

19. Organisational Changes to the School

This chapter gives a brief description of how changes are made to the pattern and organisation of local school provision.

Background

1. The pattern or organisation of maintained schools (including nursery schools) can only be changed after a period of public consultation and the publication of notices allowing formal objections to be made according to a procedure laid down by law.
2. Public notice must be given where it is proposed to make any changes to a maintained school, including a maintained special school (except as where indicated and subject to paragraph 3) but excluding a maintained nursery school (for information on nurseries see paragraph 4) to:
 - establish a new school (e.g. to establish a brand new school or a replacement school for two or more schools that are merging);
 - discontinue a school;
 - enlarge the premises of a school where this would increase the capacity of the school by more than 30 pupils and, taken together with any previous enlargements, represents an increase in the capacity of the school by 25% or 200 pupils; unless the school is expected to revert to its existing capacity within three years (ie a temporary enlargement). This does not apply to special schools (please see paragraph 3 below for the equivalent provision);
 - the making permanent of a temporary enlargement of the school;
 - the addition or removal of provision which is recognised by the LA as reserved for pupils with special educational needs This does not apply to special schools (see paragraph 3 below for the equivalent provision);
 - change from a mixed school to a single sex school or vice versa;
 - change the age-range that the school provides for;
 - increase or decrease in the number of relevant subjects taught wholly or mainly through the medium of English where a school teaches some relevant subjects wholly or mainly through the medium of Welsh (unless the change is part of a pilot project approved by the WG);
 - increase or decrease in the number of relevant subjects taught wholly or mainly through the medium of Welsh where a school teaches some relevant subjects wholly or mainly through the medium of English (unless the change is part of a pilot project approved by the WG);

- introduce the teaching of relevant subjects wholly or mainly through the medium of English where the school teaches every relevant subject wholly or mainly through the medium of Welsh (unless the change is part of a pilot project approved by the WG);
- introduce the teaching of relevant subjects wholly or mainly through the medium of Welsh where the school teaches every relevant subject wholly or mainly through the medium of English (unless the change is part of a pilot project approved by the WG);
- teach all pupils all relevant subjects wholly or mainly through the medium of English where any pupils are currently taught any relevant subjects wholly or mainly through the medium of Welsh;
- teach all pupils all relevant subjects wholly or mainly through the medium of Welsh where any pupils are currently taught any relevant subjects wholly or mainly through the medium of English (unless the change is part of a pilot project approved by the WG);
- introduce or end banding;
- introduce or end boarding provision;
- transfer a school from its existing site to another site, except where:
 - the transfer is to a site used as the school's playing fields; or
 - it is not reasonably practicable for the current premises to be brought up to the prescribed standards and the new site is within two miles of the existing site; or
 - it is not practical to enlarge the teaching accommodation to the required size and the new site is within two miles of the existing site;
- change the category of a school. (It is not permitted for a voluntary school to change category so that it becomes a foundation school).

3. In the case of a maintained special school, public notice must be given where it is proposed to make the changes detailed above, or in addition to those, any of the following:

- except for a hospital school, increase the number of pupils by the lesser of 10% or 5 pupils (where the school takes only boarders) or 20 pupils (in any other case);
- where the school has day and boarding pupils, increase or decrease boarding provision by 5 pupils; or
- change the type of SEN for which the school makes provision.

For proposals to transfer a maintained special school from its existing site to another site, public notice must be given except where the transfer is to a site used as the school's playing fields.

4. In the case of a maintained nursery school, public notice must be given where it is proposed to do any of the following:

- establish a new school (e.g. to establish a brand new school or a replacement school for two or more schools that are merging);
- discontinue a school;
- an enlargement, including a temporary enlargement of the teaching premises of the teaching space by 50% or more;
- the addition or removal of provision which is recognised by the LA as reserved for pupils with special educational needs;
- change from a mixed school to a single sex school; or vice versa;
- the transfer of the school to a new site except where the entrance of the new site will be within 1.609344 kilometres (1 mile) of the main entrance of the old site; and
- where a year group are taught wholly or mainly through the medium of Welsh, any change that would mean any year group were taught wholly or mainly through the medium of English, or vice versa.

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F 5. The governing body of a voluntary aided, voluntary controlled or foundation school may themselves make proposals for any of the changes listed in paragraph 2. They may close the school by giving the Welsh Ministers and the LA at least two years' notice of their intention under section 30 of the School Standards and Framework Act 1998. Closure may also be proposed by the LA.

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F 6. A governing body of a voluntary or foundation school should discuss any reorganisation plans with any diocesan authority, national faith group, charitable trust or foundation they are linked with at an early stage.

S 7. Only a LA can make proposals to open, close or make changes to community special schools, except for a change of category.

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FS 8. The LA or governing body of a community special school may make proposals to change the category to a foundation special school.

S 9. Before either a LA or a governing body publish any proposals for a school, they must consult anyone with an interest in the proposals. The regulations detailing the process to be followed are listed at the end of this Chapter. The consultation should include any LA likely to be affected, the governors, parents, school staff, and other interested parties (and in the case of a special school these would include Local Health Boards and Social Services Departments' Disability Teams)

10. If the LA or the governing body decide to make formal proposals, they must publish these as a public notice in the area served, or to be served, by the school. Any organisation or individual can object to a proposal.

11. Objections to LA proposals must be sent to the LA. Such objections should be sent within one month of the publication of proposals. The LA must send any objections they receive, together with their comments on the objections, to the WG within two weeks of the end of the objection period.

12. Objections to proposals published by a governing body must be sent to the WG. Such objections should be sent within one month of the publication of proposals.

13. Where statutory objections are made to any proposal, or a change of category is proposed, the proposal cannot go ahead without the approval of the Welsh Ministers.

14. If no objections are received to a proposal, and it does not involve a change of category, the LA or governing body must decide whether to carry it out within four months of notice of the proposal being submitted to the WG.

15. The Welsh Ministers will consider any proposals referred to them, taking account of all the relevant facts and arguments, and may then decide to either:

- approve the proposals; or
- approve them with minor changes after consulting the proposers; or
- reject them.

16. Once proposals have been approved, the proposers must carry them out, though they can ask the Welsh Ministers to agree to minor changes, for example, changing the date when the proposals would come into effect.

17. If circumstances change and it no longer seems sensible to carry out approved proposals, LAs and governing bodies can publish new proposals which if approved by the Welsh Ministers, would remove the duty to carry out the original proposals.

Temporary Governing Bodies

18. Where a proposal has been approved/finalised to establish a new maintained school, there will be a requirement to establish:

- a temporary governing body in advance of the incorporation of the school; and
- a permanent governing body with effect from the date of establishment of the school.

Information on the process required to achieve either of the above is included in Chapter 20 of this guide entitled 'New Schools and Temporary Governing Bodies'.

The Law

School Standards and Framework Act 1998: sections 28-31, and 35 and Schedules 6 and 8

The Education (Wales) Measure 2011:sections 26-27

Education (School Organisation Proposals) (Wales) Regulations 1999, SI 1999/1671

The Education (Maintained Special Schools)(Wales) Regulations 1999 SI 1999/1780

The Change of Category of Maintained Schools (Wales) Regulations 2001: SI 2001 2678(W.219)

The Education (School Organisation Proposals) (Wales) (Amendment) Regulations 2004 SI 2004/908(W.91)

The Change of Category of Maintained Schools (Wales)(Amendment) Regulations 2005 SI 2005 2916(W.213)

Guidance

NAfW Circular 9/99: Organisation of School Places

WG Circular 21/09 School Organisation Proposals