attending feeder schools or living in a relevant catchment area; and
- community and town councils for the areas of affected schools.

19. The need for local determination would be triggered by an objection from a governing body, MP or AM, or by a minimum of 10 objections from community/town councils and individuals in the other categories. If fewer than this minimum arose, promoters would determine whether or not to proceed. This threshold would be likely to reduce the proportion of proposals requiring determination other than by the promoter of the proposal. Welsh Ministers consider that the benefit of local determination would be to ensure that as many decisions on school reorganisation are taken at local level as possible, by replacing independent national scrutiny by Ministers with an effective local system.

Q14. Should the right to object be restricted to those groups identified in paragraphs 16 and 18 above? If not who should be added to or removed from the list?

Q15. Do you agree that the only proposals automatically determined by Welsh Ministers should be those attracting objections from a local authority, a diocesan authority or an FE institution? If not, who would you say should be included?

Q16. Should the trigger point for a local determination be an objection by an affected governing body, an MP or an AM; or a total of 10 objections from community/town councils, school staff, pupils or parents? If not, what do you consider the trigger point should be?

## Objection report

20. Proposers would have 4 weeks from the end of the objection period to publish an **objection report**. This would need to include the content of the consultation stage report and cover, in addition, any new issues raised in objections. Within that 4 week period proposers would need to decide whether to go ahead with the proposal or whether to withdraw it. If the proposer decided to proceed the matter would be determined by Welsh Ministers, or on a local basis as appropriate. Welsh Ministers would aim to determine proposals falling to them within 3 months of receipt of the proposer's objection report.

<sup>7</sup> Section 576 of the Education Act 1996 provides that in relation to a young person or child, the term "parent" includes any person who is not a parent but who has parental responsibility (as defined by the [Children Act 1989](#)) or care of the child.

Q17. Do you agree that proposers should be required to prepare an objection report and submit it to the local decision maker within 4 weeks from the end of consultation?

Q18. Do you anticipate that local authority decision making cycles could be adapted so as to make a decision to proceed within 4 weeks from the end of the objection period?

## **Local determination**

21. A determination to open, close or alter a school has to be taken by a legal entity which can ultimately be held to account by the Courts for the decision it takes. Local authorities, governing bodies and Welsh Ministers are currently the legal entities which make determinations.

22. There are two possible forms of local determination. One would be to create a separate statutory body, independent both of proposers and Welsh Ministers. The independent adjudicator system in England is an example of such an arrangement. However, Welsh Ministers are not minded to set up a new statutory body entirely separate from either local authorities or the Welsh Assembly Government, as this would cut across their wish to streamline procedures and ensure more decisions are taken locally. It would also involve additional cost.

23. Another potential form would be a local decision making body set up to make the local authority's decision. It would act as a decision making committee for any proposals which had resulted in sufficient relevant objections, at arms length from the executive. Careful consideration would need to be given to the constitution of such a committee, which might consist of a politically balanced group of locally elected members with no interest in the proposal being determined. Such a committee would need to restrict membership so as to exclude members of the Executive, or others who had been involved in the development of proposals prior to its publication. This might argue for a fairly substantial group of members being identified as those who might serve on such a committee, so that, as the need arose, a suitably balanced committee could be formed. Such an arrangement would need to be transparent and testing to enable it to command confidence.

24. There are potential difficulties with this approach. Interested parties outside the local authority could judicially review a decision of the local authority made by such an arms-length committee. The local authority executive would, however, be unable to challenge a decision with which it did not agree. A further difficulty would be that should a decision making body reach a decision that was unpalatable to both the executive and a section of the public, and a public challenge was lodged, the local authority might be disinclined to defend the decision. This could potentially compromise the decision makers' independence by influencing them to produce decisions that the executive would be willing to defend.

25. An alternative to the structure suggested in paragraph 23, might be a decision making panel constituted by the local authority but with a separate legal identity. It

could have panel members that were not members of that local authority but were made up of local people not directly connected with any school that would be affected by proposals. It would be necessary for some members to have professional expertise in the field of education, but not for all members to be in this category. The panel might have a number of members which could then be selected for particular contested proposals, so as to ensure that there was no conflict of interest. The panel members could be paid an allowance under the [Local Government Act 1972](#), as amended<sup>8</sup>, and would be indemnified by the local authority against any legal costs in connection with decisions. Similar panels already exist to deal with admissions and exclusion appeals.

