

All Appendices to John Loughborough School December 2012 report EXCEPT
EqIA

Appendix 1

Report for:	Cabinet Committee	Item Number:	
Title:	Options for the Future of John Loughborough School		
Report Authorised by:	Libby Blake – Director Children and Young People’s Service		
Lead Officer:	Jan Doust		
Ward(s) affected: All	Report for Non Key Decisions:		

1 Describe the issue under consideration

- 1.1 John Loughborough is a small secondary school with an admission limit of 300 pupils. It is a Voluntary Aided church school owned and operated by the South England Conference of Seventh-day Adventists (SEC) but maintained by the local authority.
- 1.2 Five inspections in the past ten years have shown a decreasing capability of the school to achieve the standards expected. The most recent was an inspection in December 2011 which, for the second time, placed the school in ‘special measures’. This report is the result of a review initiated by the Director of Children’s Services to examine the school’s educational and financial viability and options for its future.

2 Cabinet Member introduction

- 2.1 A number of agencies have provided extensive support to help John Loughborough to improve its standards in the last 10 years, including Haringey Council, The Seventh day Adventist Church and London Challenge. Despite this there has been a history of inadequate performance in the school helping its pupils to achieve high standards. Most recently this was articulated in an Ofsted report, the second in succession, which found the school to need ‘special measures’.

2.2 C&YPS officers have worked with members of the Seventh day Adventist Church on a review of the school which examined a wide range of options for its future and have concluded that only two options are open. One of these options, which will be pursued by the Seventh Day Adventist Church, is to establish the school as a sponsored academy. The other option, and the one proposed herein to Cabinet, is to consult on the closure of the school. Both of these options would be pursued in parallel, to avoid delay in finding the best solution for current and future cohorts of pupils.

2.3 I therefore recommend to Cabinet that the Local Authority consults on closure of the school. This consultation could be terminated should the Church secure an academy proposal and sponsor that is approved by the Secretary of State.

3 Recommendations

3.1 Following careful consideration of the underperformance of John Loughborough School and the lack of success in attempts to create sustained improvement from other methods of intervention, it is recommended that the Cabinet agrees to commence consultation on closure of the school.

3.2 Further, it is recommended that Cabinet agrees to authorise the Lead Member for Children Services, in consultation with the Director of C&YPS, responsibility for deciding whether to issue a Statutory Notice proposing closure, following the completion of the consultation period. The issuing of a Statutory Notice would mark the start of a six-week representation period, following which the final decision on the future of the school would be taken by Cabinet.

3.3 In parallel with this process, the South of England Conference of Seventh Day Adventists (SEC) will work to identify a sponsor that is confident that they could overcome the challenges identified in the review and support the school to become an academy. The Local Authority would terminate consultation on school closure if the Secretary of State enters into academy arrangements following any approval for an academy application by SEC for the school.

4 Other options considered

4.1 The following options were considered by the review group:

- Continuation of current strategy for school improvement.
- Soft Federation
- Hard Federation
- Amalgamation
- Suspension of delegated authority and/or the establishment of an Interim Executive Board (IEB) by the Local Authority.
- Conversion to an academy

- Closure

4.2 The options appraisal is included in full in the review report (see Appendix 1), and summarised below:

- Continuation of current strategy for school improvement – This option is not recommended because several different school leadership teams, supported by extensive advice and funding from a range of sources, have failed to secure a sustainable solution to achieving the high educational standards that should be expected for pupils, parents, the Council and the SEC.
- Soft Federation – This option is not recommended as an option because it is unlikely that a ‘soft federation’ (where no formal governance is in place) will be any more successful than the previous attempts over some years using the same approach. The option would not deal with the school’s fundamental weaknesses in leadership and teaching, nor improve its popularity.
- Hard Federation - This option is not recommended because it is unlikely that an acceptable hard federation with an outstanding school can be established to achieve the expected outcomes, aligned to the faith ethos of John Loughborough School.
- Amalgamation - This option is not recommended because it is unlikely that within the expected timescale there is another successful school that would be prepared to undergo the challenge of amalgamation with John Loughborough school
- Suspension of delegated authority and/or the establishment of an Interim Executive Board (IEB) by the Local Authority – This option is not recommended as a long term solution because it has already been tried and proved unsuccessful in establishing sustained improvement.
- Conversion to an academy. In the right circumstances, the Government is supportive of schools converting to Academies. An academy is an approach that has not been tried previously and which, with the right sponsor, may have some potential to secure sustained improvement. The review concluded that the South of England Conference would pursue this option, based on their wish to see the continuation of the school.
- Closure. This option is recommended to Members as the preferred option which would best mitigate the high risk of current and future generations of pupils having an unsatisfactory education at the school.

