



Draft School Organisation Code for consultation

Statutory Code

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School Organisation Code

Audience

Local authorities, governing bodies of maintained schools, diocesan authorities, the Commission for Tertiary Education and Research, and Estyn.

Overview

The School Standards and Organisation (Wales) Act 2013 requires that the Welsh Ministers issue a School Organisation Code. The Code imposes requirements in accordance with which relevant bodies (the Welsh Ministers, local authorities, governing bodies of maintained schools, the Commission for Tertiary Education and Research, and other promoters) **must** act. It also includes practical guidance to which relevant bodies **must** have due regard and sets out the policy context, general principles and factors that **should** be taken into account by those bringing forward proposals to reconfigure school provision and by those responsible for approving or determining proposals.

Action Required

As above

Further information

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Additional copies

This document can be accessed from the Welsh Government's website at:
<https://www.gov.wales/school-organisation-code-2024>

Related documents

School Standards and Organisation (Wales) Act 2013
School Organisation Code (2018)
Guidance on school categories according to Welsh-medium provision (2021)
Measuring the capacity of schools in Wales (2011)
The Welsh Language Standards (No. 1) Regulations 2015
The Additional Learning Needs and Education Tribunal (Wales) Act 2018
The Welsh in Education Strategic Plans (Wales) Regulations 2019
The Curriculum and Assessment (Wales) Act 2021
The Tertiary Education and Research (Wales) Act 2022

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.

This document is also available in Welsh: <https://www.llyw.cymru/cod-trefniadaeth-ysgolion-2024>

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Summary of changes in the draft third edition of the Code

The School Organisation Code (“the Code”) is issued under sections 38 and 39 of the School Standards and Organisation (Wales) Act 2013 (“the 2013 Act”), which requires the Welsh Ministers to issue a Code on School Organisation. They may from time-to-time revise the Code following the procedure set out in section 39 the 2013 Act.

The second edition of the Code was issued in 2018. The Code has been reviewed after five years of operation and a number of amendments have been made; the majority of which reflect changes in legislation since the second edition of the Code came into force or clarify requirements relating to existing legislation in place at that time. These changes are set out below.

The Welsh Language Standards (No.1) Regulations 2015

The Welsh Language Standards (No. 1) Regulations 2015 (“the 2015 Regulations”) specify standards in relation to the conduct of certain bodies (the Welsh Ministers, county and county borough councils and National Park authorities). Standards include service delivery standards, policy making standards, operational standards, promotional standards, and record keeping standards.

Schedule 2 of the 2015 Regulations sets out policy making standards which require bodies to ensure that due consideration is given to the effects of policy decisions on opportunities to use the Welsh language and not to treat the Welsh language less favourably than English. Policy making standards 88-97 are relevant to school organisation proposals as bodies **must** comply with them when making all policy decisions, including school organisation proposals. In relation to statutory proposals, the duty is not limited to proposals in respect of Welsh language schools, it applies to proposals relating to all maintained schools, regardless of their language category.

Under standards 91, 92 and 93, consultation documents **must** consider the impact of a policy decision on the Welsh language and also seek views on the impact of the policy decision on the Welsh language. These are separate requirements, which means that there has to be an impact assessment and then questions have to be asked about that assessment.

The Code has been updated to reflect the 2015 Regulations including the policy making standards. In doing so the Code requires a Welsh Language Impact Assessment to be undertaken for all statutory proposals. This **must** be included as part of the consultation document or published alongside it.

Cymraeg 2050

The Code has been amended to align with Cymraeg 2050, the Welsh Government’s strategy for a million Welsh-speakers, and the targets set within each local authority’s 10-year Welsh in Education Strategic Plan (WESP) which supports that ambition. Given the importance of the education sector as a whole in creating new Welsh speakers the Welsh Government expects that planning and development of

school organisation proposals reflect our Cymraeg 2050 ambitions and support the targets within the local authority's WESP.

The Additional Learning Needs and Education Tribunal (Wales) Act 2018

The Additional Learning Needs and Education Tribunal (Wales) Act 2018 ("the 2018 Act") establishes the statutory system in Wales for meeting the additional learning needs (ALN) of children and young people (the ALN system). It replaces the system for meeting the special educational needs (SEN) of children in schools and learning difficulties and/or disabilities (LDD) in further education.

Implementation of the 2018 Act commenced from 1 September 2021. The ALN system is being phased in over a period of four years up until summer 2025. During this time the ALN system will operate in parallel with the SEN system.

Until such time that the 2018 Act is fully in force, all references to Special Educational Needs (SEN) and SEN provision (SEP) within the Code now read as SEN/Additional Learning Needs (ALN) and SEP/additional learning provision (ALP) respectively.

The Curriculum and Assessment (Wales) Act 2021

The Code has been amended to align with the Curriculum and Assessment (Wales) Act 2021 ("the 2021 Act"), which provides for the introduction and development of the Curriculum for Wales for 3 to 16-year-olds in Wales.

The Tertiary Education and Research (Wales) Act 2022

The Tertiary Education and Research (Wales) Act 2022 ("the TER Act") established the Commission for Tertiary Education and Research ("the Commission"). The Commission is the regulatory body with responsibility for the funding, oversight and regulation of tertiary education and research in Wales encompassing post-16 education, including local authority-maintained school sixth forms. It has a the function to secure and fund the provision of proper facilities for the further education and training of post-compulsory learners aged 16–19.

The Welsh Ministers' powers, under sections 71 to 76 of the 2013 Act, to re-structure sixth form education, are removed. A new Chapter 3A has been inserted into Part 3 of the 2013 Act to enable the Commission to take a more strategic approach, offering a wider perspective to school sixth form provision and ensuring it can support learner choice and progression.

Local authorities and governing bodies of foundation and voluntary schools retain their current functions in relation to bringing forward proposals relating to the organisation of school sixth forms. The Commission's functions do not result in any loss of existing protections in relation to the publication, consultation, and ability to object to proposals and other significant provisions in the 2013 Act remain in place. The Code has been amended to reflect the changes made to the 2013 Act by the TER Act in respect of school organisation.

Legislative background

This Code is made under sections 38 and 39 of the 2013 Act. Section 38 requires the Welsh Ministers to issue a Code that may impose requirements and include guidelines setting out aims, objectives and other matters in respect of school organisation. The following (known collectively in this Code as “relevant bodies”) **must**, when exercising functions under Part 3 of the 2013 Act, act in accordance with any relevant requirements contained in the Code and have regard to any relevant guidelines contained in it:

- the Welsh Ministers;
- local authorities;
- the governing bodies of maintained schools¹;
- the Commission for Tertiary Education and Research (the Commission); and
- the promoters of proposals to establish voluntary schools.

The Code applies to proposals in respect of maintained schools as defined at Section 98 of the 2013 Act. That is a school in Wales, which is a community, foundation or voluntary school, a community special school or a maintained nursery school. This does not include pupil referral units (PRUs).

Summary

This is the third edition of the Code, and it comes into force on **Date**. Subject to the following paragraph, once it comes into force this Code will supersede the second edition of the Code.

If a proposer has commenced consultation before **Date**, the proposal will be published and determined in accordance with the second edition of the Code. Consultation will be considered to have commenced where a consultation document, required by section 3.4 of the second edition of the Code, has been published.

The Code contains the following elements:

1. It imposes requirements in accordance with which relevant bodies (or persons exercising a function for the purpose of the discharge, by a local authority or the governing body of a maintained school, of functions in Part 2 (changes which require proposals)) **must** act. Failure by a relevant body to comply with the requirements set out in this Code may result in decisions being quashed by the Administrative Court in judicial review proceedings. Mandatory requirements are imposed by the Code itself, by the 2013 Act or another statute or statutory instrument. Where a mandatory requirement derives from legislation, the relevant statutory provision is provided either in the text or as a footnote. In all cases where a requirement is mandatory, this Code states that the relevant bodies

¹ The categories of maintained schools in Wales are community, voluntary controlled, voluntary aided, foundation, and community special.

must comply with the particular provision. Where practices are prohibited, it is stated that the relevant bodies **must not** use this practice.

2. It includes statutory guidance to which relevant bodies **must** have regard and sets out the policy context, general principles and factors that **should** be taken into account by those bringing forward proposals to reconfigure school provision, and by those responsible for approving or determining proposals. Where guidance is given by the Code, relevant bodies **should** follow this guidance unless they have clear reasons to depart from it. If relevant bodies do depart from the guidance given in the Code, they **should** give clear reasons for doing so.
3. It provides a description of the main statutory requirements set out in the 2013 Act. Relevant bodies are to read the Code together with the 2013 Act.

The Code builds on good practice which already exists amongst local authorities and others but does not aim to give exhaustive guidance on all aspects of school organisation. Local authorities, the Commission and others will need to ensure that in carrying out their school organisation functions, they act at all times in ways which are reasonable and founded on the interests of learners.

The Code is primarily designed for the use of the relevant bodies but all those with an interest in school organisation matters may find it useful.

Section 1. Development and consideration of proposals

Key background principles and policies

1.1 The planning and development of effective school organisation proposals is crucial to the Welsh Government's goal of transforming education in Wales and providing better educational outcomes.

1.2 Relevant bodies **should** aim to ensure that proposals support the Welsh Government's national mission to achieve high standards and aspirations for all by tackling the impact of poverty on educational attainment and supporting every learner.

1.3 A list of legislation, overarching principles and policies which will assist proposers in the development and consideration of proposals is included at Annex E. This list is not exhaustive.

Factors to be taken into account in preparing, publishing, approving, or determining school organisation proposals

1.4 The following paragraphs set out the factors which **should** be taken into account by relevant bodies when exercising their functions of preparing and publishing school organisation proposals and approving/determining them. Paragraphs 1.5 to 1.23 are applicable in the case of all proposals.

Quality and standards in education

1.5 Relevant bodies **should** place the interests of learners above all others. With reference to the five inspection areas of the Office of His Majesty's Chief Inspector of Education and Training in Wales (Estyn) Common Inspection Framework (as of September 2022), they **should** consider the likely impact of the proposals on:

- Learning - standards and progress overall;
- Wellbeing and attitudes to learning;
- Teaching and learning experiences (the breadth, balance and appropriateness of the curriculum, and teaching and assessment);
- Care, support and guidance (personal development and safeguarding); and
- Leadership (quality and effectiveness of leaders and managers, self-evaluation processes and improvement planning, and professional learning)

at the school or schools which are the subject of the proposals and at any other school or education institution the proposer considers is likely to be affected by the proposals. Relevant bodies **should** pay particular attention to the impact of the

proposals on vulnerable groups, including learners with Special Educational Needs (SEN)²/ additional learning needs (ALN).

1.6 Relevant bodies **should** also consider the ability of the headteacher/ governing body of schools which are the subject of the proposals to meet their legal requirements under the 2021 Act for the Curriculum for Wales for learners across the 3-16 continuum of education. This consideration **should** include the quality of curriculum design, adoption and delivery and the extent to which the structure or size of the school is impacting on this.³

1.7 In respect of proposals which affect schools with sixth form provision, consideration **should** be given to the role of the Commission to oversee the regulation, quality, and funding of post-16 provision (including that of learners with SEN/ALN in mainstream settings), and its role in respect of forming and planning the curriculum offer for learners aged 16-19.

1.8 Where proposals involve the transfer of learners to alternative schools or other education institutions, there **should** normally be evidence that the alternative would deliver outcomes and offer provision at least equivalent to that which is currently available to those learners (including learners with SEN/ALN). Advice from Estyn might reasonably be used as evidence in relation to alternative schools or other education institutions which are brand new. Proposers **should** ensure that the disruption to learners is minimised.

1.9 In assessing the impact of proposals on quality and standards in education and how effectively the Curriculum for Wales is being realised, relevant bodies **should** consider any relevant advice from Estyn. Proposers **should** refer to the most recent Estyn reports, area inspections, and other evidence derived from performance monitoring, and take into consideration any other generally available information available on a school's or other education institution's effectiveness.

Impact on the Welsh language

1.10 The case prepared by those bringing forward proposals **must** show the impact of the proposals on the Welsh language in accordance with Schedule 2 of the Welsh Language Standards (No 1.) Regulations 2015.⁴ A Welsh Language Impact Assessment (WLIA) **must** be undertaken for all proposals. Annex C contains guidance on the WLIA which **must** be followed.

1.11 In all cases local authorities **should** consider:

- the extent to which the proposal would support the targets in the approved Welsh in Education Strategic Plan (WESP); and

² The term Special Educational Needs (SEN) is being phased out and being replaced by Additional Learning Needs (ALN). Until that time references are to SEN/ALN.

³ Primary legislation sets out the statutory aims of the school curriculum in Wales in the Curriculum and Assessment Act 2021.

⁴ Schedule 2 of the Welsh Language Standards (No 1.) Regulations 2015

- how the proposal would expand or reduce Welsh language provision, and in the case of the latter, set out why provision will be reduced and **must** evidence mitigating actions.

Need for places and the impact on accessibility of schools

1.12 Local authorities **must** ensure that there are sufficient schools providing primary and secondary education for their area. Schools are regarded as sufficient if they are sufficient in number, character, and equipment to provide for all pupils the opportunity of appropriate education.⁵ In order to fulfil these duties, local authorities **must** ensure that they plan thoroughly and engage fully with relevant partners, including the appropriate religious bodies⁶ for schools serving their area which have a designated religious character. They **should** also engage with the Commission in respect of post-16 provision. In light of the above, relevant bodies **should** have regard to the following factors:

1.13 Where a school closure,⁷ removal of a school sixth form, reduction in capacity, or age range contraction is proposed:

- whether alternative school-based or post-16 provision will have sufficient capacity and provide accommodation of at least equivalent quality for existing and projected learner numbers;

*In considering proposals relevant bodies **should** have regard to the Building Regulations, Sustainable Communities for Learning Business Case Guidance, relative Building Bulletins, Welsh Government spatial standards, and the Welsh Government's circular on 'Measuring the capacity of schools in Wales' (or successor document). In addition, 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 **must** ensure that these standards are met.*

- with reference to the nature of the schools which are the subject of proposals, whether the alternative school-based provision is sufficient to meet existing and projected demand for schools of the same:
 - (a) language category as set out in the Welsh Government's [Guidance on school categories according to Welsh-medium provision](#) or any successor document; this non-statutory guidance sets out the new arrangements for categorising schools according to the amount of Welsh-medium provision within the school. It will help local authorities

⁵ Section 14 of the Education Act 1996.

⁶ An appropriate religious body is, in the case of a Church in Wales or Roman Catholic school, the appropriate diocesan authority, or in the case of other schools, the body representing the religion and religious denomination stated in relation to the school in an order made under section 68A of the School Standards and Framework Act 1998.

⁷ Any reference to 'school closure' included in this document means the discontinuance of a maintained school as set out in sections 40, 43, 44 and 83(3) of the 2013 Act.

and schools to plan their Welsh-medium education provision in line with the Curriculum for Wales, and supports our national goal of increasing the number of Welsh speakers to 1 million, as set out in Cymraeg 2050. Local authorities' role in supporting the education targets in Cymraeg 2050 will be set out in their individual statutory WESPs.

(b) designated religious character (if relevant).

*In all cases, existing learners of compulsory school age at a school where a school closure, reduction in capacity or age range contraction is proposed **must** be able to continue receiving an education in their current language medium. Specific transition arrangements may be necessary in order to achieve this.*

1.14 For all proposals to open, close or relocate schools, proposers **must** consider:

- statutory requirements as set out in the Learner Travel (Wales) Measure 2008 and associated statutory guidance;⁸ and
- the implications for transport and their impact. Local authorities **must** consider location choice and proposed measures to encourage sustainable travel, such as active travel routes and relevant infrastructure (for example increasing cycle/scooter storage and reducing car parking spaces).

1.15 It is important to consider the transport implications for learners, staff, and visitors to the site from the outset, as well as the impact on local communities. As set out in the Welsh Government's Transport strategy, [Llwybr Newydd](#), our policy is to maximise opportunities to travel by walking, cycling or other sustainable modes, for environmental, societal and health benefits, with a commitment to locate new public services (including education) close to where people live, and to existing public transport routes.

1.16 For schools that will need school transport provision, consideration **should** be given to ensure that safe and suitable infrastructure is available for the relevant vehicles. Consideration **should** gravitate around the future proofing of suitable capacity if learner numbers increase. Proposers **must** comply with statutory health and safety requirements in this regard.⁹

1.17 Keeping pedestrians away from vehicles **should** be one of the key principles when planning a new school site. A well-designed site which segregates pedestrians from vehicles will reduce the likelihood of accidents. Ultimately having in place separate vehicle and pedestrian routes would be desirable in avoiding potential conflict and where the routes cross, proper crossings which are suitably marked so everyone knows where they are.

⁸ [Learner Travel \(Wales\) Measure 2008](#); guidance documents available on [gov.wales](#)

⁹ Regulation 17 of [The Workplace \(Health, Safety and Welfare\) Regulations 1992 \(legislation.gov.uk\)](#)

1.18 Accessibility in terms of raised kerbs, dropper kerbs and tactiles are also a priority to complement disability access and the duties/requirements set out in the Public Services Vehicle Accessibility Regulations (PSVAR) 2000.¹⁰

1.19 In the case of proposed school closures/sixth form removals local authorities **should** consider:

- the nature of journeys to alternative schools or other education institutions and resulting journey times for all learners including learners with SEN/ALN, in line with legislative requirements set out in the Learner Travel (Wales) Measure 2008, which requires local authorities to assess the travel needs of all learners.

*Arrangements for accessing the alternative schools or other education institutions **must** promote sustainable transport; and **must** address the possible effect of any transport difficulties on learners' engagement with and attendance at school.¹¹ Likely walking or cycling routes for safety and accessibility **should** be assessed prior to bringing forward proposals.¹²*

1.20 Where a new school, increase in capacity or age range expansion is proposed:

- the demand for additional provision of any type in an area **must be assessed and evidenced**. In the case of Welsh-medium provision proposers **should** consider how the proposal will improve the planning and provision of education through the medium of Welsh, and the expectation is that the local authority **must** create the demand for this type of provision to meet or exceed statutory targets as set out in the WESP.
- whether proposals will improve access for disabled learners in accordance with the requirements of section 88 and Schedule 10 of the Equality Act 2010¹³ and Welsh Government Guidance Document – Planning to increase access to schools for disabled pupils dated March 2018.
- the transport implications for learners, staff and visitors and the need to maximise opportunities to travel by walking, cycling or other sustainable modes, for environmental, societal and health benefits.