26. In the event of such arrangements, Welsh Ministers would issue guidance to Decision Making Panels/Committees (“Decision Makers”) on the factors they were to take into account in arriving at their decision and the options available to them. The factors to be taken into account would broadly be those currently set out in Circular 21/2009. It is suggested that the Decision Makers would have 4 weeks in which to convene and consider the objection report and to determine whether or not to approve a proposal or to refer the proposal back to the promoter and recommend that they propose a modification which could then be considered for approval.

27. If the proposer were a local authority and its executive was not minded to accept a recommendation of a modified proposal, the effect would be the same as if the proposal were rejected. If the proposer was a governing body or a promoter and it was not minded to accept a recommendation for a modified proposal, the effect would also be the same as if the proposal were rejected.

28. Decision Makers would be expected to do their utmost to reach a conclusion on any proposals before them, in the interests of all affected. A difficulty could arise if the Decision Makers declined or failed to make a recommendation. It is proposed that if this were to occur, the proposal would lapse and would in effect, be rejected. In order to avoid this danger, Decision Makers might be constituted to have an odd number of members for each decision so that a majority vote could be taken.

29. Welsh Ministers recognise that there would be some costs involved in administering an independent Decision Maker, but consider that whilst the costs to any local authority would vary year on year, overall, these should not be substantial.

Q19. Do you agree that where there are local objections a decision making panel or committee should be established to decide whether the proposal should be implemented, modified or rejected? Should the committee consist only of those who do not have an interest in the proposal under scrutiny?

Q20. Should the decision making panel/committee have membership broadly as set out in paragraph 23 or, alternatively, as in paragraph 25? If not, how should a decision making body be constituted?

<sup>8</sup> As amended by the [Local Government and Housing Act 1989](#) and the [Local Government, Planning and Land Act 1980](#).

Q21. Do you agree that the decision makers should have 4 weeks within which to make its recommendation? If this is not considered sufficient time, what timescale would be more appropriate?

Q22. Do you agree that if the proposer did not accept a recommendation to modify the proposal, then the proposal would be considered rejected?

Q23. Do you consider that if the decision makers failed to make a recommendation a proposal should lapse?

Q24. For local authorities: What costs might be incurred by local authorities in establishing and supporting a decision making panel/committee for school organisation proposals?

### **Call-in by Welsh Ministers**

30. Welsh Ministers envisage that they would have a power to call-in any proposal but that its use would be wholly exceptional. It could be used if the Welsh Assembly Government had raised significant concerns at consultation stage which had not been addressed; or Estyn had concluded that the proposal was not in the overall educational interests of children in the area but the proposers had decided to go ahead.

31. Call-in would be notified no later than 2 weeks after the end of the objection period, giving proposers a further 2 weeks to complete the objection report and, unless they decided to withdraw the proposal, to submit it to Welsh Ministers.

Q25. a. Should Welsh Ministers have a fall-back power to call-in proposals for determination?

b. If so, should this only be used in exceptional circumstances?

c. What do you consider those circumstances might include?

### **Modified arrangements for closure of mainstream small schools**

32. The fall in overall pupil numbers in the last decade means that local authorities and governing bodies may need to consider closure of mainstream small schools, often, but not solely, in rural areas. Such schools may be unsustainable in educational or financial terms. Welsh Ministers consider that some simplification of procedures might be appropriate in such cases. A pupil threshold would have to be set to identify those schools where simplified procedures could be applied. One option might be to allow a proposer to move straight from statutory consultation to determination - with safeguards provided by the requirements to seek the views of Estyn and the Welsh Assembly Government and produce a consultation report as the basis for determination. Another option would be to continue to require the publication of statutory notices and offer scope for objections but in the event of

objections, allow the proposer to determine the proposal without a local determination stage or determination by Welsh Ministers.

