

THE HIGHLAND COUNCIL
EDUCATION, CULTURE AND SPORT COMMITTEE
18 SEPTEMBER 2008

Agenda Item	
Report No	

Safeguarding rural schools - consultative document

Report by Director of Education, Culture and Sport

SUMMARY

This report asks members to consider a draft response to the Scottish Government consultative document on the proposed changes in legislation to safeguard rural schools and also to improve school consultation procedures.

1. Introduction

The Scottish Government is undertaking an extensive consultative process in relation to proposed changes in legislation to safeguard rural schools and also to improve school consultation procedures.

- 1.1 The consultative process which is due to finish on the 19th September 2008 is both wide-ranging and comprehensive in order to provide all stake-holders with the opportunity to provide feedback. This consultative process included a nationwide series of road-shows with 2 such events taking place within Highland during late June 2008 at Plockton and Tain respectively. All elected members were invited to attend either of these road-shows. The full consultation paper is available on-line at www.scotland.gov.uk/consultations.

2. The Scottish Government proposals

- 2.1 The Scottish Government proposals to update and consolidate the primary and secondary legislation and supporting guidance framework relating to proposed school closures, re-zonings and other major changes affecting schools is welcomed.

- 2.2 The proposed changes can be summarised under the following headings:

(a) Educational benefit statement – in future Councils will be required to publish a statement on who would benefit educationally from a school closing and how Councils would also have to publish such a statement if they wanted to change a school's site or catchment area.

(b) Improving the consultation process – Councils when considering making certain changes (for example proposed amalgamation, change of site or catchment area) would have to:

- Publish a consultation paper

- Consult for at least 6 weeks of term time
- Seek the independent views of HMIE
- Hold a public meeting on its proposals
- Publish a report of what people said during the consultation (including HMIE's views) and how the Council has responded

(c) Safeguarding rural schools – in addition to the above and specifically for rural schools Councils would be required to consider:

- Alternatives to closing a rural school
- The impact on the community of closing a rural school
- The impact of closing a rural school on the community's use of the school buildings, facilities and grounds.
- The impact of travel patterns on pupils, others and on the environment if a rural school closes.

(d) Currently Scottish Government Ministers have the final say on whether or not some schools should be allowed to close. This consultation seeks views on whether Scottish Government Ministers should continue to have the final say on some closures, and if so, which cases should continue to come to Ministers.

2.3 For members information the definition of rural schools for the purposes of this consultation is schools in settlements of under 3,000 people. This is on the basis that it is a national definition that is updated every 2 or 3 years to take into account population changes.

3. The Highland Council draft response

3.1 The draft response is contained within **Annex 1**.

3.2 The following suggested responses contained within the Annex 1 are high-lighted for members consideration and comment:-

(a) The issues that Councils should take into account when considering the closure of a rural school should be extended to include factors such as strategic, operational and financial considerations within the overall context of the school estate strategy, the budgetary position of the Service and wider community planning issues.

(b) Consideration should also be given to the creation of a national model that includes all relevant factors and that some form of scoring mechanism should be devised with specific weightings in relation to the wider educational and social benefits.

(c) In relation to the educational benefits statement it is important that there is a national template that reflects input from a number of stakeholders including COSLA, ADES, HMIE, Bord na Gaidhlig, Audit Scotland, the national Parent Council body, trade unions etc in partnership with the Scottish Government. This approach which may require a significant investment in time to establish would nevertheless enable local authorities thereafter to focus on the outcomes as opposed to the proverbial "re-inventing of the wheel" designing the statement.

(d) The role of HMIE in the process should be in the design of the consultative template referred to in 3 (b) above and also the design of the educational benefit statement referred to in 3 (c) above. In addition HMIE should be invited to comment during individual consultations on school amalgamations and not to comment separately after the initial consultation period is completed as is being suggested by the Scottish Government.

(e) It is recommended that consultation should be carried out as widely as possible and that there should be wide-scale consultation with all stake-holders. However it is suggested that the consultative timescales are modified from 6 weeks during term time with local authorities required to publish a consultation report 28 days before the final decision is taken to a 6 week consultative period during term time with the report being published a minimum of 14 days before a final decision is taken.