¹⁰ [Public Services Vehicles Accessibility Regulations 2000](#)

¹¹ Section 2 of the Learner Travel (Wales) Measure 2008 and Operational Guidance

¹² The Learner Travel Statutory Provision and Operational Guidance June 2014 Chapter 5.

¹³ See Equality Act 2010, section 88 and Schedule 10. Welsh Government Guidance Document - Planning to increase access to schools for disabled pupils, no. 235/2018 dated March 2018.

Resourcing of education and other financial implications

1.21 It is important that funding for education is cost effective. Relevant bodies **should** take into account the following factors in relation to the resourcing of education:

- the effect proposals will have on surplus places in the area;

Some spare places are necessary to enable schools to cope with fluctuations in numbers of learners, but excessive numbers of unused places that could be removed mean that resources are tied up unproductively.

*Where there are more than 10% surplus places in an area overall, local authorities **should** review their provision and **should** consider whether to make proposals for their removal if this will improve the effectiveness and efficiency of provision. A significant level of surplus provision is defined as 25% or more of a school's capacity (as defined in circular 21/2011) **and** at least 30 unfilled places.*

Although local authorities are asked to manage excessive surplus places this does not automatically mean closing schools. Paragraph 1.26 of the Code includes other options available to them and their schools.

*It **should not** normally be necessary to provide additional places at schools when there are others of the same type with surplus places within a reasonable distance. However, proposals to increase the number of places for a particular type of provision, e.g., Welsh-medium, may still be appropriate; particularly if effective provision of school places is planned for the local authority area in line with their WESP.*

- whether proposals form part of the local authority's Sustainable Communities for Learning Investment Programme and contribute to the delivery of sustainable schools and to the better strategic management of the school estate.

1.22 Relevant bodies **should** also take into account the following factors in relation to finance:

- the recurrent costs of proposals over a period of at least 3 years and whether the necessary recurrent funding is available;
- additional transport costs incurred as a result of proposals;

*Proposers **should** take into account the requirement on local authorities to provide free transport provision under the Learner Travel (Wales) Measure 2008 and associated statutory guidance and **should** seek the advice of the relevant local authority transport department in relation to the impact the proposal might have on associated transport costs and their affordability.*

- the capital costs of proposals and whether the necessary capital funding is available;
- the revenue costs of proposals, including staffing and building maintenance costs and whether the necessary revenue funding is available;
- the scale of any projected net savings (taking into account school revenue, transport and capital costs);

*In relation to proposals where substantial upfront capital investment is required (for example to support a substantial remodelling, refurbishment, or a new build project), the costs and savings of the proposals **should** be calculated over the lifespan of the relevant building and compared against the costs and savings associated with the maintenance of the status quo.*

- whether, without the proposals, the schools which are the subject of the proposals would face budget deficits;
- whether any savings in recurrent costs will be retained in the local authority's schools' budget; and
- 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 cost of future proposals which will promote effective management of school places.

*In general, local authorities **should** look to recycle assets from any surplus school buildings and sites in their ownership into the overall improvement of their school estate rather than allocate those proceeds to projects outside the education portfolio, although these decisions ultimately rest with local authorities.*

Other general factors

1.23 Relevant bodies **should** take into account the following general factors:

- the impact of proposals on the educational attainment of learners from economically disadvantaged backgrounds;
- any equality issues, including those identified through equality impact assessments; and
- whether the school or schools which are the subject of the proposals are subject to any trust or charitable interests which are likely to be affected by the proposals, for example in relation to the use or disposal of land.

*Proposals which affect charities **must** be consistent with charity law and the stated purpose of the charitable trust.¹⁴ Advice **should** be sought from the Charity*

¹⁴ All foundation and voluntary school governing bodies are charities under section 23 of the Schools Standards and Framework Act 1998 and community school sites may also be subject to charitable interests. Further education corporations and sixth form college corporations are charities under sections 22A and 33M of the Further & Higher Education Act 1992.

Commission or the Welsh Ministers (as the Principal Regulator of governing bodies) where there is any uncertainty.

Under section 82 of the School Standards and Framework Act 1998 (“the 1998 Act”) the Welsh Ministers have the power, by order, to make modifications to a trust deed.

*Before making an order, the Welsh Ministers **must** consult the governing body of the school, any trustees holding property on trust for the purposes of the school; in the case of a Church of England, Church in Wales or Roman Catholic Church school, the appropriate diocesan authority; and any other persons they consider appropriate.*

Specific factors in the consideration of school closures

1.24 The prime purpose of schools is the provision of education and any case for closure **should** be robust and in the best interests of educational provision in the area. Nevertheless, 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 the 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.

1.25 The case prepared by those bringing forward proposals **must** show that the impact of closure on the community has been assessed through the production of a **Community Impact Assessment** (see annex C), and how any community facilities currently provided by the school could be maintained.

1.26 When considering whether a closure is appropriate, special attention **should** be given to the following:

- whether the establishment of multi-site schools might be considered as a means of retaining buildings, or the reasons for not pursuing this option;
- whether alternatives to closure, such as clustering, collaboration, or federation with other schools, might be considered, or the reasons for not pursuing these as an alternative;
- the possibility of making fuller use of the existing buildings as a ‘community hub’ to accommodate and support provision of a range of community services, e.g., health, childcare facilities, family and adult learning, community education, sport, recreation, play facilities, social activity, etc.;
- whether it would be feasible and economical to co-locate local services within the school to offset the costs of maintaining the school). More information on co-location of services can be found in the [Community Focused Schools guidance](#).

1.27 Although under the 2013 Act the requirement to consult does not apply to proposals to discontinue small schools with fewer than 10 learners at the preceding

January census point,¹⁵ local authorities and governing bodies bringing forward such proposals **must** still take into account the factors set out in section 1 of this Code.

Presumption against the closure of rural schools

1.28 The Code makes special arrangements in regard to rural schools in respect of a procedural presumption against their closure. This requires proposers to follow a more detailed set of procedures and requirements in formulating a rural school closure proposal and in consulting on and reaching a decision as to whether to implement a rural school closure proposal. This does not mean that a rural school will never close but the case for closure **must** be strong and all viable alternatives to closure **must** have been conscientiously considered by the proposer, including federation.

Designation of ‘rural school’ for the purposes of the presumption against closure

1.29 A rural school for the purposes of the presumption against closure is identified using the Office for National Statistics’ rural and urban classification, as being located within villages in the sparsest context, other (hamlet or dispersed) in sparsest context and other (hamlet or dispersed) in less sparse context.

1.30 A list of schools derived from this classification is attached at Annex F. Proposers **should** refer to the designation and the list of schools to establish whether the proposed closure under consideration concerns a rural school and the procedural presumption against closure applies.

Specific further steps required to be taken by the proposer in formulating a rural school proposal

1.31 As well as taking into account the general factors in paragraphs 1.5 to 1.23 which are relevant in the case of all proposals, the proposer **must** follow the further steps below where the proposal relates to the possible closure of a rural school.

Formulating the proposal

1.32 Where the proposer is considering formulating a proposal to close a rural school, the proposer **must** clearly identify the reasons for formulating the proposal. This will be the key challenges which the school faces and the proposer wishes to address by proposing closure of the school.

1.33 The proposer **must** consider these reasons when making their decision on a proposal or any reasonable alternatives, so it is important that they are as clear and specific as possible. For example, reasons might relate to a falling school roll, difficulties delivering the curriculum or concerns about the school building.

¹⁵ Section 56(1) of the 2013 Act defines a ‘small school’, for the purposes of deciding whether consultation is required, as ‘a school with fewer than 10 registered pupils on the third Tuesday in the January immediately preceding the date on which the proposals are made’.

1.34 Rather than simply stating that the school is no longer viable, the proposer **should** carefully consider and set out the reasons why it considers the school is no longer viable.

Identifying reasonable alternatives

1.35 The proposer **must** identify any reasonable alternatives to the proposal which might also address the reason for formulating the proposal. It is important to ensure that all reasonable alternatives identified are properly explored **before** the proposer decides to proceed to consult on closure.

1.36 The aim is to ensure that when an option to close a rural school is proposed, the decision to consult on that option is only taken after very careful consideration, and after all other reasonable alternatives have been considered and a clear assessment undertaken of their merits and viability.

1.37 Federation has been shown to have particular benefits for rural schools. Proposers **must** show how they have considered federation as an alternative to closure of a rural school.

1.38 Schools are major public and community assets; it is important that their future is considered not just from an education perspective, but across the full range of a local authority's responsibilities. Consideration of alternatives to closure could include whether there is scope for the school to be better integrated into a local authority's wider asset management and community planning process. This could for example, include building effective links with local community regeneration strategies. Examples of other alternatives to closure that might merit consideration are included at paragraph 1.26 above.

1.39 As with all closure proposals, the proposer **must** prepare a community impact assessment to explore the overall and long-term impact on people and the community of the closure of the rural school, and the loss of the building as a community facility. The proposer **should** have regard to Annex C which includes examples of what the proposer **should** consider as part of the Community Impact Assessment.

1.40 Once the proposer has identified all the reasonable alternatives, the proposer **must** assess for each alternative its likely:

- impact on quality and standards in education;
- impact on the community; and
- effect of different travel arrangements.

Preparing a proposal paper for the decision maker

1.41 Before determining whether to proceed to consultation in accordance with section 3 of this code, the person(s) who determine(s) whether or not a proposal **should** proceed to consultation **must** be presented with a paper ("the proposal paper") which, in addition to detailing the general factors in paragraphs 1.5 to 1.23 of this Code, **must** also include:

- the reason for the closure proposal;
- a list of the reasonable alternatives to closure that have been identified; and
- an assessment of the likely impact/effect set out at paragraph 1.40 above for each of the reasonable alternatives that have been identified.

1.42 The proposer **should not** make a decision as to whether to proceed to consultation until these preliminary requirements have been carried out, and unless they are satisfied that implementation is the most appropriate response to address the key challenges identified as the reason for proposing discontinuance of the school.

1.43 Although under the 2013 Act the requirement to consult does not apply to proposals to discontinue small schools with fewer than 10 learners at the preceding census point, local authorities and governing bodies bringing forward such proposals **must** still take into account the factors set out in paragraphs 1.5 to 1.23 of this Code when developing and considering proposals. If the school is on the list of “rural schools” this includes satisfying the requirements set out in paragraphs 1.28 to 1.43 “*Presumption against the closure of rural schools.*”

See also sections 3, 4, 5 and 6 for requirements that apply in respect of consultation, publication, determination, and implementation of statutory proposals relating to schools designated as rural.

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

1.44 Relevant bodies **should** take into account the following specific factors:

- the standard of nursery education and the sufficiency of accommodation and facilities offered, both in the classroom and outdoors, and the viability of any school that wishes to add nursery places;
- whether there is a need for additional nursery places in the local authority area;
- the effect of the proposals on other institutions, including private and third sector providers; and
- the extent to which proposals will integrate nursery education with childcare services or are consistent with an integrated approach.

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

1.45 Relevant bodies **should** take into account the following specific factors:

- whether and how proposals will lead to an improvement in the educational or training achievements of persons who are above compulsory school age, but below the age of 19;

- whether and how proposals will contribute to the availability of an appropriate and broad range of relevant courses and qualifications and high quality, employer informed, vocational learning routes targeted at learners of all abilities, whilst maintaining GCSE, AS/A level and other established courses, as required under the 2021 Act and section 33A-Q of the Learning and Skills Act 2000 (“the 2000 Act”) to support 14-19-year-old learners;
- whether proposals are likely to lead to retention and increased participation in learning by learners beyond compulsory school age, taking into account transport issues and costs to the learner and others, the affordability of such costs, and the likelihood of learners being willing to travel;
- the extent to which the proposals support digital provision and/or blended learning arrangements;
- the extent to which proposals contribute to the enhancement and quality of a wider 14-19 offer taking account of the views of regional 14-19 networks;
- the effect of proposals on 11-16 provision in schools and on the development and maintenance of a shared understanding of progression with other schools;
- how proposals would affect the viability of providers already providing post-16 provision, including school sixth forms, further education institutions, and private training providers;
- how proposals might affect the sustainability or enhancement of Welsh-medium provision in the regional 14-19 networks, local partnership arrangements and wider area and promote access to the availability of Welsh-medium courses in post-16 education and support the strategic duty placed on the Commission to ‘promote post 16 education and training through the medium of Welsh’.
- the extent to which proposals will provide additional learner benefits compared with the status quo and other tenable options for post-16 organisation;
- how proposals might affect the discretionary transport provision a local authority may provide to learners¹⁶ above compulsory school age; and
- how proposals align to the function of the Commission to secure and fund the proper facilities for further education and training for post-16 learners.

Specific factors to be taken into account for proposals to increase provision in voluntary schools or establish a new voluntary school

1.46 Relevant bodies **must** take into account whether:

¹⁶ Section 6 of the Learner Travel (Wales) Measure 2008 gives a local authority the power to provide discretionary transport where they think fit to facilitate the travel of learners. Paragraphs 1.98 – 1.105 of the Welsh Government Learner Travel Statutory Provision and Operational Guidance 2014 provide further guidance on this provision.

- the local authority has confirmed that it will meet its liability to maintain the school;
- the governing body of a voluntary aided school has confirmed it will meet its financial responsibilities for repairs and capital work; and
- the proposed land tenure arrangements give the school sufficient security of occupation of the site.

Where land tenure arrangements are not settled those determining proposals might indicate that they are minded to approve the proposals subject to satisfactory resolution of those issues. 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.

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

1.47 As well as a Welsh Language Impact Assessment (WLIA) which **must** be undertaken for all proposals¹⁷ (see Annex C), relevant bodies **must** take into account the following specific factors:

- the extent to which the proposal would support the targets in a local authority's Welsh in Education Strategic Plan (WESP).
- How the proposal would expand or reduce Welsh language provision and, in the case of the latter, set out why provision will be reduced and evidence mitigating actions (see Annex C).

Specific factors in the consideration of proposals for the change of school category

1.48 Relevant bodies **should** take into account the following specific factors:

- all categories of school – community, foundation, voluntary controlled or voluntary aided – are of equal status;
- all permissible proposals to change the category of a school will be considered on their individual merits¹⁸; and
- whether any benefits can be identified. *Changing category has the potential to cause disruption to the running of the school and/or place added burdens on the governing body and/or add complexity to school reorganisation or admissions. Therefore, there **should** be a presumption against changes where benefits cannot be identified.*

¹⁷ Schedule 2 of the Welsh Language Standards (No 1.) Regulations 2015

¹⁸ Schools are not permitted to change their category to foundation (section 46(1) of the 2013 Act) and schools with a religious character may not become community schools (section 45(5) of the 2013 Act).

- whether any trust deed relating to the school allows for the change of category proposed. If there is any doubt, or if a variation in the trust deed is clearly necessary, proposers **should** make early contact with the Charity Commission.

Additional factors to be taken into account in preparing, publishing, approving, or determining proposals for the reorganisation of Special Education provision/Additional Learning provision

Policies and principles

1.49 The principles and plans set out elsewhere in this Code **should** be taken into account in the consideration of proposals for the reorganisation of maintained special schools and specialist resource bases in mainstream schools.

1.50 Relevant bodies **must** consider how proposals fit with the local authority's duty to promote inclusion (i.e., providing for a higher proportion of learners with SEN/ALN to attend mainstream settings) wherever that is appropriate in meeting a child or young person's individual needs, and with its overall strategy for ensuring adequate special educational provision (SEP)/additional learning provision (ALP) for the full range of SEN/ALN.

1.51 Relevant bodies **should** have regard to the factors set out below in relation to proposals affecting special schools and specialist resource bases in mainstream schools.

Standards of provision

1.52 In addition to the usual considerations in relation to standards of provision, relevant bodies **should** consider:

- whether proposals will improve standards of accommodation for learners with SEN/ALN, including building accessibility in accordance with the Equality Act;
- how proposals will address any health, safety and welfare issues;
- how proposals, where appropriate, will support increased inclusion;
- how the proposals will help the school secure additional learning provision for learners with SEN/ALN;¹⁹ and
- the impact of proposals on other SEP/ALP within the immediate and wider local authority area, including out of county where appropriate.

Need for places and the impact on accessibility of schools

¹⁹ Section 47 Additional Learning Needs and Education Tribunal (Wales) Act 2021

1.53 In addition to the considerations listed in paragraphs 1.12 to 1.20 relevant bodies **should** consider:

- whether there is a need for a particular type of SEP/ALP within the area;
- whether there is surplus SEP/ALP within the area;
- whether SEP/ALP would be more effective or efficient if regional provision were made; and
- the impact of proposals on the transportation of learners with SEN/ALN.

Other factors

1.54 Relevant bodies **should** consider:

- how changes to SEP/ALP in schools are likely to impact on all other services provided in an area for learners with disabilities and/or SEN/ALN.

Factors to be taken into account in approving/determining school organisation proposals

1.55 When approving proposals, relevant bodies who are the proposer:

- **must** consider whether there are any other related proposals (*see paragraph 5.9 on where a proposal **should** be regarded as related*);
- **must** ensure that the statutory consultation has been conducted in accordance with this Code (the requirement to consult does not apply to proposals to discontinue a school which is a small school);
- **must** ensure that the proposal has been published in accordance with this Code and the notice contains all the required information;
- **must** consider the consultation document and consultation report;
- **must** consider the objections and the objection report and any responses to the notice supporting the proposals;
- **should** consider, in the case of a proposal to change the category of a school, whether there are any benefits. If no benefits can be identified, such proposals **should not** be approved; and
- **must not** approve change of category proposals where a variation in the trust deed is necessary but has not yet taken place.

