

Consultation Checklist from school organisation code V2

Those bringing forward statutory proposals must publish a consultation document in hard copy and electronically on their website or that of the relevant local authority. Hard copies must be available on request. Consideration should be given to publishing in other formats where accessibility might otherwise be an issue.

The consultation document must be published on a school day of the school or schools subject to the proposal and consultees must be given at least 42 days to respond to the document, with at least 20 of these being school days. Consultation documents should not be published on a school day which includes a school session which is devoted (wholly or mainly) to improving teaching standards or management practices of staff at the school (INSET days).

The following must be advised by letter or email of the availability of the consultation document and that recipients can, if they wish, obtain a hard copy of the consultation document on request (but see also section 3 on Consultation with Children and Young People):

- Parents (and where possible prospective parents) carers and guardians, and staff members of schools affected by the proposals;
- in the case of proposals affecting secondary provision, parents of pupils attending primary schools from which pupils normally transfer to that secondary school;
- the maintaining or proposed maintaining authority for any school likely to be affected by the proposals;
- any other local authority (including those in England, where appropriate) likely to be affected - including in the case of dedicated SEN provision any authority placing or likely to place pupils with SEN in it;
- the Church in Wales and Roman Catholic Diocesan Authority for the area in which any school likely to be affected is located;
- any other appropriate religious body for any school likely to be affected by the proposals;
- the governing body of any school which is the subject of the proposals;
- the governing body of other schools which the proposer consider are likely to be affected by the proposals;
- the Welsh Ministers Schoolsmanagementdivision3@gov.wales ;
- Constituency and Regional Assembly Members (AMs) and Members of Parliament (MPs) representing the area served by/intended to be served by any school which is the subject of the proposals;
- Estyn;
- teaching and staff trade unions representing teachers and other staff at any school which is the subject of the proposals;
- the relevant Regional Education Consortium;
- the Police and Crime Commissioner for the area served by/intended to be served by any school which is the subject of the proposals;
- any community or town council for the area served by/ intended to be served by any school which is the subject of the proposals;
- in the case of proposals affecting nursery provision any independent or voluntary providers who may be affected including Mudiad Meithrin;
- in the case of proposals affecting nursery provision, the Children and Young People's Partnership and/or the Early Years Development and Childcare Partnerships where present;
- in the case of proposals affecting SEN provision, any relevant health or third sector bodies with an interest;
- in the case of proposals affecting secondary provision, any further education institutions serving the area of the school; and
- in the case of proposals affecting Welsh language provision, the Welsh Language Commissioner.

In the case of all proposals, the consultation document must contain the following information:

<p>Description and Benefits</p> <ul style="list-style-type: none"> • a detailed description of the status quo setting out its strengths and weaknesses and the reasons why change is considered necessary; • a detailed description of the proposal or proposals (a proposer may consult on more than one potential proposal), the projected timetable for statutory procedures and for implementation of the proposals and any proposed interim arrangements which might be necessary for their implementation. In describing the proposals, proposers should normally refer to them using the terms set out this Code (e.g. school closure) but where two or more existing schools become one school operating on more than one site (e.g. where former infant and junior schools become a primary school) the terms ‘merger’ or ‘amalgamation’ might be used; • the expected benefits of the proposals and disadvantages when compared with the status quo; • any risks associated with the proposals and any measures required to manage these; • a description of any alternatives considered and the reasons why these have been discounted (but see para 1.8 “Presumption against the closure of rural schools); • information on any changes to learner travel arrangements were the proposals to be implemented and the impact on accessibility of provision. 	
<p>Details of affected schools</p> <ul style="list-style-type: none"> • the names, locations and categories (i.e. community, voluntary controlled, voluntary aided, foundation) of all existing schools likely to be affected by the proposals (for example, in the case of a proposal to close a school information should be provided about all the surrounding schools to which it might reasonably be considered that pupils may wish to transfer); • the number of pupils on roll currently and the figures recorded for the previous four annual school censuses at all existing schools likely to be affected by the proposals; • five year forecasts of pupil rolls at all existing schools likely to be affected by the proposals both currently (i.e. based on the existing configuration of schools) and if the proposals are implemented; • the pupil places capacity of all existing schools likely to be affected by the proposals; • the number of nursery places at any existing school likely to be affected by the proposals; • information about the quality of accommodation at all existing schools likely to be affected by the proposals including reference to the local authority’s most recent condition survey using the categories of the original 21st Century Schools Survey; • the language medium of all existing schools likely to be affected by the proposals (using the Welsh Government Circular 23/2007 “Defining schools according to Welsh medium provision”). 	
<p>Quality and standards in education</p> <ul style="list-style-type: none"> • an analysis of the likely impact of the proposals on the quality of the following (reference to relevant Estyn five inspection areas are included in brackets): <ul style="list-style-type: none"> a) standards (standards and progress overall, of specific groups and in skills); wellbeing and attitudes to learning; b) teaching and learning experiences (quality of teaching, the breadth, balance and appropriateness of the curriculum, and the provision of skills; c) care support and guidance (tracking, monitoring and the provision of learning support, personal development and safeguarding); and d) leadership and management (quality and effectiveness of leaders and managers, self evaluation processes and improvement planning, professional learning, and use of resources) at the school or schools which are the subject of the proposals and at any other school or educational institution which is likely to be affected. <ul style="list-style-type: none"> • information from the most recent Estyn reports for each school likely to be affected; • the likely impact of the proposals on the ability of school or schools which are the subject of the proposals or any other school which is likely to be affected, to deliver the full curriculum at the foundation phase and each key stage of education. 	

