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Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation Document

School Organisation Code

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Action required: Responses by 30 September 2017

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

School Organisation Code

Overview	<p>The School Standards and Organisation (Wales) Act 2013 requires that the Welsh Ministers issue a School Organisation Code. The code imposes requirements in accordance with which relevant bodies (the Welsh Ministers, local authorities, governing bodies and other promoters) must act. It also includes practical guidance to which relevant bodies must have due regard and sets out the policy context, general principles and factors that should be taken into account by those bringing forward proposals to reconfigure school provision and by those responsible for determining proposals.</p> <p>The current School Organisation Code came into force on 1 October 2013. Following three years of operation the code has been reviewed reflecting on feedback and learning during that period. The most substantial proposal is to strengthen the code in respect of a presumption against closure of rural schools. Your views are sought on this and on the other amendments.</p>
How to respond	<p>Responses to this consultation should be e-mailed/posted to the address below to arrive by 30 September 2017 at the latest.</p>
Further information and related documents	<p>Large print, Braille and alternative language versions of this document are available on request.</p> <p><i>School Organisation Code</i> http://gov.wales/topics/educationandskills/publications/guidance/school-organisation-code/?lang=en</p> <p>The School Standards and Organisation (Wales) Act 2013 http://www.legislation.gov.uk/anaw/2013/1/enacted</p> <p>Urban-Rural classification https://www.ons.gov.uk/methodology/geography/geographicalproducts/ruralurbanclassifications/2011ruralurbanclassification</p> <p>The consultation documents can be accessed from the Welsh Government's website at www.gov.wales/consultations</p>
Contact details	<p>For further information:</p> <p>School Organisation and Admissions Branch Education Directorate Welsh Government Cathays Park Cardiff CF10 3NQ e-mail: SchoolsManagementDivision3@wales.gsi.gov.uk Tel: 03000251356/03000251097</p>

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 Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh 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 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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Ministerial foreword

The School Organisation Code underpins the provisions introduced by the School Standards and Organisation (Wales) Act 2013. It has applied to all statutory school organisation proposals published by way of a statutory notice since it came into force on 1 October 2013. Taken together, the changes introduced by the Act and the Code have speeded up the school organisation process by ensuring that, wherever possible, decisions are taken at the local level. The current system has enabled more rapid decision making, which in turn helps to maximise educational opportunities for all children and young people, helping to raise levels of educational attainment.

We have reviewed the Code, following three years of operation reflecting on feedback received and learning over that period. A number of changes are proposed, which in the main provide clarity where that was needed. In addition, and by far the most substantial change proposed, is to strengthen the Code in respect of a presumption against the closure of rural schools.

The Welsh Government's has set out its commitment to successful sustainable rural communities in 'Taking Wales Forward'. I am clear that there can be real benefits - academic, cultural and social - to pupils and communities through the delivery of high-quality education in small and rural schools. I know, and parents across rural communities know, that small and rural schools play an important role in raising standards and extending opportunities for all. Indeed, they are often critical in engaging pupils and families from the most disadvantaged backgrounds in rural areas and raising pupil aspirations. I also know that maintaining the provision of an accessible school in some small, rural communities can make a significant contribution to the long-term sustainability of the local community.

I want to ensure that proposers do all they can to keep a rural school open before making the decision to consult on proposed closure. The aim is to ensure that the decision to propose and consult on closure is taken only after all alternatives to closure have been conscientiously considered, including federation. I believe that considering all viable alternatives should be a two-step process, with the proposer doing this before reaching a decision to consult on a closure proposal. They should also then consider any further options or suggestions that emerge during the consultation process. This might include federation with other schools or increasing the community use of school buildings to make the school more viable.

A presumption against the closure of rural schools does not mean that rural schools will never close. However, it does mean that the case for closure must be strong and not taken until all viable options to closure have been conscientiously considered, including federation.

I welcome your views on this and other proposed amendments to the Code.

What is this consultation about?

This consultation seeks views on a number of proposed changes to the School Organisation Code following three years of operation based on feedback and learning over that period. The most substantial change proposed is to strengthen the Code in respect of a presumption against closure of rural schools.

Why are we considering change?

Local authorities and other proposers must comply with the School Standards and Organisation (Wales) Act 2013 and the School Organisation Code and must consider a range of factors when proposing substantial changes to schools, the prime consideration being the interests of learners.

There is currently no presumption in favour or against the closure of any type of school. The current Code recognises that the prime purpose of schools is the provision of education and any case for closure should be robust and in the best interests of education provision in the area. However, the Code also recognises that in rural areas a school may also be the main focal point for community activity, and its closure could have implications beyond the issue of the provision of education, particularly if the school buildings are used as a place to provide services to the local community.

Closure of a rural school often means that children have to travel outside their local community to the next available school, while at the same time the community can lose the use of the school buildings and facilities. In some rural areas a school may be one of only a few services still left in the community, functioning as a focal point for community activities. Closure could therefore have implications for the future sustainability of the whole community, far beyond the issue of provision of education.