1.56 When determining proposals relevant bodies:

- **must** consider whether there are any other related proposals; (*see paragraph 5.9 on where a proposal **should** be regarded as related*);

- **must** consider the extent to which the statutory consultation has been conducted in accordance with this Code (*the requirement to consult does not apply to proposals to discontinue a school which is a small school*);
- **must** consider the extent to which the proposal has been published in accordance with this Code and whether the notice contains all the required information;
- **must** consider the consultation document and consultation report;
- **must** consider the objections and the objection report and any responses to the notice supporting the proposals;
- **should** consider, in the case of a proposal to change the category of a school, whether there are any benefits. If no benefits can be identified, such proposals **should not** be approved; and
- **must not** approve change of category proposals where a variation in the trust deed is necessary but has not yet taken place.

Section 2. Changes that require proposals

2.1 Statutory procedures are necessary to make significant changes to schools. The procedures are designed to enable changes to be made where they are considered necessary, but in a way which protects the interests of learners and allows interested parties the opportunity to have their say in the process.

Elements of school reorganisation that require the publication of proposals

2.2 Proposals **must** be published for the following elements of school reorganisation:

- the opening of a maintained school (including a special school);²⁰
- the closing of a maintained school (including a special school);²¹
- to make a regulated alteration to a maintained school;²² and
- to change the category of a maintained school.²³

Proposals to change the category of a school

2.3 The governing bodies of maintained schools may make proposals to change the category of their school. However, it **should** be noted that no alteration may be made to a maintained school that changes its designated religious character or causes it to acquire or lose a designated religious character.²⁴ Community schools are not permitted to have a religious character. It is not possible for voluntary aided, voluntary controlled or foundation schools with a designated religious character to become a community school through a change of category proposal.²⁵ Similarly, community schools cannot become voluntary schools with a designated religious character. No proposals may be made for any category of school to become a foundation school.²⁶

Regulated alterations

2.4 Schedule 2 to the 2013 Act describes a number of regulated alterations to maintained schools (including special schools) which **must** not be carried out unless the relevant local authority and/or the governing body and/or the Commission have complied with the requirements imposed by this Code. Although the regulated alterations are described below, direct reference to Schedule 2 to the 2013 Act needs to be made.

²⁰ 2013 Act, section 41 and 44(a)

²¹ 2013 Act, section 43 and 44(c)

²² 2013 Act, section 42, and 44(b)

²³ 2013 Act, section 45 Except to foundation – the 2013 Act section 40(2) prohibits schools from changing their category to foundation.

²⁴ 2013 Act, section 40(5)

²⁵ 2013 Act, section 45(5)

²⁶ 2013 Act, section 40(2)

2.5 Regulated alterations to community, foundation, voluntary schools, community special schools and maintained nursery schools

- the transfer of any school to a new site or sites, unless a main entrance of the school on its new site or sites would be within 1.609344 kilometres (1 mile) of a main entrance of the school on its current site or sites;²⁷
- changing a school from single sex to mixed or vice-versa. (A school is treated as admitting learners of one sex only if the admission of learners of the other sex is limited to learners over compulsory school age and does not exceed 25% of the age group in question).²⁸

2.6 Regulated alterations to community, foundation, voluntary schools, and community special schools

- the alteration by a year or more of the lowest age or highest age of learners for whom education is normally provided at the school, where the school both before and after the alteration, provides education suitable to the requirement of learners of compulsory school age and does not provide education suitable to the requirements of learners over compulsory school age;²⁹
- the introduction of the provision of full-time education suitable to the requirements of learners over compulsory school age at a school which provides full time education suitable to the requirements of learners of compulsory school age or the ending of sixth form provision at a school which is to continue to provide full time education suitable to the requirements of learners of compulsory school age;³⁰
- the alteration of the medium of instruction of a class of learners in an age group or groups (including nursery learners) at a primary school (or primary education in relation to middle or special schools) which falls within the description in column 1 of the table below so that it falls within the description in the corresponding entry in column 2.³¹

Column 1	Column 2
At least 20% but no more than 80% of the teaching is conducted through the medium of English.	An increase or decrease of more than 20% in the teaching which is conducted through the medium of Welsh.
At least 20% but no more than 80% of the teaching is conducted through the medium of Welsh.	An increase or decrease of more than 20% in the teaching which is conducted through the medium of English.

²⁷ 2013 Act, Schedule 2, paragraph 2

²⁸ 2013 Act, Schedule 2, paragraph 3

²⁹ 2013 Act, Schedule 2, paragraph 5

³⁰ 2013 Act, Schedule 2, paragraph 6

³¹ 2013 Act, Schedule 2, paragraph 7

More than 80% of the teaching is conducted through the medium of English, and some teaching is conducted through the medium of Welsh.	An increase of more than 10% in the teaching which is conducted through the medium of Welsh.
More than 80% of the teaching is conducted through the medium of Welsh, and some teaching is conducted through the medium of English.	An increase of more than 10% in the teaching which is conducted through the medium of English.
No teaching is conducted through the medium of Welsh.	More than 10% of the teaching is conducted through the medium of Welsh.
No teaching is conducted through the medium of English.	More than 10% of the teaching is conducted through the medium of English.
Some teaching is conducted through the medium of English.	No teaching is conducted through the medium of English.
Some teaching is conducted through the medium of Welsh.	No teaching is conducted through the medium of Welsh.

- the alteration of the teaching of learners in a year group at a secondary school (or secondary education in relation to middle or special schools) which falls within the description in column 1 of the table below so that it falls within the description in the corresponding entry in column 2.³²

Column 1	Column 2
5 or more relevant subjects are taught (wholly or mainly) through the medium of Welsh to any learners.	A decrease by 4 or more in the number of the relevant subjects taught (wholly or mainly) through the medium of Welsh to any learners.
5 or more relevant subjects are taught (wholly or mainly) through the medium of English to any learners.	A decrease by 4 or more in the number of the relevant subjects taught (wholly or mainly) through the medium of English to any learners.
Every relevant subject is taught (wholly or mainly) through the medium of Welsh to all learners.	3 or more relevant subjects are taught (wholly or mainly) through the medium of English to any learners.
Every relevant subject is taught (wholly or mainly) through the medium of English to all learners.	3 or more relevant subjects are taught (wholly or mainly) through the medium of Welsh to any learners.

³² 2013 Act, Schedule 2, paragraph 8

1 or more relevant subject is taught (wholly or mainly) through the medium of Welsh to any learners.	No relevant subject is taught (wholly or mainly) through the medium of Welsh to any learners.
1 or more relevant subject is taught (wholly or mainly) through the medium of English to any learners.	No relevant subject is taught (wholly or mainly) through the medium of English to any learners.

(Relevant subjects are defined as any subjects apart from English and Welsh which are taught at a school).

2.7 Regulated alterations to community, foundation, and voluntary schools

- an enlargement of the premises of a school (excluding nursery and special schools), which would increase the capacity of the school by at least 25% or 200 learners as compared with the school’s capacity on the appropriate date. In determining an increase in capacity all enlargements that have taken place since the appropriate date are to be taken into account together with the proposed enlargement. The “appropriate date” is the latest date of:
 - the date falling five years before the date on which it is planned to implement the proposals to make the enlargement;
 - the date when the school first admitted learners;
 - the date (or the latest date) when any previous statutory proposals that involved enlarging the premises of the school were implemented. This includes where there has been a previous decrease in a school’s capacity in the last five years.³³

For the purposes of an enlargement of school premises, “capacity” is to be determined in accordance with the formulae set out from time to time by the Welsh Ministers (currently [Measuring the Capacity of Schools in Wales](#));³⁴

A “temporary enlargement” is the enlargement of a school’s premises which it is anticipated, at the time of its making, will be in place for fewer than 3 years.³⁵

- the making permanent of a temporary enlargement of the school where that temporary enlargement would have been a regulated alteration when undertaken but for the fact that it was temporary;³⁶

³³ 2013 Act, Schedule 2, paragraph 10

³⁴ 2013 Act, Schedule 2, paragraph 14(a), <https://www.gov.wales/sites/default/files/publications/2018-03/measuring-the-capacity-of-schools-in-wales-circular.pdf>

³⁵ 2013 Act, Schedule 2, paragraph 14(b)

³⁶ 2013 Act, Schedule 2, paragraph 12

- the reduction in the physical capacity of a mainstream school, except where the proposed capacity will be greater than the highest number of learners on roll at the school at any time in the previous 2 school years prior to the publication of the proposal. In this context, “capacity” is to be determined in accordance with the formulae set out from time to time by the Welsh Ministers (currently [Measuring the Capacity of Schools in Wales](#));³⁷
- the introduction or removal of SEP/ALP or any change in the type of such provision. This is where the provision is in a mainstream school but the pupils who are admitted are in addition to admission number of the school. The provision **must** also be recognised by the local authority as reserved for pupils with SEN/ALN;³⁸
- the introduction or ending of banding arrangements for the admission of pupils into a mainstream school (under section 101(1) of the 1998 Act);³⁹
- the introduction or ending of boarding, or an increase or decrease in boarding provision in mainstream schools by 50 pupils or 50% of capacity, whichever is the greater.⁴⁰

2.8 Regulated alterations to community special schools

- except where the school is in a hospital, an increase in the number of learners for whom the school makes provision which, when taken together with all such previous increases in the number of learners, would increase the number of learners by 10% or the relevant number of such learners (whichever is the lesser). The relevant number is 5 where the school only makes boarding provision and is 20 in other cases. Any previous increase in the number of learners is taken from the appropriate date. The appropriate date is whichever is the latest date of the following:
 - 19 January 2012;
 - the date when the school first admitted learners;
 - the date (or the latest date) when any previous statutory proposals that involved enlarging the premises of the school were implemented.⁴¹
- the introduction or ending of boarding provision, or the alteration of boarding provision such that the number of learners for whom provision is made is increased or decreased by 5 learners or more;⁴²

³⁷ 2013 Act, Schedule 2, paragraph 13. The effect of this is that where schools have spare capacity that capacity can be removed without the need for a statutory proposal. However, where schools are full or near full, a proposal **must** be published to reduce the school’s capacity.

³⁸ 2013 Act, Schedule 2, paragraph 15

³⁹ 2013 Act, Schedule 2, paragraph 16

⁴⁰ 2013 Act, Schedule 2, paragraph 17

⁴¹ 2013 Act, Schedule 2, paragraph 19

⁴² 2013 Act, Schedule 2, paragraph 20

- a change in the type of SEN/ALN for which a special school is organised to make provision.⁴³

2.9 Regulated alterations to maintained nursery schools

- the enlargement, or making permanent of a temporary enlargement, of the teaching space at a nursery school, by 50% or more;⁴⁴
- the addition or removal of provision which is recognised by the local authority as reserved for learners with SEN/ALN or any change in the type of such provision;⁴⁵
- for a nursery school at which a group of learners is taught wholly or mainly through the medium of Welsh, an alteration so that all the learners are taught wholly or mainly through the medium of English;⁴⁶
- for a nursery school at which a group of learners is taught wholly or mainly through the medium of English, an alteration so that all the learners are taught wholly or mainly through the medium of Welsh.⁴⁷

Who can make a proposal?

2.10 A local authority may make proposals to:

- establish,⁴⁸ discontinue⁴⁹ or make a regulated alteration⁵⁰ to a community or maintained nursery school;
- discontinue a voluntary or foundation school;⁵¹
- increase or decrease the capacity of a foundation or voluntary school without a religious character.⁵²

2.11 Governing bodies of community, foundation or voluntary schools may make proposals to change the category of their school.⁵³

2.12 Governing bodies of foundation or voluntary schools may make proposals to:

⁴³ 2013 Act, Schedule 2, paragraph 21

⁴⁴ 2013 Act, Schedule 2, paragraph 23

⁴⁵ 2013 Act, Schedule 2, paragraph 24

⁴⁶ 2013 Act, Schedule 2, paragraph 25(1)

⁴⁷ 2013 Act, Schedule 2, paragraph 25(2)

⁴⁸ 2013 Act, section 41(1)

⁴⁹ 2013 Act, section 43(1)

⁵⁰ 2013 Act, section 42(1)(a) and (d)

⁵¹ 2013 Act, section 43(1)(a)

⁵² 2013 Act, section 42(1)(c)

⁵³ 2013 Act, section 45. Refer to paragraph 2.2 of this Code for information on restrictions of changes that may be made.

- discontinue their school;⁵⁴
- make a regulated alteration to their school.⁵⁵

2.13 Any person may make proposals to establish a new voluntary school.⁵⁶ However, local authorities **should** work with the relevant religious body when the proposal is to establish a voluntary school with a religious character.

2.14 No new foundation school or foundation special school may be established in Wales.⁵⁷

2.15 Local authorities may make proposals to add a sixth form to a school or remove a sixth form from a voluntary and foundation secondary school which continues to provide education for learners of compulsory school age, but only if they have first gained the consent of the Welsh Ministers to do so.⁵⁸ Consent **must** be sought by means of a written application that clearly sets out the local authority's rationale for the proposal.

2.16 In addition, section 63C of the 2013 Act provides that where the Commission has directed a local authority to use its powers to open or close a sixth form school, add a sixth form to a school or to remove a sixth form from a school which is to continue to provide education for learners of compulsory school age, and either the proposals have been published in accordance with the direction or the deadline for publication of the proposals has expired, the Commission may make proposals that could have been made in accordance with the direction.

2.17 However, the Commission may only make a proposal to open or close a sixth form school or add or remove a sixth form from a voluntary or foundation school if it has first gained the consent of the Welsh Ministers to do so. Consent **must** be sought by means of a written application that clearly sets out the Commission's rationale for the proposal.

2.18 Where the Commission makes proposals under this section, any proposals that have been made by a local authority or governing body and published in accordance with the direction are to be treated as having been withdrawn.

⁵⁴ 2013 Act, section 43(2)

⁵⁵ 2013 Act, section 42(2)

⁵⁶ 2013 Act, section 41(2)

⁵⁷ 2013 Act, section 40(2)

⁵⁸ 2013 Act, section 42(1)(b)

Section 3. Consultation

Principles

3.1 Section 48 of the 2013 Act requires that before school organisation proposals are published under sections 41 to 45, they **must** first be subject to consultation. In addition, proposals published under section 68 by the Welsh Ministers to secure regional provision for special educational needs/additional learning needs or published by the Commission under section 63C to restructure school sixth forms **must** also be subject to prior consultation.

3.2 The requirement to consult does not apply to proposals to discontinue a small school.⁵⁹ However, where a closure proposal relates to a small school which is designated as a rural school, local authorities and governing bodies bringing forward such proposals **should** take into account the factors set out in section 1 of this Code, including the further requirements that apply in respect of the closure of rural schools.

3.3 Case law has established that the consultation process **must**:

- be undertaken when proposals are still at a formative stage;
- include sufficient reasons and information for particular proposals to enable intelligent consideration and response;
- provide adequate time for consideration and response; and
- ensure that the product of consultation is conscientiously taken into account when the ultimate decision is taken.

3.4 The process and guidance which follow have been developed with due regard to the principles listed above. Those considering bringing forward proposals will need to be fully aware of this process and guidance. However, proposers **must** be mindful of the 4 underlying principles and take any necessary additional steps to ensure that those principles are fully upheld.

Attention to detail

3.5 It is essential that proposers seek and achieve high standards both in the information that underpins school consultations and in the consultation documents that are published. These will be examined closely by communities, school staff and parents, and errors in details can easily undermine confidence in a proposal. Failure to provide accurate, high quality consultation documents can result in consultations being abandoned, taking much longer than expected and to increased conflict with

⁵⁹ 2013 Act, section 48(3). A 'small school' is defined in section 56(1) of the 2013 Act as a school with fewer than 10 registered pupils on the third Tuesday in the January immediately preceding the date on which the proposals are made. This date is chosen as it is the date that all schools in Wales are required to submit the Pupil Level Annual School Census to the Welsh Government; this includes the number of learners on roll.

communities.

3.6 Statutory proposals are sometimes brought forward as a result of strategic reviews into school provision carried out by local authorities. Whilst it is good practice to consult on such reviews, such consultation **must not** take the place of the formal consultation necessary on individual proposals as required by the Code.

3.7 From time-to-time proposers will have conducted 'informal' consultation with particular stakeholders at an earlier stage in the development of proposals. Such consultation **must not** be seen as a substitute for any part of the formal consultation processes set out below.

Procedures

3.8 There is no requirement for proposers to hold consultation meetings although there will be circumstances where proposers will consider that meeting with certain groups of consultees will assist greatly in the dissemination of information and provide a suitable platform for the consultees to make their views known.

3.9 Proposers may use additional ways to engage consultees as they think appropriate. For example, open days or 'drop-in' sessions and online forums might provide interested parties with a convenient way to access information, seek clarification and provide comments.

3.10 In the case of proposals to reorganise schools for which land and/or buildings are held on trust, or which have a designated religious character, the proposer **must** conduct consultation with the trustees and/or appropriate religious body before the consultation document is published. The proposer **must** allow 28 days for the receipt of comments and **must** have due regard to those comments before any decision is made to proceed to general consultation.

3.11 Where, in the course of consultation, a new option emerges which the proposers decide to pursue, they **must** consult afresh on this option before proceeding to publication.

Consultation document

3.12 Those bringing forward statutory proposals **must** publish a consultation document on their website (if they have one) and that of the relevant local authority, if different. Hard copies **must** be made available on request. Consideration **should** be given to publishing in other formats where accessibility might otherwise be an issue.

3.13 The consultation document **must** be published on a school day⁶⁰ of the school or schools which are the subject of the proposal. Consultees **must** be given at least

⁶⁰ A school day is defined in section 579(1) of the Education Act 1996 as any day on which at that school there is a school session. A school session can be a morning session or an afternoon session, so a school day is any day when the school meets for all or part of the day.

42 days to respond to the document, with at least 20 of these being school days. Consultation documents **should not** be published on a school day which includes a school session which is devoted (wholly or mainly) to improving teaching standards or management practices of staff at the school (INSET days).

