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Llywodraeth Cynulliad Cymru
Welsh Assembly Government

School organisation proposals

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Guidance

Welsh Assembly Government Circular No: 021/2009

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School organisation proposals

Audience	Local Authorities; Governing Bodies of Foundation and Voluntary Schools; Diocesan Education Authorities; Estyn.
Overview	This Circular sets out the policy context and general principles, policies and issues which have a bearing on reviewing the provision of school places, sets out the factors that need to be taken into account by those bringing forward proposals to reconfigure schools and explains the criteria which the Welsh Ministers will apply in reaching decisions on proposals which come to them for determination.
Action required	As above.
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Related documents	Please see Annex A.



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Summary

1.1 Local Education Authorities (referred to in this document as local authorities) are responsible for planning and providing school places to meet the needs of their area. Local authorities (LAs) have powers deriving from the School Standards and Framework Act 1998 (referred to in this Circular as the 1998 Act) which must be used to make substantial changes to schools. The governing bodies of voluntary and foundation schools also have powers to make certain changes to their own schools. The Welsh Assembly Government encourages LAs to plan school provision rationally and efficiently so as to maximise the resources that are available for education for the direct benefit of learners. This Circular provides a framework within which proposals should be developed, but decisions on how school provision should be configured, and on the size of school appropriate in each area, are properly those of the relevant LAs. Whilst reviewing their school provision, authorities need to ensure that they have the right number of schools of the right type and size and in the right locations to meet the needs of the pupil population and the requirements of the curriculum at all ages. Local knowledge and the varying nature of communities in Wales can be expected to strongly influence decisions at the local level.

1.2 School reorganisation should contribute to the provision of schools which deliver the best possible educational experiences for all children and young people, and which fulfil the definition of the national purpose for schools, which is set out in full in the first section of this Circular.

1.3 Reorganisations of school provision usually require the publication of statutory proposals. The 1998 Act, the Learning and Skills Act 2000 (referred to in this Circular as the 2000 Act), the Education (School Organisation Proposals) (Wales) Regulations 1999 (as amended), the Education (Maintained Special Schools) (Wales) Regulations 1999, the Change of Category of Maintained Schools (Wales) Regulations 2001 (as amended) and the School Organisation Proposals by the National Assembly for Wales Regulations 2004 (as amended) determine which proposed changes require publication and specify the procedures for consultation,

publication, the making of objections and the determination of such proposals.

1.4 Statutory proposals to reorganise school provision come to the Welsh Ministers for determination where such proposals attract objections or where the Welsh Ministers call in the proposals under paragraph 8(1)(a) of Schedule 6 to the 1998 Act. Some types of proposals automatically need the approval of Welsh Ministers, regardless of whether there have been objections. In all cases the Welsh Ministers make the decision on the basis of advice from officials. Each case is judged on its merits, taking into account the factors set out in the second part of this Circular.

1.5 This Circular sets out the policy context and general principles for reviewing the provision of school places, including provision for pupils with special educational needs (SEN). It also sets out the factors that need to be taken into account by those bringing forward proposals to reconfigure schools and explains the criteria which the Welsh Ministers will apply in reaching decisions on proposals which come to them for determination. The guidance applies to community, voluntary, foundation and special schools.

1.6 The guidance contained in this Circular replaces that contained in National Assembly for Wales Circular 23/02, "School Organisation Proposals" (July 2002) and will apply in the case of any school organisation proposal published after 1 January 2010. The Welsh Ministers are also responsible for issuing guidance on the procedures for publishing, deciding and implementing statutory proposals for changes to schools, including changes to post 16 provision. The procedural guidance is currently set out in the National Assembly for Wales Circular 9/99 "School Standards and Framework Act 1998: Organisation of School Places" and Circular 48/2004: Guidance accompanying the school organisation proposals by the National Council for Education and Training for Wales Regulations 2004. These procedural guidance documents will be replaced in due course.

Who must have regard to this guidance?

1.7 This Circular provides guidance for LAs; the governing bodies of foundation, voluntary aided (VA) and voluntary controlled (VC) schools; and diocesan education authorities; all of whom have statutory responsibilities for publishing proposals. The Welsh Ministers will have regard to this Circular when determining proposals which attract statutory objections; when directing LAs or governing bodies to publish proposals; or when publishing their own proposals. The guidance is also of interest to those who are consulted about proposals including schools, parents and local communities.

1.8 The first section sets out key considerations and background to areas of policy which have implications for the development of statutory proposals. These need to be taken into account by those developing proposals for consultation prior to statutory procedures, although not all considerations will be relevant in every case. The second section sets out the factors to be taken into account by the Welsh Ministers in determining proposals.

1.9 Annex A includes a list of relevant documents and Welsh Assembly Government policies which will be points of reference for various proposals. Annex B contains explanatory notes about assessing impacts in respect of the community and Welsh language.

Section 1: Key Principles Policies and Issues

Key Principles

1.10 The purpose of schools in Wales is to:

- enable all children and young people to develop their full potential by acquiring skills, knowledge, understanding and attitudes, including personal, social and emotional skills, to enable them to become economically, socially and personally active citizens and lifelong learners;
- promote a culture of social inclusion and respect for diversity, particularly through developing the wellbeing of learners and personalising their learning;
- establish strong professional learning communities in schools where practitioners can develop and share their professional knowledge in learning and teaching;
- offer children and young people a curriculum that engages and motivates them to learn and to achieve their potential;
- provide a learning community for all engaged in school life, with children and young people and their families at the centre, and including governors, teachers, other school staff and adults training to work in schools;
- be a key player with other schools and partner service providers in planning and delivering integrated services for children and young people to improve their wellbeing; and
- provide or facilitate education so that schools contribute to meeting the needs of the community and engage the community as partners to ensure that all schools are community focussed.