The Code recognises that local authorities are responsible for ensuring that there are sufficient schools providing primary and secondary education for their area. Schools are regarded as sufficient if they are sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education. In order to fulfil these duties, local authorities must ensure that they plan thoroughly for schools serving their areas. The Code also recognises that education must be the primary consideration. This is linked directly to a local authority's duty to strive to raise standards of education.

It is these considerations which require local authorities to have to take into account wider factors such as the need to manage the school estate as efficiently and effectively as possible. This includes managing excessive numbers of surplus places which tie up resources unproductively - resources which are then unavailable for use in raising standards and quality of education for all pupils. This means that they must look to reduce excessive numbers of surplus places in schools that are significantly under-occupied. Although the Code encourages local authorities to manage surplus places - this does not necessarily mean closing schools. The Code encourages them to explore alternatives including collaboration or federation, increasing community use of school buildings or co-location of local services within the school to offset costs.

The proposals set out in this consultation document seek to balance the legitimate wishes and concerns of rural communities and parents with the responsibilities of local authorities for the delivery of public services.

When considering whether closure is appropriate the Codes states that *special attention should be given to alternatives to closure* and when consulting on proposals the consultation document *must contain a description of any alternatives and the reasons why they have been discounted*.

We believe that considering all the possible alternatives should be a two-stage process. The proposer should do this before it even reaches a decision to consult on a proposal to

close, and it should also consider any further options or suggestions that emerge during the consultation process.

The aim is to ensure that the decision to propose and consult on closure is taken only after all alternatives to closure have been conscientiously considered, including federation.

A more open and transparent system will be one in which the consultation is well informed by a clear explanation of why the proposer has reached the decision to propose closure and the background information supporting that decision is clearly set out. Proposers will have long deliberated over whether to proceed to consultation on the closure of a school. However it is important that the proposer is seen to be open to new ideas, suggestions and proposals emerging from the consultations and that the final decision with the proposer makes is not a forgone conclusion.

What changes are we considering?

Presumption against the closure of rural schools

We want to strengthen this second version of the School Organisation Code to introduce a specific presumption against the closure of rural schools. This will require proposers to follow a more detailed set of procedures and requirements in formulating a rural school closure proposal and in consulting on and reaching a decision as to whether to implement a rural school closure proposal.

In summary the changes to the Code will require the proposer to:

Prior to decision to consult on closure proposal

1. Consider whether a rural school will be closed as part of a proposal by referring to the designation of rural schools and a 'rural school list'. If the school is a rural school the special provisions apply.
2. Identify clear and specific reasons for formulating the proposal and consider these reasons as part of the decision making process on whether or not to consult on closure proposals.
3. Identify any reasonable alternatives to closure which might also address the reasons for the proposal and provide evidence to show that it has carefully considered all other viable options (including federation), with a clear assessment of the merits and their viability before the proposer proceeds to consult on closure, this includes:
 - ✓ The likely education benefits
 - ✓ The likely impact on the community
 - ✓ The likely effect on travelling arrangements
4. Set out in the proposal paper (i.e. a paper to be presented to the decision maker on whether, or not, a proposal should be consulted upon) the alternatives that have been identified, give an assessment of these and explain why the proposer considers in the light of the assessment that implementation of the closure would be the most appropriate response to the reasons for the proposal.
5. The proposer should not make a decision as to whether to proceed to consultation until after these preliminary requirements have been carried out. The Code states that this type of engagement is expected to lead to higher quality proposal papers and better consultations.

During and after consultation

6. Provide an opportunity for consultees to make representations on the alternatives identified, as well as the main proposal and to suggest further alternatives during the formal consultation on the proposal.
7. Following the consultation period, when reviewing its proposal carry out a further assessment for the proposal and each of the alternatives that were set out in the proposal paper against same matters and any new reasonable alternatives suggested through consultation responses.

Proposal to close small school which is also designated as a rural school

Under the 2013 Act the requirement to consult does not apply to proposals to discontinue small schools (i.e. those with fewer than 10 pupils). However, the Code is clear that proposers should still take into account the same factors that should be taken into account for “standard” sized schools. This means that they must consider all the relevant factors in section 1 of the Code, alternatives to closure, transport implications and undertake a community impact assessment when proposing to close a small school.

We propose to amend the Code to state that where the local authority or governing body proposes to close a small school which is also designated as a rural school, it will also need to:

- identify clear and specific reasons for formulating the proposal.
- identify any reasonable alternatives to closure which might also address the reasons for the proposal and provide evidence to show that it has carefully considered all other viable options (including federation), with a clear assessment of the merits and their viability including:
 - The likely education benefits
 - The likely impact on the community
 - The likely impact on travelling arrangements; and
- set out in the proposal paper (which is a paper to be presented to the decision maker) the alternatives that have been identified, give an assessment of these and explain why the proposer considers in the light of the assessment that implementation of the closure proposal would be the most appropriate response to the reasons for the proposal.

Q1. Do you agree that those proposing to close a small school which is also designated as a rural school should be required to follow the more detailed set of procedures and requirements in formulating a rural school closure proposal?