3.14 The following **must** be advised by letter or email of the availability of the consultation document and that they can, if they wish, obtain a hard copy on request (see also section 3 on Consultation with children and young people):

- (a) parents (and where possible prospective parents), carers and guardians of learners currently attending schools which are the subject of the proposals and any other school the proposer considers is likely to be affected by the proposals;
- (b) in the case of proposals affecting secondary provision, parents, carers and guardians of learners attending primary schools from which learners normally transfer to that secondary school;
- (c) staff members of schools which are the subject of the proposals and any other school the proposer considers is likely to be affected by the proposals;
- (d) the maintaining or proposed maintaining authority for schools which are the subject of the proposals and any other school the proposer considers is likely to be affected by the proposals (including relevant transport and highways teams);
- (e) any other local authority (including those in England, where appropriate) the proposer considers is likely to be affected by the proposals, including in the case of dedicated SEP/ALP any authority placing or likely to place learners with SEN/ALN in the school which is subject to the proposals;
- (f) the Church in Wales and Roman Catholic Diocesan Authority for the area in which any school which is the subject of the proposals and any other schools the proposer considers are likely to be affected by the proposals are located;
- (g) any other appropriate religious body for any school which is the subject of the proposals and any other school the proposer considers is likely to be affected by the proposals;
- (h) the governing body of any school which is the subject of the proposals and any other school the proposer considers is likely to be affected by the proposals;
- (i) the Welsh Ministers*;
- (j) Members of the Senedd (MS) and Members of Parliament (MPs) representing the area served by/intended to be served by any school which is the subject of the proposals;
- (k) Estyn;
- (l) teaching and staff trade unions representing teachers and other staff at any school which is the subject of the proposals;
- (m) the relevant school improvement services;

- (n) the Police and Crime Commissioner for the area served by/intended to be served by any school which is the subject of the proposals;
- (o) any community or town council for the area served by or intended to be served by any school which is the subject of the proposals;
- (p) in the case of proposals affecting nursery provision, the Children and Young People's Partnership and/or the Early Years Development and Childcare Partnerships where present;
- (q) in the case of proposals affecting nursery, childcare and play work provision the local authority family information service, any independent or voluntary providers who are likely to be affected and the national umbrella organisations supporting them: Mudiad Meithrin, NDNA Cymru, Clybiau Plant Cymru, Early Years Wales, PACEY Cymru and Play Wales;
- (r) in the case of proposals affecting SEP/ALP, any relevant health or third sector bodies that the proposer considers have an interest;
- (s) in the case of proposals affecting secondary provision, any further education institutions serving the area of the school which is the subject of the proposals;
- (t) in the case or proposals affecting school sixth forms, the Commission; and
- (u) in the case of proposals affecting Welsh language provision, the Welsh Language Commissioner and Mentrau Iaith.

* In the case of the Welsh Ministers, emails **should** be sent to the following Welsh Government mailbox: SGOA@gov.wales. It is not necessary to send emails to individual Welsh Ministers.

3.15 Proposers **must** ensure that the consultation document considers the relevant factors set out in paragraphs 1.5 to 1.23 which apply to all proposals. In the case of all proposals, the consultation document **must** contain the following information:

Description and benefits

3.16 The consultation document **must** include:

- a detailed description of the status quo setting out its strengths and weaknesses and the reasons why change is considered necessary;
- a detailed description of the proposal or proposals (a proposer may consult on more than one potential proposal), the projected timetable for statutory procedures and for implementation of the proposals and any proposed interim arrangements which might be necessary for their implementation. In describing the proposals, proposers **should** normally refer to them using the terms set out this Code (e.g., school closure) but where 2 or more existing schools become one school operating on more than one site (e.g., where former infant and junior schools become a primary school) the terms 'merger' or 'amalgamation' might be used;

- the expected benefits of the proposals and disadvantages when compared with the status quo;
- any risks associated with the proposals and any measures required to manage these;
- a description of any alternatives considered and the reasons why these have been discounted (*but see paragraphs 1.28 to 1.43 Presumption against the closure of rural schools*);
- information on any changes to learner travel arrangements were the proposals to be implemented and the impact on accessibility of provision.

Details of schools which are the subject of the proposals and other schools/education institutions the proposer considers are likely to be affected

3.17 The consultation document **must** include:

- the names, locations and categories (i.e. community, voluntary controlled, voluntary aided, foundation) of all schools which are the subject of the proposals and any other schools the proposer considers are likely to be affected (e.g. in the case of a proposal to close a school or end sixth form provision, information **must** be provided about all the surrounding schools/sixth form provision including any alternative schools/other education institutions to which it might reasonably be considered that learners may wish to transfer; feeder schools to secondary schools; schools within the local area irrespective of the school category or language medium of provision).
- the number of learners on roll currently⁶¹ and the figures recorded for the previous 4 annual school censuses at schools which are the subject of the proposals and all other schools the proposer considers are likely to be affected by the proposals;
- five-year forecasts of learner rolls, at all schools which are the subject of the proposals and all other schools the proposer considers are likely to be affected by the proposals both currently (i.e., based on the existing configuration of schools) and in future, were the proposals implemented;
- the learner places capacity⁶² of all schools which are the subject of the proposals and other schools the proposer considers are likely to be affected by the proposals;
- the number of nursery places at the schools which are the subject of the proposals and any other schools the proposer considers are likely to be affected by the proposals;

⁶¹ For primary schools, the number of nursery learners **should** be shown separately and excluded from forecasts.

⁶² Welsh Government Circular 21/2011 “Measuring the Capacity of Schools in Wales”.

- information about the quality of accommodation at the schools which are the subject of the proposals and other schools the proposer considers are likely to be affected by the proposals including reference to the local authority's most recent condition survey using the categories of the Sustainable Communities for Learning Programme annual buildings survey;
- the language medium of the schools which are the subject of the proposals and all other schools the proposer considers are likely to be affected by the proposals (using the Welsh Government's [Guidance on school categories according to Welsh-medium provision](#)).

Quality and standards in education

3.18 With reference to Estyn's five inspection areas, the consultation **must** include an analysis of the likely impact of the proposal on:

- Learning standards and progress overall;
- Wellbeing and attitudes to learning;
- Teaching and learning experiences, (the breadth, balance and appropriateness of the curriculum, and teaching and assessment);
- Care, support and guidance, (personal development and safeguarding); and
- Leadership (quality and effectiveness of leaders and managers, self-evaluation processes and improvement planning, and professional learning),

at the school or schools which are the subject of the proposals and any other school or education institution the proposer considers is likely to be affected by the proposals.

- information from the most recent Estyn reports for the schools which are the subject of the proposal and each school the proposer considers is likely to be affected by the proposals. In the case of a school closure this **should** include any alternative schools to which learners may reasonably choose to transfer.
- the likely impact of the proposals on the ability of schools which are the subject of the proposals and any other schools the proposer considers are likely to be affected by the proposals, to deliver the full curriculum.

Welsh in Education

3.19 In addition to the Welsh Language Impact Assessment which **must** be undertaken for all proposals the consultation document **must** set out:

- the extent to which the proposal would support the targets in the approved Welsh in Education Strategic Plan

- how the proposal would expand or reduce Welsh language provision and, in the case of the latter, set out why provision will be reduced and evidence mitigating actions.

Finance

3.20 In respect of financial considerations the consultation document **must** set out:

- the financial costs of the proposal and any potential savings (including where appropriate the current costs per learner and the projected costs upon completion) - capital and recurrent (including school transport and staff costs);
- the sources from which capital funding will be provided;
- how any capital receipts or recurrent costs savings will be deployed.

Land and buildings

3.21 The consultation document **must** include:

- details of any potential transfer or disposal of land or buildings that may need to occur as a result of the proposals.

Consultation details

3.22 The consultation document **must** include:

- details of how people can make their views known including the address to which comments in writing can be made and the deadline for those comments;
- details of how people can ask further questions about the proposals or suggest alternatives to the proposals;
- a statement to the effect that responses to consultation will not be counted as objections to the proposal and that objections can only be registered following publication of the notice;
- an explanation of the publication process, the making of objections and determination of published proposals;
- a means for consultees to respond to the consultation online or in writing (a consultation response form);
- an opportunity for consultees to register their wish to be notified of publication of the consultation report.

3.23 Where proposals involve establishing a new school the following information for the new school **must** also be included in the consultation document:

- proposed admission number and admission arrangements;
- age range;

- learner places capacity and/or number of nursery places;
- location (including a map);
- category (e.g., community, voluntary aided or voluntary controlled);
- language category (using Welsh Government [Guidance on school categories according to Welsh-medium provision](#))
- details of the proposed accommodation to include a list of proposed facilities;
- in the case of a special resource base in a mainstream school or a special school, information on the SEN/ALN of the learners proposed to be admitted;
- home to school transport arrangements (including any transitional arrangements) to include a copy of the local authority's transport policy.⁶³

3.24 Where proposals involve the closure of a school the following information **must** be included in the consultation document:

- details of any alternatives to closure that have been considered and the reasons why these have not been taken forward (*see also paragraphs 1.28 to 1.43 Presumption against the closure of rural schools*)
- the likely impact of proposals on the local community (a community impact assessment, see Annex C).
- the likely impact on staff of schools named in the proposals.

3.25 In the case of alternative provision:

- the name and location of the proposed alternative schools or other education institutions learners may attend (including a map);
- a comparison of the quality and standard of education provided at the school from which learners would be transferred and the proposed alternative schools or other education institutions and an outline of any steps necessary in order to ensure that any shortcomings in the latter are addressed;
- admission arrangements at the proposed alternative schools or education institutions;
- a comparison of the quality of accommodation at the school from which learners would be transferred and at the proposed alternative schools or other education institutions and an outline of any steps necessary in order to ensure that any shortcomings in the latter are addressed;

⁶³ Section 3 of the Learner Travel (Wales) Measure 2008 sets a threshold for entitlement for free home to school transport provision at 2 miles or further for primary education and 3 miles or further for compulsory aged secondary school education [but individual local authorities may have more generous policies].

- information on any building works necessary to ensure that transferred learners can be accommodated at the alternative schools/education institutions;
- the impact on learners', staff and visitors' journeys to the alternative schools or education institutions and on school transport costs;
- information regarding available walking, wheeling and cycling routes and public transport to the alternative schools or other education institutions;
- the language medium at the proposed alternative schools or other education institutions;
- any transitional arrangements.

3.26 Where proposals involve the closure of a rural school and the decision has been made to consult on the proposal, the following information **must** be contained in the consultation document along with the information that **must** be contained for all proposals and the information that **must** be contained for the closure of schools:

- the reason for the closure proposal (i.e., a description of the key challenges that the school faces and the proposer wishes to address);
- the alternatives to closure that have been identified and an assessment of these alternatives to include the same matters that the proposer was required to assess in formulating the proposal at paragraph 1.40.

3.27 In addition, consultees **must** be informed of their opportunity to:

- make representations regarding the alternatives to closure that have been identified by the proposer as well as the main proposal;
- suggest other alternatives to closure which would address the reasons for closure (i.e., the key challenges the school faces which the proposer is seeking to address).

3.28 Where the proposal concerns adding or removing nursery provision, the following information **must** be included in the consultation document:

- the sufficiency of accommodation and facilities offered, both in the classroom and outdoors, and the viability of any school that wishes to add nursery places;
- whether there is a need for additional nursery places in the area;
- the likely effect of the proposals on other institutions, including private and third sector providers; and
- the extent to which proposals will integrate early years education with childcare services or are consistent with an integrated approach.

3.29 Where the proposal affects sixth form provision, the following information **must** be included in the consultation document:

- in the case of a removal of a school sixth form the name and location of the proposed alternative schools or other education institution learners may attend (including a map);
- a comparison of the quality and standard of education provided at the school from which learners would be transferred and the proposed alternative schools or other education institutions and an outline of any steps necessary in order to ensure that any shortcomings in the latter are addressed;
- admission arrangements at the proposed alternative schools or education institutions;
- the likely impact on staff of schools named in proposals;
- the impact on learners', staff and visitors' journeys to the alternative schools or education institutions and on school transport costs;
- information regarding available walking, wheeling and cycling routes and public transport to the alternative schools or other education institutions;
- the language medium at the proposed alternative schools or other education institutions;
- any transitional arrangements;
- whether and how proposals will lead to an improvement in the education or training achievements of persons who are above compulsory school age but below the age of 19 in the area;
- whether and how proposals will contribute to an appropriate range of relevant courses and qualifications and high quality, employer informed, vocational learning routes targeted at learners of all abilities, whilst maintaining GCSE, AS/A level and other established courses, as required under the Curriculum and Assessment (Wales) Act 2021 and section 33A-Q of the 2000 Act for 14 to 19-year-old learners;
- whether and how proposals are likely to lead to increased participation in learning by learners beyond compulsory school age, taking into account transport issues and costs to the learner and others, the affordability of such costs, and the likelihood of learners being willing to travel;
- the extent to which proposals contribute to the 14-19 agenda taking account of the views of local 14-19 networks and learning partnerships;
- the effect of proposals on 11-16 provision in schools;
- how proposals would affect the viability of institutions already providing post-16 provision, including school sixth forms, further education institutions and private training providers;
- how proposals might affect the sustainability or enhancement of Welsh medium provision in the local 14-19 network or local partnership

arrangements and wider area and promote access to availability of Welsh-medium courses in post-16 education;

- the extent to which proposals will provide additional learner benefits compared with the status quo and other tenable options for post-16 organisation; and
- how proposals might affect the discretionary transport provision a local authority may provide to learners⁶⁴ above compulsory school age.

3.30 Where proposals relate to a special school or involve special resource bases attached to mainstream schools, the following information **must** be included in the consultation document:

- the impact on SEP/ALP;
- how proposals will contribute more generally to enhancing the quality of education and support for children with SEN/ALN.

3.31 Where the proposal concerns a change of language medium, as well as the Welsh language impact assessment which **must** be included for all proposals the following information **must** be included in the consultation document:

- whether any school which is the subject of the proposals or any other school the proposer considers is likely to be affected provides teaching through the medium of Welsh;
- the extent to which the proposal would support the targets in the approved Welsh in Education Strategic Plan;
- how the proposal would expand or reduce Welsh language provision and in the case of the latter, set out why provision will be reduced and **must** evidence mitigating actions.

3.32 Where the proposal concerns a school with a designated religious character the following information **must** be included in the consultation document:

- the impact on availability and access to places at schools/other education institutions with the same designated religious character.

3.33 Where the proposal concerns a change of category the following information **must** be included in the consultation document:

- the effect of the change of category on governance arrangements and the governing body's powers over policies and arrangements in respect of admissions, employment, and the curriculum; and

⁶⁴ Section 6 of the Learner Travel (Wales) Measure 2008 gives a local authority the power to provide discretionary transport where they think fit to facilitate the travel of learners. Paragraphs 1.98 – 1.105 of the Welsh Government Learner Travel Statutory Provision and Operational Guidance 2014 provides further guidance on this provision.

- any proposed changes to policies and arrangements in respect of admissions, employment, and the curriculum.

3.34 In some circumstances, proposers may consider it appropriate to consult on a range of options rather than one specific proposal, but in such cases, all of the information set out above **must** be provided in relation to each of the identified options.

Consultation with children and young people

3.35 Proposers **must** make suitable arrangements to consult with learners of schools which are the subject of proposals and any other schools the proposer considers are likely to be affected (or part of a school in the case of provision reserved for children with SEN/ALN). This includes with children and young people who are likely to attend those schools, for example learners attending schools which are feeder schools. As a minimum, this **must** include consultation with the school councils of these schools but **should** also include consultation with individual learners where this is appropriate and practicable. Governing bodies **must** facilitate this aspect of the consultation.

3.36 The information given to children and young people **must** be presented in such a way that it is relevant to their age and level of likely understanding and allows them to reach an informed opinion. The agreed [children and young people's participation standards for Wales](#) are available on the Welsh Government's website; proposers **should** refer to these and act in accordance with them.

3.37 If consulting with individual learners, proposers **should** produce and distribute versions of the consultation document appropriate to the ages of the children and young people affected. The consultation document **should** also clearly explain to children and young people the difference between the consultation and objection periods and how and when they can object to proposals. Where necessary, proposers **should** provide assistance to children and young people who wish to submit a consultation response.

Consultation reports

3.38 The proposer **must** publish a consultation report⁶⁵ on their website if they have one, and that of the relevant local authority, if different.

3.39 The list of consultees at paragraph 3.14, who were advised of the availability of the consultation document **must** be advised by letter or email of the availability of the consultation report and that they can receive a paper copy on request.

3.40 The consultation report **must** be published at least 2 weeks prior to the publication of a statutory notice:

⁶⁵ 2013 Act, section 48(5)

- summarising each of the issues raised by consultees;
- responding to these by means of clarification, amendment to the proposal or rejection of the concerns, with supporting reasons;
- setting out Estyn's response to the consultation in full; and
- responding to Estyn's response by means of clarification, amendment to the proposal or rejection of the concerns, with supporting reasons.

3.41 The consultation report might also make recommendations – for example, to the local authority's executive or the governing body – about how to proceed, i.e., to publish the proposals as consulted on with any appropriate modifications, to abandon the proposals and retain the status quo, or to significantly recast the proposals and re-consult.

3.42 Proposers **must** ensure that any views expressed by children and young people affected by the proposals are highlighted in the consultation report and that it is accessible to them in an appropriate format subject to their age and understanding.

3.43 Where the proposal involves the closure of a rural school, in addition to the steps above when the proposer is reviewing the proposal prior to publication the proposer **must** carry out a further assessment of the proposal and each of the alternatives that were set out in the proposal paper. This involves the same matters that the proposer was required to assess in formulating the proposal at paragraph 1.40. The purpose of this further assessment is to take account of any further information that has come forward through the consultation or otherwise.

3.44 In its consultation report, the proposer **must** explain its assessment of the proposal and the reasonable alternatives identified, how this assessment differs from the earlier assessment (if at all) and its assessment of any further reasonable alternatives. Finally, the proposer **must** confirm whether it considers the implementation of the proposal (wholly or partly) to be the most appropriate response to the reasons it identified for the proposal and give reasons for its conclusion.

3.45 Unless proposers have applied for and been granted a time extension by the Welsh Ministers, proposals **must** be published within 26 weeks of the end of the period allowed for consultation responses, otherwise the proposals will lapse, and a new consultation document **must** be issued to revive them.