1.11 Having due regard to the above, the key considerations which LAs and other promoters should take into account in the development of proposals to change the pattern of school provision will be:

- i. the effect on the standard of education to be provided in the area, including provision for pupils with special educational needs and/or disabilities;
- ii. the effect on accessibility to schools, particularly in rural areas and on journey times to school;

- iii. the extent to which proposals will improve efficiency and the match between the number and location of school places and demand, including the level of demand for Welsh medium or schools with a designated religious character;
- iv. the cost-effectiveness of proposals in relation to both the capital and recurring costs, and whether adequate financial resources would be available to implement them;
- v. the views of those most directly affected, including children, young people, parents, and other schools or providers in the area; and
- vi. if the proposals support the LA's programme to deliver their 21st Century Schools capital investment programme and promote the principle of sustainability in school design.

1.12 LAs and other promoters will also need to consider:

- i. the impact that proposals may have on local families and the local community, through the preparation of a community impact assessment;
- ii. the effect on the Welsh language through the preparation of a language impact assessment if any school affected is Welsh medium or bilingual;¹
- iii. whether a proposal contributes to "A Fair Future for our Children", the Welsh Assembly Government's strategy for tackling child poverty, and any successor strategy, such as any impact the proposal might have on raising educational attainment amongst children from economically deprived backgrounds;
- iv. the extent to which the proposal would contribute to specific Welsh Assembly Government Policies for improving educational outcomes for children and young people in all phases; and
- v. the need to comply with equality legislation.

At all times, the effect of a proposal on educational standards will be the prime consideration.

¹ As defined in Information document 023/2007 - Categories WM, DS, TR, EW for primary schools and WM, AB, BB, CB, CH, EW for secondary schools.

Key Background Policies, Plans and Issues

1.13 Key background policies, plans and issues which have a bearing on the organisation of schools are set out in paragraphs 1.14 -1.19 below.

Core Aims for Children and Young People and the Children and Young People's Plan

1.14 The Welsh Assembly Government aims to ensure that all children and young people:

- have a flying start in life and the best possible basis for their future growth and development
- have access to a comprehensive range of education, training and learning opportunities, including acquisition of essential personal and social skills
- enjoy the best possible physical and mental, social and emotional health, including freedom from abuse, victimisation and exploitation
- have access to play, leisure, sporting and cultural activities
- are listened to, treated with respect, and are able to have their race and cultural identity recognised
- have a safe home and a community that supports physical and emotional wellbeing
- are not disadvantaged by child poverty.

1.15 Under the Children and Young People's Plan (Wales) Regulations 2007, each LA must prepare a 3 year Children and Young People's Plan (CYP)², which had to be approved for the first time by 31 July 2008 and published by 30 September 2008. The CYP must cover a range of actions in relation to education and learning opportunities under Core Aim 2. These include action needed to match supply of school places to the number of pupils in the locality, taking account of parental preference and pupil needs, including preference for Welsh medium education and an assessment of and provision for the additional learning needs of children and young people. In preparing and monitoring the plan

² Shared Planning for Better Outcomes: Planning Guidance and Regulations for Local Authorities and their Partners on Children and Young People's Plans: Welsh Assembly Government Circular No 31/2007.

LAs need to keep up to date information on school places and take-up, including Welsh medium supply and demand, and results of surveys undertaken to ascertain future demand for Welsh medium education.

Educational standards

1.16 Proposals for changes in the organisation of schools must be seen against the background of the Welsh Assembly Government's commitment to drive up standards of teaching and attainment in all schools, and increase school effectiveness. LAs and others bringing forward proposals should give prime consideration to the effect of the proposed change on the standard of education to be provided in the area. They should bear in mind relevant themes of The Learning Country, The Learning Country: Vision into Action and One Wales³. In particular, the interests of learners should override all others and inequalities in achievement between advantaged and disadvantaged areas, groups and individuals must be narrowed in the interests of all.

Planning for pupils of the future

1.17 Proposals should be prepared in the light of sound forecasting, and take account of:

- The decline in the number of pupils in the school system overall, which is expected to continue until at least 2016.
- Population projections and forecasts of inward or outward migration.
- Birth rates within the LA area, which have increased in some cases.
- Changes in demand for a particular type of provision e.g. Welsh medium and schools with a designated religious character, or provision for pupils with particular special educational needs.
- Local plans for economic or housing development.
- For post 16 proposals, student demographics and participation rates, economic and labour market data and skill shortages information at the local and national level.

³ One Wales: A progressive agenda for the government of Wales.

Education Service Asset Management Plan

1.18 There is a clear expectation that all LAs should prepare Asset Management Plans⁴, including Education Service Asset Management Plans. Asset Management Plans should provide a transparent understanding of school property held or maintained by an LA to enable value for money issues to be addressed, accountable decisions to be made, and service improvements to be delivered. The Learning Country: Vision into Action⁵ envisaged LAs developing plans for capital investment in schools which take account of the sharp decline in pupil numbers, and deliver sustainable, community focussed schools to a 21st century schools standard.⁶ In line with the shared commitment by LAs and the Welsh Assembly Government to deliver 21st Century schools, future decisions on allocation of funding for capital investment will increasingly require LAs to plan strategically, based on their asset management plans and their assessment of demand for school places. In general, LAs should look to recycle assets from any surplus school buildings and sites into the overall improvement of their school buildings rather than allocate those proceeds to projects outside the education portfolio, although these decisions ultimately rest with local authorities.