4.3 The review concluded that the last two options, Academy status and closure, should be explored further and would be best done in parallel – the former led by SEC the latter by the Local Authority - to avoid delay in finding the best solution for current and future cohorts of pupils.

5 Background information

5.1 John Loughborough School was originally established in 1980 in response to the dissatisfaction of Seventh Day Adventist parents of African Caribbean heritage with their children's poor level of attainment in London schools. It was established with the objectives of providing Christian education for Seventh-day Adventists and the wider faith community, and addressing the poor levels of academic attainment prevalent amongst pupils of black ethnicities at that time.

5.2 In 1998 the Secretary of State for Education and Employment approved the school's application for Grant Maintained status. This new status was implemented in September 1998. A year later the school was converted to Voluntary Aided (VA) status as a result of government legislation removing Grant Maintained schools from the education structure.

5.3 Ofsted and HMI inspections have shown that in recent years it has not been possible for the school to consistently deliver an acceptable standard of education. The school has been in an Ofsted category of concern since February 2007, and the most recent inspection in December 2011 placed the school in 'special measures' for the second time because in the view of the inspectors:

'...it is failing to give its students an acceptable standard of education and the persons responsible for leading, managing or governing the school are not demonstrating the capacity to secure the necessary improvement.'

5.4 Following discussion with the school's Chair of Governors and Education representatives of the SEC, the Director of Children's Services decided that there should be a formal review of the viability of the school to enable Cabinet to reach a decision about its future.

5.5 The school currently falls within the scope of the powers of the Secretary of State to either issue an Academy Order, direct an Interim Executive Board or direct closure. The Local Authority is required to write to the Secretary of State explaining the circumstances of any school that is subject to two subsequent periods in an Ofsted category of concern. The decision of Cabinet will provide the basis on which to write to the Secretary of State.

5.6 In April 2012 the Council established a review team, with representatives from Haringey Council and SEC and external challenge provided by an experienced educational consultant familiar with the school. The full report of the review team is attached at Appendix 1 and summarised below.

5.7 The review covered:

- The demand for places at the school by Seventh Day Adventist families and the services that the school provides to these families;

- The quality of education provided by the school, including the reasons for the poor outcomes and the potential for securing rapid and sustained improvement;
- The financial viability of the school in the current circumstances;
- The position of the school within Haringey's overall place planning requirements and the implications of any change in these arrangements for school organisation planning;
- Recommendations on the actions that must be taken with respect to the school in the short, medium and long term.

5.8 The objectives of the review were to:

- establish a clear decision about whether the school is:
 - Educationally viable
 - Financially viable
- If the school is both educationally and financially viable, establish:
 - The options for the most effective way to secure rapid and sustained improvement;
 - The recommended option for improvement
 - The processes and structures to ensure this is achieved
 - The outcomes expected by key milestones
 - The consequences of outcomes not being achieved.
- If the school is judged to be unviable either educationally or financially, establish:
 - The options available to SEC, LBH and DfE
 - The recommended option of the review team.

5.9 The review team examined trends in key performance indicators over 5 to 10 years. The evidence included:

- Ofsted reports of full inspections and monitoring visits
- Raiseonline data, especially outcomes for pupils
- Attendance
- The performance of minority groups
- Parental preference for school admissions
- Annual budget out-turns

5.10 Review conclusions:

- i. The review team unanimously concluded that the school as currently organised has not been educationally viable because the quality of education it provides has been consistently inadequate. The main reason for these poor outcomes is largely the inability of the leadership of the school over the last five years to establish a culture of high expectations matched by effective teaching in all classes.

