



Strategy, Policy & Performance - Briefing Note



Title School organisation: local authority maintained schools

Type: Information Only
Marked: Unmarked

1. Purpose

1.1. This briefing is intended to advise the members of the Children and Education sub-committee of the Department of Education's statutory guidance for local authorities on opening and closing maintained schools.

2. Background

2.1. On June 25th, the sub-committee will be scrutinising the proposal to close Raines Foundation School. In order to assess whether due process has been followed to date, the committee will need to be aware of the statutory guidance.

3. Analysis

3.1. The main points of the guidance are as follows:

3.2. Under Section 15 of the EIA 2006, a LA can propose the closure of ALL categories of maintained school. The governing body of a voluntary, foundation or foundation special school may also publish proposals to close its own school following the statutory process. Alternatively, it may give at least two years' notice of its intention to close the school to the Secretary of State and the LA.

3.3. The decision-maker, in this case the LA, should be satisfied that there are sufficient surplus places elsewhere in the local area to accommodate displaced pupils, and the likely supply and future demand for places in the medium and long term. The LA should take into account the overall quality of alternative places in the local area and the popularity of other local schools.

3.4. Reasons for closing a maintained school include, but are not limited to, where:

- wider school reorganisation means that the school is now surplus to requirements (e.g. because there are surplus places elsewhere in the local area which can accommodate displaced pupils, and there is no predicted demand for the school in the medium or long term);
- it is to be 'amalgamated' with another school;
- it has been judged inadequate by Ofsted and there is no sponsored academy solution;
- it is to acquire, lose or change its religious character;
- it is no longer considered viable; or
- it is being replaced by a new school.

3.5. Consultations should be carried out in term time to allow the maximum numbers of people to see and respond to statutory proposals.

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- 3.6. The decision-maker will need to be satisfied that any consultation carried out was appropriate, fair and open, and that the proposer has given full consideration to all the responses received.
- 3.7. The decision-maker must consider the views of those affected by a proposal or who have an interest in it, including cross-LA border interests. The decision-maker should not simply take account of the number of people expressing a particular view. Instead, they should give the greatest weight to responses from those stakeholders likely to be most directly affected by a proposal – especially parents of children at the affected school(s).
- 3.8. Under the DBE Measure 1991 Church of England schools must consult with their diocese before making closure proposals.
- 3.9. The Secretary of State considers that these bodies, along with those listed below should be consulted in the case of the proposed closure of all schools:
- the governing body (as appropriate);
 - pupils at the school;
 - (if a proposal involves, or is likely to affect a school which has a particular religious character) the appropriate diocese or relevant faith group¹⁸;
 - the trustees of the school (if any);
 - teachers and other staff at the school;
 - any LA likely to be affected by the proposal, in particular neighbouring authorities where there may be significant cross-border movement of pupils;
 - the governing bodies, teachers and other staff of any other school that may be affected;
 - parents of any pupils at other schools who may be affected by the proposal including where appropriate families of pupils at feeder primary schools;
 - any trade unions who represent staff at the school; and representatives of any trade union of staff at other schools who may be affected by the proposal;
 - MPs whose constituencies include the school that is the subject of the proposal or whose constituents are likely to be affected by the proposal; and
 - any other interested organisation / person that the proposer thinks are appropriate.
- 3.10. In determining proposals, decision-makers must ensure that the guidance on schools causing concern (intervening in falling, underperforming and coasting schools) has been considered where necessary.
- 3.11. In deciding a proposal to close a school that has been designated with a religious character, decision-makers should consider the effect that this will have on the balance of denominational provision in the area, as well as the number of pupils currently on roll, the medium and long term need for places in the area, and whether standards at the school have been persistently low.
- 3.12. There are two ways to amalgamate two (or more) existing maintained schools:
- 3.13. The LA or governing body (depending on school category) can publish a proposal to close two, or more, schools and the LA, or a proposer other than the LA (e.g. diocese, faith or parent group, Trust),

depending on category, can publish a proposal to open a new school. Where this is a presumption school, this will be subject to publication of a section 6A notice (see part 2). This will result in a new school number being issued.

- 3.14. The LA and / or governing body (depending on school category) can publish a proposal to close one school (or more) and enlarge / change the age range / transfer site (following the statutory process as / when necessary) of an existing school, to accommodate the displaced pupils. The remaining school would retain its original school number, as it is not a new school, even if its phase has changed.
- 3.15. The LA may use the pre-publication consultation to consider a range of options (e.g. for the possible wider reorganisation of provision), however this is not a substitute for the statutory representation period as set out in legislation. The statutory representation period must cover the specific opening or closure proposal of the school in question.
- 3.16. It is for the proposer to determine the nature and length of the pre-publication consultation. It is recommended to consult for a minimum period of six weeks.
- 3.17. A proposal for one change can be linked to another proposal(s). For example, an amalgamation where two schools are closing and are to be replaced by a completely new school, or if the need for the closure is the result of an area-wide reorganisation and long-term LA planning.
- 3.18. Where surplus capacity in the local area necessitates a proposal for closure and there are sufficient places in neighbouring schools to accommodate the displaced pupils, this should be evidenced in the proposal.
- 3.19. Where proposals are related, this should be made clear in any informal or formal representation periods, in published notices, and proposals. All notices should be published together / or as one notice (e.g. where one school is to be enlarged because another is being closed a single notice could be published) and specified as 'related'.
- 3.20. Related proposals must also be considered together and, where possible, decisions should be made at the same time.