



# Schools (Consultation) (Scotland) Act 2010

2010 asp 2

*Process for all schools*

## **1 Overview of key requirements**

- (1) Subsection (2) applies where, in relation to any school, an education authority has formulated a relevant proposal.
- (2) Before proceeding with the proposal, the education authority must comply with the initial and subsequent requirements set out in subsections (3) and (4).
- (3) The initial requirements are—
  - (a) to prepare an educational benefits statement in accordance with section 3,
  - (b) to prepare (and publish) a proposal paper in accordance with section 4,
  - (c) to give notice of the proposal to the relevant consultees (and invite representations) in accordance with section 6,
  - (d) to hold (and give notice of) a public meeting in accordance with section 7,
  - (e) to involve HMIE in accordance with section 8.
- (4) The subsequent requirements are—
  - (a) to review the proposal in accordance with section 9(1),
  - (b) to prepare (and publish) a consultation report in accordance with sections 9 and 10.
- (5) In subsection (2), the reference to proceeding with the proposal is to—
  - (a) deciding to implement it (wholly or partly), or
  - (b) implementing it (wholly or partly).

## **2 Relevant proposals and consultees**

- (1) In this Act—
  - (a) a “relevant proposal” is any proposal specified in paragraphs 1 to 10 of schedule 1,
  - (b) a “closure proposal” is a proposal specified in paragraph 1 of that schedule.

- (2) In this Act, the “relevant consultees”—
- (a) in relation to a particular relevant proposal, are the consultees specified in the corresponding paragraph of schedule 2,
  - (b) so far as required by paragraphs 11 and 12 of that schedule, include the consultees specified in those paragraphs.

### **3 Educational benefits statement**

- (1) The education authority must prepare an educational benefits statement which includes—
- (a) the authority’s assessment of the likely effects of a relevant proposal (if implemented) on—
    - (i) the pupils of any affected school,
    - (ii) any other users of the school’s facilities,
    - (iii) any children who would (in the future but for implementation) be likely to become pupils of the school,
    - (iv) the pupils of any other schools in the authority’s area,
  - (b) the authority’s assessment of any other likely effects of the proposal (if implemented),
  - (c) an explanation of how the authority intends to minimise or avoid any adverse effects that may arise from the proposal (if implemented),
  - (d) a description of the benefits which the authority believes will result from implementation of the proposal (with reference to the persons whom it believes will derive them).
- (2) The statement must also include the education authority’s reasons for coming to the beliefs expressed under subsection (1)(d).
- (3) In subsection (1), the references to effects and benefits are to educational effects and benefits.

### **4 Proposal paper**

- (1) The education authority must prepare a proposal paper which—
- (a) sets out the details of the relevant proposal,
  - (b) proposes a date for implementation of the proposal,
  - (c) contains the educational benefits statement in respect of the proposal,
  - (d) refers to such evidence or other information in support of (or otherwise relevant in relation to) the proposal as the education authority considers appropriate.
- (2) The proposal paper must also give a summary of the process provided for in sections 1 to 17 (so far as applicable in relation to the proposal).
- (3) A proposal paper may include more than one proposal.
- (4) The education authority must—
- (a) publish the proposal paper in both electronic and printed form,
  - (b) make the paper, and (so far as practicable) a copy of any separate documentation that it refers to under subsection (1)(d), available for inspection at all reasonable times and without charge—

- (i) at its head office and on its website,
    - (ii) at any affected school or at a public library or some other suitable place within the vicinity of the school,
  - (c) provide without charge the information contained in the proposal paper—
    - (i) to such persons as may reasonably require that information in another form, and
    - (ii) in such other form as may reasonably be requested by such persons.
- (5) The education authority must advertise the publication of the proposal paper by such means as it considers appropriate.

## **5 Correction of the paper**

- (1) This subsection applies where, during the consultation period, an education authority—
  - (a) has been notified of—
    - (i) an alleged omission of relevant information from a proposal paper,
    - (ii) an alleged inaccuracy in a proposal paper,
  - (b) discovers—
    - (i) that relevant information has been omitted from a proposal paper,
    - (ii) an inaccuracy in a proposal paper.
- (2) In a situation mentioned in subsection (1)(a), the education authority must—
  - (a) determine, as the case may be, if—
    - (i) relevant information has (in its opinion) been omitted,
    - (ii) there is (in fact) an inaccuracy, and
  - (b) inform the notifier as to the action (if any) it is taking under subsection (3).
- (3) In a situation mentioned in subsection (1)(a) or (b), the education authority may—
  - (a) take the following steps—
    - (i) publish a corrected proposal paper,
    - (ii) give revised notice in accordance with section 6, and
    - (iii) send a copy of the corrected paper to HMIE,
  - (b) issue a notice to the relevant consultees and HMIE—
    - (i) providing the omitted information or, as the case may be, correcting the inaccuracy, and
    - (ii) if the authority considers it appropriate, extending the consultation period by such period as is reasonable by reference to the significance of the information provided or, as the case may be, the nature of the correction, or
  - (c) take no further action (except by virtue of section 10(3)).