- ii. The school was established to meet the needs of Seventh Day Adventist (SDA) parents, although only about one third of pupils are now from SDA families. The school is selected by very few parents as a preference of secondary school for their children at age 11. A number of parents do choose the school in later years when in-year admissions help to fill vacant school places. Pupils joining the school through this route usually continue for the duration of their secondary education.
- iii. A number of consultant school leaders working with specialist advisers have previously attempted to turn the school around, without securing significant and sustained improvement. The SEC has provided extensive support both financial and advisory, again without a sustained impact on outcomes. The recent appointment by the SEC of a consultant headteacher has shown some early signs of improvement, but such indicators have been evident in earlier attempts and this experience suggests that the use of such consultants is not a sustainable solution in the long term.
- iv. Up to 2008 the school managed its budget effectively. In 2008 the pupil roll fell, leading to a large deficit. The SEC implemented a plan to eliminate the deficit by 2013, by which time it considers that the school will once more be viable. The Local Authority has some reservations about viability because of the sustained improvements that must be made in educational outcomes in order to give confidence to prospective parents selecting secondary schools.
- v. A comprehensive range of statutory intervention measures available to the Local Authority has been used previously, including suspension of delegated powers and establishing an Interim Executive Board in 2007. The IEB had some beneficial impact in the short term in establishing a new leadership team and improving governance. However, in October 2009, by which time the school had resumed responsibility for its own governance and leadership, it was judged to require special measures by Ofsted.
- vi. The review examined the potential of a wide range of options for securing rapid and sustained improvement.
- vii. All parties to the review concluded that the only potential option that might retain John Loughborough School would be for the school to become a sponsored academy. It was agreed that the SEC would work to secure a sponsor that is confident that they could overcome the challenges identified in the review and support the school to become an academy. In parallel with this, the Local Authority would put a proposal to consult on closure before the Council's Cabinet. This will not negate further work to secure a sponsor, as consultation can be terminated if the Church secures an acceptable academy proposal and sponsor that is approved by the Secretary of State. Pursuing both options in parallel will avoid delay in finding the best solution for current and future cohorts of pupils.

5.11 Closure process and options - The five statutory stages for closing a school are summarised in the table below, with indicative timescales:

Statutory Stage	Description	Timescale
1	Consultation on proposed closure	Recommended minimum of six weeks – <i>October-November 2012</i>
2	The publication of a statutory notice setting out the proposal in detail	One day
3	Representation – an opportunity for stakeholders to express views on the proposals.	Must be six weeks and cannot be shortened or lengthened to take into account school holidays – <i>January-February 2013</i> .
4	Decision – final decision on whether the closure should go ahead, having considered all of the relevant information.	Within two months of the representation period finishing – <i>Spring 2013</i>
5	Implementation – the school closes	As set out in the published statutory notice, subject to any modifications agreed – <i>from September 2013</i>

5.12 There are three key decision points where members will decide on how to proceed:

- The first decision is whether to commence consultation on closure. This report recommends that Cabinet agrees to begin that process.
- The second decision is whether, following the first period of consultation, the Council issues a Statutory Notice setting out proposals for closure (and initiating the representation period). It is recommended that Cabinet agrees to authorise the Lead Member for Children’s Services, in consultation with the Director of C&YPS, the responsibility for this decision
- The third is to take the final decision on whether or not to close the school. It is recommended that this is a Cabinet decision.

5.13 It is proposed that closure commences from September 2013. The possible arrangements for managing closure fall under three broad approaches:

- Phased closure – the school closes to new year 7 pupils from September 2013 but remains open for all current pupils to complete their secondary education with John Loughborough
- Immediate closure and transfer – the school closes in July 2013 and all pupils transfer to other local schools in September 2013
- Some combination of the two e.g. upon closure pupils in the lower years transfer to other local schools whilst older pupils remain and sit their GCSEs at John Loughborough

5.14 Please see Appendix 2 ‘Options for the closure of John Loughborough school’ for further detail on these approaches and the implications for the overall provision of secondary school places in Haringey.

5.15 At this stage, no preferred option for closure is being put forward. If it is agreed following the consultation period that the proposal should proceed to the next stage then we will publish a Statutory Notice setting out a detailed plan for closure of the school that takes into account both the outcomes from the consultation and the initial findings from the EqIA. There would then follow a statutory period of representation in which stakeholders can comment on the plan that is put forward. Whichever approach is taken, we want to ensure that:

- Affected children have access to education that is good or outstanding
- Parents/carers are able to have their say in what they want for their children
- Any transition does not impact negatively on affected children's progress

5.16 It is currently projected that from 2018/19, based on current admission limits, there will be insufficient year 7 places to meet demand. Around this time, the number of places will need to be increased to accommodate the higher numbers of children currently working their way through the primary sector. If John Loughborough School closes, the date for this increase in year 7 places may need to be brought forward by one or two years. There are viable alternatives for how to meet this increased demand within the remaining secondary school provision.

