

COUNTY COUNCIL

09/09/2015

Subject:

MODERNISING EDUCATION PROGRAMME (MEP)

Purpose:

**SCHOOL ORGANISATION DECISION MAKING &
DETERMINATION PROCESS**

Recommendations / key decisions required:

County Council is asked to determine whether it wishes to accept the recommendation of the Executive Board that, in order to reduce the length of time taken to complete statutory procedures for making significant alterations to schools in accordance with the statutory School Organisation Code, Stages 1 and 2 (Option 2, Appendix 2) be considered by the Executive Board with final determination being made by Council.

Reasons:

To significantly reduce the time taken to complete statutory procedures whilst ensuring compliance with regulations and guidance in relation to school organisation.

Relevant Scrutiny Committee Consulted YES (18th May 2015)

ECS Scrutiny Committee RESOLVED to recommend that the Executive Board considers Option 4 (the implementation of a Local Determination Panel to determine stages 1 and 2 with final determination by County Council) in relation to the School Organisation decision making process, in order to reduce the timescales of the process.

Exec Board Decision Required YES (27th July 2015)

Executive Board UNANIMOUSLY RESOLVED TO RECOMMEND TO COUNCIL that, in order to reduce the length of time taken to complete statutory procedures for making significant alterations to schools in accordance with the statutory School Organisation Code, Stages 1 and 2 be considered by the Executive Board with final determination being made by Council.

Council Decision Required YES (9th September 2015)**Executive Board Member Portfolio Holder:**

Cllr. Gareth Jones (Education & Children Portfolio Holder)

Directorate: Department for Education and Children	Designation:	Tel No.: 01267 246649
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COUNTY COUNCIL

09/09/2015

SUBJECT:

MODERNISING EDUCATION PROGRAMME (MEP) SCHOOL ORGANISATION DECISION MAKING & DETERMINATION PROCESS

Background

The School Standards and Organisation (Wales) Act 2013 significantly changed responsibilities for the determination of school organisation proposals. The Act took effect on the 1st October 2013 and applies to all proposals published by way of statutory notice on or after that day.

Previously, all school organisation proposals which drew objections during the statutory consultation process had to be referred to the Welsh Ministers for determination. This is no longer the case and, in order to speed up the school organisation process, local authorities are now empowered to determine certain categories of proposals. The Act sets out which proposals are to be determined by local authorities and which fall to be determined by the Welsh Ministers.

Proposals 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.

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.

Where a school has fewer than 10 registered pupils in attendance 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.

The Education and Children's Services Scrutiny Committee is consulted at an appropriate stage in the development and consultation of school organisation proposals, as are all individual elected members for the school(s) or areas(s) served by the school(s) concerned. The Welsh Ministers are required, by Chapter 1 of Part 3 of the Act, to issue a statutory code on school organisation. The new national School Organisation Code (Statutory Code Document Number: 006/2013) was issued in July 2013.

The Statutory 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).*

The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) (Amendment) Regulations 2013, enacted on the 22nd October 2013, added the responsibility to determine school organisation proposals under the 2013 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. A local authority has discretion as to whether the function is to be the responsibility of the executive. The County Council, therefore, needed to determine where this responsibility should rest.

After much debate by various committees of the Authority, in April 2014 County Council resolved that the following recommendations of the Executive Board be adopted:

1. *That school organisation proposals be determined by the County Council;*
2. *That decisions regarding all schools with fewer than 10 registered pupils on the statutory January census date be made by the County Council;*
3. *That officers be delegated authority to deal with schools with no registered pupils on the statutory January census date (a “small school”) and that such schools be subject to an immediate notice of closure.”*

These arrangements therefore apply for all current and future school organisation proposals to make significant changes to schools such as the opening, closing or a change in category in specific circumstances of a maintained school (including a special school). These arrangements also apply to what the code refers to as 'regulated alterations' to schools such as a change in the age range of a school by a year or more, the introduction of, or ending of, sixth form provision at a school and the alteration of the medium of instruction of a class of pupils in an age group or groups (including nursery pupils) at a primary school.