<p>Welsh in Education Strategic Plan (WESP)</p> <ul style="list-style-type: none"> the extent to which the proposal would support the targets in the approved Welsh in Education Strategic Plan. How the proposal would expand or reduce Welsh language provision. In the case of the latter, set out why provision will be reduced. 	
<p>Finance</p> <ul style="list-style-type: none"> the financial costs of the proposal and any potential savings (including where appropriate the current costs per pupil and the projected costs upon completion) – capital and recurrent (including school transport and staff costs); the sources from which capital funding will be provided; how any capital receipts or recurrent costs savings will be deployed; 	
<p>Land and buildings</p> <ul style="list-style-type: none"> details of any potential transfer or disposal of land or buildings that may need to occur as a result of the proposals. 	
<p>Consultation details</p> <ul style="list-style-type: none"> details of how people can make their views known including the address to which comments in writing can be made and the deadline for those comments; details of how people can ask further questions about the proposals or suggest alternatives to the proposals; a statement to the effect that responses to consultation will not be counted as objections to the proposal and that objections can only be registered following publication of the notice; an explanation of the publication process, the making of objections and determination of published proposals. a space for consultees to respond to the consultation an opportunity for consultees to register their wish to be notified of publication of the consultation report. <p>Where proposals involve establishing a new school the following information must also be included in the consultation document:</p> <p>the new school's:</p> <ol style="list-style-type: none"> proposed admission number and admission arrangements; age range; pupil places capacity and/or number of nursery places; location; category (i.e. Community, Voluntary Aided or Voluntary Controlled); language category (as defined by Information document No. 023/2007); details of the proposed accommodation to include a list of proposed facilities; in the case of a special educational needs (SEN) resource base in a mainstream school or a special school, information on the special needs of the pupils proposed to be admitted; home to school transport arrangements (including any transitional arrangements) and the local authority's transport policy. <p>Where proposals involve the closure of a school the following information must be included in the consultation document:</p> <ul style="list-style-type: none"> details of any alternatives to closure that have been considered and the reasons why these have not been taken forward (but see para 1.8 "Presumption against the closure of rural schools"); the impact of proposals on the local community, the likely impact on staff of schools named in proposals; <p>in the case of alternative provision:</p> <ol style="list-style-type: none"> the name and location of the proposed alternative provision; a comparison of the quality and standard of education provided at the school from which pupils would be transferred and the proposed alternative school or schools and an outline of any steps necessary in order to ensure that any shortcomings in the latter are addressed; admission arrangements at the proposed alternative school; 	

- d. a comparison of the quality of accommodation at the school from which pupils would be transferred and at the proposed alternative and an outline of any steps necessary in order to ensure that any shortcomings in the latter are addressed;
- e. information on any building works necessary to ensure that transferred children can be accommodated at the alternative provision;
- f. the impact on pupils' journeys to school and on school transport costs;
- g. information regarding available walking routes to the alternative provision;
- h. the language medium at the proposed alternative school.

Where proposals involve the closure of a rural school and the decision has been made to consult on the proposal, the following information must be contained in the consultation document along with the information that must be contained for all proposals:

- The reason for the closure proposal (i.e. a description of the key challenges that the school faces and the proposer wishes to address);
- The alternatives to closure that have been identified and an assessment of these alternatives to include:
 - the likely impact on quality and standards in education,
 - the likely impact on the community and
 - the likely effect of different travelling arrangements.