6 Comments of the Chief Finance Officer and financial implications

6.1 The Head of Finance for Children and Young People's Service contributed to the review by assessing the school's financial viability, concluding that the school provides poor value for money because it delivers an inadequate education for children. From the Council's perspective the school is not financially viable because, in the current funding methodology, it requires extensive and sustained financial and resource support from the SEC.

6.2 It is also clear that the changes to Education Funding being proposed from April 2013 will provide further financial challenges to small schools generally and therefore John Loughborough School specifically.

6.3 At the end of the 2011-12 financial year John Loughborough School had moved to a position of having a small deficit (c£52,000) with a 2012-13 budget being set to extinguish this remaining deficit; this represented the finalisation of the budget recovery plan supported through additional sums provided by the SEC. At the point of closure any remaining balance (either surplus or deficit) will revert to the Dedicated Schools Grant (DSG)

6.4 The closure of a school also brings a number of financial challenges as it is sometimes difficult to match the resources needed to maintain a satisfactory educational provision for the pupils remaining to those resources available. Consideration of the management of the financial

issues associated with closure will also therefore be important should the ultimate decision be for the school to close.

6.5 If the SEC is successful in identifying a sponsor to take forward the academy proposals, any surplus remaining would, under normal circumstances, transfer to the successor academy although a deficit would again revert as a charge against the Council's DSG.

7 Head of Legal Services and legal implications

7.1 The Head of Legal Services has been consulted and advised on the review and notes the contents of the report.

7.2 *The School Organisation (Establishment and Discontinuance of Schools)(England) Regulations 2007 (as amended)* made under the *Education and Inspections Act 2006* (the 'EIA') provide that those publishing proposals bringing forward statutory proposals to discontinue a school must consult with interested parties and in doing so must have regard to the Secretary of State guidance.

7.3 The Department for Children, Schools and Families (now the Department for Education) *Closing a Maintained Mainstream School - A Guide for Local Authorities and Governing Bodies*, contains both statutory and non statutory guidance on the process for closing a maintained mainstream school which the Local Authority must have regard to. This guidance is attached at Appendix 4 to this report.

7.4 The Head of Legal Services confirms that there are no legal reasons preventing Members from approving the recommendations in the report

8 Equalities and Community Cohesion Comments

8.1 An Equalities Impact Assessment (EqIA) has been initiated and is attached at Appendix 3. This is an initial assessment of the potential impact of closure, based on the findings of the review and consideration of relevant data. It will be updated following the consultation period to address any issues arising from consultation and to provide further assessment of any detailed proposal for closure that may then be put forward. It will be further updated following the representation period, should the proposal reach that stage. This will ensure that equalities considerations inform each decision that is taken.

8.2 The proposal to consult on closure flows from the review team's judgement that all other options open to the Local Authority carry an unacceptably high risk of current and future generations of pupils continuing to receive an unsatisfactory education. Nevertheless, school closure would cause significant disruption to existing pupils and reduce the range of secondary school choices available to prospective pupils.

8.3 Undoubtedly, closure would have a negative impact on those Seventh Day Adventist families who prefer their children to be educated in a school that embodies the ethos of their religion (over a third of current pupils are Seventh

Day Adventists). John Loughborough is the only state Seventh Day Adventist secondary school in the country. Stanborough School in Watford is a Seventh Day Adventist secondary school, however it is a considerable distance away and is fee-paying so would not be a suitable alternative for many parents.