3.46 Applications to the Welsh Ministers for a time extension **must** be made in writing before the 26-week period has elapsed and **must** set out in detail the reasons why an extension is considered necessary. In deciding whether to approve an extension, the Welsh Ministers will take into account the reasons given for the application, the nature of the proposals and any other relevant factors. The Welsh Ministers are unlikely to approve any application which would result in more than a year elapsing between the end of the period allowed for consultation responses and the publication of a statutory notice.

3.47 Where the proposers are not a local authority, they **should** discuss their intentions with the local authority which would maintain any proposed new or altered provision at an early stage, i.e., before formal consultation commences.

3.48 Proposers **should not** refer to the period allowed for objections as the consultation period. The term consultation only applies to the period before final decisions are made to proceed to publish a proposal.

3.49 Consultees can submit views either in favour of or against a proposal. Consultees **must** be advised that unfavourable comments made during the consultation period will not be treated as objections and that if they wish to object, that they need to do so in writing during the statutory objection period. If consultees submit a request during the objection period that a response submitted at consultation stage **should** be treated as an objection, this **should** be accepted. Those responsible for publishing proposals **should** make every effort to ensure that those who have expressed opposition or concern during the consultation period are aware that statutory notices have been published.

Section 4. Publication of statutory proposals

Manner of publication

4.1 If the proposer decides to proceed with a proposal, they **must** publish the proposal⁶⁶ by way of a notice (referred to in this Code as a “statutory notice”).

4.2 The statutory notice **must** be published on a school day⁶⁷ and **should not** be published on an INSET day. The objection period (see paragraph 4.5) **must** include 15 school days (in addition to the day on which it is published).

4.3 The statutory notice **must** be published:

- on the proposer’s website (if it has one) and that of the relevant local authority if different;
- by being posted at or near the main entrance to any existing school which is the subject of the proposal, or, if there is more than one main entrance, all of them;
- where a new school is being established, in a conspicuous place in the area to be served by the school;
- by providing any school which is the subject of proposals with copies of the notice to distribute to learners, parents, carers and guardians, and staff members (the schools may distribute the notice by email or other electronic means);
- in the case of proposals affecting secondary provision, parents of learners attending primary schools from which learners normally transfer to that secondary school.

4.4 Furthermore, on the day that the statutory notice is published, those* who received a copy of the consultation document and consultation report in the list at paragraph 3.14 **must** be sent either a hard copy of the notice or be emailed a link to the relevant websites.

* In the case of the Welsh Ministers, emails **should** be sent to the following Welsh Government mailbox: SGOA@gov.wales. It is not necessary to send emails to individual Welsh Ministers.

Length of objection period

4.5 Any person may object to published proposals.⁶⁸ To be considered as statutory objections, objections **must** be made in writing (including by email) and sent to the proposer before the end of 28 days beginning with the day on which the

⁶⁶ 2013 Act, section 48(1).

⁶⁷ A school day is defined in section 579(1) of the Education Act 1996 as any day on which at that school there is a school session. A school session can be a morning session or an afternoon session, so a school day is any day when the school meets for all or part of the day.

⁶⁸ 2013 Act, section 49(1)

notice was published (“the objection period”).⁶⁹

Content of published statutory notice

4.6 The published statutory notice for all proposals **must** contain the following information:

- the name of the persons or body publishing the proposal;
- the planned date of implementation (or dates if implementation is to be staged);
- details of how to obtain a copy of the consultation report;
- the date by which objections **should** be sent and the address to send them to, including the relevant email address.

4.7 In addition to the information in paragraph 4.6 a statutory notice for a proposal to establish a new school **must** state:

- the proposed language category of the school as defined in [Guidance on school categories according to Welsh-medium provision](#);
- the name of the proposed maintaining local authority;
- the location (including a map) of the site of the school (and where appropriate the postal address);
- whether the school will be single or mixed sex;
- the age range of the school;
- the category of the school – community, voluntary aided, voluntary controlled, community special;
- whether the governing body or the local authority will be the admission authority;
- the proposed arrangements for transport of learners;
- the admission number for each relevant age group in the first year of implementation or at each stage of implementation – “admission number” is to be determined in accordance with the calculation set out from time to time by the Welsh Ministers (currently [Measuring the capacity of schools](#));
- the proposed capacity of the school – “capacity” is to be determined in accordance with the formulae set out from time to time by the Welsh Ministers (currently [Measuring the capacity of schools](#));
- for a special school, information on the SEP/ALP which will be made;
- whether the school will have a religious character, and if so the nature of that character and the proposed appropriate religious body;

⁶⁹ 2013 Act, section 49(2)

- whether the admission arrangements of the school will make any provision for selection by ability permitted by section 101 of the 1998 Act (learner banding);
- in the case of a new voluntary school, whether the proposals are to be implemented by the local authority or the promoters and, if the proposals are to be implemented by both, the extent to which they are to be implemented by each such body.

4.8 Along with the information in paragraph 4.6 a statutory notice for a proposal to alter a school or change its category **must** state:

- the name and address of the school which is the subject of the proposal;
- the name of the maintaining local authority;
- a description of the proposed alteration or change of category;
- where the alteration involves enlargement, or a reduction in capacity, the current number of learners, the capacity of the school and the proposed capacity – “capacity” is to be determined in accordance with the formulae set out from time to time by the Welsh Ministers (currently [Measuring the capacity of schools](#));
- the number of learners to be admitted in each relevant age group in the first year of implementation or at each stage of implementation;
- where the alteration involves the addition or removal of a school sixth form, details of alternative sixth form provision learners can attend, including any interim arrangements and arrangements for transport of learners to alternative schools/other education institutions;
- in the case of a change in the type of SEP/ALP: the alternative provision for learners and any implications the alteration might have on home to school transport provision.

4.9 In addition to the information in paragraph 4.6 a statutory notice for a proposal to discontinue a school **must** state:

- the name and address of school to be closed;
- the name of the maintaining local authority;
- the school’s religious character if it has one, and if so, the appropriate religious body;
- details of the alternative schools or other education institutions which learners can attend, including any interim arrangements and the language category of the alternative schools as defined in [Guidance on school categories according to Welsh-medium provision](#);
- details of any measures being taken to increase the number of places available in alternative schools or other education institutions; and
- arrangements for transport of learners to alternative schools/other education institutions.

Note: Sometimes a proposal will need to incorporate 2 separate elements e.g., a school might transfer to a new site and be enlarged. In this case it may be necessary to incorporate the 2 proposals into one statutory notice.

Annex B comprises several recommended templates which proposers may find helpful in the construction of a statutory notice.

Section 5. Determining proposals (other than proposals made by the Commission)

Objection reports

5.1 Under section 49(3) of the 2013 Act when objections have been received proposers **must** publish a summary of the statutory objections and the proposer's response to those objections ("the objection Report"). This **must** take place:

- in the case of a local authority that is required to determine its own proposals under section 53 of the Act (see paragraphs 5.24 to 5.27 below), before the end of 7 days beginning with the day of its determination;⁷⁰ and
- in all other cases, before the end of 28 days beginning with the end of the objection period.⁷¹

5.2 The objection report **must** be published by being posted on the proposer's website (if it has one) and on the website of the existing/proposed maintaining local authority, where this differs. Hard copies **must** be made available on request.

5.3 The list of those who were advised of the availability of the consultation document and the consultation report at paragraph 3.14 **must** be advised by letter or email of the availability of the objection report.

5.4 In respect of Welsh Ministers Emails **should** be sent to the following Welsh Government mailbox: SGOA@gov.wales. It is not necessary to send emails to individual Welsh Ministers.

Approval by the Welsh Ministers (section 50 of the 2013 Act)

5.5 Proposals require approval by the Welsh Ministers under section 50(1) of the 2013 Act if:

- the proposals affect sixth form education, and an objection has been made to the proposals in accordance with section 49(2) and has not been withdrawn in writing before the end of 28 days beginning with the end of the objection period; or
- the proposals have been made by a proposer other than the relevant local authority and an objection has been made by that authority and has not been withdrawn in writing before the end of 28 days beginning with the end of the objection period.

⁷⁰ 2013 Act, section 49(3)(a)

⁷¹ 2013 Act, section 49(3)(b)

5.6 Proposals affect sixth form education if:

- they are proposals to establish or discontinue a school providing education suitable only to the requirements of persons above compulsory school age (a sixth form school); or
- they are proposals to add a sixth form to a school or to remove a sixth form from a school which is to continue to provide education for learners of compulsory school age.⁷²

5.7 Where a proposal requires approval by the Welsh Ministers, the proposers **must** notify the Welsh Ministers within 35 days of the end of the objection period and forward to them:

- the consultation report (published under section 48(5) of the 2013 Act);
- the published proposals;
- any objections made in accordance with section 49(2) of the 2013 Act and not withdrawn;
- where objections have been so made (and not withdrawn) the response published under section 49(3) of the 2013 Act; and
- copies of the statutory objections in addition to the objection report set out at paragraph 5.1.⁷³

5.8 The proposer **must** also send to the Welsh Ministers any proposals which it considers are related to the proposals requiring determination.⁷⁴ The Welsh Ministers will then decide whether these other proposals require determination by them.

5.9 A proposal **should** be regarded as “related” if its implementation (or non-implementation) would prevent or undermine the effective implementation of another proposal. Where proposals are related, the decisions **should** be compatible.

5.10 The Welsh Ministers may decide to approve, reject, or approve the proposals with modifications. Before making any modification, the Welsh Ministers **must** first consult with the proposer and the relevant governing bodies and local authority (where they are not the proposers) and obtain the proposer’s agreement to the modification.⁷⁵

⁷² 2013 Act, section 50(2). The Court of Appeal decided in *R (oao Driver) v Rhondda Cynon Taff County Borough Council* [2020] EWCA Civ 1759 that a proposal for the establishment or closure of a school only falls within section 50(2) of the 2013 Act and requires the approval of the Welsh Ministers if the school provides education only for those above compulsory school age.

⁷³ 2013 Act, section 51(3)

⁷⁴ 2013 Act, section 52(1)

⁷⁵ 2013 Act, section 50(5)

5.11 Modifications **must** only include changes to admission numbers or to the timing of implementation. The Welsh Ministers **must not** make modifications that would in effect substitute a new proposal for the proposal which was published.

5.12 Approvals can be made conditional on a specified event occurring by a specified date.⁷⁶

Emails **should** be sent to the following Welsh Government mailbox: SGOA@gov.wales. It is not necessary to send emails to individual Welsh Ministers.

Approval by the local authority (section 51 of the 2013 Act)

5.13 Proposals published under section 48 require approval under section 51 of the 2013 Act if:

- They do not require approval by the Welsh Ministers; they have been made by a proposer other than the relevant local authority; and an objection to the proposals has been made and has not been withdrawn in writing before the end of 28 days beginning with the end of the objection period.⁷⁷

Procedures

5.14 Where proposals require approval by the local authority, the proposer **must** notify the local authority of a proposal requiring approval and forward to them the documents listed below within 35 days beginning with the end of the objection period:

- a copy of the consultation document;
- a copy of the consultation report;
- a copy of the published notice;
- a copy of the objection report;
- copies of the statutory objections;⁷⁸ and
- copies of all of the above in relation to any proposals which are related to the proposals requiring approval.⁷⁹

5.15 Local authorities **must** decide whether any proposals sent to them are related and require their approval.⁸⁰ A proposal **should** be regarded as “related” if its implementation (or non-implementation) would prevent or undermine the effective implementation of another proposal. Where proposals are related, the decision **should** be compatible.

⁷⁶ 2013 Act, section 50(6)

⁷⁷ 2013 Act, section 51(1)

⁷⁸ 2013 Act, section 51(2) and (3)

⁷⁹ 2013 Act, section 52(3)

⁸⁰ 2013 Act, section 52(4)

5.16 The local authority **must** deal with all proposals which require approval without delay in so far as that is compatible with the proper consideration of the issues.

5.17 In any event, the local authority **must** issue its decision, within 16 weeks beginning with the end of the objection period.⁸¹ However, a failure to comply with that time limit does not affect the validity of any decision reached.

5.18 Local authorities **must** decide whether to approve, reject or approve with modifications, the proposals.⁸²

5.19 Modifications **must** only include changes to admission numbers or to the timing of implementation.⁸³ The local authority **must** not make modifications that would, in effect, substitute a new proposal for the proposal which was published.

5.20 Before making any modification, the local authority **must** first consult with the proposer and obtain their consent to the modification. They **must** also obtain the consent of the Welsh Ministers.⁸⁴

5.21 If consent cannot be obtained, and the local authority believes that the proposals are not acceptable in their published state, they **must** reject the proposals.

5.22 The local authority **must** also consult with the governing body of the school which is the subject of the proposals where the governing body is not the proposer).⁸⁵

5.23 Approvals may be made conditional on a specified event occurring by a specified date.⁸⁶

Determination by proposers (section 53 of the 2013 Act)

5.24 Where proposals do not require approval under sections 50 and 51 of the 2013 Act, they fall to be determined by the proposer.

5.25 Under section 53 of the 2013 Act, determination by the proposer **must** be made within 16 weeks of the end of the objection period. Where the proposer fails to determine the proposal within the period of 16 weeks it is taken to have withdrawn the proposal and it is required to republish the proposals if it wishes to proceed.⁸⁷

5.26 Under section 49(3) of the 2013 Act when objections have been received proposers **must** publish a summary of the statutory objections and the proposer's response to those objections ("the Objection Report"). This **must** take place:

⁸¹ 2013 Act, section 51(8)

⁸² 2013 Act, section 51(4)

⁸³ 2013 Act, section 51(5)

⁸⁴ 2013 Act, section 51(4)(c)(i)

⁸⁵ 2013 Act, section 51(4)(c)(ii)

⁸⁶ 2013 Act, section 51(6)

⁸⁷ 2013 Act, section 53(2)

- in the case of a local authority that is required to determine its own proposals under section 53 of the Act, before the end of 7 days beginning with the day of its determination;⁸⁸
- in all other cases, before the end of 28 days beginning with the end of the objection period.⁸⁹

5.27 Where a local authority's proposals have received objections and require determination under section 53 of the 2013 Act, the local authority **must not** approach the determination of these proposals with a closed mind. Objections **must** be conscientiously considered alongside the arguments in respect of the proposals and in the light of the factors set out in section 1 of this Code.

Local authority decision making

5.28 Where local authorities are required to approve or determine proposals which have received objections, an amendment⁹⁰ to Schedule 2 to the Local Authority (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 permits the local authority's executive to exercise this function. Executives and/or Cabinets are already responsible for overseeing school organisation planning, including decisions to consult on and to publish school organisation proposals and will have a well-developed understanding of school organisation issues. This understanding, combined with their more general experience of decision making and the fact that they are democratically accountable to the local electorate, makes executives well placed to decide whether or not contested school organisation proposals **should** be approved.

5.29 However, if they choose to do so, local authorities will not be prevented by Schedule 2 to the relevant regulations from adopting alternative, locally agreed processes for taking such decisions. These might include the formation of a local decision-making committee, potentially in collaboration with other local authorities in their region. Annex D provides details of a possible model for a local decision-making committee.

5.30 Where local authorities choose to follow this route, they will need to consider carefully how they will ensure that such bodies deliver fair and robust decision making.

Decision notification

5.31 Decisions (in relation to proposals which require approval or determination) **must** be made and issued in the form of a decision letter. The decision letter **must**

⁸⁸ 2013 Act, section 49(3)(a)

⁸⁹ 2013 Act, section 49(3)(b)

⁹⁰ The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) (Amendment) Regulations 2013 No.2438 (W. 235).

set out clearly the reasons for the decision with reference to sections 1.5 to 1.23 of this Code which apply to all proposals, and the specific factors in sections 1.24 to 1.55 [which includes the additional factors to be considered and requirements in relation to the closure of rural schools].

5.32 Additionally, a decision letter for a proposal to discontinue a school designated as a rural school **must** state why the proposer is satisfied that such implementation is the most appropriate response to the reasons it identified for formulating the proposal.

5.33 Decision letters **must** be published electronically on the proposer's website (if it has one) and that of the relevant local authority (if different).

5.34 The list of those who were notified of the availability of the consultation document, consultation report and objection report at paragraph 3.14 **must** be advised by letter or email of the availability of the decision letter.

Referral of local authority decisions to the Welsh Ministers

5.35 If a local authority has—

- determined to approve or reject proposals under section 51(4), or
- determined under section 53(1) to implement proposals to which there was an objection made in accordance with section 49 (and which was not withdrawn in writing before the end of 28 days beginning with the end of the objection period);⁹¹

the following bodies may, before the end of 28 days beginning with the day of the decision, refer the proposals to the Welsh Ministers for consideration:⁹²

- (a) another local authority (including a local authority in England) which is likely to be affected by the proposals;
- (b) the appropriate religious body for:
 - i. the school to which the proposals relate, if it is, or is intended to be a school with a religious character; or
 - ii. any other school which has a religious character, and which is likely to be affected by the proposals;
- (c) the governing body of a voluntary or foundation school which is the subject of the proposals;
- (d) a trust holding property on behalf of a voluntary or foundation school which is the subject to the proposals; and

⁹¹ 2013 Act, section 54(1)

⁹² 2013 Act, section 54(2)

(e) a further education institution which is likely to be affected by the proposals.

5.37 Referrals **should** be sent by email to the Welsh Government mailbox SGOA@gov.wales. The body referring the decision **should** inform the relevant local authority that a referral has been made.

5.38 The body making the referral **must** set out in a letter explaining why they believe that the decision reached by the local authority is wrong.

5.39 The Welsh Ministers **must** decide whether the bodies referred to in (a) to (e) above are likely to be affected by the proposals and the proposals therefore require consideration.⁹³

5.40 Where a proposal requires consideration by the Welsh Ministers, the local authority **must** provide them, on request, with copies of the statutory objections, the objection report and any other information considered necessary by the Welsh Ministers.

5.41 Where a proposal requires their consideration, the Welsh Ministers may decide to approve, reject, or approve the proposals with modifications.

5.42 Modifications **must** only include changes to admission numbers or to the timing of implementation. The Welsh Ministers **must not** make modifications that would in effect substitute a new proposal for the proposal which was published.

