

Report of Children's Services Select Committee Working Group

Review of Consultation Arrangements on School Closures

Background

1. Following the general reaction to proposals to close and/or amalgamate a number of primary schools in the Borough during 2005, the Cabinet Member for Children's Services asked the Children's Services Select Committee to review the policies and arrangements for consultation on proposed school closures. The Select Committee appointed a Working Group comprising:-

Councillors: Nottingham (Chairman of the Working Group)

Ahmed

Ms. Boleyn

Mrs. Dunn

Ms. Partridge

Mr. Smith

Reverend Wickens

Mr. Lynch

Ms. Verdegam

to undertake the detailed work and make appropriate recommendations.

2. This is the report of the Working Group deliberations and our recommendations are unanimous.

Terms of Reference

3. At our first meeting we agreed the following Terms of Reference:-
"To review the current Council policy and general arrangements for consulting stakeholders and other interested parties on prescribed school closures and other prescribed changes and to make recommendations to the Cabinet Member for Children's Services".
4. The Director of Children's Services subsequently set out the following five specific issues on which he and the Cabinet Member would appreciate clear recommendations:-

- (a) How should the consultation be brought into the public domain?

- (b) For what period should a consultation be undertaken?
 - (c) What level of detail should be included in the consultation document?
 - (d) Beyond the publication of the consultation document, what consultation activities should be undertaken?
 - (e) Who should be consulted?
5. Although strictly speaking not part of our Terms of Reference, we spent some time considering the decision-making process prior to consultation, because we believe those processes, and those who are actively involved in those processes, can have a major impact on the subsequent consultation process. We therefore make some observations about the pre-consultation decision-making process.
6. Again, although not part of our Terms of Reference, we heard a range of comments about the operation of the Schools Organisation Committee (SOC) and, subject to the enactment of the proposed legislation which would eliminate the requirement for an SOC, recommend a review of the way the Dudley SOC currently operates.

Review Process

7. We met as a Working Group on three occasions. Amongst a wide range of background information, we reviewed:-
- (a) the provisions of the Schools Standards and Framework Act 1998 and associated Regulations and Guidance Notes;
 - (b) the Council's Consultation Strategy and Guide;
 - (c) the Children's Services Standard Operating Procedures for Consultation Documents;
 - (d) by way of example, the consultation documents which were issued in relation to the proposals for Holt Farm and Olive Hill Primary Schools and the Cradley High School;
 - (e) the policies, procedures and some sample consultation documents from other local authorities, although these were not necessarily intended to be examples of best practice.
8. We invited representatives from the various groups which comprise the SOC to present their views and we were very grateful to representatives from the Association of Governing Bodies, the Church of England and Roman Catholic Churches and the Learning and Skills Council for their attendance at our meeting. Councillor Walker, on behalf of the Local Authority Group on the SOC also gave evidence. Mrs. Stroud, the former legal adviser to the SOC was unable to attend, but submitted a very helpful written contribution.
9. Our attention was also drawn to a letter from the DfES who had undertaken an investigation into complaints raised by members of the public about the consultation process undertaken by the Authority during the Primary School Review. The DfES

concluded that both the Authority and the SOC had met statutory requirements and did not act unreasonably but highlighted the following issues which the Authority should consider in future school reorganisations. The DfES said the Local Authority should:-

- > consider carefully how it handles future school reorganisations;
- > consider providing more detailed information in consultation leaflets;
- > provide more time for parents and the public during consultations;
- > for school closures, provide the SOC with a statement as to whether the school has been inspected in the last three years and the outcomes of the inspection;
- > use a standard template for information to be provided to the SOC.

10. During the course of our deliberations, the Children's Services Select Committee were formally consulted on the proposals to close Halesowen Church of England Primary and Cradley High School and we were, therefore, as it were, involved at first hand in the consultation process. This practical experience was, of course, extremely useful background in helping to frame our recommendations.

Statutory Requirements

11. Proposals to reorganise mainstream primary and secondary education by way of, for example, school closures are governed by the provisions of the Schools Standards and Framework Act 1998 (the Act) and associated Regulations and Guidance Notes. The process can be summarised as:-

Consultation → Publication of Proposal → Representation → Decision → Implementation

12. The legislation does not prescribe a specific process for consultation on school reorganisation proposals. Section 28(5) of the Act simply states that, before publishing any proposals, the Council "*shall consult such persons as appear to them to be appropriate and in doing so should have regard to the Secretary of State's guidance*". The guidance lists a number of parties which the Secretary of State believes should be consulted.
13. Whilst no time limits are set, or models of consultation prescribed, the guidance states that proposals must "*allow adequate time and provide sufficient information for those being consulted to form a considered view on the matters on which they are being consulted*".
14. Central to the legal obligation to consult before publishing a proposal, is the principle that the Council must take into account the views of interested parties when shaping its proposals and indeed, show that these views have been taken into account once the proposal is published.