Surplus places

1.19 It is important that funding for education is used cost effectively. Resources targeted towards raising standards should be optimised. Some spare places are necessary to enable schools to cope with fluctuations in numbers of pupils, but excessive numbers of unused places, with consequentially excessive numbers of schools, mean that resources are tied up unproductively. Where there are excessive numbers of surplus places in an area, LAs should review their provision and, where feasible, make proposals for school reorganisation especially where individual schools have “significant” levels of surplus places⁷,

⁴ A Guidance to Asset Management Planning in Wales, issued by Consortium Local Authorities Wales (CLAW).

⁵ The Learning Country: Vision into Action 2006.

⁶ A clear standard for 21st Century Schools is currently being developed as the first part of the new capital investment programme, and is being done in partnership with the WLGA and consultation with LAs.

⁷ Significant surplus is defined as 25% or more of a school's capacity and at least 30 unfilled places: for example a small school with a total capacity of 100 places might have 28 unfilled places but this would not be classed as significant surplus.

require significant investment, or have a catchment area which is unlikely to provide sufficient numbers of pupils to make it sustainable for the future. LAs should ensure that schools to be retained are of an appropriate number and are located so as to maximise potential engagement with the community. LAs should aim to retain no more than 10% surplus places overall, although levels in individual schools may be higher than this, particularly in more rural areas. In general, LAs should look to reallocate revenue savings made through the removal of surplus capacity within the education portfolio.

School closure proposals, including small and rural schools

1.20 There is no presumption in favour of or against the closure of any type of school, including rural schools. In more rural areas, LAs will no doubt identify the need to retain certain schools in key locations. Any case for closure must be robust and in the best interests of educational provision in the area. An assessment should be undertaken so as to establish whether the case for closure outweighs other considerations. Whilst educational standards will be the prime concern, LAs identifying the need to close schools should consider means of reducing adverse impacts prior to bringing forward proposals.

When considering whether a closure is appropriate, attention should be given to the key principles set out in paragraph 1.11, 1.12, and the following additional matters:

- whether savings can be made or services can be provided cost effectively to the community by using parts of school premises for another purpose
- any capital investment that would be required to bring the premises up to a suitable standard for the delivery of the curriculum
- whether alternatives such as establishing a multi site school or promoting the federation of school governing bodies in a locality⁸ would be more appropriate

⁸ This is of greatest relevance in more rural areas.

- whether the school provides education of a good standard compared with others that might be alternative schools, as evidenced by Estyn reports and other measures of performance.

Effect on journeys to school

1.21 Proposals should not have the effect of unreasonably extending pupils' journey times and should be set against Welsh Assembly Government objectives to reduce traffic congestion, carbon emissions, and promote alternatives to the car. An important consideration is the welfare of children if journeys one way would exceed 45 minutes for primary pupils or one hour for secondary pupils. Additional consideration should be given to the welfare of pupils with special educational needs. In addition the recurrent cost to the LA of transporting pupils to schools further away needs to be taken into account.

1.22 Proposers should specifically address the possible effect of any transport difficulties on pupils' engagement with and attendance at school. Proposers should assess likely walking or cycling routes for safety and accessibility prior to bringing forward proposals.

Need for additional provision of particular kinds, or its reduction

1.23 In the case of new Welsh medium, religious character or single sex schools or expanded provision at such schools, the demand for additional provision of that kind in the area must be assessed and evidenced. Oversubscription and significant numbers of appeals might indicate unmet parental demand but could also indicate lack of rigour in administering admission arrangements. LAs are required to meet expressions of parental preference for compulsory school age provision so long as that is compatible with the cost effective provision of education.

1.24 An LA should take account of its Welsh Education Scheme and relevant all Wales language strategies and plans in developing proposals for the closure, opening and alteration of Welsh medium or bilingual schools in its area, and should, so far as is practicable,

aim to meet parental demand for Welsh, or English medium teaching. The measuring of demand for Welsh medium education should be part of the school planning discipline, particularly in LAs where less than 20% of the local population speaks Welsh. Proposals should be informed by measures of demand based on local surveys or other local sources. Where it is not practicable for a single LA to sustain a secondary school LAs should co-operate to ensure that there is continuity for pupils between the primary and secondary phases. This is particularly important for LAs identifying the need to expand Welsh medium provision in the primary phase. If a reorganisation of places available for Welsh medium education is under consideration, LAs must ensure that pupils can access alternative Welsh medium places within a reasonable travel distance and that the alternative school can offer at least equivalent standards and opportunities for progression in the Welsh language.

1.25 In deciding on proposals to close schools with a designated religious character, proposers need to consider the effect that this will have on the balance of provision in schools with and without such a character. In some areas it may not be compatible with the cost effective provision of education to continue to maintain both schools with and without a religious character, but proposals to change the balance of provision need to be dealt with sensitively and should if possible reflect the balance of demand.

Increase in provision at popular schools

1.26 At a time when numbers of pupils on roll in most areas continue to fall, it should not normally be necessary to provide additional places at schools when there are others of the same type within reasonable distance. Any proposed change that would significantly increase the number of places at a particular school should only be made where the change is demonstrably in the best interests of all local children. Where the balance of demand shifts between schools of the same type, LAs should consider initially whether admission arrangements are being applied consistently and whether it would be more appropriate to change arrangements, including catchment areas, rather than add provision.

