

EDUCATION AND LIFELONG LEARNING COMMITTEE

DRAFT POLICY GUIDANCE ON SCHOOL ORGANISATION

Introduction: the legislative background

1.1 Reorganisations of school provision usually require the publication of statutory proposals. The School Standards and Framework Act 1998 (the 1998 Act) and the Education (School Organisation Proposals) (Wales) Regulations 1999 (SI No 1671) set out exactly which proposed changes require publication and specify the procedures for consultation, publication, the making of objections and the determination of such proposals.

1.2 The National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672) transferred the functions of the Secretary of State for Wales under the Schools Standards and Framework Act 1998 to the National Assembly for Wales. Under the Assembly's delegation arrangements the Assembly Minister for Education and Lifelong Learning is responsible for determining such proposals where they come to the National Assembly for decision. This Circular sets out the policy context and general principles for planning the supply of school places; sets out the factors that need to be taken into account by those bringing forward proposals and explains the criteria which the Minister will apply in reaching decisions on proposals which come to her for determination. It replaces all such policy guidance issued to date.

1.3 The Minister is also responsible for issuing guidance on the procedures for publishing, deciding and implementing statutory proposals for changes to schools. This procedural guidance is currently set out in National Assembly for Wales Circular 9/99, "Organisation of School Places" (September 1999) and Welsh Office Circular 13/95, "The Supply of School Places in Wales", as amended by the "Closure of Schools in Wales" addendum of 17 March 1999. These will in due course be replaced by a new consolidated Circular.

Scope of guidance

1.4 This guidance is intended for LEAs; the governing bodies of foundation, voluntary aided and voluntary controlled schools; diocesan education authorities; and others with an interest in school organisation. The National Assembly will have regard to this circular when determining proposals which attract statutory objections; when directing authorities or governing bodies to publish proposals; or when publishing its own proposals.

1.5 The first section refers to areas of policy which have implications for the consideration of statutory proposals. The second section sets out in more

detail the factors to be taken into account in bringing forward and determining proposals.

School Organisation Plans (SOPs)

1.6 Each LEA must prepare, consult on and adopt a School Organisation Plan for its area and review it annually¹. The Plan should assess the supply of and demand for school places within the LEA area during the five year planning period; identify any excess or shortfall in the number of primary and secondary school places and draw conclusions about how these should be dealt with. It must also set out the provision which the authority proposes to make for children with special educational needs. The Plan thus sets the context for the public, the LEA and the Assembly to consider proposals for opening, closing or changing the character of individual schools. Proposals for such changes must continue to be published to provide the opportunity for public consideration. The Minister must have regard to the SOP in reaching any decision on a statutory proposal for change which comes to her for determination.

SECTION 1: KEY PRINCIPLES AND POLICIES

Summary

1.7 Key considerations in the determination of proposals to change the pattern of school provision will be:

- the effect of any proposed change on the standard of education to be provided in the area;
- the cost-effectiveness of proposals and whether adequate financial resources are available to implement the proposals;
- the effect of the proposed change on accessibility to schools, particularly rural schools and the effect of the proposed change on journey times to school;
- the views of those most directly affected by the proposals such as parents and other schools in the area;
- the need for the particular type of provision that is proposed, particularly the level of parental demand for Welsh medium education;
- the effect of the proposed change on the proportion of denominational places in the area;

¹ Welsh Office Circular 26/99, 'Guidance on the Preparation of School Organisation Plans' and 'The Education (School Organisation Plans) (Wales) Regulations.

- the need for LEAs to comply with their duties under the Sex Discrimination Act 1975, including those provisions relating to single-sex schools.
- the extent to which proposals would foster collaborative arrangements between providers for students aged 16+.

Educational Standards

1.8. Proposals for changes in the organisation of schools must be seen against the background of the National Assembly's commitment to drive up standards of teaching and attainment in all our schools. LEAs 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, and should bear in mind relevant themes of The Learning Country, in particular that the interests of learners should override all others and that inequalities in achievement between advantaged and disadvantaged areas, groups and individuals must be narrowed in the interests of all. In assessing the impact of proposals on standards of education the Minister will seek advice from Estyn, refer to the most recent Estyn reports and take into consideration any other information available on a school's performance.

Surplus places

1.9 It continues to be important that education is provided as cost effectively as possible. Some surplus places are necessary to enable schools to cope with fluctuations in numbers of pupils, but excessive numbers of unused places mean that resources are being tied up unproductively. Where there are excessive numbers of surplus places LEAs should review their provision and, where feasible, make proposals for their removal especially where a school has 25% or more of its capacity and at least 30 places unfilled. In considering such proposals, consideration should be given to whether community use of the premises would be an effective way of utilising the accommodation to the full. The effect of the proposal on any existing community use of the school premises must also be considered.