Q26. Should modified procedures be available for proposals for closure of mainstream small schools?

Q27. If so what should the pupil threshold be? Should it be 15 or 20 or higher?

Q28. Should simplification take the form of omitting the statutory notices and objections stage? Or in the event of objections should the local review or determination by Welsh Ministers stage be omitted? Would any other modification of the full process be appropriate?

### **Closure of schools with no pupils**

33. Currently even when a school has no pupils the local authority or governing body has to go through the full statutory process to secure closure. Welsh Ministers are minded to remove this requirement when the local authority or governing body (in the case of a foundation or voluntary school) is satisfied that no pupils will return at the start of the next school year and no parents have applied for admission of their children; or where at the start of the school year there are no pupils on roll. In such circumstances the local authority or governing body might be permitted to give notice that the school would close. The notice would need to cover the date of closure - probably not less than a month from the date of the notice - the alternative schools to which children living in the area served would in future be admitted and, where appropriate, the arrangements for provision of school transport. Separately the local authority or governing body would need to address the issues of redeployment or redundancy of staff and the future use or disposal of the premises.

Q29. Should the requirement for statutory proposals for closure be removed when a school has no pupils, to be replaced by notification of closure by the local authority or governing body?

### **Determination of proposals not requiring ministerial determination or local review**

34. If a proposal did not attract any objections or the threshold of 10 community/town council and individual objections was not reached to trigger a local review, determination of whether or not to proceed would be a matter for the proposer. Proposers would need to make their determination within 4 weeks of the end of the objection period.

### **Implementation of approved proposals**

35. Currently once a proposal has been approved the proposer is under a statutory duty to implement it in accordance with the timings contained in the

proposal. If the proposer is unable to implement the proposal to time or at all, then the agreement of Welsh Ministers is required to change the timing or to abandon the proposal.

36. In future it is envisaged that if the circumstances changed so that implementation was put back by a school year or more; or meant that it was unreasonably difficult for a proposal to be implemented, the proposer would need to give notice to the original consultees and any objectors of the retiming of the proposal or its abandonment. Any retiming of more than 3 years would constitute abandonment of the proposal and its revival would require a fresh consultation. Similarly if there were significant change made to a proposal after it had been approved the proposer would have to abandon it and start with a fresh consultation. Amendments which would in effect result in a new proposal and thus constitute significant change would include any alteration which would itself need a statutory proposal such as - a change to a location not consulted on, a change in the age range of pupils, a change of category of school or a change in pupil numbers of more than 25% (10% in the case of a special school).

Q30. Do you agree that proposers should be able to give notice of a change of timing of a proposal by up to 3 years or the abandonment of a proposal without reference to Welsh Ministers?

### **Rationalisation of school places**

37. Welsh Ministers would intend to retain the existing fall-back powers in the SSFA 1998 enabling them to give directions to local authorities and governing bodies to bring forward proposals for rationalisation of school places i.e. to provide more or fewer places by opening, closing or altering schools; and enabling them to bring forward proposals for rationalisation. Although the existing powers have not been used, circumstances could arise where a local authority or governing body had failed to take action to match supply of school places to demand and Welsh Ministers needed to intervene.

Q31. Do you agree that Welsh Ministers should continue to have fall-back powers to address rationalisation of school places for use in cases where local authorities or governing bodies have failed to take action to match supply and demand? If not, how would you suggest this problem should be addressed?

## **Annex A - Related documents**

- Children Act 1989.
- Defining schools according to Welsh medium provision - Welsh Assembly Government Information Document No: 023/2007.
- Education Act 1996.
- Local Government Act 1972.
- Local Government and Housing Act 1989.
- Local Government, Planning and Land Act 1980.
- Measuring the Capacity of Schools in Wales - National Assembly for Wales Circular No: 09/2006.
- School organisation proposals - Welsh Assembly Guidance Circular No: 021/2009.
- School Standards and Framework Act 1998.
- School Standards and Framework Act 1998: Organisation of School Places - National Assembly for Wales Circular 9/99.
- The Change of Category of Maintained Schools (Wales) Regulations 2001.
- The Education (Maintained Special Schools) (Wales) Regulations 1999.
- The Education (School Organisation Proposals) (Wales) (Amendment) Regulations 2004.
- The Education (School Organisation Proposals) (Wales) Regulations 1999.
- The Education (School Premises) Regulations 1999.
- United Nations Convention on the Rights of the Child.

