

SCHOOLS (CONSULTATION) (SCOTLAND) ACT 2010 TIMELINE

The following timeline has been prepared to guide authorities on planning a consultation under the requirements of the Schools (Consultation) (Scotland) Act 2010. It applies from 30 March 2015.

Phase One: For rural school closure proposals only, the education authority must meet the preliminary requirements before publishing such a proposal paper

The authority has to:

- identify its reasons for formulating the proposal.
- consider whether there are any reasonable alternatives to the proposal as a response to those reasons.
- assess, for the proposal and each of the alternatives, the likely educational benefit; the likely effect on the local community; and the likely effect of any different travelling arrangements.
- decide, in light of this assessment, whether or not implementation of the closure proposal would be the most appropriate response to the reasons for the proposal. If the authority concludes that closure is the most appropriate response it should proceed to Phase Two.

Phase Two: An education authority consults on a proposal – for a minimum of six weeks, including at least 30 school days

The authority has to:

- prepare a proposal paper, which must include an educational benefits statement and all other required information, including:
 - for closure proposals, financial information.
 - for rural school closure proposals only, an explanation of the reasons for the proposal, the steps (if any) the authority took to address those reasons before formulating the proposal or why it did not take such steps, any alternative(s) to the proposal and the authority's assessment of these alternatives, and the reasons why the authority considers implementation of the proposal the most appropriate response to the reasons for the proposal.
- publish the proposal paper, advertise the fact and notify Education Scotland and relevant consultees as prescribed by schedule 2 of the 2010 Act
- give the relevant consultees notice of the proposal which would include:
 - a summary of the proposal, where to obtain a copy of the proposal paper and how to make written representations
 - the closing date of the consultation, which will be a minimum of six weeks to include at least 30 days of term time
- give advance notice of the date, time and venue of the public meeting(s) about the proposal to the relevant consultees and Education Scotland
- where an inaccuracy or an omission in the proposal paper is alleged or discovered, investigate and determine whether there is an inaccuracy or omission and whether it is material, complying with section 5 of the 2010 Act.
- following the end of the consultation, provide Education Scotland with copies of the written representations, a summary of oral representations made at the public meeting(s) and any other relevant documentation.

Phase Three: Preparation of Education Scotland's report on the educational aspects of the proposal - to be completed within a maximum of three weeks

The three week period begins **once** Education Scotland receives the proposal paper and other relevant documentation (timing should normally be agreed between Education Scotland and the education authority well in advance). HM Inspectors will consider the educational aspects of the proposal, including:

- the educational benefits statement
- the representations received by the education authority
- any further written representations made directly to Education Scotland on any educational aspect of the proposal which is considered relevant.
- undertaking consideration of the proposal.
- finalising the report within a maximum of three weeks, although this can be extended by agreement between the authority and Education Scotland, and sending it to the authority.

Phase Four: Consultation report - within no specified timescale, the authority prepares and publishes a consultation report

The authority publishes a consultation report. It must contain:

- an explanation of how it has reviewed the proposal
- the Education Scotland report
- a summary of points raised during the consultation – both written and oral – and the authority's response to them; and
- the substance of any alleged inaccuracies or omissions and details of the authority's response and action taken.
- an explanation of the Ministerial call in process and the opportunity for individuals to make representations to the Scottish Ministers in relation to call in.
- For rural school closure proposals, the authority is also required to explain the authority's further assessment (carried out as part of the review of the proposal under section 9(1)) of the likely educational benefits; the likely effect on the local community; and the likely effect of any different travelling arrangements for the proposal and each of the alternatives identified by the authority; as well as its assessment of these factors for any other reasonable alternative suggested in representations. It must also explain if this assessment differs in from its earlier assessment under section 12A(2)(c)), and whether and, if so, why the authority considers implementation of the proposal to be the most appropriate response to the reasons for the proposal.

Phase Five: Authority decision - a minimum of three weeks after the publication of the consultation report the authority publishes its final decision

The authority takes its final decision on the proposal and implements the decision.

However, **where the authority makes a closure decision**

- it must notify Scottish Ministers within six working days of making the decision, starting with the day on which the decision is made, and send a copy of the proposal paper and its consultation report.
- it must also at the same time publish a notice on its website that the Scottish Ministers have been notified. The notice shall also make clear the opportunity to make representations to Ministers, where these representations are to be sent and the deadline for submitting them.
- in the case of a rural school closure proposal, the authority must also publish a notice on its website of its decision to implement the proposal and why it is satisfied that implementation is the most appropriate response to the reasons for formulating the proposal (section 11A(3) to the 2010 Act), and send this notice to the Scottish Ministers with its notification of the decision.

If the authority **decides not to proceed with a closure proposal**, Phase Eight applies.

Phase Six: Ministerial call in, only where the authority makes a closure decision - a maximum of eight weeks

Ministers have the power to call in an authority's decision, but **only** in relation to school closure decisions and **only** where it appears to Ministers that the authority may have failed (a) in a significant regard to comply with the Act's requirements imposed on it by (or under) the 2010 Act so far as they are relevant to the closure proposal, or, (b) to take proper account of a material consideration relevant to its decision to implement the proposal.

This phase consists of:

- An initial three weeks from the date of the authority's decision, during which anyone can make representations to Ministers on whether the decision should be called-in.
- Up to a further five weeks for Ministers to decide whether or not to issue a call-in notice. Ministers may require information from the authority during this period.

During the eight week period, the education authority may not proceed to implement the proposed closure, unless Ministers have informed the authority that they do not intend to call in the proposal. However, such a decision will not be before the three week period for representations to be made to them has elapsed.

Phase Seven: School Closure Review Panel Determination, a maximum of nine or 17 weeks

If Ministers call in a closure proposal, it is referred to the Convener of the School Closure Review Panels. The Convener must within the period of 7 days beginning with the day on which the call in notice is issued constitute a School Closure Review Panel.

In determining a closure proposal, the Panel may:

- refuse consent to the proposal,
- refuse consent and remit it to the education authority for a fresh decision,
- grant consent to the proposal, either subject to conditions, or unconditionally.

The education authority may not implement its proposed closure in whole or in part until the Panel has made its determination. The Panel must notify the education authority of its decision within 8 weeks from when the Panel was constituted or within 16 weeks if the Panel has issued a notice to the education authority that a decision has been delayed.

Phase Eight: Restriction on school closure consultation for five years

If the School Closure Review Panel refuses consent to the closure proposal, or, following publication of its consultation report, the authority decides not to implement the closure proposal, the authority cannot publish a further closure proposal in relation to the school for 5 years, unless there is a significant change in the school's circumstances. This period starts on the day on which the decision was made.