

Amending the Schools (Consultation) (Scotland) Act 2010

A Consultation Paper

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Ministerial Foreword

I am pleased to set out the Government's proposals for legislation in response to the Commission on the Delivery of Rural Education.

The Commission reported in April, and the Government has given its recommendations careful consideration. These set out a wide range of steps to improve the delivery of rural education, and I was glad to accept the vast majority of them. Much of this work can be delivered through administrative measures, such as improving the guidance provided to education authorities on school closures. However, a key part of the recommendations were a number of changes to the legislation on school closures, the Schools (Consultation) (Scotland) Act 2010. This consultation paper sets out how we propose to take these legislative proposals forward.

This work builds on a great deal of listening and engagement by the Commission on the Delivery of Rural Education. However, I am keenly aware that the length of this consultation period is briefer than ideally I would have wished. This is necessary to take the opportunity to make legislation this year through the Children and Young People (Scotland) Bill and bring changes into force during 2014. Waiting for another legislative opportunity would be likely to delay any improvement to the legislation until at least 2015.

The Government will give careful consideration to the responses to this consultation and continue to listen to parents and stakeholders into the autumn as we refine our policy for legislation and the related guidance.

A handwritten signature in black ink, appearing to read 'Michael Russell', written over a horizontal line.

Michael Russell, MSP
Cabinet Secretary for Education and Lifelong Learning.

Introduction

This short consultation paper sets out policy proposals for amendments to the Schools (Consultation) (Scotland) Act 2010¹ (the 2010 Act). It takes forward those recommendations made by the Commission on the Delivery of Rural Education² which require legislative change.

Responses are invited by **2 September 2013**. The consultation period is necessarily shorter than would normally be provided, due to the opportunity to make these amendments in the Children and Young People (Scotland) Bill, already under consideration in the Scottish Parliament. This consultation takes forward recommendations from the Commission, which carried out extensive consultation, and we are mindful of the need to avoid further delay to implementing its recommendations for this important policy area.

The Government issued its Response³ to the Commission's Report on 13 June, identifying actions that would be taken forward. Many of the Commission's recommendations do not require legislation, and will be taken forward through other actions such as through revision to the statutory guidance that accompanies the 2010 Act. This consultation only relates to action that might require changes to the law.

The Commission's work related to the delivery of **rural** education. However, the Commission commented extensively on wider aspects of the 2010 Act which apply to both rural and urban schools, not just the few sections of the Act which make specific provision for rural schools.⁴

The Government considers that it would be unhelpful to increase the differences between how rural and urban schools are treated unnecessarily. We therefore propose that improvements relating to the consultation arrangements for school closure proposals which do not specifically relate to rurality should apply to all schools under the management of an education authority. Consequently, with the exception of the proposals in Section 1 (relating to the presumption against closure for rural schools), all the other proposals in this paper would apply to both rural and urban schools.

¹ The 2010 Act is available here:

<http://www.legislation.gov.uk/asp/2010/2>

² The Report of the Commission on the Delivery of Rural Education is available here:

<http://www.scotland.gov.uk/Publications/2013/04/5849>

³ The Scottish Government Response to the Commission on the Delivery of Rural Education is available here:

<http://www.scotland.gov.uk/Publications/2013/06/6087>

⁴ Under the 2010 Act, rural schools are those designated as such by Scottish Ministers in the list they maintain for this purpose. Further details on the list and how it is compiled is available here:

<http://www.scotland.gov.uk/Topics/Education/Schools/Buildings/changestoschoolestate>

Section 1: The Presumption Against Closure

Commission Recommendation 24: A new, clearer understanding of ‘a presumption against closure’ should be set out by the Scottish Government in the statutory guidance accompanying the 2010 Act to reduce conflict and provide clarity and protection for communities and local authorities.

1.1 The 2010 Act set out to create what is widely referred to as a “presumption against closure” for rural schools. The chosen approach was to define in legislation a series of extra tests which applied to proposals to close a school designated as a rural school. This would not mean that no rural school should ever close but that none would close unless and until the factors of “special regard” had been fully taken into account.