## Annex B - List of schools consulted

- Bute Cottage Nursery School
- Kimberley Nursery School
- Ysgol Gynradd Cemaes
- Ysgol Gynradd Llanddona
- Ysgol Gynradd Pencarnisiog
- Ysgol Goronwy Owen
- Ysgol Parc Y Bont
- Ysgol Gynradd Bethel
- Ysgol Gynradd Chwilog
- Ysgol Llanbedrog
- Ysgol Pentreuchaf
- Ysgol Waunfawr
- Ysgol Bro Tegid
- Ysgol Edmwnd Prys
- Ysgol Cefn Coch
- Ysgol Ffridd Y Llyn
- Ysgol Tregarth
- Ysgol Deganwy
- Ysgol Rowen
- Ysgol Bod Alaw
- Ysgol Sant Elfod
- Ysgol Pentrefoelas
- Ysgol Llanddulas
- Ysgol y Castell
- Bodnant Junior School
- Ysgol Gellifor
- Ysgol Y Llys
- Ysgol Tremeirchion
- Ysgol Maesglas
- Saltney Wood Memorial C.P. School
- Sandycroft C.P. School
- Golftyn C.P. School
- Broughton Infants School
- Nannerch VC Primary School
- Rector Drew V.A. School
- Pontfadog C.P. School
- Bwlchgwyn C.P. School
- Barker's Lane C.P. School
- Ysgol Penrhyn
- St Peter's CIW VC Primary
- All Saints Voluntary Aided Primary
- Berriew C.P. School
- Ysgol Meifod
- Brynhafren C.P. School
- Franksbridge C.P. School
- Ysgol Dolafon
- Caehopkin C.P. School
- Bronllys C.P. School
- Forden C.I.W. School
- Knighton C.I.W. School
- Llanbedr C.I.W. (Aided) School
- Ysgol Gynradd Dihewyd
- Comins Coch C.P. School
- Ysgol Llwyn-Yr-Eos
- Llanwnnen C.P. School
- Ysgol Gynradd Bronnant
- Ysgol Penrhyn Coch
- Sageston C.P. School
- Ysgol Llanychlwydog
- Saundersfoot C.P. School
- Roch C.P. School
- Pennar Community School
- Stackpole V.C.P. School
- St Francis Catholic Primary School
- Ysgol Gynradd Gorslas
- Meidrim C.P. School
- Cwmifor C.P. School
- Ysgol Gynradd Llanwrda
- Bryn C.P. School
- Lakefield C.P. School
- Parc Y Tywyn School
- Halfway C.P. School
- Stebonheath C.P. School
- Ysgol Bro Brynach
- Ferryside V.C.P. School
- Brynhyfryd Infants School
- Grange Primary School
- Sketty Primary School
- Mayals Primary School
- Bishopston Primary School
- Llanmorlais Primary School
- Tregwyr Junior School
- Glyncollen Primary School
- St Thomas Community Primary
- Blaenhonddan Primary School
- Cwmafan Junior School
- Glanymor Primary School
- Tonmawr Primary School