School Closure proposals, including rural schools

1.10 The National Assembly is concerned to ensure that rationalisation proposals reflect the need to maintain and improve standards; to cater for parental choice and to provide access to reasonably local schools. The Minister is not normally prepared to approve closure of a popular and effective school unless there is evidence 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.

1.11 The transport implications of rural school closures should be carefully considered, including the welfare of children if journeys exceed 45 minutes for primary age children or one hour for secondary children; the recurrent cost to the LEA of transporting pupils to school further away from home and the

environmental costs of longer journeys. The overall effect on the community of closure of a local school should also be taken into account. This does not mean that rural schools should never close but the case for closure should be strong and the proposals in the best interests of educational provision in the area.

Effect on School Journeys

1.12 Proposals should not have the effect of unreasonably extending pupils' journey times and should be set against Government objectives to reduce traffic congestion and promote alternatives to the car. When considering closure proposals the Minister will have particular regard to the resulting journey times for pupils, available walking routes and, where relevant, the home-school transport arrangements proposed by those bringing forward proposals. The possible effect of any transport difficulties on pupils' attendance at school should be specifically addressed by proposers.

Need for additional provision of particular kinds

1.13. In the case of new Welsh medium, denominational or single sex schools or expanded provision at existing schools, the need for additional provision of that kind in the area must be assessed. For example, oversubscription and significant numbers of appeals might indicate unmet parental demand. Authorities are required to meet expressions of parental preference so long as that is compatible with the cost effective provision of education. In the event of a proposal coming to the Assembly for determination these considerations (of meeting demand) will be balanced against the overall supply of places in the area and the cost of the proposals, bearing in mind the contents of the School Organisation Plan for the area and the standards or prospective standards of any school involved.

1.14 An LEA should take account of its Welsh Education Scheme in developing proposals for the closure, opening and alteration of Welsh medium schools in its area and must, so far as is practicable, aim to meet parental demand for Welsh or English medium teaching.

1.15 In deciding on proposals to close or reduce the capacity of denominational schools, proposers need to consider the effect that this will have on the balance of denominational and non-denominational provision.

Increase in provision at popular schools

1.16. 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. When considering such proposals the Assembly will pay particular attention to the views of parents and to the effect of any increase in places on other schools in the area.

Early Years Provision

1.17 Proposals affecting early years provision should take into account the desirability of further integrating pre-school education and childcare services, and be consistent with an integrated approach. In deciding whether to approve any proposals to close a nursery school or class, the Minister will check that the proposed alternative provision can maintain or enhance the standard of education provision provided; and maintain the accessibility and sustainability of Welsh medium education for pupils in later years. Alternative provision could be in the private or voluntary sectors. The Assembly will have particular regard to the views of the Early Years Development and Childcare Partnership in considering proposals involving changes to early years provision.

Class Size Reduction

1.18 From September 2001 no infant class should contain more than 30 pupils.² In addition the Assembly hopes to achieve junior class sizes of a similar size by 2003. Before approving proposals for the reorganisation of school places, the Assembly will check that they can be implemented in a way that is consistent with the reduction of primary class sizes and compliance with the statutory limit.

Post-16 Provision

1.19 The National Assembly considers that collaboration between all providers is essential for the most efficient and cost-effective delivery of post-16 education. The establishment of ELWa and local Community Consortia for Education and Training should facilitate achieving this objective. The Minister would not expect to be asked to approve any proposals with a significant post-16 dimension which did not have the support of ELWA, which from April 2002 will be the funding body for sixth forms, and the local CCET.

The Reorganisation of Special Educational Needs Provision

1.20 All schools in Wales are likely to have some children on roll who have special educational needs (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 units within mainstream schools, or in special schools.

Capital

1.21 Before approving proposals, the Assembly Minister must be satisfied that the proposals can be implemented and, in particular that any capital investment required will be made. Usually this will be provided by way of written confirmation from the source of funding on which the promoters rely. In the case of an LEA, this may be confirmation from the authority itself by

² School Standards and Framework Act 1998, section 1.

reference to its capital programme. In the case of voluntary aided schools, governors' expenditure may be supported by up to 85% grant aid from the VA Capital Building Programme administered by the Assembly.

Schools Causing Concern

1.22 LEAs should consider at an early stage the long term viability of schools judged by Estyn to require special measures or found to have serious weaknesses. They should consider closing such schools where there are places available nearby at better performing schools.