In addition consultees must be informed of their opportunity to:

- make representations regarding the alternatives to closure that have been identified by the proposer as well as the main proposal;
- suggest other alternatives to closure which would address the reasons for closure (i.e. the key challenges the school faces which the proposer is seeking to address).

Where the proposal concerns adding or removing nursery provision. The following information must be included in the consultation document:

- the sufficiency of accommodation and facilities offered, both in the classroom and outdoors, and the viability of any school that wishes to add nursery places;
- whether there is a need for additional nursery places in the area;
- the levels of demand for certain types of nursery education e.g. Welsh medium or provision with a religious character;
- the effect of the proposals on other institutions, including private and third sector providers; and
- the extent to which proposals will integrate early years education with childcare services or are consistent with an integrated approach.

Where the proposal concerns adding or removing sixth form provision. The following information must be included in the consultation document:

- whether proposals will lead to an improvement in the educational or training achievements of persons who are above compulsory school age but below the age of 19 in the area;
- whether proposals will contribute to an appropriate range of relevant courses and qualifications and high quality, employer informed, vocational learning routes targeted at pupils of all abilities, whilst maintaining GCSE, AS/A level and other established courses, as required under the Learning and Skills (Wales) Measure 2009 for 14-19 year old learners;
- whether proposals are likely to lead to increased participation in learning by pupils beyond compulsory school age, taking into account transport issues and costs to the learner and others, the affordability of such costs, and the likelihood of learners being willing to travel;
- the extent to which proposals contribute to the 14-19 agenda taking account of the views of local 14-19 networks and learning partnerships;
- the effect of proposals on 11-16 provision in schools; ☒ how proposals would affect the viability of institutions already providing good-quality post-16 provision, including school sixth forms, Further Education Institutions and private training organisations;

- how proposals might affect the sustainability or enhancement of Welsh medium provision in the local 14-19 network and wider area and promote access to availability of Welsh medium courses in post-16 education;
- the extent to which proposals will provide additional learner benefits compared with the status quo and other tenable options for post-16 organisation; and
- how proposals might affect the discretionary transport provision a local authority may provide to learners²⁰ above compulsory school age.

Where proposals relate to a special school or involve specialist resource bases attached to mainstream schools the following information must be included in the consultation document:

- the impact on SEN provision;
- how proposals will contribute more generally to enhancing the quality of education and support for children with SEN.

Where the proposal concerns a change of language medium. The following information must be included in the consultation document:

- projected demand from parents for the type of provision proposed; and
- the extent to which existing provision, of the type proposed exceeds or falls short of demand or projected demand. Where any school involved or affected provides teaching through the medium of Welsh the following information must be included in the consultation document:
- an assessment of the impact of proposal on the Welsh language (a Welsh language impact assessment must be included either in the main part of the consultation document or as an Annex); and
- an explanation of how the proposal forms part of the WESP.

Where the proposal concerns a school with a designated religious character the following information must be included in the consultation document:

- the impact on availability and access to places at a school with the same designated religious character.

Where the proposal concerns a change of category the following information must be included in the consultation document:

- the effect of the change of category on governance arrangements and the governing body's powers over policies and arrangements in respect of admissions, employment and the curriculum; and
- any proposed changes to policies and arrangements in respect of admissions, employment and the curriculum.

In some circumstances, proposers may consider it appropriate to consult on a range of options rather than one specific proposal, but in such cases, all of the information set out above **must** be provided in relation to each of the identified options.

Consultation with children and young people

Proposers must also make suitable arrangements to consult with pupils of any affected school (or part of a school in the case of provision reserved for children with SEN) and, where possible, with children and young people who are likely to attend those schools. As a minimum, this must include consultation with the school councils of the affected schools, but should also include consultation with individual learners where this is appropriate and practicable. Governing bodies must help facilitate this aspect of the consultation.

The information given to children and young people must be presented in such a way that it is relevant to their age and level of likely understanding and allows them to reach an informed opinion. The agreed children and young people's participation standards for Wales are available on the Welsh Government's website; proposers should refer to these and act in accordance with them.

<https://gov.wales/topics/people-and-communities/people/children-and-youngpeople/rights/ParticipationforChildrenandYoungPeople/?lang=en>

If consulting with individual learners, proposers should produce and distribute a version or versions of the consultation document appropriate to the age/ages of the children and young people affected. The consultation document should also clearly explain to children and young people the difference between the consultation and objection periods and how and when they can object to proposals. Where necessary, proposers should provide assistance to children and young people who wish to submit a consultation response.