- Ynysfach Primary School
- Tairgwaith Primary School
- Coedffranc Primary School
- Blaengarw Primary School
- Llangynwyd Primary School
- Plasnewydd Primary School
- Cefn Glas Infant School
- Oldcastle Primary School
- Albert Primary School
- Llancarfan Primary School
- St Illtyd's Primary School
- Eagleswell Primary
- St Andrews Major C.I.W. Primary
- Alaw Primary School
- Cwmlai Primary School
- Hawthorn Primary School
- Cwmdar County Primary School
- Glynhafod Junior School
- Trallwng Infants School
- Ton Pentre Junior School
- Glenboi Primary School
- Ynyswen Infant School
- Ysgol G.G. Evan James
- Gwauncelyn Primary
- Aberdare Town C.I.W. Primary
- Heolgerrig Primary School
- Twynyrodyn Community School
- Markham Primary School
- Waunfawr Primary School
- Nant Y Parc Primary School
- Ysgol Gymraeg Gilfach Fargoed
- Machen Primary School
- Ysgol Gynradd Gymraeg Y Castell
- Tyn-y-Wern Primary
- Ysgol Penalltau Primary
- Briery Hill Primary School
- Roseheyworth Millennium School
- Hillside Primary School
- Greenmeadow Primary School
- Penygarn Primary School
- Gilwern C.P. School
- Thornwell Primary School
- Cantref Primary School
- Our Lady & St Michael's School
- Lliswerry Primary School
- Caerleon Endowed Junior School
- Malpas Park Primary School
- High Cross Primary
- Oakfield Primary School
- Meadowlane Primary School
- Dosbarth Derwen
- St Mellons C.I.W. Primary School
- St Paul's C.I.W. Primary School
- St David's C.I.W. Primary School
- Ysgol Dyffryn Nantlle
- Ysgol Glan Y Mor
- Ysgol Uwchradd Glan Clwyd
- St David's High School
- Ysgol Bryn Alyn
- Ysgol Bro Ddyfi
- Ysgol Gyfun Llanbedr-Pont-Steffan
- Pembroke School
- Glan-y-Mor School
- Olchfa School
- Dylan Thomas Community School
- Cwmtawe Community School
- Brynteg School
- St Richard Gwyn R.C. High School
- Treorchy Comprehensive School
- Cardinal Newman Comprehensive
- St Cenydd Comprehensive School
- Glyncoed Comprehensive School
- West Monmouth School
- Newport High School
- Llanedeyrn High School
- St Illtyd's Catholic High School
- Maindee C.P. School
- Gabalfa Primary School
- Pentrebane Primary School
- Trowbridge Junior School

## Annex C - Proposals requiring school organisation procedures

The School Standards and Framework Act 1998 ("the 1998 Act") and the Education (School Organisation Proposals (Wales) Regulations 1999, as amended<sup>9</sup>, provide for the publication of statutory proposals in relation to the following changes to school organisation:

- the opening of a new community, foundation, community or foundation special school or voluntary school;
- the opening of a new maintained nursery school;
- the closure of an existing community, foundation, community or foundation special school voluntary or maintained nursery school;
- the enlargement of the premises of a school (excluding nursery and special schools), where this would increase the capacity of the school by more than 30 pupils and, taken together with any previous enlargement, represents an increase in the capacity of the school by 25%, or 200 pupils whichever is the lesser; unless the school is expected to revert to its existing physical capacity within three years. Any previous enlargement of capacity is taken from the "appropriate date", that is whichever is the latest date of:
  - date falling five years before the intention is formed to make the enlargement;
  - the date on which the school opened;
  - the date (or the latest date) when any previous statutory proposals that involved enlarging the premises of the school were implemented.

For the purposes of an enlargement of school premises "capacity" is to be determined in accordance with the formulae set out in [National Assembly for Wales Circular No: 09/2006 Measuring the Capacity of Schools in Wales:](#)

- the making permanent of a temporary enlargement of the school;
- for special schools (except where the school is in a hospital), an increase in the number of pupils for whom the school makes provision which, when taken together with all such previous increases in the number of pupils, would increase the number of pupils by 10% or the relevant number of such pupils (whichever is the lesser)(the relevant number is 5 where the school only makes boarding provision, and is 20 in other cases). Any previous increase in the number of pupils is taken from the appropriate date (the appropriate date corresponds with the dates applying to mainstream schools);

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<sup>9</sup> [The Education \(School Organisation Proposals\) \(Wales\) \(Amendment\) Regulations 2004.](#)