Early Years Education and the Foundation Phase

1.27 Proposals affecting early years provision should take into account the desirability of further integrating early years education and childcare services, and be consistent with an integrated approach. Proposals should take account of the delivery of the Foundation Phase and its approach to providing a holistic early years curriculum based on active learning. When considering the closure of a nursery school or class, authorities should look to maintain or enhance the standard of provision. They should also seek opportunities to maintain or increase the accessibility, capacity and sustainability of Welsh medium education. Proposals should take into account the goals in *Iaith Pawb* to increase the number of under fives with sufficient exposure to the Welsh language to enable them to make confident choices to continue to learn through the medium of Welsh.

Class size reduction

1.28 By law, infant classes must contain 30 pupils or fewer (except in special circumstances set out in the Regulations)⁹. In addition the Welsh Assembly Government has provided funding to LAs so as to achieve junior classes of 30 or fewer. LAs should ensure that no proposal under consideration should adversely affect its performance in complying with class size legislation and policy.

Learning Pathways

1.29 The Learning Pathways programme, through the Learning and Skills Wales Measure 2009, aims to provide new opportunities for 14-19 year olds, to provide them with enhanced choice and flexibility, including vocational offers and the accreditation of training wherever possible, and an increased range of choices through the medium of Welsh. The contribution that proposals could make to the Learning and Skills (Wales) Measure 2009 should be assessed by LAs considering the reorganisation of secondary provision.

⁹ The 1998 Act, Section 1 and the Education (Infant Class Sizes) (Wales) Regulations 1998 as amended by the Education (Infant Class Sizes)(Wales)(Amendment) Regulations 2009.

Post-16 provision

1.30 Collaboration between providers, and shared planning is essential for the most efficient and cost-effective delivery of post-16 education and to provide a sufficient range of opportunities for study. Promoters of change to post 16 provision need to prepare proposals in the light of the Transformation policy, the Learning and Skills (Wales) Measure 2009 and any successor policies. There is a requirement in the Learning and Skills (Wales) Measure 2009 that those responsible for forming local curricula must promote access to and availability of Welsh medium courses in post 14 education. LAs should consider whether increased collaboration between Welsh medium providers across county boundaries would promote learning opportunities for the 14-19 age group.

1.31 Although LAs do not have powers under the 1998 Act to make proposals for sixth form reorganisation in respect of VA and foundation schools, Welsh Ministers have indicated their intention to delegate their own powers (to be decided on a case by case basis) which derive from the 2000 Act to alter post 16 provision at VA and foundation schools to LAs if the need arises.

The reorganisation of Special Educational Needs provision

1.32 All schools in Wales are likely to have some children on roll who have SEN. Every school reorganisation proposal therefore has an implication for SEN provision, whether in terms of access to the curriculum or physical access to school premises. School reorganisation provides opportunities for proposers to consider the most effective ways of ensuring that appropriate SEN support is provided for pupils. This may be in mainstream schools, in specialist resource bases attached to mainstream schools, or where appropriate, in special schools. Consideration should be given to how changes to schools are likely to impact on all the other services provided by the authority for pupils with disabilities and/or SEN. Any change should not be detrimental to the standard of these services.

Capital funding

1.33 Before publishing statutory proposals, proposers will need to make an assessment of the financial implications, in particular to ensure that any capital costs associated with implementing the proposals can be met. Proposers should be able to provide written confirmation from the body or bodies concerned that any external capital funding on which the proposers rely will be available at the level required and at the right time. In the case of an LA, this may be confirmation from the authority itself by reference to its committed capital programme. In the case of VA schools, governors' expenditure may be supported by up to 85% grant aid from the VA Capital Building Programme administered by the Welsh Assembly Government. Where such grant aid is necessary confirmation of the acceptance of the project under the Welsh Assembly Government's VA programme is required. In cases where school sixth form provision is being transferred to another educational establishment, together with learners from other sectors, capital investment is likely to be drawn from a number of sources. In such cases, written confirmation would be required from each of the sources of funding on which the promoters rely.

Schools causing concern

1.34 LAs should consider at an early stage the long term viability of schools judged by Estyn to require special measures or significant improvement. They should consider closing such schools where there are places available nearby at better performing schools.

1.35 Opening a new school on the site of the old school should only be considered where there is a need for the places and there is no suitable alternative available.

1.36 Section 19 of the 1998 Act gives the Welsh Ministers the power to direct a LA to close a school which is subject to special measures. Normally where there have been closures of schools in special measures the proposals were made by the LA.

Community use of school premises

1.37 The prime purpose of schools is the provision of education. In some areas, a school may also be the main focal point for community activity, and its closure could have implications beyond the issue of provision of education. This may be a particular feature in rural areas if school buildings are used as a place to provide services to the local community. LAs should consider whether it would be feasible and economical to co-locate local services within the school to offset the costs of maintaining the school. The case prepared by those bringing forward proposals should show that the impact of closure on the community has been assessed, and how any community facilities currently provided by the school could be maintained. Where a school is to be proposed for closure, LAs should consider what action is necessary to maintain or enhance engagement in the education process and with other facilities offered by schools such as pre and post school activities which can contribute to tackling child poverty. The views of the community council (if there is one), the local Communities First Partnership (in relevant areas), local voluntary groups and others with an interest in the local community should be taken into account although the educational interests of pupils in the area should always be the prime concern.