Designation of some schools as rural primary schools for the purposes of the presumption against closure of rural schools

The proposals above would apply solely in cases of proposed closure of rural schools. There is a need therefore to define “rural schools”. We have considered two options. The first is to designate rural schools based on some school-specific features or criteria. However, this could result in much argument over both the criteria and its interpretation in each local case, in other words whether a particular school should or should not appear on the list.

The second approach would be to use a more generic definition of rural areas so that any schools within those areas would automatically be designated as rural for the purpose of the proposals. We consider that the clearer and more transparent a definition of rural areas that can be devised or used, the more the results would be likely to command respect and provoke the least argument around the detail.

The National Statistics Urban-Rural Classification covers England and Wales and is the result of a joint project set up by a number of government departments and the Welsh Government. The classification separates schools into one of 8 categories according to the nature of its location.

Instead of having a simplistic split between urban and rural, the classification attempts to demonstrate some of the richness of the settlement pattern. To do this it divides Wales and England by settlement type and context. This is based on where people live, it does not look at the socio-economic characteristics of the people or land use. To build up the classification Wales and England are divided into a grid with cells with an area of 1 hectare. Wales has an area of approximately 2 million hectares. Each cell is classified according to the settlement type and context. Output areas and Lower Super Output Areas are classified according to the majority of cells in the area. A map showing how Wales is divided is shown at (doc 2). The four settlement types are:

- Large towns - settlements with over 10,000 persons.
- Small towns - below 10,000 persons, includes the fringes of large settlements.
- Villages - smaller settlements with a lower housing density than small towns.
- Others - the very smallest settlements and isolated dwellings.

The cut-off for large towns at 10,000 persons is essentially arbitrary. However, it is a widely used threshold and it has been maintained to allow continuity with previous classifications. There is no such simple population threshold for the other categories. A small town has a higher density of settlement over a wider area than a village and a village has a higher and more extended density than an “other” area.

Two contexts are defined: The sparsest context - These are areas with very low settlement density within a radius of 10km, 20km and 30km. An area needs to be in the sparsest 20% of Wales and England at all three scales to be classified as in the sparsest context. All other areas are considered to be in the less sparse context.

There are 8 categories using the output areas:

1. Large town in sparsest context.
2. Small town in sparsest context.
3. Village in sparsest context.
4. Other (hamlet or dispersed) in sparsest context.
5. Large town in less sparse context.
6. Small town in less sparse context.
7. Village in less sparse context.
8. Other (hamlet or dispersed) in less sparse context.

The classification is designed as a tool for statistical summaries. Thus a level of uncertainty in the allocations to categories is accepted as part of the methodology. It is not intended to be a definitive statement.

In England, a substantial majority of areas are settlements with over 10,000 persons and the Department for Education (DfE) has defined “Urban Schools” as those which fall into classes “large town in sparsest context” and “large town in less sparse context” (1 and 5);

and all the primary schools other than those in these settlements have been included in the list of rural schools. A total of 4,151 primary schools have therefore being designated as rural in England, representing 25% of all the primary schools in England.

The application of this method in Wales produces a list of 584 primary schools representing 42% of all primary schools in Wales.

As Wales is more rural by nature there is a different concept of what urban and rural means it is therefore considered that replicating this for Wales is too broad. It is there proposed that as a minimum, for Wales, a list could be devised consisting of schools found to be in the classes “village in the sparsest context” and “Other sparsest context” (3 and 4) of the classifications. These being schools in areas with very low settlement density within a radius of 10km, 20km and 30km in areas in the sparsest 20% of Wales at all three scales.

A list comprising classes “village in the sparsest context” and “other sparsest context” of the detailed classifications produces 207 primary schools (around 16% of the total 1291 primary schools in Wales). The 16 of these schools are due to close later this year due to approved school organisation proposals have been removed and the final list of schools is attached at annex a.

This consultation document suggests that this is the **minimum** number of schools which should be designated as rural for the purpose of the presumption against closure of rural schools.

Consultees are invited to give their views on whether these or any other schools should be designated as rural schools for the purposes of the presumption against closure. A final decision on the categories of the Urban Rural classification that will make up the designation will be made following analysis of responses.

Q2. Do you agree with proposals for the designation of some schools as rural for the purposes of the presumption against closure?

Necessary revisions identified after three years of operation of the School Organisation Code

A number of changes to the school organisation code are proposed based on feedback and learning during its three years of operation. Your views are sought on these changes

In addition we have:

- amended the requirement that the consultation document must be issued during term time to require it to be published on a school day.
- changed the requirement that consultees must receive a hard copy of the consultation document or be emailed a link to the relevant website to require that consultees must be advised by letter or email of the availability of the consultation document and that they can obtain a hard copy on request.
- amended the section on approving or determining proposals so that those who do not carry out the consultations themselves must consider the extent that the statutory consultation and proposal have been conducted in accordance with the Code
- Amended the guidance on surplus school places to reflect that although proposers are asked to manage excessive surplus places this does not automatically mean closing schools. The Code encourages proposers to look at other options available to them and their schools, for example clustering, collaboration or federation with other schools and making use of the existing building as a community resource. They are also encouraged to rationalise school space by co-locating services within the school to offset costs.