- 8.4 The disruptive effect of closure on pupils attending John Loughborough School would disproportionately fall on pupils from BME groups, as no White British pupils currently attend. Relative to Haringey secondary schools overall there are particularly high proportions of Black Caribbean, Romany Gypsy, East European and Latin/Central/South American pupils, therefore these groups would be particularly affected.
- 8.5 Whilst John Loughborough has a relatively low proportion of pupils with SEN, they nevertheless are a vulnerable group who could be particularly affected by closure of the school (though this could be mitigated by good transition planning).
- 8.6 Potentially set against these negative impacts is the opportunity for school closure to lead to current and would-be future pupils receiving a better quality of education elsewhere. This potential positive impact cannot yet be assessed in detail as no specific proposal for closure is being put forward at this stage. It will be a central consideration when evaluating possible arrangements for closure and will be looked at in relation to the protected groups.
- 8.7 Specific actions to mitigate negative impact and maximise positive impact will be identified as part of putting forward a detailed proposal for closure. Any proposal will be informed by the initial findings of the EqIA:
- Maximising positive impact – consider potential for closure to improve educational attainment for current and future pupils
 - Religion – consider suitability of arrangements for different religious groups (including choice of alternative schools available), whether any group would be disadvantaged and how this could be avoided or minimised
 - Ethnicity – proposals will need to be cognisant of the predominant ethnic groups amongst John Loughborough pupils and consider suitability of proposed arrangements in light of this. Any proposal for transfer of pupils will need to consider historical attainment of predominant ethnic groups in receiving schools.
 - SEN – proposals will need to take into account the needs of pupils with SEN. The Council's inclusion Service will be involved in further work on options.
- 8.8 Whilst in the review the most significant consideration was given to the needs of pupils to receive a good education, closure would also have an impact on the staff at the school. In the consultation period, the staff of the school will form an important consultative group where their views will be gathered and considered. In the event of school closure a separate Equalities Impact Assessment would be carried out as part of the process.

9 Policy Implications

9.1 Council Priority 4: Improve school standards and outcomes for young people.

The report outlines the concerns about the quality of education at John Loughborough school, which does not meet with the Council's vision, aim and expectation that all children have the opportunity to achieve their potential.

9.2 Resources

Significant resources, including a major capital investment through Building Schools for the Future (supported by a £500k contribution from SEC) and revenue in the form of grants to support school improvement have not been built on by the school to secure improvements. The school does not therefore give value for money because of the inadequate education it provides.

9.3 Staff

Any proposal to close John Loughborough School would also affect school staff. Proposed changes to their employment would be the subject of a separate staff and trade union consultation, supported by a specific Staffing Equalities Impact Assessment.

10 Use of Appendices

- Appendix 1 – John Loughborough Review report June 2012
- Appendix 2 – Options for the closure of John Loughborough School
- Appendix 3 – Equalities Impact Assessment
- Appendix 4 – Closing a Maintained Mainstream School - A Guide for Local Authorities and Governing Bodies

11 Local Government (Access to Information) Act 1985

The review on which this report is based drew on a wide range of information, principle amongst which was:

- The appendices to this Cabinet paper
- Ofsted inspection reports on the school from 2002 to 2011 (10 reports)
<http://www.ofsted.gov.uk/inspection-reports/find-inspection-report/provider/ELS/102167>
- *Schools Causing Concern – guidance for Local Authorities*
<http://www.education.gov.uk/aboutdfe/statutory/q00192418/scc>
- School Standards and Framework Act 1998
<http://www.legislation.gov.uk/ukpga/1998/31/contents>
- Education and Inspections Act 2006 (“the 2006 Act”)
<http://www.legislation.gov.uk/ukpga/2006/40/contents>
- Apprenticeships, Skills, Children and Learning Act, 2009 (ASCL Act)
<http://www.legislation.gov.uk/ukpga/2009/22/part/10/chapter/1>
- The School Governance (Transition from an Interim Executive Board)(England) Regulations 2010 (Transition Regulations)
<http://www.legislation.gov.uk/uksi/2010/1918/contents/made>
- Academies Act 2010
<http://www.legislation.gov.uk/ukpga/2010/32/contents>
- Education Act 2011
<http://www.legislation.gov.uk/ukpga/2011/21/contents>
- *Closing a Maintained Mainstream School* (Feb 2010) – Department for Children, Schools and families (now the Department for Education)
<http://dera.ioe.ac.uk/11215/>
- *The School Organisation (Establishment and Discontinuance of School) (England) Regulations 2007 (as amended)*
<http://www.legislation.gov.uk/uksi/2007/1288/contents/made>
- *Equality Act 2010*
<http://www.legislation.gov.uk/ukpga/2010/15/contents>