The Education (School Premises) Regulations 1999

1.38 The Education (School Premises) Regulations 1999 set out the standards for school premises, including minimum areas of team game playing fields to which schools must have access. Statutory proposals should ensure that these standards are met. However, section 543 of the Education Act 1996 (as amended by paragraph 159 of Schedule 30 to the 1998 Act) empowers the Welsh Assembly Government, in certain circumstances, to relax the prescribed standards. Welsh Office Circular 15/99¹⁰ provides further guidance on this. In addition, LAs will need to refer to relevant Building Regulations and associated Building Bulletins.

¹⁰ The 1999 School Premises Regulations: Welsh Office Circular 15/99.

Change of school category

1.39 All categories of school - community, foundation, VA or VC - are of equal status. All proposals to change the category of a school will be considered on their individual merits. There is no presumption for or against any particular category. Whilst VA schools can access grant for capital works, funding available for this purpose is limited and it cannot be assumed that such schools would be able to make improvements to premises more quickly than schools of another category. Promoters considering a change to this category need to have regard to the limitations on funding but this does not necessarily mean that changes should not be proposed.

Equality, Human Rights Act 1998, Welsh Language Act 1993 and the European Charter for Regional or Minority Languages

1.40 Currently, LAs are required to promote equality and prevent discrimination and harassment on the basis of race, disability and gender. LAs are required to undertake impact assessments, the purpose of which is to ensure that as far as possible, any negative consequences from actions are eliminated or minimised and opportunities for promoting equality are maximised. An Equality Bill was introduced in the UK Parliament in April 2009 which if enacted will give powers to the Welsh Ministers to impose specific equality duties on public authorities in Wales. It is intended that the new equality law will harmonise and strengthen UK discrimination law. LAs will need to have regard to any resulting changes to equality law. In providing school places, LAs should aim to promote equality of opportunity for all pupils.

1.41 LAs should also seek to apply the principles of the Human Rights Act 1998 and in particular have due regard to Article 14 on the prohibition of discrimination in the enjoyment of the Convention Rights and Article 2 of Protocol 1, on the right of access to education. In addition, they should have due regard to the principles of the Welsh Language Act 1993 and to the ratified

paragraphs dealing with education of the European Charter for Regional or Minority Languages.

Sex discrimination

1.42 In light of their obligations under the Sex Discrimination Act 1975 (notably in sections 22 and 23) LAs need to ensure that any single-sex provision is made available in a way that does not result in unlawful discrimination. In applying the requirements of the Act, LAs should have regard to sensible local planning and to the admission framework under the 1998 Act, rather than securing rigid numerical parity of places for boys and girls.

Special Educational Needs and Disability Legislation

1.43 LAs should have due regard to the provisions of the Special Educational Needs and Disability Act 2001 which prevents discrimination against disabled people in their access to education. The duties provide protection for disabled pupils by preventing discrimination against them at school on the grounds of disability. LAs must also have regard to National Assembly for Wales Circular No15/2004: Planning to Increase Access to Schools for Disabled Pupils, which contains guidance on the duties placed on LAs as a result of the Disability Discrimination Act 2002. LAs should also consider the general duty (set out in the Disability Discrimination Act 2005) on public authorities and schools to actively promote equality of opportunity between individuals with disabilities and other people and in particular the emphasis placed on the anti discrimination rights for disabled people in terms of less favourable treatment or failure to make a reasonable adjustment.

Section 2: Consideration of Proposals by the Welsh Ministers

2.1 Statutory proposals to reorganise school provision come to the Welsh Ministers for determination mainly where such proposals attract objections or where the Welsh Ministers call in the proposals. The Welsh Ministers have regard to the guidance in this Circular when making a decision. Each case is judged on its merits, taking into account the factors set out below.

Factors to be taken into account in deciding all school reorganisation proposals, including closures

2.2 These factors are as follows:

Standards of provision

These considerations are of prime importance:

- whether the proposals are likely to maintain or improve the standard of education provision in the area (including, where appropriate, standards for pupils with SEN)
- the standard of education currently provided and the continuing ability of the school to maintain satisfactory standards
- whether the proposals will ensure delivery of a broad and balanced curriculum, including all the required elements of the curriculum for all affected age groups, and pupils with varying needs, including the requirements for wider choice and flexibility for learners aged 14 and over, taking into account arrangements for co-operation with other schools, Further Education Institutions and training providers in the area
- the effect of the proposals on other schools and educational institutions.

In assessing the impact of proposals on standards of education the Welsh Ministers will normally seek advice from Estyn, refer to the most recent Estyn reports and take into consideration any other information available on a school's performance.

The Welsh Ministers would not normally be prepared to approve closure of a popular and effective school unless evidence is presented that the alternative proposed would offer at least equivalent quality and diversity of education at lower total cost than would have been available had the school remained open.

Need for places and the impact on accessibility of schools

- whether there is surplus provision in the area and the effect of the proposal on that surplus
- where a school is proposed for closure, that there will be sufficient capacity at alternative schools of at least equivalent quality of accommodation, and of equivalent linguistic type, paying due regard to the language categories of schools set out in "Defining schools according to Welsh medium provision" Welsh Assembly Government Information document No: 023/2007
- whether there is evidence of a current or future need for additional places in the area or demand for a particular type of provision, for example Welsh medium provision or schools with a designated religious character
- the nature of journeys to alternative provision and resulting journey times for pupils, in particular whether primary school pupils will have one-way journeys in excess of 45 minutes or secondary school pupils journeys of over an hour; the provision of, and accessibility to, safe walking and cycling routes, public transport, and, where relevant, the home-school transport arrangements proposed by those bringing forward proposals
- whether the proposal will improve access for disabled pupils in accordance with requirements under the Special Educational Needs and Disability Act 2001.