As the majority of school organisation proposals that the Authority develops to progress the MEP (past and future) relate to County Council resolution 1 above (full process), this report will focus on this process in particular. A detailed flow chart of this process is attached in Appendix 1.

Progress

Since the new School Organisation Code came into effect in October 2013, the County Council has determined three school organisation proposals in accordance with the new statutory code and the resolution of county council.

Proposals to discontinue Cilycwm VCP and Llansawel CP were determined by authority delegated to Officers (County Council resolution 3. above) as the schools did not have any pupils in them at the mid January census point.

Llanfynydd VAP was determined by County Council having completed the full school organisation process. This process took approximately 24 months to complete from start to finish, however, this proposal was affected by County Council resolving where the responsibility of determining school reorganisations should rest.

A proposal to reorganise Copperworks Infants and Lakefield Primary Schools (MEP Band A Seaside Project) is currently being progressed according to the new full school organisation process (Appendix 1) with the formal consultation stage having recently been completed. As this proposal has progressed concerns have been raised by stakeholders at the length of time it can take to complete the full statutory process. Officers have therefore been asked to explain the current process and identify options for consideration for reducing the timescale. The majority of steps that need to be taken are prescribed by the School Organisation Code, however, opportunities to reduce timescales could be realised by decreasing the number of committees that deliberate over the proposals at the key stages of the process. Each one is considered in turn below.

Options

1. Current Process (Status Quo Appendix 1)

The current process takes approximately 24 months (2 years) to complete. In addition to the steps that need to be followed, the proposal is presented to twelve meetings of elected members with County Council being the final decision making body at each stage:

- Stage 1 - Four meetings (Preliminary Executive Board, ECS Scrutiny Committee, Executive Board & County Council) in order to request permission to formally consult on the proposal
- Stage 2 - Four meetings (Preliminary Executive Board, ECS Scrutiny Committee, Executive Board & County Council) in order to request approval to publish a statutory notice following formal consultation
- Stage 3 - Four meetings (Preliminary Executive Board, ECS Scrutiny Committee, Executive Board & County Council) (Preliminary Executive Board, ECS Scrutiny Committee, Executive Board & County Council) to ultimately determine whether the proposal is to be implemented. The final determination being made by County Council.

2. Executive Board approves Stages 1 & 2 (Appendix 2) and County Council makes final determination

This option would take approximately 15 - 18 months to complete. In addition to the steps that need to be followed, this process would require the proposal being presented to seven committees with Executive Board granting permission to proceed at stages 1 and 2 and County Council being the final decision making body at stage 3:

- Stage 1- Two committees (ECS Scrutiny Committee and Executive Board) in order to request permission to formally consult on the proposal
- Stage 2 - Two committees (ECS Scrutiny Committee and Executive Board) in order to request approval to publish a statutory notice following formal consultation
- Stage 3 - Three committees (ECS Scrutiny Committee and Executive Board) to ultimately determine whether the proposal is to be implemented. The final determination being made by County Council.

3. Local Determination Panel approves all stages (Appendix 3)

This option is the shortest and would take approximately 12 months to complete. In addition to the steps that need to be followed, this option would involve the creation of a special School Organisation Local Determination Panel (DP). The proposal would be presented to this panel at all three stages and the panel would need delegated Authority from County Council to grant permission to the next stage and ultimately to determine whether the proposal should be implemented.

- Stage 1- Local Determination Panel to request permission to formally consult on the proposal
- Stage 2 – Local Determination Panel to request approval to publish a statutory notice following formal consultation
- Stage 3 – Local Determination Panel to ultimately determine whether the proposal is to be implemented. The final determination would therefore NOT be made by County Council in this option.