Consultation reports

The proposer must publish a consultation report on their website or that of the relevant local authority. The report must be published at least two weeks prior to the publication of a statutory notice:

- summarising each of the issues raised by consultees;
- responding to these by means of clarification, amendment to the proposal or rejection of the concerns, with supporting reasons;
- setting out Estyn's response to the consultation in full; and
- responding to Estyn's response by means of clarification, amendment to the proposal or rejection of the concerns, with supporting reasons.

The consultation report might also make recommendations – for example, to the local authority's executive or the governing body – about how to proceed i.e. to publish the proposals as consulted on with any appropriate modifications, to abandon the proposals and retain the status quo or to significantly recast the proposals and re-consult.

Proposers must ensure that any views expressed by children and young people affected by the proposals are highlighted in the consultation report and that it is accessible to them.

Where the proposal relates to the closure of a rural school in addition to the steps to be taken in respect of the consultation report for all schools the following special requirements apply:

Following the consultation period, when the proposer is reviewing the proposal prior to publication the proposer is required to carry out a further assessment for the proposal and each of the alternatives that were set out in the proposal paper. This involves the same matters that the proposer was required to assess in formulating the proposal:

- the likely impact on quality and standards in education,
- the likely impact on the community and
- the likely effect of different travelling arrangements.

The purpose of this further assessment is to take account of any further information that has come forward through the consultation or otherwise.

In its consultation report, the proposer is required to explain its assessment of the proposal and the reasonable alternatives identified, how this assessment differs from their earlier assessment (if at all) and its assessment of any further reasonable alternatives. Finally, the proposer is required to confirm whether it considers the implementation of the proposal, (wholly or partly) to be the most appropriate response to the reasons it identified for the proposal and give reasons for its conclusion.

Although under the 2013 Act the requirement to consult does not apply to proposals to discontinue small schools with fewer than 10 pupils at the preceding January census point²¹ local authorities and governing bodies bringing forward such proposals should still take into account the factors set out in Chapter 1 of this Code when developing and considering proposals. If the school is on the list of "rural schools" this includes satisfying the requirements at 1.8 "Presumption against the closure of rural schools".

The consultation report must be published electronically, either on the proposer's website or on the relevant local authority's website. In addition, hard copies must be available on request. This must take place before any proposal is published.

The following **must** be advised by letter or email of the availability of the consultation report:

- parents (and where possible prospective parents) carers and guardians, and staff members of schools which are subject to the proposals;
- in the case of proposals affecting secondary provision, parents of pupils attending primary schools from which pupils normally transfer to that secondary school; and
- consultees who had requested notification.
- the maintaining or proposed maintaining authority for any school likely to be affected by the proposals;
- any other local authority (including, those in England, where appropriate) likely to be affected – including in the case of dedicated SEN provision any authority placing or likely to place statement pupils in it;
- the Church in Wales and Roman Catholic Diocesan Authority for the area in which any school likely to be affected is located;
- any other appropriate religious body for any school likely to be affected by the proposals;
- the governing body of any school which is the subject of the proposals;
- the governing body of other schools which the proposer considers are likely to be affected by the proposals;
- the Welsh Ministers Schoolsmanagementdivision3@gov.wales ;
- Constituency and Regional Assembly Members (AMs) and Members of Parliament (MPs) representing the area served by/intended to be served by any school which is the subject of the proposals;
- Estyn;
- teaching and staff trade unions representing teachers and other staff at any school which is the subject of the proposals;
- the relevant Regional Education Consortium;
- the Police and Crime Commissioner for the area served by/intended to be served by any school which is the subject of the proposals;
- any community or town council for the area served by/ intended to be served by any school which is the subject of the proposals;
- in the case of proposals affecting nursery provision any independent or voluntary providers who may be affected including Mudiad Meithrin;
- in the case of proposals affecting nursery provision, the Children and Young People's Partnership and/or the Early Years Development and Childcare Partnerships where present;
- in the case of proposals affecting SEN provision, any relevant health or third sector bodies with an interest;
- in the case of proposals affecting secondary provision, any further education institutions serving the area of the school; and
- in the case of proposals affecting Welsh language provision, the Welsh Language Commissioner.

Unless proposers have applied for and been granted a time extension by the Welsh Ministers, proposals must be published within 26 weeks of the end of the period allowed for consultation responses, otherwise the proposals will lapse and a new consultation document must be issued to revive them.