Finance

- the financial implications for both recurrent and capital costs and the scale of any projected net savings over a period of at least 3 years
- whether the proposals represent a more efficient use of resources, taking into account the long term transport and building maintenance and repair costs
- the existence of written confirmation from the body or bodies concerned that any capital funding needed for the proposal to be implemented will be available at the level required and at the right time

- whether the necessary recurrent funding is available, including consideration of whether, without the proposals, the schools would face budget deficits
- whether the proceeds of sales (capital receipts) of redundant sites are to be made available to meet the costs of the proposal or contribute to the costs of future proposals which will promote effective management of school places
- whether any savings in recurrent costs will be retained in the LA's local schools' budget; and
- in the case of closures, what capital investment would be needed if the school were to stay open, in order to bring it up to a proper standard for delivery of the curriculum.

Views of interested parties

- the views of staff, children and young people, parents and other local residents, including views relating to parental preference, and matters raised by objectors
- the concerns of any LA affected by the proposals
- the concerns of any diocese affected by the proposals
- if the proposals affect the provision of post-16 education, the view of: local employers; the Careers Service; the 14-19 Local Area Network; relevant Further Education and Higher Education Institutions and work based learning providers
- the views of other schools, playgroups or other providers in the area.

21st Century Schools

- Whether the proposal contributes to the delivery of sustainable schools for the 21st Century and to the better strategic management of the school estate.

Consideration of alternatives¹¹

- whether the establishment of multi site schools has been considered as a means of retaining buildings, and the reasons for not pursuing this option

¹¹ These considerations are relevant mainly to schools in more rural areas

- whether alternatives to closure have been actively considered, in particular whether clustering or collaboration with other schools have been looked at by the proposer (taking account of the scope for use of ICT links between school sites) and the reasons for not pursuing these as an alternative to closure
- whether the possibilities of making fuller use of the existing buildings as a community or an educational resource have been explored.

Other issues

- the overall effect of a closure on the local community (the community impact assessment), particularly in areas receiving funding as part of regeneration activity
- the effect of a closure on standards in the Welsh language in schools and progression opportunities for learners (the Welsh language impact assessment)
- in the case of a school with a designated religious character, the impact of the school's closure on accessibility to that form of provision, balanced with the need for efficient provision
- whether the statutory consultation has been sufficient, allowing sufficient time and providing sufficient information for interested parties to make an informed response
- whether school age children and young people, including where appropriate, those with SEN have had the opportunity to participate in the consultation process
- whether publication procedures have been properly carried out
- any effect of the proposals on statutory class size limits and junior class size policy; and
- any equality issues.

Additional factors to be taken into account for proposals to add or remove nursery classes

2.3 These factors are as follows:

- the views of the Children and Young People's Partnership and the Early Years Development and Child Care Partnership, a key consideration in deciding such proposals

- whether the proposal will contribute to the effective delivery of the Foundation Phase
- the standard of nursery education and facilities offered, both in the classroom and in the outdoors, and the viability of any school that wishes to add nursery places
- the levels of demand for certain types of nursery education e.g. Welsh medium or designated religious character
- contribution to the aims of Iaith Pawb and Welsh Assembly Government strategies for the Welsh Language in relation to early years provision
- the effect of the proposals on other institutions, including private and voluntary providers
- whether there is a need for additional nursery places in the area, taking into account the proportion of three and four year olds who already attend maintained nursery and reception classes
- the extent to which proposals will integrate early years education with childcare services or are consistent with an integrated approach.

In deciding whether to approve any proposals to close a nursery school or class, the Welsh Ministers will wish to be assured that the proposed alternative provision can maintain or enhance the standard of education provision; and if relevant develop and increase the accessibility and sustainability of Welsh medium education for pupils in later years.

Additional factors taken into account for proposals to reorganise secondary schools or to add or remove sixth forms

2.4 These factors are as follows:

- whether the proposed provision will contribute to the wider range of relevant courses and qualifications and high quality, employer informed, vocational learning routes targeted at pupils of all abilities, whilst maintaining GCSE, AS/A level and other established courses which is required under the Learning and Skills (Wales) Measure 2009 for 14-19 year old learners

- the extent to which the proposal contributes to the 14-19 and transformation agenda taking account of the views of local 14-19 networks and learning partnerships
- whether any proposed new post-16 provision is of sufficient size and quality to deliver a range of courses appropriate to the particular needs and abilities of the likely intake, without adverse effects on 11-16 provision at schools
- how the proposals would affect the viability of institutions already providing good-quality post-16 provision, including school sixth forms, Further Education Institutions and private training organisations
- whether the proposals are likely to lead to increased participation in learning by pupils beyond compulsory school age, taking into account transport issues and costs
- how proposals might affect the sustainability or enhancement of Welsh medium provision in the local 14-19 network and the wider cross-country area
- the views of young people, parents, schools and colleges in the area
- current levels of collaboration and innovation and the extent to which proposals will provide additional learner benefits compared with the status quo and other tenable options for post-16 organisation.

