

Barnsley Metropolitan Borough Council
Directorate for Children, Young People and Families

BARNSLEY METROPOLITAN BOROUGH COUNCIL

This matter is not a Key Decision within the Council's definition and has not been included in the relevant Forward Plan

Report of the Executive Director
(Children, Young People and Families) to Cabinet

Changes to the system of school organisation and the associated approvals process

1.0. Purpose of the Report

This report advises the Cabinet of changes to the statutory guidance on proposals to open, close or make changes to the system of school organisation and the implications this has for the Council and its decision making processes.

2.0. Recommendations

2.1 Cabinet is asked to note the changes and implications arising from the introduction of the School Organisation Regulations 2013.

2.2 Cabinet is requested to recommend to Council changes to the approvals process contained within the Council's scheme of delegations and Terms of Reference to reflect the changing school policy and legislative landscape.

3.0. Background

The former system of school organisation required the Local Authority (LA) to follow a formal statutory process for the establishment, closure or alteration to a community school. The statutory process for alterations applied when it was determined to be a 'significant change' i.e. the enlargement of the premises of a school which would increase the capacity of that school by:

- more than 30 pupils and;
- by 25%, or 200 pupils whichever is the lesser.

This was a five stage process which included consultation periods during both the statutory consultation and representation periods.

The current provision within the Council's Constitution requires the approval of the full Council meeting for any policy proposals for school organisations and rationalisations, prior to the start of statutory consultation. At the time this requirement was established, the school organisation process was more bureaucratic and prescriptive within a context where the statutory and policy framework for schools provision was considerably different.

Changes which are not 'significant' i.e. below the statutory threshold, are addressed under officer delegated powers.

4.0. Current position

The new statutory guidance came into operation on 28th January 2014 and introduces changes to the processes and procedures to be adopted in cases of school reorganisation, these being:

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- Making significant changes to maintained schools e.g. school expansion
- Establishing new provision
- School closure

Specifically, the following changes are effective:

- Governing bodies of maintained schools can now make changes to their schools without following a statutory process. These changes include expansions (enlargement of premises), alterations of the upper or lower age limit up to 2 years (excluding sixth form provision) and adding boarding provision. Governing bodies will still be required to liaise with the LA and trustees/diocese where appropriate, to ensure a proposal is aligned with wider place planning/organisational arrangements and that necessary consents have been gained.
- Local Authorities (LAs) can propose the same changes as governing bodies as well as expansion for foundation and voluntary schools. In proposing these changes LAs must follow a streamlined statutory process which no longer requires a statutory consultation period and reduces the Representation period from 6 to 4 weeks.
- School closure: a LA can propose the closure for any category of maintained school following a statutory process (see annex 1). The Governing body of a voluntary or foundation school may also publish proposals to close its own school following the same statutory process.
- Other significant changes that a LA or governing body may propose (eg transferring to new site, changes to SEN provision at mainstream school, adding/removing a sixth form) will continue to follow a statutory process (although now streamlined).
- New provision: where the LA considers there is a need for a new school in its area there is now a presumption that this should be an academy or free school, for which the LA is responsible for providing the site for the new school and meeting all associated capital and pre/post opening costs, the Secretary of State is the decision maker and enters into the funding arrangements with the Academy trust/sponsor. In exceptional cases, where no academy/free school proposals are received, a statutory competition may be held in which the LA is the decision maker.

Attached at annex 1 is a summary schedule of the revised statutory processes for school reorganisations and school closures.

5.0. Implications

With regard to school reorganisations, the new statutory process rationalises the process for LAs to make changes by removing the current requirement to consult before publishing a proposal and reducing the remaining statutory representation period from six to four weeks.

The new regulations remove much of the bureaucracy and financial cost of the current process by reducing some of the prescription around: the detail the proposals must contain; the publication requirements; and the prescribed list of bodies which must be notified and decisions taken. These changes are in line with the Government's deregulatory approach to regulations and legislation in general.

Under the new regulations, schools will be responsible for their own decisions around size and characteristics, but LAs will retain their overarching duty to ensure sufficient high quality school places, along with powers to propose changes to maintained schools

where they feel it necessary to meet that duty. Retaining a statutory process where a LA makes such proposals ensures that individual schools are involved in changes that affect them.

The implications arising from the new regulations and the changing school policy landscape mean that there is now an 'academy presumption' wherever a new school is proposed.

6.0. Proposal

The council is required to apply the new regulations to any forthcoming openings, closures or reorganisations with immediate effect.

The current requirement in the Constitution, to seek the agreement of the full Council meeting, has been in place for some time and no longer reflects the changing school policy and legislative changes, nor does it reflect the streamlined process for seeking changes to school organisation, or the rationalisation of council decision making.