- the enlargement, or making permanent of temporary enlargement, of the teaching space at a nursery school, by 50% or more;
- a change of category e.g. from community, foundation, voluntary aided or voluntary controlled to another of these categories;
- a change in the age range of a school (including a special school) by a year or more, including the addition of provision for nursery children and the addition or removal of a sixth form, but excluding the introduction or discontinuation of part-time or full-time Further Education or providing or removing provision for pupils over compulsory school age who are repeating a course of education completed before they reached compulsory school age;
- the addition or removal of provision (in mainstream schools) which is recognised by the local authority as reserved for pupils with special educational needs;
- a change in the type of special educational needs for which a special school makes provision;
- the introduction of banding arrangements for the admission of pupils into a mainstream school (section 101 of the 1998 Act);
- changing a school (including a special school) from single-sex to mixed or vice versa. (A school is treated as admitting pupils of one sex only if the admission of pupils of the other sex is limited to pupils over compulsory school age, and does not exceed 25% of the age group in question);
- where a school (including a special school) teaches any year group some, but not all, relevant subjects (wholly or mainly) through the medium of Welsh and it is proposed to increase or decrease the number of subjects which are taught to that year group (wholly or mainly) through the medium of English by three or more in a primary school or four or more in a secondary school;
- where a school (including a special school) teaches any year group some, but not all, relevant subjects (wholly or mainly) through the medium of English and it is proposed to increase or decrease the number of relevant subjects taught to that year group (wholly or mainly) through the medium of Welsh by three or more in a primary school or four or more in a secondary school;
- where a school (including a special school) teaches any year group every relevant subject (wholly or mainly) through the medium of Welsh and it is proposed to teach two or more relevant subjects in primary schools or three or more relevant subjects in secondary schools to that age group (wholly or mainly) through the medium of English;
- where a school (including a special school) teaches any year group every relevant subject (wholly or mainly) through the medium of English and it is proposed to teach two or more relevant subjects in primary schools or three or more relevant subjects in secondary schools to that age group (wholly or mainly) through the medium of Welsh;

- where any pupils are taught any relevant subject (wholly or mainly) through the medium of English and proposals are made to teach all pupils all relevant subjects (wholly or mainly) through the medium of Welsh;
- where any pupils are taught any relevant subject (wholly or mainly) through the medium of Welsh and proposals are made to teach all pupils all relevant subjects (wholly or mainly) through the medium of English;

Paragraph 6(7) of Schedule 2 to the Education (School Organisation Proposals) (Wales) Regulations 1999 defines "relevant subjects" as:

- a. religious education, and
  - b. the subjects other than English and Welsh which are foundation subjects, within the meaning of section 354 of the [Education Act 1996](#), in relation to one or more key stages as defined in section 355 of the Education Act 1996.
- the introduction or ending of boarding, or an increase or decrease in boarding provision in mainstream schools by 50 pupils or 50% of capacity, whichever is the greater;
  - for special schools, the alteration of boarding provision such that the number of pupils for whom provision is made is increased or decreased by 5 pupils;
  - the transfer of a mainstream school (excluding a nursery school) to a new site, except where the transfer is to the school's playing fields; or where the premises cannot (a) be brought up to the prescribed standards (currently [the Education \(School Premises\) Regulations 1999](#) (SI No 1999/2)), or (b) it is not reasonably practicable to enlarge the teaching accommodation to the required size, and the main entrance of the new site is within 3.218688 kilometres (2 miles) of the main entrance of the existing site;
  - the transfer of a special school to a new site except the transfer to a site which formerly consisted of playing fields used by the school;
  - the transfer of a nursery school to a new site, except where the new site is within 1.609344 kilometres (one mile) of the main entrance of the school on its old site.

### **Proposed additions and alterations to the list of matters requiring the publication of school organisation proposals**

It is proposed that the above list of school organisation proposals is changed so that:

- the opening of a new community, voluntary school, or special schools would require statutory proposals but the opening of a new foundation school would no longer be permitted (with the exception of a new foundation special school).

- the reduction in the physical capacity of a mainstream school, except where proposed capacity of the reduced school will be greater than the highest number of pupils on roll at the school at any time in the previous two school years. In this context, "capacity" is to be determined in accordance with the formulae set out in **National Assembly for Wales Circular No: 09/2006 Measuring the Capacity of Schools in Wales**.
- a change of category from community, foundation, voluntary aided or voluntary controlled to community, voluntary aided or voluntary controlled would require statutory proposals but community and voluntary schools would no longer be able to become foundation schools (except for special schools).
- the transfer of any school to a new site, except where the new site is within 1.609344 kilometres (one mile) of the main entrance of the school on its old site, would require statutory proposals but the current building size and condition related criteria would no longer apply.