1.2 The 2010 Act did not expressly spell out that there is such a “presumption”. Nevertheless, it was expected that this approach would be both effective and clear, and it was felt that simply stating in legislation that “there shall be a presumption” would be widely misinterpreted and leave a great deal to be clarified by the courts. Unfortunately, the court has since found that the provisions in the 2010 Act do not, as had been desired, have the effect of a presumption. The Opinion in the recent Court judgment *Comhairle nan Eilean Siar v. Scottish Ministers*⁵ ruled:

“I do not accept that the terms of section 12 [of the 2010 Act] give rise to a legislative presumption against the closure of rural schools.”

1.3 The Commission on the Delivery of Rural Education was also concerned that the approach taken in the 2010 Act had caused confusion:

“it has left a gap between high expectations from communities that rural schools enjoy a very high level of protection; and local authorities seeking to meet the letter of the requirements in the 2010 Act and not a wider „presumption’.”

1.4 The Commission recommended that clarity should be provided in this area through changes to the statutory guidance accompanying the 2010 Act, and that this would help reduce conflict and provide clarity and protection for communities and local authorities. The Government accepted this recommendation. However, in light of the Court judgment that the 2010 Act in fact contains no presumption, this clarification could not simply be made through an addition to the statutory guidance. Instead, clarity regarding the Government’s commitment to a presumption against closure for rural schools would require an amendment to the 2010 Act to make this area of policy clear.

⁵ This Opinion is available on the Scottish Court Service website here:
<http://www.scotcourts.gov.uk/opinions/2013CSIH45.html>

Two other Opinions are also relevant:
<http://www.scotcourts.gov.uk/opinions/2012CSOH%2094.html>
<http://www.scotcourts.gov.uk/opinions/2013CSIH6.html>

What form could the amendment take?

1.5 The Government is considering bringing forward a short amendment to the 2010 Act for the purpose of clarification. This would give effect to our original policy intention that in applying the procedures laid down in that Act there is a legal presumption against the closure of rural schools.

1.6 Once this provision had been agreed, the Government would consider whether further explanation in statutory guidance would be helpful to ensure communities had the clarity the Commission recommended.

Consultation question

Q1. Do you support clarifying the presumption against closure of rural schools by stating it in legislation by means of an amendment to the 2010 Act?

Yes No Don't know

Do you have any comments?

Section 2: Providing Financial Information on Closure Proposals

Commission Recommendation 21: School closure proposals should be accompanied by transparent, accurate and consistent financial information, rigorously evidencing any financial argument that is deployed. The impact, if any, of the proposal on the General Revenue Grant that the authority would receive in future should be clearly stated.

Commission Recommendation 22: Clear guidance and a template for financial information should be developed to ensure financial information is presented in a complete and consistent manner.

2.1 The Commission made strong recommendations regarding the inclusion of clear financial information in school closure proposal consultations, and these recommendations (set out above) have been accepted by the Scottish Government. To implement the recommendations, guidance and a template needs to be developed to establish how clear financial information should be consistently provided in all closure consultations.

2.2 Currently, section 4(1) of the 2010 Act provides that an education authority must prepare a proposal paper. It specifies that this should “set out the details of the relevant proposal” and refer to “such evidence or other information in support of (or otherwise relevant in relation to) the proposal as the education authority considers appropriate.”

2.3 The Government agrees with the Commission that accurate, transparent financial information should be part of providing a complete picture of the impact of a closure proposal. Local authorities will be, and should be, aware of the financial implications of their closure proposal and it is right that high quality information on this aspect of the proposed change should be provided to parents and communities in a format which is easily understood.

2.4 We propose to amend the 2010 Act to add to the requirements for closure proposals that these should provide relevant, transparent financial information in respect of the proposal.

2.5 This requirement would provide the basis for detailed guidance on the financial information to be included in proposals under section 19 of the 2010 Act. This could include a template on the type of financial information that should be provided. The Government will work with COSLA and parents to develop these.

Consultation question

Q2. Do you support amending the 2010 Act to make it clear that relevant financial information should be included in a school closure consultation?

Yes No Don't know

Do you have any comments?

Section 3: Clarifying and Expanding Education Scotland's Role

Commission Recommendation 18: Education Scotland should have a wider role in providing a detailed response to the proposed educational benefits and a more sustained involvement in a school closure proposal.

3.1 Education Scotland is the public body charged with supporting quality and improvement in Scottish education. The Government has accepted the Commission's recommendation that it would be appropriate for Education Scotland to have a wider role in providing detailed advice on the proposed educational benefits of a school closure proposal and a more sustained involvement in a proposal.