5.43 Before making any modification, the Welsh Ministers **must** first consult with the proposer and the relevant governing bodies and local authority (where they are not the proposers) and obtain the proposer's agreement to the modification

5.44 Approvals can be made conditional on a specified event occurring by a specified date.

5.45 Proposals to discontinue a small school⁹⁴ may not be referred to the Welsh Ministers.

⁹³ 2013 Act, section 54(3)

⁹⁴ Under section 54(5) of the 2013 Act proposals made under section 43 or 44 to discontinue a school which is a small school (see section 56) may not be referred to the Welsh Ministers under this section. Section 56(1) defines a small school as a school with fewer than 10 registered learners on the third Tuesday in the January immediately preceding the date on which the proposals are made.

Section 6. Implementing proposals

Implementation – general

6.1 Proposals **must** normally be implemented as determined or approved (with or without modifications).⁹⁵

6.2 Proposers **should** notify the Welsh Ministers by email when a proposal is implemented. Emails **should** be sent to the following Welsh Government mailbox: SGOA@gov.wales. It is not necessary to send emails to individual Welsh Ministers.

6.3 However, if a proposer is satisfied that a proposal would be unreasonably difficult to implement on the original implementation date, or that circumstances have so altered since the proposal was approved that its implementation on the original date was inappropriate, it may delay its implementation for a period of up to 3 years.⁹⁶

6.4 If a proposer is satisfied either that implementation of proposals would be unreasonably difficult or that circumstances have so altered since the proposals were approved that their implementation would be inappropriate altogether, it may determine that the proposals **should** be abandoned.⁹⁷ It is considered good practice for the proposer to discuss this with the governing body of the school which is the subject to the proposals in advance.

6.5 In the case of proposals to close a school, a proposer may also determine to bring forward implementation by a period of up to 13 weeks.⁹⁸ It is considered good practice for the proposer to discuss this with the governing body of the school which is subject to the proposals in advance.

6.6 Where proposals have been approved by the local authority under section 51 of the 2013 Act or the Welsh Ministers under section 50 of the 2013 Act, proposers **must** only make a determination to delay, bring forward or abandon a proposal with the agreement of the Welsh Ministers.⁹⁹ In accordance with this Code any such application for agreement **must** be made in writing with the proposer's reasons clearly set out.

6.7 Where a proposal has been determined by the local authority under section 53 of the 2013 Act the local authority itself may determine to delay, bring forward or abandon the proposal.

6.8 Notification of any determination to delay, bring forward or abandon a proposal **must** be given to relevant parties including the Welsh Ministers, the maintaining local authority and/or the governing body of the school subject to the proposal unless they are the proposer before the end of 7 days of it being made¹⁰⁰. Notification **should** also be given to the Commission (where the proposal involves a sixth form) Estyn, and the governing

⁹⁵ 2013 Act, section 55(2)

⁹⁶ 2013 Act, section 55(3)

⁹⁷ 2013 Act, section 55(5)

⁹⁸ 2013 Act, section 55(4)

⁹⁹ 2013 Act, section 55(6)

¹⁰⁰ 2013 Act section 55(7)

bodies, parents, learners and staff of any other school the proposer considers is affected¹⁰¹ as appropriate. The notification **must** set out, briefly, the reasons for that determination.

6.9 If a proposal has been approved by the Welsh Ministers or by a local authority subject to a specified event occurring by a specified date, and that condition is not met by that date, the proposals **must** be considered as rejected unless the proposer has sought and received agreement from the Welsh Ministers or the local authority to have that condition varied by the substitution of a later date.

¹⁰¹ Paragraph 6.8 of the School Organisation Code

Section 7. The closure of a school with fewer than 10 registered learners

7.1 Where a school has fewer than 10 registered learners (or there are no learners remaining at a school) at the preceding January census point, the 2013 Act permits governing bodies or local authorities to undertake a streamlined procedure to bring about closure. The following provisions do not apply:

- the requirement to consult on proposals to close the school;¹⁰²
- the requirement to obtain approval of the Welsh Ministers;¹⁰³
- the requirement to obtain approval of the local authority;¹⁰⁴
- referral to the Welsh Ministers;¹⁰⁵
- the requirement for the Commission to consult on proposals made by it;¹⁰⁶
- the requirement to obtain approval of the Welsh Ministers.¹⁰⁷

7.2 The streamlined procedure consists solely of the issue of the statutory notice of closure.

7.3 Proposals are determined in all cases by the proposer. Although there is no requirement in the 2013 Act to consult on proposals to close such schools, as a matter of good practice the proposer should inform any trust with an interest in the school or appropriate religious body of their intentions prior to bringing forward such proposals.

7.4 In the case of schools where some learners remain, proposers **must** make sure that the statutory notice is brought to the attention of these learners and their parents, that its meaning is made clear to learners and that appropriate steps are taken to enable them to object to the notice if they so wish. It is essential that learners are provided with the opportunity to contribute to the decision-making process and proposers **must** ensure that full account is taken of any views expressed by learners and their parents before a final decision is taken.

7.5 Proposers **should** also ensure that parents of learners of other schools that the local authority considers are likely to be affected by the proposals receive a copy of the statutory notice. This includes any alternative schools identified as those most likely to receive learners.

7.6 The existence of streamlined procedures in relation to the proposed closure of schools with fewer than 10 registered learners does not mean that governing bodies or local authorities are required to bring forward closure proposals in relation to such schools.

7.7 The possible closure of such schools **should** be considered in the light of the factors set out at section 1. If the school is on the list of “rural schools” this includes considering the factors and satisfying the requirements set out in paragraphs 1.28 to 1.43 before issuing a statutory notice of closure.

¹⁰² 2013 Act, section 48(3)

¹⁰³ 2013 Act, section 50(9)

¹⁰⁴ 2013 Act, section 51(10)

¹⁰⁵ 2013 Act, section 54(5)

¹⁰⁶ 2013 Act, section 63D(3)

¹⁰⁷ 2013 Act, section 63F(8)

Section 8. Proposals by the Welsh Ministers to rationalise school places

8.1 Where the Welsh Ministers have previously directed a local authority or governing body to bring forward proposals to remedy excessive or insufficient school places,¹⁰⁸ they may publish their own proposals to the same effect.

8.2 The specific criteria upon which the Welsh Ministers might decide to issue a direction or subsequently publish a proposal would vary depending on the circumstances pertaining to a particular area, but in general terms these are powers of last resort. Examples of where the Welsh Ministers might decide to issue a direction, might include where a local authority has failed to ensure that:

- their area is served by schools which are sufficient in number, character, and equipment to provide for all learners the opportunity of appropriate education; or
- each child in their area has reasonable access to one of those schools; or
- funding for education is cost effective and resources are used to secure the best possible educational outcomes for children and young people.

8.3 The proposals **must** be published in accordance with the provisions included in section 4 above.

8.4 Any person may object to the proposals before the end of 28 days beginning with the date on which the proposals were published.¹⁰⁹ If objections are received, and unless all such objections are withdrawn, the Welsh Ministers **must** cause a local inquiry¹¹⁰ to be held to consider the proposals.¹¹¹ Any other school organisation proposals which have been published and not determined **must** be referred to the local inquiry if the Welsh Ministers believe they are related to the proposal which is the subject to objection (and unless the Welsh Ministers form the opinion that they **should** be implemented).¹¹²

8.5 The proposals to be referred¹¹³ are:

- any other proposals published under section 59 in relation to the area of the local authority (and not withdrawn);
- any proposals made by that authority in the exercise of their powers to make proposals to establish, alter, or discontinue schools (and not withdrawn)
- any proposals made by the governing body of a foundation or voluntary school in the area in the exercise of its powers to make proposals to alter its schools (and not withdrawn);

¹⁰⁸ 2013 Act, section 57(2)

¹⁰⁹ 2013 Act, section 60

¹¹⁰ In relation to the holding of a local inquiry see Local Government Act 1972, section 250 which applies by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999

¹¹¹ 2013 Act, section 61(2)

¹¹² 2013 Act, section 61(7)

¹¹³ 2013 Act, section 61(6)

- any proposals made under section 63C (and not withdrawn) where the Commission has previously directed a local authority or governing body to bring forward proposals and subsequently published proposals to the same effect;
- any proposals made under section 68 (and not withdrawn) where the Welsh Ministers have previously directed a local authority or governing body to bring forward proposals and subsequently published their own proposals to the same effect.

8.6 The local inquiry **must** be conducted by a person appointed for that purpose by the Welsh Ministers and in accordance with any procedures set out by the person appointed at the time of the local inquiry's establishment.

8.7 Where a local inquiry has been held, the Welsh Ministers **must** consider the report of the person conducting the local inquiry. The Welsh Ministers may then do one of the following:

- adopt, with or without modifications, or determine not to adopt any of the proposals made by the Welsh Ministers;
- approve, with or without modifications, or reject any other proposals which are referred to the local inquiry;
- make further proposals to rationalise school places.¹¹⁴

8.8 If the Welsh Ministers decide to make further proposals, there is no requirement to cause a further local inquiry to be held.¹¹⁵

8.9 Where these further proposals made by the Welsh Ministers have not been referred to a local inquiry the Welsh Ministers may after considering any objections:

- adopt the proposal with or without modifications; or
- determine not to adopt the proposal.¹¹⁶

8.10 Modifications **must** only include changes to admission numbers or to the timing of implementation. The Welsh Ministers **must not** make modifications that would in effect substitute a new proposal for the proposal which was published.

8.11 Proposals can be approved or adopted subject to a specified event occurring by a specified date.¹¹⁷

8.12 Proposals approved or adopted **must** be implemented in accordance with Section 6 of the Code. The local authority that maintains the school in question **must** meet the cost of implementing proposals adopted or approved under section 62 which have effect as if they have been approved by the Welsh Ministers under section 50 after having been made by the governing body (in the case of proposals to alter a foundation or voluntary school).¹¹⁸

¹¹⁴ 2013 Act, section 62(1)

¹¹⁵ 2013 Act, section 62(2)

¹¹⁶ 2013 Act, section 62(3)

¹¹⁷ 2013 Act, section 62(4)

¹¹⁸ 2013 Act, section 63(2)

Section 9. Proposals by the Commission for Tertiary Education and Research (the Commission) to restructure sixth form provision

9.1 The Commission may direct a local authority to exercise its powers under the 2013 Act to make proposals to:

- establish or discontinue a school that provides education suitable to learners over compulsory school age only; or
- make a regulated alteration to a school, to introduce a school sixth form or remove a school sixth form from a school which is to continue to provide education suitable for learners of compulsory school age (as defined in Schedule 2 to the 2013 Act).¹¹⁹

9.2 The Commission may also direct the governing body of a foundation or voluntary school to exercise its powers to make proposals to:

- make a regulated alteration to the school, to introduce a school sixth form; or
- remove a school sixth form from a school which is to continue to provide education suitable for learners of compulsory school age (as defined in Schedule 2 to the 2013 Act).¹²⁰

9.3 When exercising its powers of direction under section 63A the Commission **must** consider the factors contained in paragraphs 1.5 to 1.23 which apply to all proposals and 1.45 of this Code which applies to proposals which affect sixth forms.

9.4 A direction **must** require the proposals to be published no later than the date specified in the direction and require the proposals to apply the principles set out in the direction.¹²¹

9.5 Proposals made in accordance with a direction may not be withdrawn without the Commission's consent.¹²²

9.6 A local authority **must** reimburse costs reasonably incurred by the governing body of a school maintained by it making or implementing proposals in accordance with the direction.¹²³

9.7 The Commission may make its own proposals in accordance with the direction if proposals have been published or the time allowed under the direction has expired.¹²⁴ But the Commission **must** obtain the consent of the Welsh Ministers before making a proposal to make an alteration described in paragraph 6 of Schedule 2 to the 2013 Act (opening or closing a school's sixth form) to a voluntary or foundation school.¹²⁵

¹¹⁹ 2013 Act, section 63A(1)(a)

¹²⁰ 2013 Act, section 63A(1)(b)

¹²¹ 2013 Act, section 63A(2)

¹²² 2013 Act, section 63B(1)

¹²³ 2013 Act, section 63B(3) and (4)

¹²⁴ 2013 Act, section 63C(1) and (2)

¹²⁵ 2013 Act, section 63C(3)

9.8 Proposals will be subject to the requirements (at sections 3 and 4) in relation to the publication, consultation, the ability to object, and approval, which are in line with those requirements for proposals made by local authorities and governing bodies already set out in the 2013 Act.¹²⁶

9.9 Before the end of 7 days beginning with the day on which they were published, the Commission **must** send copies of the published proposals to the Welsh Ministers, the local authority that maintains the school or which it is proposed maintains the school to which the proposal relates and the governing body (if any) of the school to which the proposals relate.¹²⁷

9.10 This requirement applies to proposals made by the Commission or by a local authority or governing body, including where the Commission has directed the local authority or governing body to prepare the proposals.

9.11 Any person may object to the proposals.¹²⁸ Objections **must** be sent in writing to the Commission before the end of 28 days beginning with the day on which the proposals were published (“the objection period”).¹²⁹ The Commission **must** publish a summary of all objections made in accordance with section 63(2) (and not withdrawn) and its response to those objections before the end of 28 days beginning with the end of the objection period.¹³⁰

9.12 Welsh Ministers’ approval is required for proposals affecting sixth form education (i.e. a proposal to open a sixth form school, add a sixth form or remove a sixth form from a school which continues to provide education for learners of statutory school age) in relation to which a written objection has, in line with the requirement of the 2013 Act, been submitted to the proposer and not withdrawn, in writing before the end of 28 days beginning with the end of the objection period.¹³¹

9.13 Where a proposal requires approval by the Welsh Ministers, the Commission **must** notify the Welsh Ministers within 35 days of the end of the objection period and forward to them the consultation report, the published proposals, copies of any statutory objections made, along with the objection report as set out in paragraph 9.11.¹³²

9.14 The Welsh Ministers may reject the proposals, approve them without modification, or approve them with modifications after obtaining the consent of the Commission to the modifications, and after consulting the local authority that maintains, or that it is proposed will maintain, the school to which the proposals relate and the governing body (if any) of the school to which the proposals relate.¹³³

9.15 Proposals can be adopted subject to a specified event occurring by a specified date.¹³⁴ Proposals which are adopted **must** be implemented in accordance with section 6 of this Code.

¹²⁶ 2013 Act, section 63D(1) and (2)

¹²⁷ 2013 Act, section 63D(4)

¹²⁸ 2013 Act, section 63E(1)

¹²⁹ 2013 Act, section 63E(2)

¹³⁰ 2013 Act, section 63E(3)

¹³¹ 2013 Act, section 63F(1)

¹³² 2013 Act, section 63E(3)

¹³³ 2013 Act, section 63F(4)

¹³⁴ 2013 Act, section 63F(5)

9.16 No approval is required under this section for proposals to discontinue a school which is a small school within the meaning given by section 56.¹³⁵

9.17 Where proposals published by the Commission under paragraph 9.7 do not require approval under paragraph 9.12 the Commission **must** determine whether they **should** be implemented.¹³⁶ If determination is not made before the end of 16 weeks beginning with the end of the objection period, the Commission is to be taken to have withdrawn the proposals.¹³⁷

9.18 Before the end of 7 days beginning with the day of its determination the Commission **must** notify the following of its determination:

- the Welsh Ministers;
- the local authority that maintains, or that it is proposed will maintain, the school to which the proposals relate;
- the governing body (if any) of the school to which the proposals relate.¹³⁸

9.19 Proposals approved by the Welsh Ministers under paragraph 9.12 or determined to be implemented by the Commission under paragraph 9.17 have effect as if they had been approved by the Welsh Ministers under section 50 after having been made:

- by the local authority under its powers to make proposals to establish, alter or discontinue schools; or
- in the case of proposals to alter a foundation or voluntary school, by the governing body under its powers to make proposals to alter its school.¹³⁹

¹³⁵2013 Act, section 63F(8)

¹³⁶ 2013 Act, section 63G(1)

¹³⁷ 2013 Act, section 63G(2)

¹³⁸ 2013 Act, section 63G(3)

¹³⁹ 2013 Act, section 63H(1)

Section 10. Proposals by the Welsh Ministers for regional provision for SEN/ALN

10.1 Where the Welsh Ministers have previously made a direction under section 66 of the 2013 Act requiring a local authority or a governing body to bring forward school organisation proposals for the purpose of securing regional provision for children with SEN/ALN, they may publish their own proposals to the same effect.¹⁴⁰

10.2 The proposals **must** be consulted upon in accordance with section 3 and published in accordance with section 4.¹⁴¹

10.3 Any person may object to the proposals before the end of 28 days beginning with the date on which the proposals were published.¹⁴²

10.4 The Welsh Ministers may, after considering any objections:

- adopt the proposals with or without modification;
- determine not to adopt the proposals.¹⁴³

10.5 Modifications **must** only include changes to admission numbers or to the timing of implementation. The Welsh Ministers **must not** make modifications that would in effect substitute a new proposal for the proposal which was published.

10.6 Proposals can be adopted subject to a specified event occurring by a specified date.¹⁴⁴

10.7 Proposals which are adopted **must** be implemented in accordance with section 6 of the Code.

¹⁴⁰ 2013 Act, section 68(2)

¹⁴¹ 2013 Act, section 68(3)

¹⁴² 2013 Act, section 69

¹⁴³ 2013 Act, section 70(1)

¹⁴⁴ 2013 Act, section 70(2)

Section 11. Governing body notice to discontinue a foundation or voluntary school

11.1 Section 80 of the 2013 Act permits the governing body of a foundation or voluntary school to discontinue the school by giving the Welsh Ministers and the local authority responsible for maintaining the school 2 years notice of its intention to do so.¹⁴⁵ Before giving notice, the governing body **must**:

- gain the consent of the Welsh Ministers if expenditure has been incurred on the school premises (otherwise than in connection with repairs) by the Welsh Ministers or local authority that maintains the school;¹⁴⁶
- consult the Commission if discontinuing the school would affect facilities for full time education suitable to the requirements of persons over compulsory school age who have not attained the age of 19;¹⁴⁷ and
- consult with the trustees for any land or buildings held on trust and/or the appropriate religious body where the school has a designated religious character and have regard to any comments which are received (*there is no requirement to consult on proposals to discontinue a school which is a small school*).