Applications to the Welsh Ministers for a time extension must be made in writing before the 26 week period has elapsed and must set out the reasons why an extension is considered necessary. In deciding whether to approve an extension, the Welsh Ministers will take into account the reasons given for the application, the nature of the proposals and any other relevant factors. The Welsh Ministers would be unlikely to approve any application which would result in more than a year elapsing between the end of the period allowed for consultation responses and the publication of a statutory notice.

Statutory proposals are sometimes brought forward as a result of strategic reviews into school provision carried out by local authorities. Whilst it is good practice to consult on such reviews, such consultation must not take the place of the formal consultation necessary on individual proposals as required by the Code.

Where the prospective proposers are not a local authority they should discuss their intentions with the local authority which would maintain any proposed new or altered provision at an early stage, i.e. before formal consultation commences.

Proposers should not refer to the period allowed for objections as the consultation period. The term consultation only applies to the period before final decisions are made to proceed to publish a proposal.

Consultees can submit views either in favour of or against a proposal. Consultees should be advised that unfavourable comments made during the consultation period will not be treated as objections and that if they wish to object, that they need to do so in writing during the statutory objection period. If consultees submit a request during the objection period that a response submitted at consultation stage should be treated as an objection, this should normally be accepted. Those responsible for publishing proposals should make every effort to ensure that those who have expressed opposition or concern during the consultation period are aware that statutory notices have been published.

Publication of statutory proposals

Manner of publication If the proposer decides to proceed with a proposal they must publish the proposal²² by way of a notice (referred to in this Code as a “statutory notice”). The statutory notice must be published on a school day but not on a school day which includes a session which is devoted (wholly or mainly) to improving teaching standards or management practices of staff at the school (INSET days). The objection period (see 4.2) must include 15 school days²³ (in addition to the day on which it is published).

The statutory notice must be published:

- i. on the proposer’s website (if it has one);
- ii. on the website of the existing/proposed maintaining local authority, where the local authority is not the proposer;
- iii. by being posted at or near the main entrance to any existing school which is the subject of the proposal, or, if there is more than one main entrance, all of them;
- iv. where a new school is being established, in a conspicuous place in the area to be served by the school;
- v. by providing any school which is the subject of proposals with copies of the notice to distribute to pupils, parents carers and guardians, and staff members (the schools may distribute the notice by email);
- v. in the case of proposals affecting secondary provision, parents of pupils attending primary schools from which pupils normally transfer to that secondary school.

Furthermore, on the day that the statutory notice is published, the following must be sent either a hard copy of the notice or be emailed a link to the relevant website:

- the maintaining or proposed maintaining authority for any school likely to be affected by the proposals;
- any other local authority (including, where appropriate, a local authority in England) likely to be affected - including in the case of dedicated SEN provision any authority placing or likely to place pupils with SEN in it;
- the Church in Wales and Roman Catholic Diocesan Authority for the area in which any school likely to be affected is located;
- any other appropriate religious body for any school likely to be affected by the proposals;
- the governing body of any school which is the subject of the proposals
- other schools which the proposers consider are likely to be affected by the proposals;
- the Welsh Ministers* Schoolsmanagementdivision3@gov.wales ;
- Constituency and Regional Assembly Members (AMs) and Members of Parliament (MPs) representing the area served by/intended to be served by any school which is the subject of the proposals;

- Estyn;
- teaching and staff trade unions representing teachers and other staff at any school which is the subject of the proposals; ☐ the relevant Regional Education Consortium; ☐ the Police and Crime Commissioner for the area served by/intended to be served by any school which is the subject of the proposals;
- any community or town council for the area served by/ intended to be served by any school which is the subject of the proposals;
- in the case of proposals affecting nursery provision, any independent or voluntary providers who may be affected including Mudiad Meithrin;
- in the case of proposals affecting nursery provision, the Children and Young People’s Partnership and/or the Early Years Development and Childcare Partnerships where present;
- in the case of proposals affecting SEN provision, any relevant health or third sector bodies with an interest;
- in the case of proposals affecting secondary provision, any further education institutions serving the area of the school; and
- in the case of proposals affecting Welsh language provision, the Welsh Language Commissioner.

It is no longer a requirement to publish the proposal in a newspaper.

Length of objection period

The 2013 Act provides that anyone wishing to make objections to a school organisation proposal has the opportunity to do so. To be considered as statutory objections, objections must be made in writing or by email, and sent to the proposer before the end of 28 days beginning with the day on which the notice was published (“the objection period”).