3.2 Education Scotland is already committed to providing a detailed response to a local authority's school closure proposal, as recommended by the Commission. As Education Scotland gained experience operating under the 2010 Act, these responses have and will continue to develop, helping education authorities and parents to assess the educational benefits of a proposal.

3.3 However, the Government also considers that it is important that Education Scotland assists authorities more pro-actively in our aim that closure proposals should be supported by high quality Educational Benefits Statements. This means assisting authorities before they start preparing an Educational Benefits Statement. It is in everyone's interests that authorities have a strong understanding of the educational issues raised by school closures and can provide Educational Benefits Statements that fully address these issues.

3.4 We plan to establish a working group involving the Scottish Government, COSLA, Education Scotland and education authorities with a remit to establish the best way for Education Scotland to help education authorities. This might include new, detailed good practice guidance from Education Scotland as well as more interactive approaches such as a self-evaluation toolkit (an approach used to good effect by Education Scotland and education authorities for other purposes), or other measures.

3.5 This support and engagement will be developed and delivered through Education Scotland's existing powers and through guidance. The issue for possible legislation is around delivering a "more sustained involvement in the proposal" for Education Scotland.

3.6 The 2010 Act places a clear responsibility on local authorities to list educational benefits, give reasons and provide evidence to show how these will be delivered. The Act requires the local authority to notify Education Scotland of its consultation and send it a copy of the published proposal paper with copies of, or a summary of, any representation(s) received during the consultation period. Education Scotland has a statutory duty to prepare a report on the educational aspects of the local authority's proposal. This report is then submitted to the local authority within a three week period.

3.7 Once the local authority has received the report from Education Scotland, it must review its proposal taking account of any issues raised by Education Scotland's report along with any other written or oral representations it has received and respond to these in its Consultation Report. There is currently no further statutory role for Education Scotland to play in the school closure process once it has submitted its report to the local authority, although Ministers may seek further advice from Education Scotland on a case by case basis as necessary.

3.8 This is a significant gap in the process. When considering whether to call-in a proposal or in determining a proposal, it would be desirable to make clear in legislation how Scottish Ministers are able to draw on professional educational advice provided by Education Scotland. For example, reports prepared by Education Scotland often set out factors that the local authority needs to take into account when finalising a proposal. These factors can include negative comments on the quality of an authority's Educational Benefits Statement. The report may also set out areas that require greater attention in the Consultation Report and need to be addressed before the local authority makes its final decision. It would seem sensible for Scottish Ministers to seek advice from Education Scotland on whether such concerns had been resolved in the authority's Consultation Report.

3.9 It is expected that further professional advice on the educational aspects at this stage in the process would help Ministers' consideration of the case in its totality and should lead to a reduction in the number of cases called in for further investigation. Ministers would expect to ask for advice on specific issues and would not require an additional report from Education Scotland.

3.10 The Government also considers there would be benefit in ensuring that clear educational advice on a closure proposal is available at the stage where it has been called in. In Section 5 of this consultation paper we set out wider changes to determining proposals, suggesting that in future these are determined by an independent referral mechanism. We would propose to consider further, and discuss with COSLA and Education Scotland, what sources of educational advice would be required to support the new mechanism, including any possible role for Education Scotland.

How to deliver the recommendation

3.11 The Government would like to invite views on whether the enhanced role for Education Scotland to advise Scottish Ministers should be delivered through an amendment to the 2010 Act, or through a Memorandum of Understanding between the Scottish Government and Education Scotland.

3.12 If legislation was chosen, an amendment could be made to the 2010 Act clarifying the process for Education Scotland to provide additional information at the stage of Ministerial call-in. This would give Education Scotland and other stakeholders clarity on the basis for Education Scotland's enhanced role. The Government would wish sufficient flexibility to enable the advice sought from Education Scotland to be tailored to individual and emerging circumstances.

3.13 Alternatively, a Memorandum of Understanding could be drawn up between the Scottish Government and Education Scotland on how Ministers would seek advice on school closure proposals in the future, setting out clear deliverables expected from Education Scotland when providing advice. It would be possible to amend and update the Memorandum of Understanding from time to time to take account of any emerging circumstances as they arise without the need to amend legislation. However, it would not provide a statutory basis for this role.