Schools Causing Concern

2.5 When considering any proposals relating to schools causing concern, the Welsh Ministers will in such cases have regard to the length of time the school has been in special measures (or requiring significant improvement), the impact on its ability to take forward its action plan, the progress it has made, the prognosis for timely improvement and in the case of closure proposals, whether sufficient places will be available at neighbouring schools.

Additional factors to be taken into account in deciding proposals for additional provision of different types

2.6 In the event of a proposal for a new or enlarged school coming to the Welsh Ministers for determination, the apparent need to meet demand will be balanced against the overall supply of places in the area, the cost of the proposals, and the standards or prospective standards of any school involved.

Promoters must demonstrate that any proposed new school can meet the requirements applying to all maintained schools, including:

- that it can deliver the National Curriculum, provide a good standard of education, and, if the proposed school is co-educational, provide equal opportunities for boys and girls
- for the relevant age ranges, that it can make an efficient and effective contribution to the delivery of the Foundation Phase or the local curriculum arrangements for 14-19 Learning Pathways
- where the proposed maintained school is an existing independent school, the information provided in the statement of case might be supplemented by a report on these factors:
 - that it has or will appoint suitably qualified staff
 - that the premises are suitable for the purpose of a maintained school
- if the proposal is for a single-sex school, that the proposals would not place the LA in breach of the Sex Discrimination Act 1975
- in the case of a proposed new VA school, that the LA has confirmed that it will meet its liability; and
 - that where needed, grant is available under the Welsh Assembly Government's VA schools capital programme
 - that the promoters have provided a statement that the governing body will be able to meet its financial responsibilities for repairs and capital work

- that the proposed land tenure arrangements give the school sufficient security of occupation of the site. Where land tenure arrangements are not settled the Welsh Ministers may indicate that they are minded to approve the proposals. Such a decision could be appropriate where the promoters are unwilling to incur legal expenses to resolve the tenure issue until they know that there is a strong likelihood that the proposals will be approved
- for a new Welsh medium school, that evidence of assessed demand shows that the additional or altered provision is justified and will be sustainable.

When considering proposals for new or enlarged schools, the Welsh Ministers will pay particular attention to the views of parents and to the effect of any increase in places on other schools in the area.

Additional factors in the consideration of proposals for change of language medium

2.7 These factors are as follows:

- The Welsh Ministers will look for evidence as to the extent to which existing provision by the authority of education in the medium of English and Welsh exceeds or falls short of demand or projected demand from parents for that type of provision, and the contribution the proposal would make to remedying that situation.
- The effect of the proposal on targets within the LA's approved Welsh Education scheme.

Consideration of proposals for the reorganisation of SEN provision

2.8 The principles set out elsewhere in this Circular will be taken into account by the Welsh Ministers in the consideration of proposals for the reorganisation of special schools and SEN provision within mainstream schools i.e. raising standards, parental preference, the effect on home-school journeys, on the

Welsh language and on diversity of post-16 provision. In addition the Welsh Ministers will have regard to:

- the elements of Core Aim 2 of the Welsh Assembly Government's Core Aims for Children and Young People where relevant to SEN, and in particular the LA's plans for promoting inclusion (i.e. providing for a higher proportion of pupils with SEN in a mainstream setting) wherever appropriate in meeting a child or young person's individual needs
- the Welsh Assembly Government's objective of promoting better regional coordination of SEN provision and services, as set out in the Education Act 2002 and the Learning Country
- the impact of changes on other services for children with SEN provided by the LA.

2.9 Where the development of mainstream provision is linked to the reorganisation of special school provision, the Welsh Ministers will consider the role of LA specialist support services, in providing support to mainstream schools. In addition nursing and/or medical requirements and, access to therapists and other professionals may need to be considered.

2.10 While proposals are not required specifically to enable mainstream schools to demonstrate a more inclusive approach to catering for pupils with special educational needs, it is expected that as LAs begin to implement social inclusion policies there will be increased co-operation between special and mainstream schools.

2.11 The Welsh Ministers will:

- where appropriate seek expert advice on the educational and other aspects of a particular proposal
- look for evidence that any reorganisation proposal fits within a clear strategic framework set by the LA for meeting the full range of SEN and for promoting inclusion.

2.12 In addition to the usual considerations of **standards of provision**, the Welsh Ministers will consider:

- whether the proposals will improve standards of accommodation for pupils with SEN

- how the proposals will address any health, safety and welfare issues
- how the proposals will support increased inclusion
- the impact of the proposal on other SEN provision within the immediate and wider LA area including out of county where appropriate.

2.13 In assessing the need for provision the Welsh Ministers will consider the additional factors of:

- whether there is a need for a particular type of SEN provision within the area; and
- whether there is surplus SEN provision within the area.

2.14 As appropriate and in addition to the usual range of interested parties the Welsh Ministers will take into account the views of:

- the Local Health Board and/or local NHS Trust.

Decisions by the Welsh Ministers

2.15 The Welsh Ministers may:

- approve the proposals
- approve the proposals with modification
- reject the proposals
- give a conditional approval, which becomes a final decision once action to meet the condition has been taken to their satisfaction.

The Welsh Ministers will normally look to issue a decision within six to seven months of the date on which the proposal is published.

Modification of proposals prior to approval

2.16 Before modifying a proposal the Welsh Ministers must consult those who published the proposals and, in some circumstances, the LA and governing body. The Welsh Ministers cannot modify a proposal in a way that would in effect substitute another proposal for the published one.