Content of published statutory notice

The published statutory notice must contain the following information:

- the name of the persons or body publishing the proposal;
- the planned date of implementation (or dates if implementation is to be staged);
- details of how to obtain a copy of the consultation report; ☐ the date by which objections should be sent and the address to send them to, including the relevant email address.

Additionally

- a statutory notice for a proposal to establish a new school must state:

- the proposed language category of the school as defined by Information Document No: 023/2007;
- the name of the proposed maintaining local authority;
- the location of the site of the school (and where appropriate the postal address);
- whether the school will be single or mixed sex;
- the age range of the school;
- the category of the school - community, voluntary aided, voluntary controlled, community special;
- whether the governing body or the local authority will be the admission authority;
- the proposed arrangements for transport of pupils;
- the admission number for each relevant age group in the first year of implementation or at each stage of implementation - “admission number” is to be determined in accordance with the calculation set out from time to time by the Welsh Ministers (currently contained in the Welsh Government Circular No: 21/2011);
- the proposed capacity of the school – “capacity” is to be determined in accordance with the formulae set out from time to time by the Welsh Ministers (currently Welsh Government Circular No: 21/2011);
- for a special school, information on the type of SEN for which provision will be made;
- whether the school will have a religious character, and if so the nature of that character and the proposed appropriate religious body;
- whether the admission arrangements of the school will make any provision for selection by ability permitted by section 101 of the School Standards and Framework act 1998 (pupil banding);

– in the case of a new voluntary school, whether the proposals are to be implemented by the local authority or the promoters and, if the proposals are to be implemented by both, the extent to which they are to be implemented by each such body.

- A statutory notice for a proposal to alter a school or change its category must state:
 - the name and address of the school subject to the proposal;
 - the name of the maintaining local authority;
 - a description of the proposed alteration or change of category;
 - where the alteration involves enlargement, or a reduction in capacity, the current number of pupils, the capacity of the school and the proposed capacity – “capacity” is to be determined in accordance with the formulae set out from time to time by the Welsh Ministers (currently Welsh Government Circular No: 21/2011);
 - the number of pupils to be admitted in each relevant age group in the first year of implementation or at each stage of implementation;
 - in the case of a change in the type of SEN provision, the alternative provision for pupils and the impact on school transport; and
 - any implications the alteration might have on home to school transport provision.

- A statutory notice for a proposal to discontinue a school must state:
 - the name and address of school to be closed;
 - the name of the maintaining local authority; – the school’s religious character if it has one, and if so, the appropriate religious body;
 - details of the alternative school/s which pupils can attend, including any interim arrangements and the language category of the alternative school/s as defined by Information Document No: 023/2007;
 - details of any measures being taken to increase the number of places available in alternative schools; and
 - arrangements for transport of pupils to alternative schools.

Note: Sometimes a proposal will need to incorporate two separate elements, e.g. a school might transfer to a new site and also be enlarged. In this case two proposals, which can be incorporated into one statutory notice, may be necessary.

Annex B comprises several recommended statutory notice templates which proposers may find helpful in the construction of a statutory notice.

Objection reports

Under section 49 of the 2013 Act when objections have been received proposers must publish a summary of the statutory objections and the proposer’s response to those objections (“the Objection Report”). This must take place:

- (a) in the case of a local authority that is required to determine its own proposals under section 53 of the Act (see 5.4 below), before the end of 7 days beginning with the day of its determination; and
- (b) in all other cases, before the end of 28 days beginning with the end of the objection period.

The Objection Report must be published by being posted:

- i. on the proposer’s website (if it has one);
- ii. on the website of the existing/proposed maintaining local authority, where this differs from i. above.

In addition, hard copies must be made available on request.

The following must be advised by letter or email of the availability of the Objection Report:

- Parents (and where possible prospective parents) carers and guardians, and staff members of schools which are the subject of the proposals;
- in the case of proposals affecting secondary provision, parents of pupils attending primary schools from which pupils normally transfer to that secondary school;
- the maintaining or proposed maintaining authority for any school likely to be affected by the proposals; any other local authority (including, where appropriate, a local authority in England)

likely to be affected - including in the case of dedicated SEN provision any authority placing or likely to place pupils with SEN in it;