4. Local Determination Panel approves Stages 1 & 2 and County Council makes final determination (Appendix 4)

This option would take approximately 15 months to complete. In addition to the steps that need to be followed, this process would involve the creation of a special School Organisation Local Determination Panel (DP). The proposal would be presented to this panel at all the first two stages and the panel would need delegated Authority from County Council to grant permission to proceed at stages 1 and 2 and County Council being the final decision making body at stage 3:

- Stage 1- Local Determination Panel to request permission to formally consult on the proposal
- Stage 2 – Local Determination Panel to request approval to publish a statutory notice following formal consultation
- Stage 3 – County Council to ultimately determine whether the proposal is to be implemented or not.

Conclusion

Within Carmarthenshire the school organisation process currently takes approximately two years to complete. The experience of processing statutory procedures since the implementation of the new regulations in 2013 and the length of time involved has increasingly frustrated a growing number of elected members and officers were asked by the Education and Children's Services Scrutiny Committee to present options for an alternative decision making methodology in order to shorten the length of time taken to complete the

process whilst also safeguarding democratic rigour within the process.

A report detailing the options above was presented to the Education and Children's Services Scrutiny Committee at its meeting on the 18th May 2015 and following deliberation the Committee resolved to recommend that *"the Executive Board consider Option 4 (the implementation of a Local Determination Panel to determine stages 1 and 2 with final determination by County Council) in relation to the school organisation decision making process, in order to reduce the timescales of the process"*.

Subsequently, Executive Board considered the recommendation and unanimously resolved to recommend to Council that, in order to reduce the length of time taken to complete statutory procedures for making significant alterations to schools in accordance with the statutory School Organisation Code, Stages 1 and 2 be considered by the Executive Board with final determination being made by Council (Option 2, Appendix 2).

County Council is asked to determine whether it wishes to accept Executive Board's recommendation.

DETAILED REPORT ATTACHED?	YES (Appendices 1- 4)
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IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: **G. Morgans**

Chief Education Officer

S. Davies

School Modernisation Manager

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
NONE	YES	YES	NONE	YES	YES	NONE

2. Legal

The report presents information on the enactment of Part 3 of the School Standards and Organisation (Wales) Act 2013 and provides options to change decision making arrangements to meet the requirements of the Act.

3. Finance

Should the County Council resolve to establish an independent decision making panel additional costs would be incurred in facilitating the operation of the panel.

5. Risk Management Issues

Should the County Council resolve to establish an independent decision making panel risks would arise in ensuring the robustness of the decisions taken by the panel.

6. Staffing Implications

Should the County Council resolve to establish an independent decision making panel additional staffing capacity would be required in order to facilitate the operation of the panel and in the provision of a formal clerking service to the panel.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: G. Morgans

Head of Education Services

S. Davies

School Modernisation Manager

1. Scrutiny Committee

The Education and Children's Services Scrutiny Committee was consulted on 18th May 2015.

Recommendations / Comments:

RESOLVED to recommend that the Executive Board considers Option 4 (the implementation of a Local Determination Panel to determine stages 1 and 2 with final determination by County Council) in relation to the School Organisation decision making process, in order to reduce the timescales of the process.

2. Local Member(s)

Not Applicable – Statutory Matter

3. Community / Town Council

Not Applicable – Statutory Matter

4. Relevant Partners

Not Applicable – Statutory Matter

5. Staff Side Representatives and other Organisations

Not Applicable – Statutory Matter

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

These are detailed below.

Title of Document	File Ref No.	Locations that the papers are available for public inspection
School Standards and Organisation (Wales) Act 2013		www.wales.gsi.gov.uk
The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) (Amendment) Regulations 2013		www.wales.gsi.gov.uk
School Organisation Code		http://gov.wales/topics/educationandskills/publications/guidance/school-organisation-code/?lang=en
MEP Annual Report 2013/14 and Programme 2014/15		http://www.carmarthenshire.gov.uk/ County Council Agenda 14 th January 2015
Strategic Outline Programme 21 st Century Schools		Strategic Outline Programme 21st Century Schools