

APPENDIX C

Key points from DCSF guidance on School Re-organisation

Closure of maintained schools

This would apply to the closure of Our Lady of Lourdes Catholic Primary School.

Who can propose the closure of a school?

The LA can propose the closure of any school.

The governing body of Our Lady of Lourdes Catholic Primary School could choose to propose the closure of Our Lady of Lourdes.

Linked proposals

If proposals are related to others they would be published together, for example, the proposed closure of Our Lady of Lourdes (either by the LA or the governing body) could be published together with the related establishment of a new joint denominational school on the same site by the two Diocesan Authorities.

Representations

A six week representation period follows publication of notices. Representations are to be sent to the LA.

Decision Makers

This is either the LA, or the Schools Adjudicator. The Adjudicator's decision is final but there are limited rights of appeal following LA decisions.

The School Organisation Committee has been abolished. The form of the LA Decision Maker is not prescribed and has been determined in Wirral as full Cabinet.

What if there are no objections?

As long as the closure proposal was made by the LA, and there are no linked proposals which receive objections, the proposal can be determined by the LA within 2 months. This does not require the LA Decision Maker. Conditional approval cannot be given.

There is no right of appeal to the decision.

And if there are objections?

If there are objections to the closure, or if the linked proposal to establish a Joint Church school receives objections, the proposals must be passed to the LA Decision Maker, who must make a decision within 2 months of the end of the representation period.

In relation to primary school closures, conditional approval can be given in relation to:

- Changes to admission arrangements at another school
- The occurrence of any other condition with a specified date for any other school or proposed school

The date for conditional approval is set by the LA Decision Maker, but can be extended before the expiry date if the proposer, i.e. LA, requests this modification. If the condition is not met by the specified date, the proposal must be considered afresh by the LA Decision Maker.

If the proposals are not decided within 2 months, the proposal must be passed to the Schools Adjudicator with one week of the end of the 2 month period.

Who can appeal against an LA decision?

Where objections have been received, the following bodies may appeal against the LA Decision Maker's decision in relation to primary schools:

- The Anglican Diocese of Chester
- The Bishop of the Catholic Diocese of Shrewsbury
- The governing body/trustees of a Foundation or Voluntary school that is proposed for closure – such as Our Lady of Lourdes Catholic Primary School.

What happens if an appeal is made?

Appeals must be submitted to the LA within 4 weeks of the notification of the LA's decision. The LA then sends the proposal to the Schools Adjudicator within 1 week of receipt of the appeal. This includes any related proposals.

What factors are taken into account by Decision Makers?

These are the factors that must be examined in this instance. Other factors are listed in guidance, but not relevant in these circumstances.

- Will the proposal raise local standards of provision, and lead to improved attainment for children and young people? Are attainment gaps likely to be narrowed?
- Will SEN provision be improved, including wider school activities? Transport, funding, staffing and placement arrangements must be clearly stated.
- Local diversity, the range of schools in the area, the impact on the aspirations of parents and whether the proposal will help raise local standards and narrow attainment gaps.
- Closure of schools with a religious character should not normally be approved where the proposal would result in a reduction in the proportion of denominational places in the area, unless the school concerned is severely under-subscribed, standards have been consistently low or where an infant and junior school (at least one of which has a religious character) are to be replaced by a new all-through primary school with the same religious character on the site of one on the predecessor schools.
- Will the proposal help children achieve the Every Child Matters principles? This includes extended services, personal development, and support for children and young people with particular needs.
- Is there sufficient capacity to accommodate displaced pupils taking into account likely future demand? The quality and popularity of schools with surplus places should be considered.
- Proposals to close schools with 25% or more unfilled places, and at least 30 surplus places, where standards are low for the Authority, should normally be approved. For all other proposals, standards, geographical, social and community use should be considered.
- Alternative sources of extended services

- The effects of any other changes to school provision in the area
- Accessibility planning, particularly for disadvantaged groups
- Proposals should not unreasonably extend journey times or increase transport costs, or result in too many children being unable to walk or cycle to school.
- Any sex, race or disability discrimination issues
- If the school currently includes early years provision, whether alternative provision will integrate pre-school education with childcare and other services for young children and their families, and whether educational standards and access for parents will be maintained or enhanced at alternative provision, which could be private, voluntary or independent.
- The Decision Maker should not simply take account of the numbers of people expressing a particular view when considering representations made on proposals. Instead the greatest weight should be given to representations from those stakeholders likely to be most directly affected by the proposals.

What decisions can be made?

The Decision Maker can decide to reject, approve, approve with a modification (such as the closure date) or conditionally approve (see above). A reason for the decision must be given.

What if the proposal needs to be withdrawn?

As long as the decision has not been made, the proposal can be withdrawn in writing by the proposer.

What if the proposal needs to be modified after the decision has been made?

The proposer must apply to the Decision Maker for a simple modification, such as a change to the date of implementation.

More complicated changes which substantially change the nature of the proposal would require a revocation notice, followed by fresh proposals which then follow the statutory process.

Approval of a revocation notice would only be given by the Decision Maker if circumstances have changed so substantially that implementation would be inappropriate, or if implementation of the original proposal would be unreasonably difficult.