- the Church in Wales and Roman Catholic Diocesan Authority for the area in which any school likely to be affected is located;
- any other appropriate religious body for any school likely to be affected by the proposals;
- the governing body of any school which is the subject of the proposals;
- the governing body of other schools which the proposer consider are likely to be affected by the proposals;
- the Welsh Ministers* Schoolsmanagementdivision3@gov.wales ;
- Constituency and Regional Assembly Members (AMs) and Members of Parliament (MPs) representing the area served by/intended to be served by any school which is the subject of the proposals;
- Estyn;
- teaching and staff trade unions representing teachers and other staff at any school which is the subject of the proposal;
- the relevant Regional Education Consortium;
- the Police and Crime Commissioner for the area served by/intended to be served by any school which is the subject of the proposals;
- any community or town council for the area served by/ intended to be served by any school which is the subject of the proposals;
- in the case of proposals affecting nursery provision any independent or voluntary providers who may be affected, including Mudiad Meithrin;
- in the case of proposals affecting nursery provision, the Children and Young People’s Partnership and/or the Early Years Development and Childcare Partnerships where present;
- in the case of proposals affecting SEN provision, any relevant health or third sector bodies with an interest in the case of proposals affecting secondary provision, any further education institutions serving the area of the school;
- in the case of proposals affecting secondary provision, any further education institutions serving the area of the school; and
- in the case of proposals affecting Welsh language provision, the Welsh Language Commissioner.

Approval by the Welsh Ministers (section 50 of the 2013 Act)

Proposals require approval by the Welsh Ministers under section 50 of the 2013 Act if:

- (a) the proposals affect sixth form education; or
- (b) the proposals have been made by a proposer other than the relevant local authority and an objection has been made by that authority and has not been withdrawn in writing before the end of 28 days beginning with the end of the objection period.

Proposals affect sixth form education if:

- (a) they are proposals to establish or discontinue a school providing education suitable only to the requirements of persons above compulsory school age; or
- (b) they are proposals to make a regulated alteration to a school, the effect of which would be that provision of education suitable to the requirements of persons above compulsory school age at the school increases or decreases.

Where a proposal requires approval by the Welsh Ministers, the proposers must notify the Welsh Ministers within 35 days of the end of the objection period and forward to them copies of the statutory objections in addition to the objection report set out at paragraph 5.1. The proposer must also send to the Welsh Ministers any proposals which it considers are related to the proposals requiring determination. The Welsh Ministers will then decide whether these other proposals require determination by them.

A proposal shall be regarded as “related” if its implementation (or nonimplementation) would prevent or undermine the effective implementation of another proposal. Where proposals are “related”, the decisions should be compatible.

The Welsh Ministers may decide to approve, reject or approve the proposals with modifications.

Modifications would normally only include changes to matters such as the timing of implementation or admission numbers. The Welsh Ministers must not make modifications that would in effect substitute a new proposal for the proposal which was published. Before making any modification, the Welsh Ministers must first consult with the proposer and the relevant governing body/ies and local authority (where they are not the proposers), and obtain the proposer’s agreement to the modification.

Approvals can be made conditional on a specified event occurring by a specified date.

Approval by the local authority (section 51 of the 2013 Act)

Proposals published under section 48 require approval under section 51 of the 2013 Act if:

- (a) they do not require approval by the Welsh Ministers;
- (b) they have been made by a proposer other than the relevant local authority; and
- (c) an objection to the proposals has been made and has not been withdrawn in writing before the end of 28 days beginning with the end of the objection period.

Procedures

Where proposals require approval by the local authority, the proposer must notify the local authority of a proposal requiring approval and forward to them the documents listed below within 35 days of the end of the objection period:

- a copy of the consultation document;
- a copy of the consultation report;
- a copy of the published notice;
- a copy of the objection report; 2 copies of the statutory objections;
- copies of all of the above in relation to any proposals which are related to the proposals requiring approval. Local authorities must decide whether any related proposals sent to them require their approval.

They must deal with all proposals which require approval without delay in so far as that is compatible with the proper consideration of the issues. In any event, the local authority must issue its decision, within 16 weeks (112 days) beginning with of the end of the objection period. However a failure to comply with that time limit does not affect the validity of any decision reached.

Local authorities must decide whether to approve, reject or approve with modifications, the proposals.

Modifications can only include changes to matters related to implementation such as changes to admission numbers or to the timing of implementation. The local authority must not make modifications that would, in effect, substitute a new proposal for the proposal which was published. Before making any modification, the local authority must first consult with the proposer and obtain their consent to the modification. They must also obtain the consent of the Welsh Ministers. If consent cannot be obtained, and the local authority believes that the proposals are not acceptable in their published state, they must reject the proposals. The local authority must also consult with the governing body of any school to which the proposals relate (where the governing body is not the proposer).

