

EDUCATION & CHILDREN SCRUTINY COMMITTEE

23/11/2020

MODERNISING EDUCATION PROGRAMME

PROPOSAL TO SHORTEN THE INTERNAL SCHOOL ORGANISATION DECISION MAKING AND DETERMINATION PROCESS

To consider and comment on the following issues:

- ❖ Considers the proposal as outlined in the report below.

Reasons:

- ❖ In order to be able to continue to progress with school re-organisation proposals in an effective and timely manner following the delays caused by the Covid-19 pandemic.
- ❖ To formulate views for submission to Executive Board for consideration.

Relevant Scrutiny Committee Consulted: Yes – 23/11/2020

Executive Board Decision Required Yes – 21/12/2020

Council Decision Required Yes – 13/01/2021

Executive Board Member Portfolio Holder: Cllr. Glynog Davies (Education & Children)

Directorate:
Education & Children

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EXECUTIVE SUMMARY

EDUCATION & CHILDREN SCRUTINY COMMITTEE 23/11/2020

MODERNISING EDUCATION PROGRAMME

PROPOSAL TO SHORTEN THE INTERNAL SCHOOL ORGANISATION DECISION MAKING AND DETERMINATION PROCESS

Background Information

School Organisation Code 2013

The School Standards and Organisation (Wales) Act 2013 and School Organisation Code 2013 came into effect as of the 1st October 2013 and significantly changed responsibilities for the determination of school organisation proposals. The Act provided all Local Authorities with greater decision making powers and allowed Local Authorities to determine all school organisation proposals with the exception of those which affect sixth form education; or those that have been made by a proposer other than the relevant local authority and an objection has been made by that local authority.

In 2015, following the publication of the School Organisation Code 2013, Carmarthenshire County Council approved a new “School Organisation Decision Making and Determination Process” which reduced the timescale to complete and approve statutory proposals in relation to school re-organisation. This process allowed the Executive Board to approve Stage 1 (Permission to Consult) and Stage 2 (Permission to Notice) with County Council approving Stage 3 (Permission to Implement).

School Organisation Code 2018

On 30th June 2017, following three years of operation, Welsh Government published a consultation on a review of the School Organisation Code. The consultation was based on the reflection of feedback and learning during the period and stakeholders were asked to submit their responses by 30th September 2017.

The most substantial change proposed, was to strengthen the Code in respect of a presumption against closure of rural schools. The “Consultation – summary of response” published on 2nd July 2018 noted that *“when considering whether closure is appropriate the current Code states that special attention should be given to alternatives to closure and when consulting on proposals the consultation document must contain a description of any alternatives and the reasons why they have been discounted. We believe that considering all the possible alternatives should be a two-stage process. The proposer should do this before they even reach a decision to consult on a proposal to close, and should also consider any further options or suggestions that emerge during the consultation process. The aim is to ensure that the decision to propose and consult on a closure of a rural school is taken only after all alternatives to closure have been considered, including federation.”*

In light of the expected publication of the new School Organisation Code, Carmarthenshire County Council had to ensure that its process for proceeding with and approving statutory procedures fell in line and adhered to the necessary requirements. As a result, the Local Authority amended its “School Organisation Decision Making and Determination Process” to include Stage 0 and this was approved by the Executive Board Member for Education and Children in September 2018. It is believed that the inclusion of Stage 0 will result in a more open and transparent system, as required by Welsh Government and will demonstrate that the Local Authority has considered all possible options for the schools under review without presuming closure. (The full process can be seen in the attached flow chart).

The new School Organisation Code, which includes the presumption against closure of rural schools, was published in November 2018.

COVID – 19 Pandemic

Prior to the Covid-19 pandemic, the Modernising Education Programme team were about to undertake the following:

- Full scale review of the Modernising Education Programme;
- Identify suitable MIM (Mutual Investment Team) projects as part of the review;
- Progress with a number of statutory school re-organisation proposals and federations.

As a result of the pandemic, all members of the MEP team were fully redeployed (for a period of around 4 months) to other critical areas within the Education Department and as such were only able to complete very limited amounts of project work. Prior to the pandemic, the team had planned to undertake around 6 statutory consultations (in relation to school reorganisation or federation matters) with imminent commencement, all of which have had to be postponed with

rescheduled dates to be confirmed. This is without including any statutory school re-organisations that would have been brought forward as a result of the conclusion of the MEP review. Whilst the team were redeployed for a period of around 4 months, the realistic delay to school re-organisation proposals has been around 6 months due to the need for establishing new timelines for each proposal and updating all documentation with the most recent data sets.

With regards to Carmarthenshire County Council's investment programme, all projects with contractors on site at the time of initial lockdown were shut down and closed, with re-commencement dates continually being approved to allow works to continue. As a result, it is expected that the pandemic will have significant impact on the MEP programme in terms of funding and timelines.

Moving Forward

The MEP team are now in the process of undertaking all of the work planned prior to the pandemic and are working on developing the MEP Review and developing new timescales for the postponed statutory consultations. It is hoped that all relevant project related matters can still be undertaken within a timescale as close to the original as possible, however it is expected that there will be some delay to determination and implementation.