1.23 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. The Minister will in such cases have regard to the length of time the school has been in special measures (or had serious weaknesses), the progress it has made, the prognosis for timely improvement and whether sufficient places might be available at neighbouring schools.

The National Assembly's power to direct closure of a special measures school

1.24 Section 19 of the School Standards and Framework Act 1998 gives the National Assembly the power to direct an LEA to close a school which is subject to special measures. This power will only be used in extreme circumstances.

Proposals other than closure and re-opening on the same site

1.25 The Minister will have regard to the impact the proposals would have on the school's ability to take forward its action plan to come out of special measures or to remove serious weakness

Social Inclusion

1.26 In some areas, a school may be a focal point for community activity, and its closure could have implications beyond the issue of provision of education. The case presented to the Minister by those bringing forward proposals should show that options for maintaining community facilities in the area have been considered. The views of the community council (if there is one), local police, voluntary groups and others with an interest in the local community should be taken into account, although educational interests will always be paramount.

The Education (School Premises) Regulations 1999

1.27 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 School Standards and Framework Act 1998) empowers the National Assembly, in

certain circumstances, to relax the prescribed standards. Welsh Office Circular 15/99 provides further guidance on this.

Change of school category

1.28 All categories of school – community, foundation, voluntary aided or voluntary controlled – are of equal value. All proposals to change the category of a school will therefore be considered on their individual merits. There is no presumption for or against any particular category.

Sex Discrimination

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

Equality of Opportunity and Human Rights

1.30 In allocating school places, LEAs should have due regard to the principle that there should be equality of opportunity for all pupils and should not act incompatibly with the European Convention on Human Rights, especially 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.

SECTION 2

NATIONAL ASSEMBLY CONSIDERATION OF PROPOSALS

Delegated decision making

2.1 Where statutory proposals to reorganise the provision of school come to the National Assembly for determination, the Minister for Education and Lifelong Learning makes the decision in accordance with the National Assembly's delegation arrangements. The Minister will 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.

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

Standards of provision (of particular importance)

- whether the proposals are likely to improve the standard of education provision in the area;
- 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;
- the standard of education currently provided and the continuing ability of the school to maintain satisfactory standards;
- the effect of the proposals on other schools and educational institutions.

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. When deciding which school(s) should close to resolve a problem of surplus capacity, proposers should take into account ESTYN inspection reports.
- whether there is a current or future need for additional places in the area or demand for a particular type of place, for example Welsh medium places or provision for particular faiths or denominations
- the length and nature of journeys to alternative provision; in particular whether primary school pupils will have journeys in excess of 45 minutes or secondary school pupils journeys of over an hour.

Finance

Before approving proposals, the National Assembly will need to be satisfied that the proposals can be implemented; in particular, that any necessary recurrent and capital funding will be available. Before publishing statutory

proposals, the 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 are expected to provide written confirmation from the body or bodies concerned that any external capital funding on which the promoters rely will be available at the level required and at the right time.

In summary the financial considerations are:

- whether the proposals represent a cost-effective use of public funds, including consideration of the long term transport, environmental and building maintenance and repair costs;
- whether any capital resources required can be found;
- whether the necessary recurrent funding is available, including consideration of whether without the proposals the school(s) would face budget deficits
- the scale of any projected net savings over a period of three years;
- whether the proceeds of sales of redundant sites are to be made available; and
- whether any savings will be recycled into the education budget.

Views of interested parties

- the views of parents and other local residents, including on issues relating to parental choice and the impact on the local community;
- the concerns of any LEA affected by the proposals;
- if the proposals affect the provision of post-16 education, the views of ELWa and the local Community Consortium for Education and Training, the relevant Careers Service Company and Education Business Partnership;
- the views of other schools in the area;
- the level of objections.

Consideration of alternatives

- whether alternatives to closure have been actively considered, in particular whether federation, clustering or collaboration with other schools have been looked at (taking account of the scope for use of ICT links between school sites) and the reasons for not pursuing this approach.

Other issues

- the overall effect of a closure on the local community, particularly in areas receiving funding as part of regeneration activity;
- whether the statutory consultation and publication procedures have been properly carried out;
- the existence of safe walking, cycling and bus routes to the proposed site;
- any effect of the proposals on class sizes;
- any sex discrimination issues.