Approvals may be made conditional on a specified event occurring by a specified date.

Determination by proposers (section 53 of the 2013 Act)

<p>Where proposals do not require approval under section 50 and 51 of the 2013 Act, they fall to be determined by the proposer.</p> <p>Under section 53 of the 2013 Act, determination by the proposer must be made within 16 weeks (112 days) of the end of the objection period. Where the proposer fails to determine the proposal within the period of 16 weeks it is taken to have withdrawn the proposal and it is required to republish the proposals if it wishes to proceed.</p> <p>Where a local authority's proposals have received objections, and require determination under section 53 of the 2013 Act, the local authority must not approach the determination of these proposals with a closed mind. Objections must be conscientiously considered alongside the arguments in respect of the proposals and in the light of the factors set out in section 1.3 – 1.14 of this Code. In these cases the objection report must be published at the same time as the decision is issued rather than within 28 days beginning with the end of the objection period</p>	
<p>Local authority decision making</p> <p>Where local authorities are required to approve or determine proposals which have received objections, an amendment²⁴ to Schedule 2 to the Local Authority (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 (as amended) permits the local authority's executive to exercise this function. Executives and/or Cabinets are already responsible for overseeing school organisation planning, including decisions to consult on and to publish school organisation proposals and will have a well developed understanding of school organisation issues. This understanding, combined with their more general experience of decision making and the fact that they are democratically accountable to the local electorate, makes executives well placed to decide whether or not contested school organisation proposals should be approved.</p> <p>However, if they choose to do so, local authorities will not be prevented by Schedule 2 to the relevant regulations from adopting alternative, locally agreed processes for taking such decisions. These might include the formation of a local decision making committee, potentially in collaboration with other local authorities in their region.</p> <p>Where local authorities choose to follow this route, they will need to consider carefully how they will ensure that such bodies deliver fair and robust decision making.</p> <p>Annex D provides details of a possible model for a local decision making committee.</p>	
<p>Decision notification</p> <p>Decisions (in relation to proposals which require approval or determination) must be made and issued in the form of a decision letter. The decision letter must set out clearly the reasons for the decision with reference to sections 1.3 to 1.6 of this Code and the specific factors in sections 1.7 to 1.14 [which includes the additional factors to be considered and requirements in relation to the closure of rural schools].</p> <p>Additionally a decision letter for a proposal to discontinue a school designated as a rural school must state why the proposer is satisfied that such implementation is the most appropriate response to the reasons it identified for formulating the proposal.</p> <p>Decision letters must be published electronically on the proposer's website (if it has one) and that of the relevant local authority (if different).</p> <p>The following must be advised by letter or email of the availability of the decision letter:</p> <ul style="list-style-type: none"> • Parents (and where possible prospective parents) carers and guardians, and staff members of schools which are the subject of the proposals; • In the case of proposals affecting secondary provision, parents of pupils attending primary schools from which pupils normally transfer to that secondary school; 	

- the maintaining or proposed maintaining authority for any school likely to be affected by the proposals;
- any other local authority (including, where appropriate, a local authority in England) likely to be affected - including in the case of dedicated SEN provision any authority placing or likely to place pupils with SEN in it;
- the Church in Wales and Roman Catholic Diocesan Authority for the area in which any school likely to be affected is located;
- any other appropriate religious body for any school likely to be affected by the proposals;
- the governing body of any school which is the subject of the proposals;
- the governing body of other schools which the proposer considers are likely to be affected by the proposals;
- the Welsh Ministers Schoolsmanagementdivision3@gov.wales ;
- Constituency and Regional Assembly Members (AMs) and Members of Parliament (MPs) representing the area served by/intended to be served by any school which is the subject of the proposals;
- Estyn;
- teaching and staff trade unions representing teachers and other staff at any school which is the subject of the proposals;
- the relevant Regional Education Consortium;
- the Police and Crime Commissioner for the area served by/intended to be served by any school which is the subject of the proposals;
- any community or town council for the area served by/ intended to be served by any school which is the subject of the proposals;
- in the case of proposals affecting nursery provision, any independent or voluntary providers who may be affected including Mudiad Meithrin;
- in the case of proposals affecting nursery provision, the Children and Young People’s Partnership and/or the Early Years Development and Childcare Partnerships where present;
- in the case of proposals affecting SEN provision, any relevant health or third sector bodies with an interest;
- in the case of proposals affecting secondary provision, any further education institutions serving the area of the school; and
- in the case of proposals affecting Welsh language provision, the Welsh Language Commissioner.