As such, and in order to be able to progress with any school re-organisation proposals (that could be linked to investment projects), consideration has been given to reducing the Internal School Organisation Decision Making and Determination Process once more. Whilst it is accepted that reducing the process will not wholly alleviate the delays incurred due to the Covid -19 pandemic, it will go some way in helping the MEP team to re-prioritise required consultations in an effective and timely manner.

As can be seen from the Illustrative Flow Chart (Current Version), consultation is required with the ECS Scrutiny Committee and the Executive Board at Stages 1 and 2 with the addition of full County Council at Stage 3 to determine the proposal.

Proposal

As can be seen from the Illustrative Flow Chart (Proposed Version), it is proposed to:

- Remove consultation with the ECS Scrutiny Committee from Stages 2 and 3.

This is due to the Executive Board being able to approve Stage 2 and County Council being able to approve Stage 3. This would reduce the process by approximately 2 months. Consultation will then progress as follows:

Stage 1 – ECS Scrutiny Committee and Executive Board

Stage 2 – Executive Board

Stage 3 – Executive Board and County Council

The proposal still ensures that the ECS Scrutiny Committee can formally consider the proposal before any public consultation is agreed and also allows members of the ECS Scrutiny Committee to determine the outcome of the proposal as members of the full County Council. They will also be consulted with during the formal 6 week consultation period (if permission to consult is granted by the Executive Board).

Recommendation

It is recommended that the ECS Scrutiny Committee endorses the proposal and recommends to the Executive Board to progress with the amended process for progressing statutory proposals and consultations as detailed in the attached illustrative flow chart (the removal of consultation with the ECS Scrutiny Committee at Stages 2 and 3).

DETAILED REPORT ATTACHED?	Yes – Illustrative Flow Chart (Current Version) Illustrative Flow Chart (Proposed Version)
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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:



Head of Access to Education

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

1. Policy, Crime & Disorder and Equalities

Developments are consistent with the Authority's Corporate Strategy and the Modernising Education Strategic Outline Programme.

2. Legal

For all school re-organisation proposals, appropriate consultation will need to be initiated in accordance with the relevant statutory procedures and School Organisation Code 2018, regardless of the outcome of the determination of this proposal. Approval of the proposal to shorten the process for approving statutory proposals / consultations will ensure that team can maximise opportunities to engage in consultations following the Covid-19 pandemic.

3. Finance

School delegated budgets are in a net deficit and the current number of schools within the LA is a significant contributory factor. The majority of schools that will be taken through the statutory process are in deficit and therefore timescales are paramount in progressing the necessary changes. The Department budget includes many services providing support to schools and so the main budget efficiency proposals reply on a reduced number of primary schools in order to operate on a more efficient basis in a timely manner. There are also implications for the capital programme (and therefore WG funding) if schemes are delayed.

5. Risk Management Issues

Should the proposal to shorten the internal democratic process for approving statutory proposals / consultations be declined, there is a potential risk that officers will not be able to complete the relevant school organisation consultations (which could be linked with other investment projects) within the relevant timescales as governed by the School Organisation Code. Failure to complete school organisation proposals within appropriate timescales could not only result in delays with the construction development of projects but could also result in financial delays with grant claims etc. For schools, that are not subject to capital investment there are other risks that should be considered such as: premises maintenance costs, staffing and budgetary pressures which will have been accounted for within the overall proposal.

6. Staffing Implications

During the Covid-19 pandemic the whole of the Modernising Education Programme team were re-deployed for 4 months to other critical areas within the Department for Education. As a result of this, the team were unable to progress with any project / school re-organisation work during this time, which has inevitably caused delays with workloads. Shortening the internal democratic process for approving statutory proposals / consultations will ensure that staff can continue to prioritise and complete workloads within the appropriate timeframes as governed by the School Organisation Code etc.

CONSULTATIONS

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

Signed:  Head of Access to Education

1. **Scrutiny Committee** – Will be consulted on 23/11/2020.
2. **Local Member(s)** – Not applicable
3. **Community / Town Council** – Not applicable
4. **Relevant Partners** – Not applicable
5. **Staff Side Representatives and other Organisations** – Not applicable

EXECUTIVE BOARD PORTFOLIO HOLDER AWARE/CONSULTED	Yes
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Section 100D Local Government Act, 1972 – Access to Information
List of Background Papers used in the preparation of this report:

Title of Document	File Ref No. / Locations that the papers are available for public inspection
School Organisation Code 2018	https://gov.wales/sites/default/files/publications/2018-10/school-organisation-code-second-edition.pdf
School Organisation Decision Making and Determination Process (Inclusion of Stage 0 in 2018) – Executive Board Member Report	https://democracy.carmarthenshire.gov.wales/documents/s24828/Summary.pdf
School Organisation Decision Making and Determination Process (Reduction in Length of Process in 2015) – County Council Report	https://democracy.carmarthenshire.gov.wales/documents/s790/MEP%20cover%20and%20exec%20summary.pdf
School Organisation Code 2013	https://gov.wales/sites/default/files/publications/2018-03/school-organisation-code.pdf
21 st Century Schools Website	www.21stcenturyschools.org