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

- the views of the Early Years Development and Child Care Partnership, which should be a key consideration in deciding such proposals;
- the standard of nursery education and facilities offered by and the viability of any school that wishes to add nursery places;
- 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 level of social deprivation in the area.
- the extent to which proposals will integrate pre-school education with childcare services or are consistent with an integrated approach

2.4 Additional factors taken into account for deciding proposals to add or remove sixth forms

- the views and financial support of ELWa and the local CCET, which would be a key consideration in deciding such proposals;
- whether the proposed 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 the school;
- how the proposals would affect the viability of institutions already providing good-quality post-16 provision, including both school sixth forms and FE institutions;
- the effect of the proposals on the 'staying-on' rate

- how far the proposals would increase the range of whether the statutory consultation and publication procedures have been properly carried out;
- the existence of safe walking, cycling and bus routes to the proposed site.
- whether there are already sufficient 16-19 places in the area
- the effect of the proposals on the range of provision available to students
- the views of other schools and colleges in the area.

2.5 Additional factors to be taken into account in deciding proposals for new Voluntary aided or Foundation schools

2.6 Promoters must demonstrate that the 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.
- 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 proposals are for a single-sex school, that the proposals do not put the Local Education Authority in breach of the Sex Discrimination Act 1975;
- in the case of a proposed new VA school, that the LEA has confirmed that it will meet its liability;
- that where needed, grant is available under the National Assembly's Voluntary Aided Schools Capital Programme;
- where the proposed school is a VA school, 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 Assembly may indicate that it is 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.

2.7 The National Assembly's consideration of proposals for the reorganisation of provision to meet SEN

2.8 The principles set out elsewhere in this circular will be taken into account by the National Assembly in its consideration of proposals for the reorganisation of special needs provision: i.e. raising standards, parental preference, the effect on home-school journeys, post-16 provision. The Assembly will also have regard to the adopted School Organisation Plan for the area when deciding proposals for the reorganisation of SEN provision. In addition it will have regard to:

- the elements of the LEAs Education Strategic Plan (ESP) which are relevant to SEN, and in particular the authority's plans for promoting inclusion (ie providing for a higher proportion of pupils with SEN with a mainstream setting);
- its objective to promote better regional co-ordination of SEN provision and services, as set out in "Shaping the Future for Special Education - An Action Programme for Wales".

2.9 The National Assembly will consider carefully the development of mainstream provision where this is linked to the reorganisation of special school provision. In particular the Assembly may need to consider the role of LEA specialist support services, e.g. visual impairment, hearing impairment and behavioral support services, in providing support to mainstream schools. In addition nursing and/or medical requirements, access to therapists and other professionals may require consideration.

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

2.11 The National Assembly will seek to ensure that:

- where appropriate it can draw upon expert advice on the educational and other aspects of a particular proposal;
- any reorganisation proposal fits within a clear strategic framework set by the authority for meeting the full range of special educational needs and for promoting inclusion; and that
- the pattern of specialist provision that results, and the way schools operate, supports the development of a more locally inclusive system of education.

2.12 In addition to the usual considerations of ***standards of provision*** the National Assembly will consider:

- whether the proposals will improve standards of accommodation for pupils with SEN;
- how the proposals will address any health, safety and welfare difficulties;
- how the proposals will support increased inclusion; and
- the impact of the proposal on other special educational needs provision within the area.

2.13 In assessing the ***need for provision*** the National Assembly will consider the additional factors of:

- whether there is a need for a particular type of special educational needs provision within the area;
- whether there is surplus special educational needs provision within the area; and

2.14 The National Assembly will also take into account the ***views of interested parties*** particularly :

- the views of ELWA and the local CCET if the proposals affect the provision of post-16 education;
- where appropriate, the views of the Health Authority or local NHS Trust;
- where appropriate the views of the local social services departments.

2.15 To inform the decision making process National Assembly may seek professional advice on the educational or accommodation aspects of a particular proposal.

2.16 Decisions by the Minister for Education and Lifelong Learning

The Minister may:

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

Modification of proposals prior to approval

Before modifying a proposal the Assembly must consult those who published the proposals and, where different, the LEA or governing body. The Assembly would not modify a proposal in a way that would in effect substitute its own proposal for the published one.

If those who published the proposals wish to make a change to their proposals which goes beyond the power of the Assembly to modify the proposal they should withdraw the proposal and publish new proposals. In such circumstances interested parties should be informed and a notice placed in the local press.

Decision letters

A decision letter, giving the Assembly Minister's reasons for the decision, will be sent to the person or body who published the proposals and copied to the LEA or governing body as appropriate. It is also copied to the objectors. Where there are only a few objectors a copy of the decision letter is sent to each of them but where there are a large number as signatories to a petition, a copy is sent only to the person who submitted the petition.