It is also the case that decisions reserved for the full Council meeting are, by convention, those which are of major policy significance such as approving the Council budget, or those with major constitutional significance such as changes to the financial and policy framework, the adoption of major policies and strategies, or where legislation explicitly requires Council approval. This is not the case where school reorganisations are concerned.

Accordingly, it is proposed that a more rationalised approach to decisions on school reorganisations (where the LA is the decision maker) should be reserved for the following approvals process:

New School provision:	Cabinet decision
School closures:	Cabinet decision
Significant expansion of existing school:	Delegated member decision

7.0. Financial Implications

A Financial Services Manager has been consulted on this report. There are no direct financial implications for the proposed changes to the statutory guidance on proposals to open, close or make changes to the system of school organisation and the implications this has for the Council and its decision making processes.

8.0. Employee Implications

None directly arising.

9.0. Communications Implications

A communication is being circulated to all schools drawing their attention to the revised regulations. A briefing note will also be circulated to governing bodies

10.0. Consultations

The Assistant Chief Executive (Legal and Governance) has been consulted on this report.

The local Members for those Wards most affected by any proposals will be consulted as

those proposals are developed, with any comments made set out in the relevant report for Cabinet / Spokesperson consideration. Any proposals for new provision or school closures will also be included in the Forward Plan of Key Decisions, so giving notice of them up to 4 months in advance of any decision.

11.0. Risk

There is a risk that in a school exercising their new freedoms to expand or otherwise make changes to their school, other schools in the locality could be adversely affected in terms of their viability. In mitigation of this, the LA retains its overarching duty to ensure sufficient high quality school places in the area. Also, in accordance with the School Admissions Code, the Admission Authority must agree to any changes in the published admission number of a school. Therefore where a school is proposing an enlargement, the Admissions Authority still has control over any increase in the published admission number.

12.0. List of Appendices

Annex A: Revised statutory processes
Appendix A: Financial Implications

13.0. Details of Background Papers

School Organisation Regulations 2007
School Organisation Regulations 2013

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Date: 12 February 2014

The statutory process for making significant changes to schools has four stages:

Stage 1	Publication	Statutory Proposal published-1 day
Stage 2	Representation (formal consultation)	Must be 4 weeks, as prescribed in regulations.
Stage 3	Decision	The decision-maker (usually the LA) must decide proposals within 2 months of the end of the representation period or decision defaults to Schools Adjudicator (OSA) ⁸ . Any appeal to the adjudicator must be made within 4 weeks of the decision.
Stage 4	Implementation	No prescribed timescale, but must be as specified in the published statutory notice, subject to any modifications agreed by the decision-maker.

The statutory process for closing a school has five stages:

Stage 1	Consultation	Not prescribed (minimum of 6 weeks recommended; school holidays should be taken into consideration and avoided where possible). Likely to be no longer than 12 months.
Stage 2	Publication	1 day
Stage 3	Representation	Must be 4 weeks (this is prescribed in legislation and cannot be shortened or lengthened).
Stage 4	Decision	LA should decide a proposal within 2 months otherwise it will fall to the Schools Adjudicator. Where permitted appeals must be made within 4 weeks of the decision.
Stage 5	Implementation	No prescribed timescale but must be as specified in the published statutory notice, subject to any modifications agreed by the decision-maker.

Prepared on Behalf of the Director of Finance

FINANCIAL IMPLICATIONS

Changes to the System of School Organisation and the Associated Approvals Process

i) <u>Capital Expenditure</u>	<u>2013/14</u>	<u>2014/15</u>	<u>2015/16</u>	<u>Total</u>
	£	£	£	£

To be financed from:

ii) <u>Revenue Effects</u>	<u>2013/14</u>	<u>2014/15</u>	<u>2015/16</u>	<u>Later</u>
	(£)	(£)	(£)	<u>Years</u>
				(£)

Additional Cost

_____	_____	_____	_____	_____
0	0	0	0	0

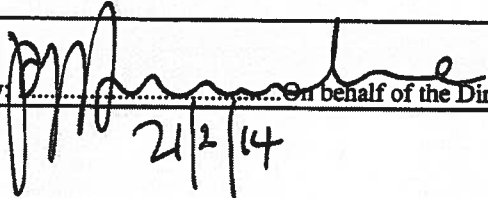
To be financed from

There are no direct financial implications resulting from this proposal.

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0	0	0	0	0

Impact on Medium Term Financial Strategy:

There is no direct impact on the Medium Term Financial Strategy

Agreed by:  On behalf of the Director of Finance
21/2/14