11.2 A notice issued under this section may not be withdrawn without the consent of the local authority.¹⁴⁸ If, during the notice period the governing body informs the local authority it is unable or unwilling to carry on the school until the notice expires, the local authority may conduct the school as if it were a community school until the end of the notice period and use the school premises free of charge for that purpose.¹⁴⁹

11.3 During this period the local authority **must** keep the school premises in good repair and any interest in the premises which is held for the purposes of the school is to be treated, for all purposes to the condition, occupation, or use of the premises or the making of alterations to them as vested in the local authority.¹⁵⁰

11.4 During this time, the governing body may use the premises, or any part of them, then not required for the purposes of the school to the same extent as if it had continued to carry on the school during the unexpired period of the notice.¹⁵¹ If a foundation or voluntary school is discontinued under section 80 of the 2013 Act, the duty of the local authority to maintain the school ceases.¹⁵²

11.5 Where governing bodies require advice in relation to property held on charitable trust, they are advised to make early contact with the Charity Commission.

11.6 Section 80 of the 2013 Act also makes provision regarding trustees holding land in trust for the purposes of the school providing notice to terminate occupation of that land. In cases where the follow apply notice given by the trustees to the governing body of the

¹⁴⁵ 2013 Act, section 80(1)

¹⁴⁶ 2013 Act, section 80(2)

¹⁴⁷ 2013 Act, section 80(3)

¹⁴⁸ 2013 Act, section 80(7)

¹⁴⁹ 2013 Act, section 80(4)

¹⁵⁰ 2013 Act, section 80(5)

¹⁵¹ 2013 Act, section 80(6)

¹⁵² 2013 Act, section 80(8)

school **must** be at least 2 years:¹⁵³

- land occupied by the school is held by any trustees for the purpose of the school;
- the trustees (being entitled to do so) intend to give notice to the governing body of the school to terminate the school's occupation of that land; and
- the termination of the school's occupation of that land would have the result that it was not reasonably practicable for the school to continue to be conducted at its existing site.

11.7 A copy of the trustees' notice **must** be given to the Welsh Ministers and the local authority that maintains the school at the same time.¹⁵⁴

11.8 Where within the first 12 months of the trustees' notice period, the governing body gives notice to discontinue the school in accordance with paragraph 11.1 above, the trustees notice does not have the effect of terminating the school's occupation of the land until the expiry of the governing body's notice.¹⁵⁵

11.9 Where trustees give notice at the same (or substantially the same) time to terminate a foundation or voluntary school's occupation of 2 or more pieces of land held by the trustees, regard may be had to the combined effect of terminating the school's occupation of both or all pieces of land in determining whether the termination of the schools occupation of the land would have the result that it was not reasonably practicable for the school to continue to be conducted at its existing sites.¹⁵⁶

11.10 If a question arises as to whether paragraph 11.9 applies and would have the result mentioned in any particular circumstances, it is to be determined by the Welsh Ministers.¹⁵⁷

¹⁵³ 2013 Act, section 80(10) and (11)

¹⁵⁴ 2013 Act, section 80(12)

¹⁵⁵ 2013 Act, section 80(11)

¹⁵⁶ 2013 Act, section 80(13)

¹⁵⁷ 2013 Act, section 80(14)

Annex A: Illustrative flow chart for statutory proposals

Step 1

The proposer **must** refer to the list of rural schools to establish if a proposed closure involves a rural school and the presumption against closure of rural schools applies.

Step 2

The proposer **should** refer to section 1 of the School Organisation Code (the Code) which provides the factors to be taken into account in preparing, publishing, approving, or determining all school organisation proposals.

Step 3

In the case of proposals to reorganise schools for which land and/or buildings are held on trust, or which have a designated religious character the proposer **must** consult the trustees and/or appropriate religious body before the consultation is published and allow 28 days for the receipt of comments and **must** have due regard to those comments before any decision is made to proceed to general consultation.

Step 4

Approval to proceed to formal consultation **should** be obtained. Where the proposer is the local authority, the decision is normally made by the executive committee or cabinet. Where the governing body of a school is the proposer, the governing body **must** make the decision.

Step 5

The proposer **must** publish a consultation document on its website and that of the relevant local authority, if different, and make it available in hard copy. A Welsh Language impact assessment **must** be undertaken for all proposals. The consultation document **must** be published on a school day and consultees **must** have at least 42 days in which to respond with at least 20 of these being school days. Section 3 of the Code sets out the information that all consultation documents **must** contain, including the additional information on proposed closure of rural schools and provides a list of those parties who **must** be advised of its availability. The proposer **must** make suitable arrangements to consult with learners of any school likely to be affected.

Step 6

Within 13 weeks of the end of the period allowed for consultation responses (and in any event prior to the publication of proposals), the proposer **must** publish a summary of the consultees' comments and the proposer's own responses to the comments (the consultation report). Section 3 of the Code provides information about the consultation report and lists the parties that **must** be advised of its availability.

Step 7

Where the local authority is the proposer normally the executive committee or cabinet meets to consider the consultation and whether or not to proceed with the proposal. Where the governing body of a school is the proposer, they **should** meet to consider the consultation and decide whether or not to proceed. If the decision is to proceed, Step 8 is taken. If a new option emerges during consultation which the proposers wish to consider, then Steps 1-5 are repeated.

Step 8

Proposals **must** be published within 26 weeks of the end of the consultation period allowed for consultation responses, otherwise the proposal will lapse, and a new consultation is required.

If the proposer decides to proceed with the proposal the proposer **must** publish a statutory notice providing a 28-day notice period for objections. The notice **must** be published on a school day with fifteen school days (not including the day of publication) in the notice period. Section 4 of the Code sets out the information a notice **must** contain and explains how it **must** be published.

Step 9a

If there are no objections and the proposal does not require the approval of the Welsh Ministers:

- Where the proposer is the local authority normally the executive committee or cabinet meets to determine whether or not to proceed.
- Where the proposer is the governing body of the school the governing body meets to determine whether or not to proceed.

Step 9b

If objections are received, the proposer **must** publish a summary of the objections and their responses to those objections (the objection report).

Step 10a

If the proposal does not require approval by the Welsh Ministers or the local authority, it **must** receive final determination by proposers within 16 weeks of the end of the objection period.

Step 10b

If the proposal requires determination by the Welsh Ministers, the proposer **must** send to the Welsh Ministers within 35 days of the end of the objection period the consultation report, the published notice, any objections made and the objection report.
The Welsh Ministers will normally aim to

Step 10c

If the proposal requires determination by the local authority, the proposer **must** send to the local authority within 35 days of the end of the objection period the consultation document, the consultation report, the published notice, any objections, and the objection report.
The local authority **must** issue a decision within 16 weeks of the end of the objection period.

	<p>determine proposals within 16 weeks of the end of objection period.</p>	<p>Within 28 days of the local authority's determination proposals which have received objections may be referred to the Welsh Ministers by the following:</p> <ul style="list-style-type: none"> i. Another local authority; ii. The appropriate religious body for any school affected (the diocesan authority); iii. The governing body of a voluntary or foundation school which is the subject of the proposals; iv. A trust holding property on behalf of a voluntary or foundation school which is the subject of the proposals; v. A further education institution affected by the proposals.
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Step 11

If proposals receive approval or the proposer determines to implement them, they **should** be implemented in accordance with the date given in the statutory notice, or any subsequent modified date.

Annex B: Examples of statutory notices

Example of a statutory notice to establish a new community or voluntary school

[Insert name and address of those publishing the proposals].

Notice is given in accordance with section 41 of the School Standards and Organisation (Wales) Act 2013 and the School Organisation Code that [*proposer's name*], having consulted such persons as required, proposes to establish a new [*state language category*¹⁵⁸] school to be maintained by [*state name of maintaining local authority*] at [*state location and, where appropriate, the postal address*] for [*boys*]/ [*girls*] / [*boys and girls*] aged [*insert age range*].

The [*insert name of proposer*] undertook a period of consultation before deciding to publish this proposal. A consultation report containing a summary of the issues raised by consultees, the proposer's responses and Estyn's full response is available on [*insert the proposer's website (if they have one) and that of the relevant local authority (if different)*].

It is proposed to implement the proposal on [*insert date*]. [*Where implementation is planned in stages, the planned date of implementation of each stage **should** be provided*].

The proposed new school will be a [*insert community or voluntary aided or voluntary controlled*] school.

[*insert the governing body or the name of the local authority*] will be the admission authority.

The admission number for [*state the relevant age group or age groups*¹⁵⁹] at the new school in the first school year in which the proposals have been implemented is [*state number*] [*Where the proposals are to be implemented in stages, the admission number in the first school year in which each stage has been implemented **must** be given*]. [*If there is to be a separate admission number for the sixth form it **should** be included*].

The new school's learner capacity will be [*insert capacity figure*¹⁶⁰]. [*It would also be useful to include the number of nursery places being provided if appropriate*].

[*For a special school, information on the special educational needs/additional learning needs of learners for which provision will be made*].

[*Give information on whether it is proposed that the admission arrangements for the new school will make provision for learner banding*].

[*In the case of a new voluntary school, give information about its religious character and proposed appropriate religious body if it is to have a religious character*].

¹⁵⁸ Proposers should refer to the Welsh Government information document *Guidance on school categories according to Welsh-medium provision*.

¹⁵⁹ A "relevant age" group" is defined in section 142(1) of the 1998 Act as meaning "an age group in which pupils are normally admitted (or, as the case may be, will normally be admitted) to the school". There could, therefore, be more than one relevant age group, in which case the number to be admitted **must** be given in relation to each such relevant age group.

¹⁶⁰ Proposers should refer to the Welsh Government Circular 21/2011 Measuring the capacity of schools in Wales or any successor document.

[Give information about the proposed arrangements for transport of learners to the new school].

[In the case of proposals to establish a new voluntary school, state whether the proposals are to be implemented by the local /authority or the promoters, and, if the proposals are to be implemented by both, the extent to which they are to be implemented by each such body].

Within a period of 28 days of the date on which the proposal was published, that is to say by *[insert date]* any person may object to the proposals.

Objections **should** be sent to *[name and address of proposer]*.

Signed

For the *[local authority]*.

Date [**should** be the same as the date of publication].

EXPLANATORY NOTE

[It may be useful to include an Explanatory Note explaining the proposals in simple language and providing further information and background to the proposals].

Example of a statutory notice to discontinue a maintained community, foundation, voluntary or nursery school

[Insert name and address of those publishing the proposals].

Notice is given in accordance with section 43 of the School Standards and Organisation (Wales) Act 2013 and the School Organisation Code that *[proposer's name]*, having consulted such persons as required, proposes to discontinue *[name and address of school]*. The school is currently maintained by *[state name of maintaining local authority]* *[and if relevant, state school's religious character]*.

[insert name of proposer] undertook a period of consultation before deciding to publish this proposal. A consultation report containing a summary of the issues raised by consultees, the proposer's responses and Estyn's full response is available on *[insert the proposer's website (if they have one) and that of the relevant local authority (if different)]*.

It is proposed to implement the proposals on *[insert date]*.

[Insert details of the alternative schools which learners at the school to be discontinued may attend, including any interim arrangements and the language category of the alternatives as defined in the [Guidance on school categories according to Welsh-medium provision](#)].

[Insert details of any other measures proposed to be taken to increase the number of school places available in consequence of the proposed discontinuance].

[Insert particulars of the proposed arrangements for transport of learners to alternative schools or other education institutions].

[Where the proposal involves the closure of a school on the list of rural schools state the reasons why the proposer is satisfied that such implementation is the most appropriate response to the reasons the proposer identified in formulating the proposal].

Within a period of 28 days of the date on which the proposal was published, that is to say by *[insert date]* any person may object to the proposals.

Objections should be sent to *[name and address of the proposer]*.

Signed

For the *[local authority or governing body]*.

Date **[should be the same as the date of publication]**.

EXPLANATORY NOTE

[It may be useful to include an Explanatory Note explaining the proposals in simple language and providing further information and background to the proposals].

Example of a statutory notice to make a regulated alteration to a maintained community, foundation, voluntary or nursery school

Notice is given in accordance with section 42 of the School Standards and Organisation (Wales) Act 2013 and the School Organisation Code that [*proposer's name*], having consulted such persons as required, proposes to alter [*name and address of school*] so that [*add description of proposed change/s*]. The school/s is/are currently maintained by [*1 name of maintaining local authority*].

[*Insert name of proposer*] undertook a period of consultation before deciding to publish this proposal. A consultation report containing a summary of the issues raised by consultees, the proposer's responses and Estyn's full response is available on [*insert the proposer's website (if they have one) and that of the relevant local authority (if different)*].

It is proposed to implement the proposal on [*insert date*]. [*Where implementation is planned in stages, the planned date of implementation of each stage **should** be provided.*]

[*Where the alteration involves an enlargement, or reduction in capacity, insert*] The current number of learners at the school is [*insert number*], the current learner capacity is [*insert learner places capacity¹⁶¹*] and the proposed capacity once the proposal is implemented is [*insert proposed capacity*]. The admission number for [*state the relevant age group or age groups¹⁶²*] at the school in the first school year in which the proposals have been implemented will be [*state number*] [*include a separate sixth form number if appropriate*] [*Where the proposals are to be implemented in stages, the admission number in the first school year in which each stage has been implemented **must** be given*]. [*where appropriate*] There will be [*insert number*] nursery places.

[*Where the alteration involves the removal of a school sixth form provide information on the alternative schools or other education institutions it is proposed learners will transfer, including any interim arrangements and the impact on transport*].

[*Where the alteration involves a change in the type of provision, provide information on the alternative provision for learners and the impact on school transport*].

Within a period of 28 days of the date on which the proposal was published, that is to say by [*insert date*] any person may object to the proposals. Objections should be sent to [*name and address of the proposer*].

Signed For the [*local authority or governing body*].

Date [***should** be the same as the date of publication*]

EXPLANATORY NOTE

[*It may be useful to include an Explanatory Note explaining the proposals in simple language and providing further information and background to the proposals*].

¹⁶¹ Proposers **should** refer to the Welsh Government Circular 21/2011 Measuring the capacity of schools in Wales or any successor document.

¹⁶² A "relevant age group" is defined in section 142(1) of the 1998 Act as meaning "an age group in which pupils are normally admitted (or, as the case may be, will normally be admitted) to the school". There could, therefore, be more than one relevant age group, in which case the number to be admitted **must** be given in relation to each such relevant age group.

Annex C: Welsh language and community impact assessments

Impact assessments **must** be included within the consultation document or published alongside it in order to inform the consultation process. They **must** contain sufficient evidence to support proposals and include evidence of mitigating factors where any potentially negative impacts have been identified. Early engagement and communication with the local community and all consultees is an effective way of establishing and understanding all the relevant factors.

Welsh language impact assessment

A Welsh language impact assessment (WLIA) **must** be undertaken for all proposals regardless of the language category of the schools which are the subject of the proposals. It **must** include relevant evidence and mitigating factors below as a minimum requirement:

- links to the targets within the Welsh in Education Strategic Plan (WESP) and any future actions that will be needed in consequence of the change to continue to comply with the plan or meet targets in the plan;
- compliance with the Welsh language Policy Making Standards and in general with the relevant Local Authority Standards Compliance Notice;
- local catchment areas (regardless of language provision) and issues around travel distances;
- the relevant local authority development plan in terms of Technical Advice Note (TAN 20)¹⁶³ and/or Areas of Linguistic sensitivity;
- links to the relevant local authority 5-year Welsh Language Promotion Strategy;
- links to the aims of Cymraeg 2050;
- general links to the goals of the Well-being of Future Generations (Wales) Act 2015;
- socio-economic considerations (comparison of the ward/Lower layer super output area (LSOA) data on deprivation with the data on Welsh speakers); and
- mitigating factors (including cross-boundary and regional issues).

The assessment **should** also include:

- information on the language category of the school which is the subject of the proposals;
- in the case of a school closure, contraction of provision or removal of a school sixth form, information on the language category of any alternative school or other education institution that learners may attend;
- an assessment of the likely impacts on any other school or education institution likely to be affected by the proposals, irrespective of school category or medium of provision;
- information about standards in the Welsh language in the schools which are the subject of the proposal and any alternative school or other education institution learners may attend;

¹⁶³ [TAN20: Planning and the Welsh Language \(gov.wales\)](https://gov.wales/tan20)

- information about after school activities which provide additional opportunities to use Welsh in the schools which are the subject of the proposals and any alternative school or other education institution learners may attend (e.g. the Urdd, Mentrau Iaith clubs);
- information about facilities for members of the community to learn Welsh, or undertake activities through the medium of Welsh at the schools which are the subject of the proposals if provided 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 learners' engagement with any alternative school or education institution and any specific language enhancement it offers could be supported (e.g. how learners will be helped to participate in activities provided by the Urdd, Mentrau Iaith);
- observations provided by the local authority's Welsh-medium education forum.¹⁶⁴

Community impact assessment

A community impact assessment **must** be undertaken for any proposal to close a school. Information that **should** be included in a community impact assessment, includes the following:

- information on the proportion of learners from within the catchment area that attend the school;
- information on the proportion of learners from outside the catchment area that attend the school;
- information on the proportion of learners currently within thresholds for school transport provision (2 miles for primary school and 3 miles for secondary school), that attend the school and how they will be impacted by the proposal;
- information about the distance and travelling time (for all modes of transport) involved in attending an alternative school of the same language category;
- impact on health and wellbeing e.g., if learners would be less able to walk or cycle to school;
- information about any wider implications the changes would have on public transport provisions;
- information on wider community safety issues;
- information about any other facilities or services the school accommodates or provides e.g., school clubs, youth club, community library, play group;
- information about the facilities and services provided at any alternative school learners may attend;

¹⁶⁴ The Welsh in Education Strategic Plans and Assessing Demand for Welsh-Medium Education (Wales) Regulations 2013 provides a definition of a Welsh-medium education forum. However, it **should** be noted that a local authority is not required to have such a forum.