(f) The present system of referral to Scottish Government ministers should be discontinued on the basis that local authorities have the statutory responsibility for the delivery of education within their area and that elected members are best placed to take decisions on school provision taking account of local circumstances. Any appeals would in future be directed to the public service ombudsman and the legal system.

(g) The principle that objections by a church or denominational body should automatically trigger a referral to Scottish Government Ministers should be rejected. This is on the grounds that this could give denominational schools rights which would not be available to non denominational school communities.

(h) Significant demographic change and the need to sustain fragile communities is complex. When it can be demonstrated that as a result of agreeing to school amalgamations there are sustainable and holistic educational benefits for the children affected then this must be the main determinant when decisions are being made.

4. RECOMMENDATION

Members are requested to consider:

- the draft response contained within Annex 1 to the Scottish Government's proposed changes in legislation to safeguard rural schools and also to improve school consultation procedures in order that a final response can be submitted by the 19th September 2008.

Signature:

Designation: Director of Education, Culture and Sport

Date: 3rd September 2008

Background Papers Annex 1 – Draft response to the consultation questions

ANNEX 1

Safeguarding our rural schools and improving school consultation procedures

Rural school closures (section 3)

1. Do you support the proposal to require local authorities to have regard to certain matters before they can proceed to consultation on the closure of a rural school?

It is important that there are a number of core critical factors that all authorities take into account before they can proceed to consultation. This could include wider strategic, operational and financial considerations and also future demographic trends. Out-with this core group of factors account could be taken of issues unique to the authority, for example in the case of Highland the impact on the development of Gaelic education.

The above requirements should not be restricted to rural schools as it is important to have a consistent approach when considering the closure of **all** schools

2. Do you agree with the 4 matters we propose requiring that authorities should have regard to before proposing a rural school closure? These are:

- Alternatives to the closure of the school
- Likely overall impact of the school's closure on the communities which it serves
- Likely impact of closure specifically on the community's subsequent use of the school's building facilities and grounds
- Likely impact that new travel to school patterns and arrangements would have on pupils and other school users and the environment

With reference to the above matters each is acceptable with some qualification:

- It is difficult to accurately measure community impact on the basis that this would involve a degree of subjectivity. Are there objective criteria that could be applied?
- In relation to subsequent community use of redundant school building facilities and grounds, an options appraisal exercise prior to any decision to close should be mandatory in order that there is a clearly defined action plan agreed by all stakeholders.
- There may be environmental benefits as a result of school amalgamations with fewer car journeys by individual parents, instead replaced by a greater number of children being transported together in buses or taxis?

There are a number of other factors that require to be considered over and above the above, including:

- From the pupil's perspective – the educational benefits and the development of social skills
- Resource issues – staffing, finance, the condition and suitability of the school
- It is recommended that a prescriptive template is created

- Proximity to nearest school – within rural communities is it sustainable to have schools less than 3 miles apart?

Consideration should be given to the creation of a prescriptive model that identifies those matters that should be examined and that some form of weighting be applied to each. For example matters relating to educational and social benefits could have the highest rating.

3. Do you agree that it is not appropriate to set up a rural schools fund?

What is the purpose of the rural schools fund? There is a well established methodology for allocating funding to local authorities. However it is debatable whether or this methodology adequately addresses the issue of super sparsity where rural authorities have to provide public services in very remote areas. It is recommended therefore that the issue of supplementary funding to support schools in rural and remote areas is addressed through the GAE allocation model and not through this legislation.

4. Do you agree with the proposed definition of “rural schools”?

The proposed definition is acceptable as it is well-established and currently applied universally.

An educational benefit statement (section 4)

5. Do you support requiring local authorities to publish a statement setting out the educational benefit of the school closure proposal?

It is imperative as stated in the response to question 2 above that the educational benefits, or otherwise, of any proposal are considered.

6. Do you agree that it should be left to the authority as to how it sets out an educational benefit statement?

There is a compelling argument for having an agreed template that would include all matters to be considered. On this basis it is preferable that there is a prescribed format setting out the educational benefits to be considered.

The content of this template could be agreed by a number of stake-holders (COSLA, ADES, HMIE, Bord na Gaidhlig, Audit Scotland, the Parent Council body, trade unions etc) in conjunction with the Scottish Government

Tightening the regulations for all school consultations (section 4)

7. Do you agree that HMIE’s views should be sought in all cases?

As indicated in response 6 above HMIE should be involved in the design of the consultative template. Thereafter HMIE could be invited to comment on the content of the holistic educational benefits section within the consultative template.