## Annex D - Who can publish a proposal?

### Section 1

The following table sets out the powers to publish proposals under the School Standards and Framework Act 1998.

NB: the powers of local authorities in relation to foundation and voluntary schools do not include the making of proposals for prescribed alterations, such as extending or reducing the age range.

<b>Local Authority</b>	<b>Governors of Foundation or Voluntary Schools</b>	<b>Promoters</b>	<b>Governors of Community schools</b>
All proposals in respect of community schools	Proposals to make a prescribed alteration to their school		
Proposals to establish a new foundation school		Proposals to establish a new foundation or voluntary aided school	
Proposals to discontinue or enlarge the premises of a foundation school	Proposals to discontinue their school		
Proposals to discontinue a voluntary school	Proposals to discontinue their school		
Proposals to be relieved of the duty to implement previously approved proposals published by the local authority	Proposals to be relieved of the duty to implement previously approved proposals published by the governing body	Proposals to be relieved of the duty to implement previously approved proposals	
Proposals to change the category of community schools	Proposals to change the category of the school		Proposals to change the category of the school

In addition to the above, the Welsh Ministers currently have the following powers in relation to the publication of school organisation proposals:

- Direct the local authority to publish proposals for the establishment, alteration and discontinuance of schools where there is either an excessive number of places or insufficient places.

- Direct the governing body of a voluntary or foundation school to publish proposals to make an alteration to the school where there is an excessive number of places or insufficient places.
- Publish its own proposals where direction has been given. It may make the kind of proposals that might have been made in accordance with the direction.
- Publish proposals to add or remove sixth forms where an existing sixth form is failing to provide a satisfactory standard of education or in order to promote one or more of the following:
  - a. an improvement in the educational or training achievements of persons who are above compulsory school age but below the age of 19;
  - b. an increase in the number of such persons who participate in education or training suitable to the requirements of such persons; and
  - c. an expansion of the range of educational or training opportunities suitable to the requirements of such persons.

## Annex E - Consultation document template

The following template sets out the principal elements which the promoters of school organisation proposals would be expected to include in the mandatory consultation document. This outline of the contents is not exhaustive and promoters would be expected to include additional elements depending on the context of the proposals under consideration. The template document is followed by a proposed list of statutory consultees.

### Introduction - Explanation of the consultation exercise

This section would set out that the promoters were considering the reorganisation of school places in a particular area and name the school/s affected. It would explain that before moving forward with its proposals, the promoters wished to seek the views of all those with a likely interest in the proposal/proposals so that their views can be taken into account before decisions are made.

This section should then set out the process by which consultation will be conducted, including:

- a list of all those consulted;
- if meetings are to held, the date, time, venue and audience of any such meetings (allowing sufficient notice for likely attendees);
- the name and address of the person to whom written comments on the proposal/s should be sent, and the deadline for the receipt of these comments (allowing the opportunity for written comments to be made is mandatory);
- the arrangements made for children and young people to participate; and
- the details of any other consultation arrangements such as open days, exhibitions etc.

### Background to the proposal/s

This should set out the following details for all schools affected or likely to be affected by the proposals, including schools which might in future be expected to receive additional pupils, and special schools:

- location;
- capacity (based on **National Assembly for Wales Circular No 09/06: Measuring the Capacity of School in Wales**) plus nursery/sixth form places where applicable;
- age range;
- number on roll (plus nursery/sixth form numbers where applicable);
- pupils number forecasts for next five years;

- category of school (community, voluntary aided, voluntary controlled, foundation);
- language medium category (based on Welsh Assembly Government Information [Document No: 023/2007](#) - Defining schools according to Welsh medium provision);
- designated religious character (where applicable);
- school performance data/inspection report details; and
- details of any special educational needs provision.