15. The legislation makes a clear differentiation between the consultation phase, which must occur prior to publication of a proposal and the representation phase, whereby objections to (or support for) proposals can be publicly noted, principally to inform the decision-making process.
16. The decision makers (i.e. the SOC or the School Adjudicator) are directed by the Secretary of State's Guidance to consider a number of factors before determining a specific proposal, including:-
 - (a) the effect of the proposed closure on educational standards in the local area;
 - (b) whether adequate alternative provision exists for the displaced pupils;
 - (c) what the views of local interested parties are;
 - (d) what the effect on education finances will be;
 - (e) whether there are any special issues of transport, equal opportunities or community cohesion to take into account.
17. It therefore follows that a thorough appraisal of the proposals must have been made by the proposers before taking the decision to publish a proposal and secondly, to submit that proposal for approval.

The Key Points Made To Us

18. We heard a wide range of views about the consultation process – some, of course, were heavily influenced by the particular interests or backgrounds of the individuals who made them, and may have been based more on perception than fact, although that makes them no less worthy of consideration.
19. The following list summarises what seemed to us to be the key points, which were worthy of specific consideration (in no particular order of importance or priority):-
 - (a) Generally, objectors to the proposals considered the process to be rushed and inadequate and some members of the SOC felt more time could have been available.
 - (b) The consultation process was considered by some to have not been fully programmed, with particular reference to the calling of Special Area Committee after proposals had been published and very close to the end of the consultation period.
 - (c) Notwithstanding the emotional responses of some objectors, the reasons behind some of the proposals should have been more fully set out in consultation documentation.
 - (d) Steps should be taken to ensure statistics used in consultation documents are consistent with other publicly available statistical sources.
 - (e) Consultation material should be made available, as a matter of course, in minority ethnic languages.
 - (f) Where school closures were being proposed, more robust information on alternative school places should be made available.

- (g) Where the ultimate implementation of proposals was dependent on the availability of capital investment, proposals should not be promulgated until the capital investment had been secured.
- (h) Recognising the potential for political conflict on contentious proposals, steps should be taken to try and secure political consensus before proposals are made public.
- (i) In a similar vein, there should be timely dialogue with local ward councillors likely to be directly affected by the proposals.
- (j) Arrangements should be made for timely dialogue/notification with Governing Bodies affected by proposals, preferably before they are publicly released.
- (k) More financial and budgetary/financial appraisal information should be included in the consultation documentation.
- (l) If at all possible, there should be formal consultation with workforces affected by proposals before they are publicly released.
- (m) A full “community impact assessment” should be undertaken prior to the publication of proposals and a summary of the assessment should be included in the consultation documentation.
- (n) Concerns were raised that certain sections of a local community affected by a proposed school closure did not appear to have engaged with the consultation process to the same degree as others.
- (o) Proposals to close a secondary school in advance of the completion of the Secondary Review suggests undue haste and a less than full review process.

20. The overall process on the original proposals to close the primary schools placed considerable pressures and burdens on both the Cabinet Member and senior and other officers who had to deal with a wide range of, often very hostile, reaction and response. With hindsight, we question whether this placed an unreasonable burden on those involved and whether, therefore, the proposals should have been phased in the context of a wider project plan. This also highlights the need for robust project management arrangements, including regular risk analysis, in accordance with the Council’s project management methodology and guidelines.