3.14 On balance, the Government considers that it would provide maximum clarity to deliver this recommendation through an amendment to the 2010 Act.

Consultation questions

Q3A. Do you support giving Education Scotland a more sustained role in a school closure proposal?

Yes No Don't know

Do you have any comments?

Q3B. If so, would you prefer Education Scotland's role to be clarified through legislation or a Memorandum of Understanding?

Legislation Memorandum of Understanding Don't know

Section 4: The Basis for Determining School Closure Proposals

Commission recommendation 33: Scottish Ministers’ role under the 2010 Act, as set out in the judgement in the case of Comhairle nan Eilean Siar v. Scottish Ministers, requires consideration of both the process followed and the merits of a school closure proposal that has been called in. Ministers should have three options in relation to these proposals, to:

- (a) Consent, including consent with conditions;**
- (b) Refuse consent; or**
- (c) Remit the proposal back to the local authority for reconsideration.**

4.1 The Commission on the Delivery of Rural Education took into account and agreed with the judgement of the Court case between Comhairle nan Eilean Siar v. Scottish Ministers which indicated that Ministers should look at the merits of a school closure and not just the process, as had been previous practice. The Government accepted this recommendation.

4.2 In order to bring transparency to the 2010 Act so that there is no dubiety in the role of Scottish Ministers, the Government proposes to amend the Act in order to make clear the extent to which Ministers will consider the substantive merits of a closure proposal once called in. However, this merits based approach should respect the primacy of the education authority who are best placed to take these types of decisions based on their local knowledge.

4.3 The Commission also reached the view that, taking into account the opinion contained in the Comhairle nan Eilean Siar v. Scottish Ministers judgment on the primacy of the education authority, and that the education authority is best placed to understand the local issues, an additional option should be included in the 2010 Act enabling Scottish Ministers to “remit the proposal back to the local authority for reconsideration”. This would allow Ministers to set out reasons for their decision and might allow a local authority the opportunity to address a flaw in the consultation process or the proposal without necessarily having to commence the consultation process afresh.

4.4 The Government judges that this additional option could be helpful. However, wider changes to the determination process under the 2010 Act are proposed in Section 5 of this paper, and we would propose to consider how to take this option forward alongside those changes.

How to deliver the recommendation

4.5 The Scottish Government proposes to amend the 2010 Act in order to clarify the role of Scottish Ministers in determining a school closure proposal once it has been called in, so that it is clear that consideration is given not only to the process followed during the consultation but also to the merits of the proposal. This would provide a clear basis for Ministers to assess the consideration of the merits of the proposal that had been carried out by the local authority, to review the reasonableness of the authority’s decision.

Consultation questions

Q4. Do you support amending the 2010 Act to provide clarity regarding Ministers' role in considering both the process and merits of the closure proposal?

Yes **No** **Don't know**

Do you have any comments?

Section 5: Establishing an Independent Referral Mechanism

5.1 The Scottish Government wishes to build on the Commission's recommendations regarding Ministerial call-in (Recommendations 33 and 34) and address the issue of **who** should determine a closure proposal which has been called in.

5.2 There are concerns that the nature of these decisions is not one which sits well with Ministers and that it might be appropriate to take this opportunity to establish a more independent, arm's length system.

5.3 The Government's proposal is that it should continue to be the responsibility of Scottish Ministers to consider whether a school closure proposal should be called in. In the Scottish Government Response to the Commission on the Delivery of Rural Education, we identified a number of improvements to ensure that this part of the process works well, and which aim to reduce the number of closure proposals which are called in unnecessarily.

5.4 However, once a call-in decision has been made, we consider that the closure proposal would be best referred to a new independent referral mechanism. The advantages of this approach would be to ensure that these decisions, likely to be the most contentious school closure proposals, are taken in an objective and transparent manner without any suggestion of political influence and with equal accessibility for local authorities and communities.

5.5 We are still considering options for this independent referral mechanism such as a dispute resolution mechanism like arbitration, an independent adjudicator or an independent panel. We will work closely with stakeholders during the summer to identify further advantages and disadvantages of different options, and would welcome views through this consultation paper.

