
STATUTORY INSTRUMENTS

2003 No. 507

**The School Organisation Proposals by the Learning
and Skills Council for England Regulations 2003**

PART 2

PROPOSALS MADE UNDER SECTION 113A

Alterations for which proposals may be made

3.—(1) This regulation prescribes the descriptions of alterations to maintained schools for the purposes of section 113A(4)(b).

(2) The descriptions of alterations are—

- (a) an enlargement of the premises of a 16 to 19 institution which would increase the capacity of the school by 25%;
- (b) an enlargement of the premises of any other secondary school with a view to an increase by 25% in the number of pupils who will be provided with sixth form education at the school;
- (c) an alteration of the upper age limit of the school so that —
 - (i) the school will provide sixth form education, or
 - (ii) the school will cease to provide sixth form education; or
- (d) an alteration of the upper age limit of the school (being an age limit over compulsory school age) by a year or more (not falling within sub-paragraph (c) above).

Publication of preliminary notice

4.—(1) Before making proposals the Council shall—

- (a) publish a notice (in these regulations referred to as a “preliminary notice”) containing (subject to paragraph (3)) the information specified in paragraph (2), in the manner specified in paragraphs (4) to (6);
- (b) take into account any comments received in response to the preliminary notice.

(2) The preliminary notice shall —

- (a) describe the proposals which the Council is considering making (referred to in these regulations as “consultative proposals”) and, where the Council is considering making alternative proposals, the alternative which the Council favours;
- (b) state whether the consultative proposals are made for the purposes set out in section 113A(2)(a) or are made with a view to promoting one or more of the relevant objectives and, if so, which relevant objective;
- (c) set out the factors which have led the Council to consider making the consultative proposals and, where the proposals are made with a view to promoting one or more of the relevant objectives the evidence which leads the Council to the view that they will do so;

- (d) contain any other information which the Council considers necessary for an effective consultation;
 - (e) state that comments are invited on the consultative proposals and that such comments must be made within such period as may be specified in the notice, not being less than two months from the date of publication of the notice, together with details of the manner in which such comments may be communicated to the Council;
 - (f) state that any comments may be made public unless the person making the comments requests otherwise.
- (3) The Council need not include the information referred to in paragraph (2)(c) and (d) if –
- (a) the preliminary notice states that the information can be obtained from the Council and provides an address to which requests should be sent; and
 - (b) the Council provides such information to anyone who requests it.
- (4) Where any consultative proposals are to establish a new 16 to 19 institution the Council shall publish the preliminary notice—
- (a) by posting it in a conspicuous place in the area to be served by any proposed school mentioned in the consultative proposals, where the proposed school is to be a mainstream school, or in the area of the local education authority who it is intended should maintain any proposed school, where the proposed school is to be a special school, and
 - (b) in at least one newspaper circulating in that area.
- (5) Where any consultative proposals are to make an alteration to a maintained school or to discontinue a 16 to 19 institution the Council shall publish the preliminary notice—
- (a) by posting it in a conspicuous place in the area served by any school mentioned in the consultative proposals, where the proposals relate to a mainstream school, or in the area of the local education authority who maintains the school where the proposals relate to any special school;
 - (b) in at least one newspaper circulating in that area; and
 - (c) by posting it at or near the main entrance to any such school, or, if there is more than one main entrance, all of them.
- (6) The Council shall send a copy of the preliminary notice and the information referred to in paragraph (2)(c) and (d) if that is not contained in the notice to –
- (a) the Secretary of State;
 - (b) the governing body of any school the subject of the consultative proposals (except where the proposals are to establish a new 16 to 19 institution);
 - (c) the local education authority who maintain, or (in the case of proposals to establish a new 16 to 19 institution) whom it is proposed should maintain, any school the subject of the consultative proposals;
 - (d) any adjoining local education authority;
 - (e) the governing body of any other maintained school, city technology college, city college for the technology of the arts or Academy which the Council considers is likely to be affected by the consultative proposals;
 - (f) the governing body of any further education college which the Council considers is likely to be affected by the consultative proposals;
 - (g) the Diocesan Board of Education for any diocese of the Church of England and the Bishop of any Roman Catholic Church diocese any part of which is comprised in the area of the local education authority who maintain, or who it is proposed should maintain, any school the subject of the consultative proposals;

- (h) the school organisation committee; and
- (i) such other persons as the Council considers appropriate.