21. We have given careful consideration to all of the points raised and our recommendations are based on the following conclusions:-

- (i) that the existing length of the consultation period (i.e. 6 weeks for the consultation period prior to the publication of a proposal and 6 weeks for the representation period – a total of 12 weeks) strikes the right balance between providing sufficient time for proper, meaningful consultation, but not so long that inertia sets in and effectively “paralyses” the schools concerned;
- (ii) we did not, however, think it is particularly wise or helpful for the consultation and representation period to straddle main holiday periods;

- (iii) any proposal to close a particular school will, of course, have resulted from detailed consideration of all relevant facts and, in most cases, a detailed options appraisal. We believe relevant details on the options appraisal should be made available as part of the consultation process, with clear links to any wider review exercise, which might have been undertaken prior to the development of specific proposals;
- (iv) recognising the sensitivities of all those involved, we believe that, subject to commitments about privacy and confidentiality, it would be helpful to involve local ward and other interested Elected Members and relevant Governing Bodies in the option appraisal process which leads to the publication of the proposal;
- (v) we agree with the proposition that a full community impact assessment of proposed school closures should be undertaken and this should include input from all relevant Council Directorates and appropriate partners and stakeholders;
- (vi) the consultation documentation should, therefore, include:-
 - (a) more details to support the justification for the proposal, including the options and financial appraisal;
 - (b) details of educational achievement and the outcomes of the most recent Ofsted inspection;
 - (c) where capital investment is required, details of how that will be funded;
 - (d) details of the likely financial implications, which in the case of school closures should include an analysis of the financial and budgetary implications of not closing;
 - (e) where school closures are being proposed, information on the current and likely availability of places in alternative schools and transport arrangements;
 - (f) details of the community impact assessment, including proposals for addressing any detrimental/adverse impacts;

Where this results in a particularly lengthy document, an executive summary should be made available, clearly signposting the availability of further details for those consultees who require it;

- (vii) documentation should be made available in appropriate minority ethnic languages to ensure all sections of local communities are made aware that proposals have been made and further details can be made available in

minority ethnic languages on request.

Recommendations

22. Our recommendations in response to the five specific issues set out in paragraph 4 are, therefore:-

(a) **How should the consultation be brought into the public domain?**

We recommend that:-

- (i) subject to assurances about privacy and confidentiality, local ward councillors and other interested Elected Members, relevant Governing Bodies and Staff Representatives should be involved in the options appraisal process leading to the development of specific proposals;
- (ii) again subject to assurances about privacy and confidentiality, those persons should be invited to contribute to the consultation document, setting out their reasons for supporting, or otherwise, the proposals;
- (iii) the existing arrangements for consulting parents and other interested persons and organisations (i.e. letters and public meetings) be reviewed to explore the possibility of email communication with parents and the provision of a helpline (email and/or telephone) to provide further information if required.

(b) **For what period should the consultation be undertaken?**

We recommend that unless there are exceptional circumstances, the consultation period prior to the publication of proposals should be no more than 6 weeks and the representation period should be no more than 6 weeks i.e. a total of 12 weeks (or one full term) and the period should not straddle main School holidays.

(c) **What level of detail should be included in the consultation document?**

We recommend that, as a minimum, the following issues should be included:-

- (i) full details to support the justification for the proposal, including the options and financial appraisal;
- (ii) details of educational achievement and the outcomes of the most recent Ofsted inspection;
- (iii) where capital investment is required, details of how that will be funded;
- (iv) details of the likely financial implications, which in the case of school closures should include an analysis of the financial and budgetary implications of not closing;
- (v) where school closures are being proposed, information on the current and likely availability of places in alternative schools and transport arrangements;

- (vi) details of the community impact assessment, including proposals for addressing any detrimental/adverse impacts;

Where this results in a particularly lengthy document, an executive summary should be made available, clearly signposting the availability of further details for those consultees who require it. Documentation should be made available in appropriate minority ethnic languages to ensure all sections of local communities are made aware that proposals have been made and further details can be made available in minority ethnic languages on request.

(d) **Beyond the publication of the consultation document, what consultation activities should be undertaken?**

We recommend:-

- (i) the continuation of the existing range of consultation meetings, but (if necessary special) meetings of the appropriate Area Committee(s) and Select Committee should be scheduled into the project plan;
- (ii) consideration should be given to feedback arrangements (perhaps by way of a formal public meeting or letters/emails to respondees) on the key points raised during the consultation prior to the publication of a proposal;

(e) **Who should be consulted?**

Although we believe the existing list of consultees is generally adequate, we recommend that the list of consultees should be reviewed for each consultation to ensure a flexible approach;

- 23. We also recommend that the Directorate Consultation Policy should be reviewed and updated to reflect these recommendations, other Council's good practice and the contents of the Council's Corporate Consultation Policy.
- 24. Although not part of our Terms of Reference, we recommend that the Dudley School Organisation Committee, and/or its successor, gives consideration to a review of the way it currently operates to mirror good practice elsewhere.