How the independent referral mechanism should operate

5.6 We suggest that key aspects that an independent referral mechanism should have are:

- **Accessibility:** it should be a low cost process thereby reducing barriers to communities (or local authorities) taking part in it;
- **Time limited:** it should be able to make decisions efficiently to give confidence to all involved;
- **Authority and certainty:** the decision must be final and only challengeable on points of law;
- **Fairness and objectivity:** to determine whether the decision to implement a closure proposal is one that a reasonable education authority could have reached.

5.7 It will be essential that local government and communities have confidence in whatever type of independent referral mechanism is established. For example, we believe that an arbitration mechanism based on the Arbitration (Scotland) Act 2010, which brings Scotland to the forefront of modern arbitral law and practice, offers a potential way forward. This process could be managed through the Scottish Arbitration Centre. We will work jointly with local government and parent representatives to consider this option further and any other suitable mechanism suggested. Whichever option is chosen, it will be essential to ensure that the appropriate knowledge, skills and links are built into the process to allow it to reach fair and objective decisions.

5.8 For any approach that is adopted, it will also be vital that the process is seen to be objective and not subject to undue influence. For example, if arbitration was the chosen approach, we would propose that arbitrators would not be asked to determine cases in local authority areas where they had worked in the last 10 years or where they lived. Neither would they accept cases in areas where they had previously worked with any individuals involved in the case or for other reasons where they felt their objectivity might be compromised or perceived to be compromised.

Consultation questions

Q5A. Do you agree that the criteria specified in paragraph 5.6 are appropriate as a dispute resolution process under the 2010 Act?

Yes No Don't know

If not, what criteria would you support?

Q5B. Do you support replacing the current Ministerial determination of school closure proposals that have been called in with an independent referral mechanism such as arbitration?

Yes No Don't know

If not, what other options for dispute resolution would you suggest?

Section 6: A Five Year Moratorium between School Closure Proposals

Commission Recommendation 31: Once a school closure proposal has undergone full consideration under the 2010 Act and agreement is reached not to close the school, local authorities should make no further closure proposal for at least five years unless there is a significant relevant change.

6.1 The Commission noted that it had heard “clear evidence that some schools faced repeated closure proposals at short intervals and that this repetition had a corrosive impact on the communities and schools concerned. Thus repeated closure proposals can lead to diminishing rolls and make closure more likely as parents avoid placing their child in a school perceived to be at high risk of closure.”

6.2 The Commission’s Report goes on to suggest that a “breathing space” is appropriate, to allow the school, parents and pupils to know that a closure threat is not going to recur “at any moment”.

6.3 The Government has accepted this recommendation. We would like to invite views on whether the recommendation would be best delivered through an amendment to the 2010 Act or through inclusion in the statutory guidance.

6.4 We understand that five years was chosen to provide a sufficiently long period to ensure that closure proposals were unlikely (but not excluded) from affecting a young person twice during their time at a particular school; and to avoid unreasonably binding future Council administrations. The Government agrees that this period is appropriate, in particular noting the significant duration of a closure proposal consultation process.

How to deliver the recommendation

6.5 We propose that for the purpose of implementing the recommendation “full consideration” should have been considered to have been given to a school closure proposal when either:

- An education authority has produced a Consultation Report under section 9 of the 2010 Act and has decided not to proceed with it; or
- An education authority has decided to implement a school closure proposal under section 11 of the 2010 Act and the proposal has been refused (by the Scottish Ministers, or following implementation of the proposals for an independent referral mechanism, by that process).

6.6 This recommendation could be implemented through an amendment to the 2010 Act, or through the guidance accompanying the Act.

6.7 It would be a more flexible approach for local authorities if the Scottish Ministers were to issue guidance on this recommendation, and would respect the primacy of their role in decisions to propose school closures. While we anticipate that communities would welcome the surety of a five year moratorium, circumstances do change and it is possible that greater flexibility of using guidance

rather than legislation would also be welcomed by communities on some occasions. However, given that the provision was not in legislation, this would only be advisory and would not prevent a repeat proposal in fewer than five years being compliant with the legal requirements.

6.8 On the other hand, making this requirement through an amendment to the 2010 Act would be binding on those concerned, and give communities recourse to legal challenge should a proposal be made in fewer than five years and communities disagreed that there had been a “significant, relevant change”.