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Appendix 2

Children's Service

Review of John Loughborough School

June 2012

1. JOHN LOUGHBOROUGH SCHOOL - BACKGROUND

- 1.1. The John Loughborough Seventh-day Adventist Voluntary Aided School is situated in the London Borough of Haringey in Tottenham, North London. It is owned and operated by the South England Conference of Seventh-day Adventist Church (SEC) but publicly funded.
- 1.2. The school has been in operation since April, 1980.
- 1.3. The John Loughborough School was established firstly because of the dissatisfaction of the Seventh-day Adventist parents of African Caribbean heritage with their children's poor academic performance provided by London schools. A further driver was that African Caribbean parents were troubled by the destabilising of their children and weakening of their religious values in secular schools.
- 1.4. The main purposes for the creation of The John Loughborough School were:
 - To provide Christian education for Seventh-day Adventist children and the wider faith community.
 - To counter the Black children's underachievement problems that existed in London schools.
- 1.5. In 1998 the Secretary of State for Education and Employment approved the school's application for Grant Maintained status. This new status was implemented in September, 1998. A year later the school's was converted to Voluntary Aided (VA) status as a result of the government legislation, removing Grant Maintained schools from the education structure. The decision by the South England Conference to pursue the Voluntary Aided status was primarily for three reasons:
 - To provide Seventh-day Adventist children in the London area with greater access to Christian education;
 - To improve the provision of learning resources for the school;
 - To strengthen the financial viability of the school.
- 1.6. In December 2011 an Ofsted inspection concluded that the school should be placed in 'Special Measures'.
- 1.7. The December 2011 Ofsted judgement is the latest in a pattern of 12 inspections over the last 10 years which shows it has not been possible for the school to consistently deliver an acceptable standard of education. Therefore, in March 2012 the Local Authority proposed to conduct a review of the school, in partnership with SEC, that would lead to a decision about the future of the school.
- 1.8. John Loughborough school now falls within the scope of the powers of the Secretary of State to either issue an Academy Order, direct an Interim Executive Board or direct closure. The Local Authority is required to write to the Secretary of State explaining the circumstances of any school that is subject to two subsequent periods in an Ofsted category of concern.
- 1.9. Following discussion with the Chair of Governors and Education representative of the SEC, the Director of Children's Services decided that there should be a formal review of the viability of the school and invited the SEC to work in partnership with the Authority.
- 1.10. From January 2012 the school has been working with a consultant headteacher from Chingford Foundation School, appointed by SEC.

2. THE REVIEW FRAMEWORK

2.1. The review covered:

- The demand for places at the school by Seventh Day Adventist families and the services that the school provides to these families;
- The quality of education provided by the school, including the reasons for the poor outcomes and the potential for securing rapid and sustained improvement;
- The financial viability of the school in the current circumstances;
- The position of the school within Haringey's overall place planning requirements and the implications of any change in these arrangements for school organisation planning;
- Recommendations on the actions that must be taken with respect to the school in the short, medium and long term.

2.2. Additionally the review was cognisant of the founding purposes of John Loughborough school which are outlined in paragraphs 1.4 and 1.5 above.

2.3. The review was under-pinned by an Equalities Impact Assessment.

2.4. The objectives of the review were to:

- establish a clear decision about whether the school is:
 - Educationally viable
 - Financially viable
- If the school is both educationally and financially viable, establish:
 - The options for the most effective way to secure rapid and sustained improvement;
 - The recommended option for improvement
 - The processes and structures to ensure this is achieved
 - The outcomes expected by key milestones
 - The consequences of outcomes not being achieved.
- If the school is judged to be unviable either educationally or financially, establish:
 - The options available to SEC, LBH and DfE
 - The recommended option of the review team.

2.5. The review team comprised representatives from both Haringey Council and SEC. An experienced educational consultant provided external challenge to the review team's analysis and judgements. The review team reported to the Deputy Director Children's Services as the project sponsor and subsequently to a project panel comprising Director, Deputy Director and Lead member for Children's Services.

2.6. The review team examined trends in key performance indicators over 5 to 10 years. The evidence included:

- Ofsted reports of full inspections and monitoring visits
- Raiseonline data, especially outcomes for pupils
- Attendance
- The performance of minority groups
- Parental preference for school admissions
- Annual budget out-turns

Data considered is included at Appendix 1.