Establishment of a new maintained school

This would apply to the establishment of a new Joint Church school.

Establishing a new school

Most new schools are now expected to be established by a “competition”, where the LA invites proposals to establish the new school. This process involves the invitation of bidders, and is expected to add at least 6 months to the process for the establishment of a new school.

Are there exemptions to a competition?

There are situations which qualify for an automatic exemption, but none of these apply in relation to this proposal.

Consequently, permission not to hold a competition must be sought from the Secretary of State.

The LA can apply for consent from the Secretary of State to publish proposals for a new school without running a competition. This does not mean permission to establish a new school has been granted, and the proposal would be subject to the usual statutory process.

Other proposers, in this case the Diocese of Chester and Diocese of Shrewsbury, can also apply for the Secretary of State’s consent to publish proposals for a new school without a competition, and this is their indicated intention in this case.

When will the Secretary of State give consent to not hold a competition?

In relation to this proposal, guidance indicates that consent might be given in the case where there is to be a reorganisation of religious schools in the area, and schools with a particular religious character are to be replaced by schools with the same religious character or where an independent proposer proposes a new school to increase diversity in the area, rather than in response to an LA’s need to reorganise.

What factors are taken into account?

Each application would be considered on its merits. In relation to this proposal, guidance indicates that the following factors will be considered:

- The contribution the school would make to levels of local diversity (including distinct character and ethos) of provision within the area
- the views of interested parties e.g. parents and the local community;
- whether the proposals will contribute to raising standards: taking into consideration performance across the LA and local schools;
- whether the core offer of extended services will be provided and if there will be a varied menu of interesting activities.
- urgency for the new school to be in place and the impact of the competition process.

Who would be the Decision Maker?

Whether or not there is a competition, the final decision on the establishment of a new joint denominational school proposal would be decided by the LA Decision Maker, which is Council's Cabinet.

Who can appeal the decision?

As the LA is the Decision Maker, there is no provision to appeal the decision.

If the decision is not made within 2 months of the end of the representation period, the proposals must be referred to the Adjudicator. The Adjudicator's decision is final.

IF A COMPETITION IS REQUIRED

What are the stages of competition?

- 1 Consultation, including on any linked closures – recommended minimum of 6 weeks, no upper limit, including at least one public meeting. Followed by:
Invitation to bid (notice published)
- 2 Proposer engagement and submission of proposals – minimum of four months from invitation to bid
- 3 Publication of proposals (notice published) and promotion of public awareness – within 3 weeks of the expiry date for submitting proposals. Any linked closure proposals would be published at the same time.
- 4 Representations – 6 weeks, with a public meeting within the first 2 weeks
- 5 Decision – within 2 months of end of representation period (LA) or whenever (Adjudicator)
- 6 Implementation – as specified in the proposal notice

Does this mean we will need to consult again?

No. The recent consultation covers the location and specification of the new school, which means the proposals can proceed to invitation to bid.

Advertising for proposers

The DCSF appoints mandatory consultants to market the competition, place adverts and act as a first point of contact. When potential proposers have been identified, the consultants will hold a seminar to provide advice to proposers.

The LA has the opportunity to attend the seminar and to take part in the question and answer sessions.

Specification of the new school

The LA decides the outline specification for the new school, including

- Number of places
- Age range including any early years provision
- Mixed or single sex
- Admission number
- Location, playing field provision and transport links
- Opening date

- Estimated capital costs and funding sources
- Provision for pupils with SEN
- The area and community to be served
- Extended services or other community use
- Preferred specialism (secondary)
- Arrangements for transport and sustainable transport alternatives.

Capital funding

The Dioceses of Chester and Shrewsbury have indicated that they will allocate £78,000 of capital funding during 2009/2010 from the LA VCAP grant. The governing body of the new joint church school would be responsible for funding 10% of capital costs.

Sites

In the case of a new Voluntary Aided school in Leasowe, there is an existing site owned by Trustees. The use of existing buildings should always be considered on value for money considerations.

Commentary on the recommended proposal

Closure proposal

Experience tells us that closure proposals are likely to receive objections, and would consequently pass to the LA Decision Maker. If necessary, conditional approval can be given in relation to events at other schools.

Referral to the Adjudicator on these decisions can only be made on appeal by the two Diocesan Authorities, or by the governing body of Our Lady of Lourdes in relation to closure of their own school if proposed by the LA. As the closure of Our Lady of Lourdes is linked to the establishment of a new joint denominational school, appeal would be unlikely as indications are that all three parties will support the proposal.

New school proposal

A new joint denominational school in Leasowe may not receive consent from the Secretary of State to waive the duty to hold a competition, as the new school would have a different religious character from its predecessor, however guidance also says that all applications will be considered on their merits.

If a competition must be held, the Diocesan bodies would submit a joint proposal to establish a new Aided school to the competition. If the LA does not enter an alternative proposal, the LA Decision Maker would take the final decision. The current Our Lady of Lourdes site is owned by Trustees of the Diocese of Shrewsbury. Any conveyancing issues would need to be resolved between the two Diocese.