(7) Where the consultative proposals relate to a special school or proposed special school the Council shall also send a copy of the preliminary notice and the information referred to in paragraph (2)(c) and (d) if that is not contained in the notice to –

- (a) the parents of each registered pupil at any school the subject of the consultative progress who is over compulsory school age (except where the proposals are to establish a new 16 to 19 institution) unless the Council cannot ascertain the names and addresses of those parents despite having taken reasonable steps to do so;
- (b) any Strategic Health Authority who act for any area which includes any part of the area of the local education authority who maintain or who it is proposed should maintain any school the subject of the consultative proposals; and
- (c) any National Health Service Trust who have responsibility for the ownership or management of any hospital or other establishment or facilities in the area of the local education authority who maintain or who it is proposed should maintain any school the subject of the consultative proposals.

(8) If it appears to the Council, as a result of consideration of comments made in response to the preliminary notice that it is appropriate to make new consultative proposals the Council shall publish a further preliminary notice in accordance with paragraphs (1) to (7) relating to the new consultative proposals.

(9) If it appears to the Council, as a result of consideration of comments made in response to the preliminary notice, that it is appropriate to vary the consultative proposals in any other respect or, where alternative proposals have been set out in the preliminary notice, to make proposals other than those which the Council have stated in the preliminary notice that it favoured, the Council shall undertake such further consultation as appears to them to be appropriate.

Publication of proposals

5.—(1) The Council shall publish a notice of the proposals in the manner specified in paragraphs (2) to (4) below, and any such notice shall contain the information specified in Schedule 1.

(2) Where the proposals are to establish a new 16 to 19 institution the Council shall publish the notice—

- (a) by posting it in a conspicuous place in the area to be served by the school, where the school is to be a mainstream school, or in the area of the local education authority whom it is proposed should maintain the school, where the school is to be a special school; and
- (b) in at least one newspaper circulating in that area.

(3) Where the proposals are to make an alteration to a maintained school or to discontinue a 16 to 19 institution the Council shall publish the notice —

- (a) by posting it in a conspicuous place in the area served by the school, where the school the subject of the proposals is a mainstream school, or in the area of the local education authority who maintain the school, where the school the subject of the proposals is a special school;
- (b) in at least one newspaper circulating in that area; and
- (c) by posting it at or near the main entrance to the school or, if there is more than one main entrance, all of them.

(4) The Council shall send a copy of the notice to the persons referred to in regulation 4(6) and, where applicable, regulation 4(7) (taking references in regulations 4(6) and 4(7) to “the consultative proposals” as references to “the proposals”).

(5) The Council shall make available to any person on request a summary of the comments received in response to the preliminary notice published under regulation 4.

(6) In this regulation “parent” has the same meaning as in section 576 of the Education Act 1996.

Objections to and comments on proposals

6.—(1) Any person may send written objections to, or comments on, the proposals to the Council within two months from the date of publication of the proposals.

(2) If the school organisation committee send comments on the proposals they shall include details of the level of support which the proposals have received from the committee as a whole and from each group on the committee.

(3) In this regulation references to a group of members of a school organisation committee shall be construed in accordance with the Education (School Organisation Committees) (England) Regulations 1999⁽¹⁾.

Submission of proposals etc. to the Secretary of State

7.—(1) Within one month from the end of the period within which objections or comments may be made under regulation 6 the Council shall send to the Secretary of State—

- (a) a copy of any response made by the School Organisation Committee to the preliminary notice;
- (b) a summary of the other responses to the preliminary notice; and
- (c) copies of all objections and comments received pursuant to regulation 6 (other than objections withdrawn in writing within the period mentioned in regulation 6(1)).

(2) Nothing in this regulation shall prevent the Secretary of State requiring further information from the Council before determining the proposals.