- how parents' and learners' engagement with the alternative schools or other education institutions and any facilities they may offer could be supported e.g., how learners (and particularly any less advantaged learners) will be helped to participate in after school activities);
- whether or not the school is a real hub of community life, used for other purposes – such as public meetings, local events, fetes, surgeries, and other get togethers – which would either cease or be diminished by being required to move elsewhere;
- whether or not the loss of the school, and potentially families, will have a detrimental effect on the wider economy of the community;
- the overall effect of closure on the local community (including the loss of school-based facilities which are used by the local community);
- what impact closure might have on other services provided locally, for instance if the school is the only remaining public building in a community;
- whether closure would encourage families with school-age children to leave the community or discourage young families from moving to the community;
- 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).

Annex D: Local decision-making committee

The model set out below represents one potential way of establishing a “local decision-making committee”.

The size of the committee would be significant in shaping its effectiveness. Too large and it would be unwieldy and difficult to establish a consensus. Too small and there might be too little debate and too-narrow a perspective. A committee with five members might represent an ideal size.

The make-up of the committee will also be important in determining how it is perceived. If the intention is to emphasise its separation from the local authority’s executive, it might be necessary to “disqualify” members of the executive and anyone who has a connection to the local authority, proposer (if different from the local authority) or the school/s which are the subject of the proposals, which might raise doubts over their ability to act impartially regarding the proposal.

Providing they are not disqualified, local authorities might decide to appoint committees made up of local authority members only, or of persons unconnected with the local authority (including members of another local authority), or of any combination of the two.

Where a school with a designated Church in Wales or Roman Catholic religious character (or which is intended to have such a religious character) is the subject of a proposal, the local authority might invite the Diocesan Board of Education for the relevant diocese of the Church in Wales or the Bishop of the relevant Roman Catholic Church diocese to nominate a representative to be one of the members of the committee. In the case of any other voluntary school with a designated religious character, the person, or persons by whom the foundation governors are appointed might be invited to nominate a representative.

Local authorities might want to ensure that at least one member of the committee has direct experience of working in the education sector. An existing or former member of a school’s senior management team or an experienced school governor might be suitable in this respect.

In the event that the committee is to be comprised of local authority members only, the local authority might want to consider making it politically balanced in the sense set out at sections 15 and 16 of the Local Government and Housing Act 1989.

The local authority may wish to recruit, train, and retain a pool of eligible persons and appoint to a committee as and when required. This would provide a number of advantages including reducing the time needed to set up a committee when required and helping the local authority to ensure potential committee members have sufficient training.

Local authorities could also co-operate to develop shared regional pools. This would increase the potential number of eligible and suitably experienced candidates whilst at the same time providing more opportunities for committee members to gain experience and develop expertise in making school organisation decisions. However, when appointing panels from any such regional pool, local authorities might want to ensure at least some members have specific local knowledge.

The local authority would want to ensure that all committee members receive appropriate training before considering proposals, and that experienced committee members are kept

abreast of any amendments to guidance and are given the opportunity of undertaking refresher training. Training need not be extensive but might look to ensure that committee members are familiar with the guidance contained in the Code and are familiar with the relevant parts of the 2013 Act. 2 or more local authorities could collaborate to deliver training which, in addition to possible financial savings, could provide benefits such as the wider sharing of good practice.

It would be advisable for the committee to have the services of a clerk provided by the local authority. Whilst the clerk would not be a member of the committee they might act as an independent source of advice. To enable this, clerks would need a good understanding of the Code and the relevant parts of the 2013 Act and would have received appropriate training. The local authority, where necessary, would need to provide the committee with appropriate legal advice. It would be advisable for the clerk not to have been involved at any stage in the proposal that the committee are considering or to have any interest in any decision reached by the committee members.

The key tasks of the clerk would be to:

- make the necessary administrative arrangements for the committee;
- be an independent source of advice on procedure, the Code, and the relevant parts of the 2013 Act;
- record the proceedings, decision, and the reasons for it; and
- ensure notification and publication of the decision in accordance with paragraphs 5.32 – 5.35.

To enable a committee to reach an informed decision, the local authority would need to forward to the appointed clerk the documents set out paragraph 5.14 above, shortly after the end of the objection period. It would be advisable for the committee to reach its decision on the basis of this written evidence rather than seek or consider new information (unless they consider it will assist in the determination within the timescale) or consider oral representations.

Annex E: Legislation and national policies which will assist in the development of proposals

- [United Nations Convention on the Rights of the Child](#)
- [The Well-being of Future Generations \(Wales\) Act 2015](#) (see below)
- [Llwybr Newydd, Wales Transport Strategy 2021](#)
- [Active Travel \(Wales\) Act 2013](#)
- [Learner Travel \(Wales\) Measure 2008](#)
- [Learner Travel Statutory Provision and Operational Guidance](#)
- [Healthy Weight, Healthy Wales](#)
- [Future Wales, the National Plan 2040](#)
- [Cymraeg 2050: Welsh language strategy](#)
- [Welsh in Education Strategic Plans](#)
- [The Welsh Language Standards](#)
- [Planning policy and guidance: national policy](#)
- [Child Poverty Strategy for Wales](#)
- [Our National Mission](#)
- [Sustainable Communities for Learning – Welsh Government Investment Programme for the education estate](#)
- [Measuring the capacity of schools in Wales](#)
- [Planning Policy Wales](#)
- [The Tertiary Education and Research \(Wales\) Act 2022](#)
- [Community Focused Schools](#)
- [Children and Young People’s Plan](#)
- [Children and Young People’s National Participation Standards](#)
- [Early childhood play, learning and care in Wales](#)

The Well-being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015¹⁶⁵ (“the 2015 Act”) sets out ways of working – of planning and making decisions – for local authorities and other public bodies it lists. The aim is that, by improving these things, the overall well-being of Wales will be better improved by the things public bodies collectively do. The Act and the statutory guidance make it clear that local authorities **must**, in the course of their corporate planning and their delivery against those plans:

- balance short term needs against the ability to meet **long term** needs;
- think about the impact their objectives have on other organisations’ objectives, and on the well-being of Wales, in an **integrated** way;
- **involve** in those processes people who reflect the diversity of the population they serve;
- work together **collaboratively** with other organisations to better meet each other’s objectives; and
- deploy their resources to **prevent** problems from getting worse or from occurring in the first place.

¹⁶⁵ <http://www.legislation.gov.uk/anaw/2015/2/contents/enacted>

The statutory guidance¹⁶⁶, for organisations subject to the Act, sets out the expectations for how the duties should be met.

¹⁶⁶ <https://www.gov.wales/well-being-future-generations-wales-act-2015-guidance>

Annex F: List of rural schools

Local Authority	School Name	School Ref
Bridgend	Tynyrheol C.P. School	6722275
Caerphilly	Fochriw C.P. School	6762108
Carmarthenshire	Abergwili School	6693000
Carmarthenshire	Abernant C.P. School	6692170
Carmarthenshire	Bancyfelin C.P. School	6692034
Carmarthenshire	Beca School	6692180
Carmarthenshire	Cynwyl Elfed School	6692187
Carmarthenshire	Ferryside School	6693013
Carmarthenshire	Laugharne School	6693003
Carmarthenshire	Llangadog C.P. School	6692080
Carmarthenshire	Llanmiloe C.P. School	6692119
Carmarthenshire	Llanpumsaint School	6692109
Carmarthenshire	Meidrim C.P. School	6692037
Carmarthenshire	Penboyr School	6693307
Carmarthenshire	Talley C.P. School	6692065
Carmarthenshire	Ysgol Bro Brynach	6692389
Carmarthenshire	Ysgol Cae'r Felin	6692387
Carmarthenshire	Ysgol Carreg Hirfaen	6692386
Carmarthenshire	Ysgol Cwrt Henri	6692067
Carmarthenshire	Ysgol Griffith Jones	6692384
Carmarthenshire	Ysgol Gynradd Brynsaron	6692104
Carmarthenshire	Ysgol Gynradd Hafodwenog	6692182
Carmarthenshire	Ysgol Gynradd Peniel	6692014
Carmarthenshire	Ysgol Llanllwni	6693026
Carmarthenshire	Ysgol Llansteffan	6692166
Carmarthenshire	Ysgol Llanybydder	6692184
Carmarthenshire	Ysgol y Fro	6692385
Ceredigion	Ysgol Bro Siôn Cwilt	6672369
Ceredigion	Ysgol Cenarth	6672367
Ceredigion	Ysgol Cilcennin	6672284
Ceredigion	Ysgol Ciliau Parc	6672285
Ceredigion	Ysgol Comins Coch	6672303
Ceredigion	Ysgol Craig yr Wylfa	6672362
Ceredigion	Ysgol Dyffryn Cledlyn	6673061
Ceredigion	Ysgol Felinfach	6672289
Ceredigion	Ysgol Gynradd Dihewyd	6672288
Ceredigion	Ysgol Gynradd Llanarth	6672291
Ceredigion	Ysgol Gynradd Llanilar	6672311
Ceredigion	Ysgol Gynradd Llechryd	6672323
Ceredigion	Ysgol Gynradd Penparc	6672324
Ceredigion	Ysgol Llanfarian	6672308
Ceredigion	Ysgol Llanfihangel-y-Creuddyn	6672309

Ceredigion	Ysgol Llangwryfon	6672310
Ceredigion	Ysgol Llannon	6672293
Ceredigion	Ysgol Mynach	6672312
Ceredigion	Ysgol Penllwyn	6672313
Ceredigion	Ysgol Penrhyn Coch	6672363
Ceredigion	Ysgol Pontrhydfendigaid	6672353
Ceredigion	Ysgol Rhos Helyg	6672372
Ceredigion	Ysgol Rhydypennau	6672316
Ceredigion	Ysgol Syr John Rhys	6672315
Ceredigion	Ysgol T Llew Jones	6672371
Ceredigion	Ysgol Tal y Bont	6672317
Ceredigion	Ysgol Talgarreg	6672298
Ceredigion	Ysgol Y Dderi	6672366
Conwy	Ysgol Betws-y-coed	6622012
Conwy	Ysgol Capel Garmon	6622222
Conwy	Ysgol Cerrigydrudion	6622123
Conwy	Ysgol Dolwyddelan	6622043
Conwy	Ysgol Llanddoged	6623039
Conwy	Ysgol Llangelynnin	6623021
Conwy	Ysgol Penmachno	6622086
Conwy	Ysgol Pentrefoelas	6622270
Conwy	Ysgol y Plas	6623340
Conwy	Ysgol Ysbyty Ifan	6623032
Denbighshire	Ysgol Betws Gwerful Goch	6632214
Denbighshire	Ysgol Bodfari	6632070
Denbighshire	Ysgol Bro Dyfrdwy	6632267
Denbighshire	Ysgol Caer Drewyn	6632216
Denbighshire	Ysgol Cefn Meiriadog	6632124
Denbighshire	Ysgol Gellifor	6632164
Denbighshire	Ysgol Llanbedr	6633044
Denbighshire	Ysgol Llanfair Dyffryn Clwyd	6633045
Denbighshire	Ysgol Pant Pastynog	6633057
Denbighshire	Ysgol Pentrecelyn	6632168
Flintshire	Brynford C.P. School	6642065
Flintshire	Rhos Helyg C.P. School	6642050
Flintshire	Ysgol y Foel	6642064
Gwynedd	Ysgol Babanod Morfa Nefyn	6612075
Gwynedd	Ysgol Baladeulyn	6612078
Gwynedd	Ysgol Bro Cynfal	6612190
Gwynedd	Ysgol Bro Hedd Wyn	6612213
Gwynedd	Ysgol Bro Llifon	6612229
Gwynedd	Ysgol Bro Plenydd	6612048
Gwynedd	Ysgol Bro Tryweryn	6612214
Gwynedd	Ysgol Brynaerau	6612017
Gwynedd	Ysgol Craig y Deryn	6612228

Gwynedd	Ysgol Crud-y-Werin	6612039
Gwynedd	Ysgol Edmwnd Prys	6612192
Gwynedd	Ysgol Ffridd y Llyn	6612220
Gwynedd	Ysgol Foel Gron	6613010
Gwynedd	Ysgol Gynradd Chwilog	6612036
Gwynedd	Ysgol Gynradd Dyffryn Ardudwy	6612189
Gwynedd	Ysgol Gynradd Dyffryn Dulas	6612185
Gwynedd	Ysgol Gynradd Edern	6612046
Gwynedd	Ysgol Gynradd Garndolbenmaen	6612049
Gwynedd	Ysgol Gynradd Llanaelhaearn	6612059
Gwynedd	Ysgol Gynradd Llanbedr	6612194
Gwynedd	Ysgol Gynradd Llanbedrog	6612060
Gwynedd	Ysgol Gynradd Llandwrog	6613018
Gwynedd	Ysgol Gynradd Llanybi	6612066
Gwynedd	Ysgol Gynradd Llanllyfni	6612070
Gwynedd	Ysgol Gynradd Llanystumdwy	6613023
Gwynedd	Ysgol Gynradd Nebo	6612081
Gwynedd	Ysgol Gynradd Pennal	6612207
Gwynedd	Ysgol Gynradd Pentreuchaf	6612093
Gwynedd	Ysgol Gynradd Tanygrisiau	6612211
Gwynedd	Ysgol Gynradd Tudweiliog	6612112
Gwynedd	Ysgol O M Edwards	6612199
Gwynedd	Ysgol Pont y Gof	6613004
Gwynedd	Ysgol Sarn Bach	6612103
Gwynedd	Ysgol Talsarnau	6612210
Gwynedd	Ysgol y Garreg	6612198
Gwynedd	Ysgol y Gorlan	6612110
Gwynedd	Ysgol yr Eifl	6612111
Isle of Anglesey	Ysgol Caergeiliog	6605200
Isle of Anglesey	Ysgol Gymuned Bodffordd	6602133
Isle of Anglesey	Ysgol Gymuned Bryngwran	6602135
Isle of Anglesey	Ysgol Gymuned Llanfechell	6602153
Isle of Anglesey	Ysgol Gymuned Llannerch-y-Medd	6602157
Isle of Anglesey	Ysgol Gymuned Moelfre	6602145
Isle of Anglesey	Ysgol Gymuned y Ffridd	6602142
Isle of Anglesey	Ysgol Gynradd Llanbedrgoch	6602146
Isle of Anglesey	Ysgol Gynradd Llangoed	6602155
Isle of Anglesey	Ysgol Gynradd Rhosybol	6602165
Isle of Anglesey	Ysgol Gynradd y Tywyn	6602173
Isle of Anglesey	Ysgol Henblas	6602156
Isle of Anglesey	Ysgol Pencarnisiog	6602160
Isle of Anglesey	Ysgol Penysarn	6602162
Isle of Anglesey	Ysgol Rhyd y Llan	6602227
Isle of Anglesey	Ysgol Santes Gwenfaen	6602163
Monmouthshire	Cross Ash C. P. School	6792305

Pembrokeshire	Cilgerran School	6683035
Pembrokeshire	Coastlands C.P. School	6682384
Pembrokeshire	Cosheston School	6683036
Pembrokeshire	Ger Y Llan School	6683058
Pembrokeshire	Puncheston C.P. School	6682250
Pembrokeshire	Roch C.P. School	6682273
Pembrokeshire	Spittal School	6683050
Pembrokeshire	St. Aidan's School	6683315
Pembrokeshire	St Dogmaels C.P. School	6682253
Pembrokeshire	St Oswalds School	6683321
Pembrokeshire	Tavernspite C.P. School	6682266
Pembrokeshire	Templeton C.P. School	6682261
Pembrokeshire	Wolfscastle C.P. School	6682254
Pembrokeshire	Ysgol Brynconin	6682223
Pembrokeshire	Ysgol Clydau	6682385
Pembrokeshire	Ysgol Croesgoch	6682270
Pembrokeshire	Ysgol Eglwysrwrw	6682209
Pembrokeshire	Ysgol Llanychlwydog	6682231
Pembrokeshire	Ysgol Maenclochog	6682233
Pembrokeshire	Ysgol y Frenni	6682390
Powys	Abermule C.P. School	6662002
Powys	Archdeacon Griffiths Primary School	6663317
Powys	Arddleen C.P. School	6662003
Powys	Berriew C.P. School	6662005
Powys	Brynhafren C.P. School	6662053
Powys	Buttington Trewern C.P. School	6662051
Powys	Caersws C.P. School	6662008
Powys	Churchstoke C.P. School	6662054
Powys	Clyro School	6663033
Powys	Crossgates C.P. School	6662077
Powys	Forden School	6663016
Powys	Franksbridge C.P. School	6662066
Powys	Gladestry School	6663026
Powys	Guilfield C.P. School	6662049
Powys	Leighton C.P. School	6662018
Powys	Llanbister C.P. School	6662068
Powys	Llandinam C.P. School	6662020
Powys	Llandysilio School	6663021
Powys	Llanelwedd School	6663037
Powys	Llanfechain School	6663000
Powys	Llanrhaeadr ym Mochnant C.P. School	6662146
Powys	Llansantffraid School	6663303
Powys	Meifod C.P. School	6662033
Powys	Montgomery School	6663002
Powys	Newbridge-On-Wye School	6663031

Powys	Radnor Valley C.P. School	6662076
Powys	Rhayader School	6663036
Powys	Sennybridge C.P. School	6662092
Powys	St. Michael's School	6663301
Powys	Ysgol Dolafon	6662084
Powys	Ysgol Dyffryn Trannon	6662044
Powys	Ysgol Gynradd Carno	6662009
Powys	Ysgol Gynradd Glantwymyn	6662058
Powys	Ysgol Gynradd Llanerfyl	6665200
Powys	Ysgol Gynradd Llanfair Caereinion	6662021
Powys	Ysgol Llanbrynmair	6662019
Powys	Ysgol Pennant	6662059
Powys	Ysgol Pontrobert	6662041
Powys	Ysgol Rhiw-Bechan	6662129
Swansea	Knelston C.P. School	6702217
Swansea	Penclawdd C.P. School	6702167
Wrexham	Eyton V.C. School	6653042
Wrexham	Borderbrook V.C. School	6653054
Wrexham	Llanarmon D.C. School	6652140
Wrexham	St Chad's V.A. School	6653326
Wrexham	St Paul's V.A. School	6653347