As such there would be no requirement for HMIE to consider the entire consultative documentation after the initial consultative period. Instead its role should be restricted to considering the holistic educational benefits during the consultative period.

8. Do you support the proposed changes to the way consultations should be conducted?

These are:

- Introducing a requirement that a consultation paper should be published containing certain information.
- Establishing a mechanism for addressing allegations of factual inaccuracies in a consultation paper
- Extending the list of people who must be consulted
- Updating the way consultations are publicised
- Updating how people can respond to a consultation
- Extending the minimum consultation period to 6 weeks of term time, and
- Introducing a requirement that the authority publish a Consultation Report, 28 days before the final decision is taken

It is important that the content of the consultative document contains as much relevant information as possible in order to achieve the objectives of greater transparency and a meaningful consultative process. The design of this document is therefore critical and should reflect input from all stake-holders. The more prescriptive the document is the more likely it is that the above objectives will be realised.

In relation to addressing alleged factual inaccuracies the Highland Council would adopt a collegiate approach in the preparation of the documentation in order to prevent wherever possible material inaccuracies occurring. For example the Director of Finance would validate any financial data included within the consultative documentation. Thereafter any challenges relating to the alleged factual inaccuracies could be addressed within the response to the consultation. It is accepted that the local authority should acknowledge the issue raised and respond as appropriate

In relation to extending the list of people who must be consulted there is a logical argument in support of consulting with community groups and where appropriate Bord na Gaidhlig. In addition for the reasons outlined in response to question 7 above HMIE should be consulted with during the consultation period and not afterwards as is suggested in the Scottish Government's consultative document.

The proposal to consult with everyone in the school community, including pupils, is welcome.

In the spirit of openness and ensuring maximum participation it is agreed that details of the consultation should be advertised in the local press and also on the Council's web-site.

The current Highland Council consultative procedure includes a public meeting.

The duration of the consultative period should remain at 28 days within term time. This would allow the consultative process to proceed at a pace with the current Highland Council Committee cycle. Extending the period to 6 weeks would result in an elongated process which does not meet the needs of those concerned.

Thereafter a 14 day period between publishing the consultation outcome and the date of the formal decision by elected members is recommended. The suggested 28 day period is too long and contributes to prolonging the process without good reason.

9. Do you agree that Ministers should take power to issue “statutory guidance” to which authorities would have to have regard?

Agreed on the basis that this would result in a consistent approach being adopted nationally and eliminate local interpretation of non-statutory guidance

A referral system

10. Are you content with the present system of referrals of closure to Ministers?

No. On the basis that local authorities have the statutory responsibility for the delivery of education provision within their area and that elected members are best placed to take decisions on school provision, taking into account local circumstances.

11. If not, what changes would you wish to see made, and why?

The present system should be discontinued with the appeal mechanism through the public service ombudsman and the legal system.

12. Do you agree with the proposal to place the responsibility on authorities to satisfy themselves regarding the provision of denominational education? If so, do you agree with the proposal to continue to allow referral to Ministers if the Church or denominational body has an objection?

It is agreed that the responsibility for provision of denominational education should reside with the local authority. There should be no automatic referral to Scottish Government Ministers if the Church or denominational body has an objection to the proposal. This objection should be considered as part of the local determination process outlined above. To continue with the practice of ministerial referral would give denominational schools rights not available to non-denominational communities.

13. Do you agree with our proposal that in future only school closure cases should be referable to Ministers?

As indicated the preferred approach is that all decisions are taken locally with an appeals process routed through the public service ombudsman and legal system. If ministerial referral is retained it is agreed that in future only school closure cases should be referable to Ministers.

Anything else?

14. If you have any other comments or suggestions to make on, or any addition to, the proposals set out in this consultation paper, please include these in your response?

Within the next decade there will be significant demographic changes within the Highlands. At the same time the Highland Council is committed to sustaining fragile communities. Sometimes these objectives conflict and therefore it is important that the Council retains the flexibility to make decisions relating to school amalgamations that take into account a range of criteria. These criteria must be prescribed and balanced to reflect the needs of all stake-holders. Where it can be demonstrated that as a result of agreeing to school amalgamations there are sustainable and holistic educational benefits to the children affected