

A Guide to the role of Education Scotland HM Inspectors within School Consultations

Revised August 2022

Why is the 2010 Act in place?

The Schools (Consultation) (Scotland) Act 2010 is in place to make sure that councils follow strong and accountable consultation processes when they are proposing to close schools or make other important changes to their schools. The Act makes sure that the consultation processes that councils put in place are fair. The processes are also expected to be consistent across Scotland.

Amendments to the 2010 Act

The 2010 Act was amended in Part 15 of the Children and Young People (Scotland) Act 2014. This placed a number of important new duties on councils. It also established an independent public body called the School Closure Review Panel with responsibility for considering school closure decisions that are called in by Scottish Ministers.

The Schools (Consultation) (Scotland) Act (Modification) Regulations 2017 removed permanently the need to consult on proposals to establish a new nursery school or a new class within a school, or proposals to relocate a nursery school or part of a school that is a nursery class.

The Coronavirus (Recovery and Reform) (Scotland) Act 2022 amends the 2010 Act in relation to education authorities holding public meetings and making available hard copies of documents within the context of a public health crisis.

What is covered by the Act?

There are different types of proposal that trigger the consultation process. These are proposals to:

- Discontinue permanently a school (this includes special schools and nursery schools) or a stage of education in a school (this includes years in secondary school or all nursery classes in a primary school or a special class in a mainstream school or where the council proposes to discontinue Gaelic medium provision);
 - establish a new school or stage of education (except a nursery school or a nursery class) in a school;
 - relocate a school or part of a school (except a nursery school or nursery class);
 - vary any admission arrangements for a school, including the catchment area or modify the guidelines for placing requests (note that these two types of changes are illustrative rather than exhaustive);
 - vary the arrangements for the transfer of pupils from a primary to a secondary school;
 - change the school commencement date of a primary school;
 - vary the arrangements for the constitution of a special class in a school other than a special school;
 - discontinue arrangements for the provision of transport by the council for pupils attending a denominational school;
 - change a denominational school into a non-denominational school; and
 - discontinue a further education centre which is managed by the council.
-

What is the role of HM Inspectors working within Education Scotland?

- HM Inspectors are involved in every proposal that a council consults on within the terms of the Act.
- HM Inspectors must review the council's proposal paper along with other relevant documents. The review will have a particular focus on the educational aspects of the proposal.
- The council must hold and be present at the public meeting during the consultation period. HM Inspectors sometimes attend and observe the public meeting. However, when they do attend, they are not allowed to participate in any discussion or debate. If they don't attend, then the council must provide HM Inspectors with a written summary of the meeting.
- HM Inspectors must prepare a professional and independent report on the educational aspects of the proposal being consulted on.
- In preparing their report, HM Inspectors will consider the council's proposal paper. They will also take account of written responses that the council has received, a summary of oral representations made at the public meeting held about the proposal and any other relevant documents.
- HM Inspectors may visit schools affected by the proposal when they are preparing their report. In this case, it is possible that they will meet parents, children and staff so that they can hear their views about the proposal.

What happens once HM Inspectors have written their report?

- When HM Inspectors have written their report, they will send it to the council. Once they have done this, they have no more involvement with the proposal, unless it is called in by Ministers and being considered by the Review Panel. If this happens, Ministers and the School Closure Review Panel may call on advice from HM Inspectors.
- The council must review its proposal in the light of any written and oral representations it has received and HM Inspectors' report.
- The council then needs to publish its final consultation report which will contain the full text of HM Inspectors' report as well as a statement from the council stating how it has taken account of any written and oral representations and HM Inspectors' report. The council will make the final decision.

Further details are available in the Schools (Consultation) Scotland Act 2010 Statutory Guidance (May 2015)

<http://www.gov.scot/Publications/2015/05/4615>

Further information on the School Closure Review Panel can be found at: <http://scrp.scot/>

Education Scotland

Denholm House
Almondvale Business Park
Almondvale Way
Livingston EH54 6GA

T +44 (0)131 244 4330

E enquiries@educationscotland.gov.uk

www.education.gov.scot