This section should also explain why the current schools provision is considered inadequate or unsatisfactory by reference, as appropriate, to the **Key Principles, Policies and Issues** set out in Section 1 of **Welsh Assembly Government Circular No: 021/2009 School Organisation Proposals** (“Circular No: 021/2009”).

### **The proposals - Description and rationale**

This section should set out the precise nature of the intended change/s, including the effect on all schools which are the subject of the statutory proposal/s, involved in its implementation, and all those which are likely to be affected.

The following information should be included, as appropriate:

- The expected revisions to the local school data (as set out in the background section above) once the proposals are implemented.
- Details of any transition arrangements.
- Revenue savings/costs.
- Capital funding costs, including the source of any such funding.
- Description of any new accommodation.
- Proposed new admission arrangements.
- Proposed new transport arrangements.
- Staffing issues.
- Community Impact Assessment.
- Welsh Language Impact Assessment.
- Benefits to children and young people, in accordance with the provisions of the UN convention on the Rights of the Child.

This section should also set out the rationale for change - the benefits that the changes will bring with reference to Section 2 of **Circular No: 021/2009**. If appropriate, the disadvantages of the proposals should also be set out with an explanation of why these disadvantages are outweighed by the benefits. The paramount importance of educational standards should be emphasised, and there should be direct reference to how the proposal would benefit overall education

provision in the locality and other factors under this heading in Section 2 of **Circular No: 021/009**.

Consideration of alternatives, if appropriate, and reasons why these have not been pursued, should also be included.

### **Explanation of the statutory process**

This section should set out the statutory process by which the proposals will be published and determined including the intended date of publication of the notice/s; an explanation of the objection period and the ways in which objections will be treated; and, an explanation of the different routes for determination (i.e. either locally by proposer or decision making panel/ committee, or by the Welsh Ministers).

### **Response Pro-forma**

A response pro-forma for comments, including an opportunity for consultees to register their wish to be notified of publication of the consultation report should be attached to the consultation document.

### **List of proposed statutory consultees**

The interested parties whom it proposed will constitute the statutory consultees/recipients are set out below. This list, and any which is eventually set out in statutory legislation/guidance, includes all those who must be included in the consultation conducted by the promoters of a school organisation proposal. However, it is expected that local authorities would also consult with interested parties who are not included in this list where that was appropriate in the context of a specific proposal:

- Estyn.
- Welsh Ministers.
- The governing body of any school which is the subject of a proposal or is likely to be affected by the implementation of a proposal.
- The teaching and ancillary staff of any school which is the subject of a proposal or is likely to be affected by the implementation of a proposal.
- The parents/guardians of pupils attending any school which is the subject of a proposal or is likely to be affected by the implementation of a proposal.
- Pupils of any school which is the subject of a proposal or is likely to be affected by the implementation of a proposal.
- The local authority which maintains any school which is the subject of a proposal or which is likely to be affected by the implementation of a proposal.
- The Roman Catholic and Church in Wales diocesan education authorities responsible for the area in which is located any school which is the subject

of a proposal or is likely to be affected by the implementation of a proposal.

- Assembly Members, Members of Parliament, local authority members and community councils representing the area in which is located any school which is the subject of a proposal or is likely to be affected by the implementation of a proposal.
- Professional associations and trade unions representing staff at any school which is the subject of a proposal or is likely to be affected by the implementation of a proposal.
- The Welsh Language Board where any school which is the subject of a proposal or is likely to be affected by the implementation of a proposal, is a Welsh medium or bi-lingual school.
- The local children and young people's partnership.
- Where a proposal relates to the provision of secondary education, the 14-19 learning pathways local area network, neighbouring colleges of further education, and relevant higher education and work based training providers.
- Where the proposal will add or take away provision for nursery age children, the local early years development and childcare partnership and local providers of early years provision which are likely to be affected.
- Where a school which is the subject of a proposal serves a communities first area/s, the relevant local communities first partnership board/s.
- Any organisation or group which uses the premises or facilities of a school which is the subject of a proposal or is likely to be affected by the implementation of a proposal, and which would itself be affected by the proposal.