Withdrawal of proposals

8. The Council may withdraw proposals at any time before they are determined under section 113A(4) by giving written notice to the Secretary of State.

Decision by the Secretary of State

9.—(1) The Secretary of State shall notify the following persons of each decision taken under section 113A —

- (a) the Council;
- (b) the local education authority who maintain the school or (in the case of proposals to establish a new 16 to 19 institution) whom it is proposed should maintain the proposed school;
- (c) where the proposals relate to an existing special school, each local education authority who maintain a statement of special educational needs in respect of a registered pupil at the school;
- (d) the governing body of the school (except where the proposals are to establish a new 16 to 19 institution);
- (e) the School Organisation Committee;

(1) S.I.1999/700 to which there are amendments not relevant to these regulations.

- (f) the Diocesan Board of Education for any diocese of the Church of England and the Bishop of any Roman Catholic Church diocese any part of which is comprised in the area of the local education authority who maintain the school or (in the case of proposals to establish a new 16 to 19 institution) whom it is proposed should maintain the proposed school; and
 - (g) subject to paragraph (2), each objector.
- (2) Where objections to a proposal take the form of a petition (that is to say a document containing the text of one objection signed by more than one objector) the Secretary of State may comply with the requirement in paragraph (1) by –
- (a) notifying the person (if any) who appears to him to have arranged for the petition to be sent to the Council; or
 - (b) if there is no such person, notifying the objector whose name appears first on the petition.
- (3) The Secretary of State may only approve proposals with modifications if the Council has consented to the modifications.

Implementation of proposals

10.—(1) The Council is prescribed for the purposes of paragraph 1(3) of Schedule 7A (which provides that at the request of persons prescribed the Secretary of State may modify proposals or specify a later date by which an event must occur).

(2) For the purposes of paragraphs 1(3) and (4) of Schedule 7A (which provides that after consulting prescribed persons the Secretary of State may modify proposals which have been approved, specify a later date by which an event must occur, or determine that paragraph 1(2) of Schedule 7A should not apply) the following persons are prescribed —

- (a) the Council;
- (b) the governing body of the school (or, in the case of a proposal to establish a new 16 to 19 institution, the temporary governing body established under section 34 of the Education Act 2002);
- (c) the local education authority who maintain, or whom it is proposed should maintain, the school; and
- (d) where the school is a special school each local education authority who maintain a statement of special educational needs in respect of a registered pupil at the school.

Provisions relating to paragraph 3 of Schedule 6 to the School Standards and Framework Act 1998

11.—(1) Proposals fall within paragraph 3(2A) of Schedule 6 to the 1998 Act (which provides that the requirement to make a decision under paragraph 3(2) of that Schedule in the case of proposals of a prescribed description only applies if, at the time when the decision falls to be made under that sub-paragraph, the School Organisation Committee are satisfied that the proposals do not relate to any relevant proposals) if —

- (a) they relate to the same school as any relevant proposals,
- (b) they relate to any other secondary school or proposed secondary school which is maintained or is proposed to be maintained by the same local education authority as maintain the school which is the subject of the relevant proposals, or
- (c) (where the relevant proposals are made under section 51 of the Further and Higher Education Act 1992) they relate to any secondary school which is in the area of the same local education authority as the further education college which is the subject of the relevant proposals.

- (2) For the purposes of paragraph 3(2B) of that Schedule “relevant proposals” are —
 - (a) any undetermined proposals published by the Council pursuant to regulation 5; and
 - (b) any undetermined proposals made by the Council under section 51 of the Further and Higher Education Act 1992 where such proposals are made —
 - (i) with a view to meeting recommendations made in the report of an area inspection under section 65 of the 2000 Act; or
 - (ii) with a view to promoting one or more of the relevant objectives referred to in section 113A(2)(b).
- (3) For the purposes of paragraph (2) proposals are undetermined if the Secretary of State has not —
 - (a) approved or rejected them under section 113A, or
 - (b) made a decision as to whether or not to make an order under section 16 or 27 of the Further and Higher Education Act 1992 in relation to those proposals.