## **6 Notice and consultation period**

- (1) The education authority must give the relevant consultees notice—
  - (a) of the relevant proposal, or
  - (b) where only part of the proposal affects a particular consultee (or category of consultee), of that part of the proposal.
- (2) The notice must—

- (a) give a summary of the proposal (or part),
  - (b) give information about—
    - (i) where a copy of the proposal paper may be obtained, and
    - (ii) how to make written representations on the proposal (including to whom such representations should be submitted).
- (3) The notice must also—
- (a) state the date of the last day of the consultation period for the proposal,
  - (b) advise that this is the period within which written representations must be received by the authority for them to be taken into account, and
  - (c) if known (at the time of giving the notice), state the date, time and place of the public meeting on the proposal.
- (4) In this Act, the “consultation period” is a period (fixed by the education authority) of at least 6 weeks that—
- (a) starts on the day (or last day) on which the notice required by subsection (1) is given,
  - (b) runs continuously, and
  - (c) includes at least 30 school days of any affected school.
- (5) In subsection (4), a “school day”—
- (a) in relation to a particular school is a day on which the school is ordinarily open to its pupils for the purpose of their school education, or
  - (b) in the case of a further education centre to which paragraph 10 of schedule 1 refers, is a day on which the centre is ordinarily open to its students for the purpose of their further education.

## **7 Public meeting**

- (1) During the consultation period, the education authority must hold (and be represented at) a public meeting on the relevant proposal.
- (2) Advance notice of the date, time and place of the public meeting must be given by the education authority to—
  - (a) the relevant consultees,
  - (b) HMIE.
- (3) Subsection (2)(a) does not require such notice to be given if it has already been given under section 6(3)(c).
- (4) More than one proposal may be the subject of the same public meeting if the proposals are included in the same proposal paper.

## **8 Involvement of HMIE**

- (1) The education authority must send to HMIE—
  - (a) when published, a copy of the proposal paper,
  - (b) as regards any relevant written representations received by the authority (from any person) during the consultation period—
    - (i) a copy of them, or
    - (ii) if HMIE agree, a summary of them,

- (c) a summary of any oral representations made to it (by any person) at the public meeting,
  - (d) as available (and so far as otherwise practicable), a copy of any other relevant documentation.
- (2) HMIE are to prepare a report on the educational aspects of the relevant proposal.
- (3) In preparing the report, HMIE may—
- (a) enter any affected school and make such reasonable enquiries of such persons there as HMIE consider appropriate, and
  - (b) make such reasonable enquiries of such other persons as HMIE consider appropriate.
- (4) In preparing the report, HMIE are to have regard (in particular) to—
- (a) the educational benefits statement,
  - (b) the things sent to them under subsection (1)(b) and (c),
  - (c) any written representations made (by any person) direct to HMIE on any educational aspect of the proposal so far as HMIE consider them to be relevant.
- (5) HMIE must submit the report to the education authority—
- (a) not later than 3 weeks after the authority has complied with subsection (1) (which 3 week period may not start during the consultation period), or
  - (b) within such longer period as is agreed between them.
- (6) In this Act, “HMIE’s report” is the report prepared under subsection (2).
- (7) In this Act, a reference to “HMIE” is a reference to Her Majesty’s Inspectors (including any of them).

## **9 Consultation report**

- (1) After the education authority has received HMIE’s report, the authority is to review the relevant proposal having regard (in particular) to—
- (a) any relevant—
    - (i) written representations received by the authority (from any person) during the consultation period,
    - (ii) oral representations made to it (by any person) at the public meeting,
  - (b) HMIE’s report.
- (2) The education authority must then prepare a consultation report.
- (3) The education authority must—
- (a) publish the consultation report in both electronic and printed form,
  - (b) make the report available for inspection at all reasonable times and without charge—
    - (i) at its head office and on its website,
    - (ii) at any affected school or at a public library or some other suitable place within the vicinity of the school,
  - (c) provide without charge the information contained in the consultation report—
    - (i) to such persons as may reasonably require that information in another form, and

- (ii) in such other form as may reasonably be requested by such persons.
- (4) The education authority must inform any person who during the consultation period made written representations on the relevant proposal of the publication of the consultation report.
- (5) The education authority must advertise the publication of the consultation report by such means as it considers appropriate.

## **10 Content of the report**

- (1) The consultation report must (in particular)—
  - (a) contain the information mentioned in subsection (2),
  - (b) if applicable, include the further information mentioned in subsection (3),
  - (c) in a relevant case, also provide the explanation mentioned in subsection (4).
- (2) The information is—
  - (a) a record of the total number of any written representations made to the education authority (by any person) on the proposal during the consultation period,
  - (b) a summary of—
    - (i) those written representations,
    - (ii) any oral representations made to it (by any person) at the public meeting,
  - (c) a statement of the authority's response to—
    - (i) those written and oral representations,
    - (ii) HMIE's report,
  - (d) a copy of that report,
  - (e) a statement explaining how the education authority complied with section 9(1).
- (3) In relation to any omission from, or inaccuracy in, the proposal paper to which section 5(1) applies, the further information is—
  - (a) details of the omission or inaccuracy (including a statement of the authority's opinion on it),
  - (b) a statement—
    - (i) of the action taken in respect of the omission or inaccuracy, or
    - (ii) if no action has been taken, of that fact (and why).
- (4) In the case of a closure proposal, the explanation is of the opportunity that may arise for making representations to the Scottish Ministers in connection with section 15(4).

## **11 Time for further consideration**

- (1) An education authority may proceed with a relevant proposal only after the expiry of 3 weeks starting with the day on which the authority complies with section 9(3)(a).
- (2) In subsection (1), the reference to proceeding with a proposal is to—
  - (a) deciding to implement it (wholly or partly), or
  - (b) implementing it (wholly or partly).