2.17 If those who published the proposals wish to change proposals in a way which goes beyond the discretion of the Welsh Ministers to modify the proposal they need to withdraw the proposal and publish new proposals. In such circumstances there must be fresh consultation with interested parties and a notice placed in the local press.

Decision letters

2.18 A decision letter, giving the Welsh Ministers' reasons for the decision, is sent to the person or body who published the proposals and copied to the LA or governing body as appropriate. It is also copied to each of the statutory objectors except where objectors are signatories to a petition, in which case a copy is sent only to the person who submitted the petition. If a school is to be closed, the Welsh Ministers will normally give a decision at least one term before the closure is to be implemented.

2.19 The decision letter and the statement of information presented to the Welsh Ministers as the basis for the decision is published in accordance with the Welsh Assembly Government Code of Practice on the Welsh Assembly Government website at www.wales.gov.uk normally two days after it is issued to interested parties.

Related documents

- A Fair Future for Our Children - The Strategy of the Welsh Assembly Government for Tackling Child Poverty
- A Guidance to Asset Management Planning in Wales
- Defining schools according to Welsh medium provision - Welsh Assembly Government Information document No: 023/2007
- Disability Discrimination Act 2002
- Disability Discrimination Act 2005
- Education Act 1996
- Education Act 2002
- European Charter for Regional or Minority Languages
- Estyn publications
 - Inspection reports on schools
 - Small Primary Schools in Wales: 2006
 - The Impact of Class Size in Primary Schools: 2004
 - Evaluation of performance of schools before and after moving into new buildings or significantly refurbished premises: 2007
- Foundation Phase Framework for Children's Learning for 3 to 7 year olds in Wales
- Guidance accompanying the School Organisation Proposals by the National Council for Education and Training in Wales Regulations 2004 (The National Assembly for Wales Circular 48/2004)
- Human Rights Act 1998
- Iaith Pawb - A National Action Plan for a bilingual Wales
- Learning and Skills (Wales) Measure 2009
- Learning and Skills Act 2000
- Learning Pathways 14-19 Guidance: National Assembly for Wales Circular Number: 37/2004
- National Assembly for Wales Circular No 15/2004: Planning to Increase Access to Schools for Disabled Pupils
- One Wales: A progressive agenda for the government of Wales

- School Effectiveness Framework: 2008
- School Organisation Proposals by the National Council for Education and Training for Wales Regulations 2004
- School Standards and Framework Act 1998
- School Standards and Framework Act 1998: Organisation of School Places - The National Assembly for Wales Circular 9/99
- Sex Discrimination Act 1975
- Shared Planning for Better Outcomes: Planning Guidance and Regulations for Local Authorities and their Partners on Children and Young People's Plans: Welsh Assembly Government Circular No.31/2007
- Skills That Work for Wales - A Skills and Employment Strategy and Action Plan
- Special Educational Needs Code of Practice for Wales
- Special Educational Needs and Disability Act 2001
- The 1999 School Premises Regulations: Welsh Office Circular 15/99
- The Change of Category of Maintained Schools (Wales) (Amendment) Regulations 2005
- The Change of Category of Maintained Schools (Wales) Regulations 2001
- The Education (Infant Class Sizes)(Wales)(Amendment) Regulations 2009
- The Education (Infant Class Sizes) (Wales) Regulations 1998
- 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
- The Learning Country
- The Learning Country: Vision into Action
- Transforming Education and Training Provision in Wales: 2008
- United Nations Convention on the Rights of the Child
- Welsh Language Act 1993

Notes on Impact Assessments

The Welsh Assembly Government does not take the view that the requirement for assessments should be overly burdensome or that it is necessary to commission such work from external consultants. LAs are already under a duty to carry out equality impact assessments which could provide the basis for the impacts specified in this guidance.

Community Impact

Impact assessments should ideally be included in consultation documents issued to parents. Whilst these notes do not prescribe what should be included in a community impact assessment, proposers might include the following:

- Information on the proportion of pupils from the catchment area that attend the school.
- Information on the proportion of pupils from outside the catchment area that attend the school.
- Information about any other facilities the school accommodates e.g. youth club/play group.
- Information about any other facilities or services the school provides e.g. after school clubs, community library.
- If accommodation, facilities or services are provided by a school, where they would be provided in the event of closure.
- Whether other facilities available in the immediate local or wider community will or could be enhanced in the event of a school closure (e.g. improvements to village halls, playgrounds, provision of holiday play schemes).
- Information about the facilities and services provided at any alternative school.
- How parents' and pupils' engagement with the alternative school and any facilities it may offer could be supported (e.g. how pupils (and particularly any less advantaged pupils) will be helped to participate in after school activities).

Welsh Language Impact

These notes are not prescriptive or exhaustive but the impact assessment in respect of the Welsh language might include the following:

- Information on the language category of the school.
- Information on the language category of any alternative school.
- Information about standards in the Welsh language in the school and any alternative school.
- Information about after school activities e.g. Urdd which provide additional opportunities to use Welsh in the school and any alternative school.
- Information about whether the school provides facilities for members of the community to learn Welsh, and where any alternative facilities could be provided.
- Whether it might be appropriate to provide additional after school facilities at any alternative school to further secure standards in the Welsh language.
- How parents' and pupils' engagement with any alternative school and any specific language enhancement it offers could be supported (e.g. how pupils will be helped to participate in Urdd groups).
- Information on how the proposal fits with the authority's Welsh Language Scheme and any future actions that will be needed in consequence of the change to continue to comply with the scheme or meet targets of the scheme.