

Report of the Cabinet Member for Learning & Skills

Annual Meeting of Council – 8 May 2014

SCHOOL ORGANISATION EXECUTIVE FUNCTIONS

Purpose:	To seek confirmation on whether Cabinet or Council will decide on school organisation proposals should a decision be required following objection during the Statutory Notice period.
Policy Framework:	To establish a new procedure as per requirements of The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) (Amendment) Regulations 2013
Reason for Decision:	New regulations require local determination on school organisation proposals. The Council need to agree where determination will be made in Swansea.
Consultation:	Legal, Finance and Access to Services.
Recommendation(s):	It is recommend that: - 1) Council determines future school organisation proposals should a decision be required following objection during the Statutory Notice period.
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1. Introduction

- 1.1 The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) (Amendment) Regulations 2013 requires local determination of certain school organisation proposals should objections be received during the Statutory Notice period.
- 1.2 Prior to the introduction of these new regulations Welsh Ministers would determine proposals following objection.

2. School Organisation

2.1 The Welsh Government has introduced a new School Organisation Code (document number 006/2013), which supersedes any previous guidance issued by the Welsh Government on school organisation.

2.2 The Code makes it clear that those proposing school organisational changes “should place the interests of learners above all others” and “should give paramount importance to the likely impact of the proposals on the quality of:

- outcomes (standards and wellbeing);
- provision (learning experiences, teaching, care support and guidance, and learning environment); and
- leadership and management (leadership, improving quality, partnership working and resource management).”

2.3 The Code outlines the procedure that must be followed when a Local Authority proposes a school reorganisation. This includes a consultation period on the proposal followed by a period of Statutory Notice. Previously, if a Council published a Statutory Notice in respect of a proposed change to school organisation and an objection was received, the proposal would automatically be referred to the Welsh Government for determination.

2.4 The new Code now allows for local determination of school organisation proposals to which objections have been received, and The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) (Amendment) Regulations 2013 amends The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) (Amendment) Regulations 2007 to give discretion to whether the approval or determination of school organisation proposals under Sections 51 or 53 of the School Standards and Organisation (Wales) Act 2013 are the responsibility of the executive.

2.5 Proposals will still require approval by the Welsh Ministers if:

- they affect sixth form education;
- they have been made by a proposer other than the relevant local authority and an objection has been made by that local authority.

All other school organisation proposals fall to the local authority to determine, noting that the local authority will only be required to determine proposals made by persons other than itself if an objection to those proposals has been made and not withdrawn in writing within the prescribed period.

- 2.6 Where proposals have been approved or rejected by a local authority the following bodies may, within 28 days of the decision, refer the matter to the Welsh Ministers for determination:
- another local authority affected by the proposals;
 - the appropriate religious body for any school affected;
 - the governing body of a voluntary or foundation school subject to the proposals;
 - a trust holding property on behalf of a voluntary or foundation school subject to the proposals; and
 - a further education institution affected by the proposals.
- 2.7 Where a school has fewer than 10 registered pupils at the January statutory census point the Act introduces a new streamlined procedure to bring about closure. The general requirement for consultation which applies to all other proposals is waived in this circumstance. The proposer is now only required to issue a notice of closure and to determine the proposal. Proposals to discontinue a small school may not be referred to the Welsh Ministers. There are no schools with under 10 registered pupils in the City and County of Swansea.
- 2.8 Section 5.5 of the School Organisation Code states “Executives 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”. Local authorities are, however, able to establish alternative decision making processes if they wish through a local decision making committee. The statutory School Organisation Code notes if local authorities choose to do this “they will need to consider carefully how they will ensure that such bodies deliver fair and robust decision making”.
- 2.9 The City and County of Swansea has had extensive experience of school organisation proposals over past years and its Cabinet is well placed to accept the new statutory responsibility to determine specified proposals. The establishment of a separate local decision making committee would introduce new governance arrangements without this experience and would give rise to additional administrative demands, costs and risks.
- 2.10 Scrutiny Committee can be consulted at an appropriate stage in the development and consultation of school organisation proposals, as will all individual elected members for the school(s) or areas(s) served by the school(s) concerned.

3. General Issues

- 3.1 Local determination is a requirement of the School Organisation Code and The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) (Amendment) Regulations 2013 allow for this determination.

4.0 Equality and Engagement Implications

The Equality Impact Assessment (EIA) process will be followed for every school organisation proposal prior to seeking Cabinet approval to go out for public consultation. The process is not relevant to this report, which seeks to change the executive function (as per the legislative requirements).

5. Financial Implications

- 5.1 There are no financial implications associated with this report, unless the outcome is to establish a local determination panel. If that were to happen, a separate report would be required to identify the source of funding.

6. Legal Implications

- 6.1 Part 3 of the School Standards and Organisation (Wales) Act 2013 (the Act) significantly changes responsibilities for the determination of school organisation proposals. Previously all school organisation proposals which drew objections during the statutory consultation process had to be referred to the Welsh Ministers for determination. The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) (Amendment) Regulations 2013 add the responsibility to determine school organisation proposals under the Act to the schedule of functions set out in the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 which may be (but need not be) the responsibility of an authority's Executive. The Council are therefore required to determine who makes this determination.

Background Papers:

School Organisation Code 006/2013

Appendices:

None