

By: Director - Operations
To: School Organisation Advisory Board – 14 November 2007
Subject: NEW SCHOOL COMPETITIONS
Classification: Unrestricted

Summary: To seek Members agreement to the proposed procedure for opening new schools via a competition process.

FOR INFORMATION

Introduction

1. The Education Act 2004 placed a requirement on Local Authorities (LAs) to undertake a competition to seek a promoter when it considers there is a need for a new secondary school. The Education and Inspection Act 2006 extended these provisions to cover primary schools also. This report explains the legislation, its implications, and sets out the LA's proposed process and indicative timeline (in flow chart form). Some elements of the timeline are prescribed in statute or statutory guidance.

The Purpose of the Legislation

2. The Government wishes to see LAs adopt a strategic commissioning role and to step back from being a direct provider of education services. Accordingly, LAs can no longer assume that a new school will be a community school. LAs are required to advertise in the local press, asking for interested promoters to come forward to run any new school. The LA can submit its own proposal in response to a competition, but only if it has "Excellent" authority status under the Corporate Performance Assessment, or it has permission from the Secretary of State. Failing authorities will not be able to promote a new school.

Recommended Process

3. (1) Appendix 1 sets out the proposed LA process in flow chart form. Once a LA concludes that a new school might be required, it must undertake a public consultation to test out this view. This consultation should run for at least 6 weeks. The difference between this consultation and our current process is that it relates solely to the perceived need for the school. It may propose a specification for the school, for example two forms of entry, on an identified site, with nursery provision. It will not make any reference to what type of school would be created (i.e. community, foundation, voluntary).

(2) It is proposed that the School Organisation Advisory Board (SOAB) considers Officer suggestions that a new school is required and advises Officers and Mark Dance (Cabinet Member for Operations, Resources and Skills [CFE]) on whether or not a consultation should be undertaken. If consultation is undertaken, the Department for Children, Schools and Families (DCSF) will appoint parent engagement consultants to support and encourage responses.

(3) It is also proposed that the outcome of the consultation is reported back to SOAB, which will advise the Cabinet Member as to whether or not to proceed to publish

a competition notice. Either the Cabinet Member or Cabinet will make the decision. This is considered to be a key decision.

(4) The invitation to bid (known as the first public notice) will be published in a local newspaper. There is a four month period during which bids can be submitted. The DCSF will bring the opportunity to bid to the attention of possible promoters.

(5) At the end of the four month bid period, the LA has three weeks to issue a second public notice which “publishes” the proposals received and the LA comments on these. This notice triggers a 6 week representation period (2 months for special schools).

(6) Following the representation period, the LA has two months to determine the competition. However, if the LA has submitted a proposal, it cannot determine the consultation, instead the Schools Adjudicator is the decision maker. The decision maker can accept, reject or modify the proposals. Any modification requires further consultation before the decision is made. It is proposed, therefore, that when the LA is the decision maker, the SOAB considers the proposals received, and LA comments on these, to advise the Cabinet /Cabinet Member’s decision.

(7) There is no opportunity to appeal against the decision made in respect of a competition, regardless of whether the LA or the Schools Adjudicator is the decision maker.

Recommendation

4. Members are asked to agree the proposed procedure (Appendix 1) for operating a “New School” competition and to note the indicative timeline.

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Background documents:

Education Act 2004
Education and Inspections Act 2006