6.9 We would welcome views on which approach should be taken.

6.10 Whichever route is chosen, we would propose to define a “significant, relevant change” – which would permit a period of fewer than five years between closure proposals for the same school – in guidance not legislation. We would suggest that a “significant relevant change” might include, but should not be limited to, a significant change in the school roll, or in the physical condition of the school, or in the view of the community. For example, where a closure proposal had previously been rejected by the parents and community of a school and it was shown that this opinion had substantially altered.

6.11 We would welcome views on whether a significant change to a local authority’s resources should also be considered a “significant relevant change”, given that in very straitened circumstances when provision of all services was being reviewed, it might not be reasonable to exclude reconsidering a specific school for closure.

6.12 There will also be interest in **when** the recommendation should take effect, and we would welcome views as to whether it should apply from the point when guidance or legislation takes effect, or retrospectively to schools which have undergone failed closure attempts within the previous five years. On balance, we consider that it would not be reasonable to apply the principle retrospectively and that it should apply to future decisions only. This would not prevent local authorities respecting the spirit of the requirement by avoiding revisiting relevant school closure decisions from the last five years.

6.13 As with other measures in this consultation paper (except for Section 1), we propose that this provision should apply to rural and urban schools alike.

Consultation questions

Q6A. Do you support a five year moratorium between closure proposals for the same school?

Yes No Don't know

Do you have any comments?

|

Q6B. If so, would you prefer this provision to be made in guidance or legislation?

Guidance **Legislation** **Don't know**

Consultation Questions

Q1. Do you support clarifying the presumption against closure of rural schools by stating it in legislation by means of an amendment to the 2010 Act?

Yes No Don't know

Do you have any comments?

Q2. Do you support amending the 2010 Act to make it clear that relevant financial information should be included in a school closure consultation?

Yes No Don't know

Do you have any comments?

Q3A. Do you support giving Education Scotland a more sustained role in a school closure proposal?

Yes No Don't know

Do you have any comments?

Q3B. If so, would you prefer Education Scotland's role to be clarified through legislation or a Memorandum of Understanding?

Legislation Memorandum of Understanding Don't know

Q4. Do you support amending the 2010 Act to provide clarity regarding Ministers' role in considering both the process and merits of the closure proposal?

Yes No Don't know

Do you have any comments?

Q5A. Do you agree that the criteria specified in paragraph 5.6 are appropriate as a dispute resolution process under the 2010 Act?

Yes No Don't know

If not, what criteria would you support?

Q5B. Do you support replacing the current Ministerial determination of school closure proposals that have been called in with an independent referral mechanism such as arbitration?

Yes No Don't know

If not, what other options for dispute resolution would you suggest?

Q6A. Do you support a five year moratorium between closure proposals for the same school?

Yes **No** **Don't know**

Do you have any comments?

Q6B. If so, would you prefer this provision to be made in guidance or legislation?

Guidance **Legislation** **Don't know**

Annex A: Responding to this Consultation Paper

We are inviting written responses to this consultation paper by 2 September 2013. **Please send your response with the completed Respondent Information Form (see "Handling your Response" below) to:**

schoolestates@scotland.gsi.gov.uk

or

School Infrastructure Unit
Area 2-A South
Victoria Quay
Edinburgh
EH6 6QQ

If you have any queries, please contact Lucy Carmichael on 0131 244 0373 or using the email address above.

We would be grateful if you would use the consultation questionnaire provided or could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>.

The Scottish Government has an email alert system for consultations, <http://register.scotland.gov.uk>. This system allows individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). It complements, but in no way replaces SG distribution lists, and is designed to allow stakeholders to keep up to date with all SG consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** which forms part of the consultation questionnaire for this consultation paper as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available to the public in the Scottish Government Library. You can make arrangements to view responses by contacting the SG Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

What happens next ?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision on amendment of the Schools (Consultation) (Scotland) Act 2010. We aim to issue a report on this consultation process in the autumn of 2013. This will allow any amendments to legislation to be taken forward through the Children and Young People (Scotland) Bill.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the address given above.

Annex B: The Scottish Government consultation process

Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

Typically Scottish Government consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Government web site enabling a wider audience to access the paper and submit their responses. Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).

All Scottish Government consultation papers and related publications (e.g. analysis of response reports) can be accessed at:

<http://www.scotland.gov.uk/consultations>

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented.

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



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