3. CONCLUSIONS

- 3.1. The review team unanimously concluded that the school as currently organised has not been educationally viable because the quality of education it provided has been inadequate. The main reason for these poor outcomes is largely the inability of the leadership of the school over the last five years to establish a culture of high expectations matched by effective teaching in all classes.
- 3.2. The school was established to meet the needs of Seventh Day Adventist (SDA) parents, although only about one third of pupils are now from SDA families. The school is selected by very few parents as a preference of secondary school for their children at age 11. A number of parents do choose the school in later years when in-year admissions help to fill vacant school places. Pupils joining the school through this route usually continue for the duration of their secondary education.
- 3.3. A number of consultant school leaders and specialist advisers have attempted to turn the school around without significant and sustained improvement. The SEC has provided extensive support both financial and advisory, without a sustained impact on outcomes. The recent appointment by the SEC of a consultant headteacher has led to early signs of improvement but such indicators have been evident in earlier attempts and this approach is not a sustainable solution in the long term.
- 3.4. Up to 2008 the school managed its budget effectively. In 2008 the pupil roll fell, leading to a large deficit. The SEC implemented a plan to eliminate the deficit by 2013, by which time it considers that the school will once more be viable. The Local authority has some reservations about viability because of the improvements that must be made in educational outcomes in order to give confidence to prospective parents selecting secondary schools.
- 3.5. A comprehensive range of statutory intervention measures available to the Local Authority has been used previously, including suspension of delegated powers and establishing an Interim Executive Board. Once the school has taken back responsibility for its own leadership progress has not been sustained, as evidenced in subsequent Ofsted inspection reports.
- 3.6. The review examined the potential of a wide range of options for securing rapid and sustained improvement.
- 3.7. All parties to the review concluded that only one potential option is open to retain John Loughborough School – for the school to become a sponsored academy. If a sponsor cannot be secured by end July, a proposal to consult on school closure will be put before the Council's Cabinet Committee. This will not negate further work to secure a sponsor, but will enable the lengthy timescales for school closure to proceed in parallel.

4. RECOMMENDATIONS

- 4.1. The review recommends a 'twin track' approach to finding an academy sponsor and to consult on school closure. Progress made by the SEC to secure an academy sponsor will be taken into account by the Local Authority in its statutory processes. If a sponsor is secured and agreed by the Secretary of State, the Local Authority will terminate its closure consultation process.

5. THE REVIEW FINDINGS

The review team considered the school's viability from both an educational and a financial perspective. It concluded that:

Educational viability:

- 5.1. The school as currently organised is educationally unviable because:
- it is not achieving sufficiently high standards and outcomes for its children. Attainment in the 5+ A*-C GCSE (incl English & Maths) indicator is below the floor target and has been falling over the last three years. Whilst a key weakness in mathematics appears to be showing some improvement this year, by itself this would not be enough for the school to come out of a category of concern, especially under the new Ofsted framework.
 - Ofsted reports have judged the progress that pupils make to be inadequate in each of the last four inspections. Pupil progress in the school is now very weak compared to most schools nationally. The attainment and progress of Black African pupils is of particular concern because it is poor in both English and Maths.
 - the evidence from successive inspection reports shows that teaching, leadership and management is ineffective. The school is in the 9% of secondary schools nationally judged 'inadequate' and no other school in Haringey has exhibited such little improvement in full Ofsted inspections in the past five years.

Financial Viability:

- 5.2. Until 2008, the school managed its budget effectively, but in 2008 pupil numbers, and consequently revenue, fell. The SEC established a recovery plan and has supported the school to recruit pupils and reduce yearly deficits and staff costs. The SEC forecasts the school to have a balanced budget by 2013, beyond which it believes that the school will be financially viable.
- 5.3. The Local Authority has identified potential challenges to future financial viability, based on the patterns of parental preferences at year 7, changes to schools' funding and, more significantly, the quality of education that could be provided from the available resources.
- 5.4. The school has had very substantial financial support from the SEC, the Local Authority and government in the past five years. It is clear from the outcomes achieved that this investment has not provided the value for money that might have been expected.
- 5.5. Conversion to an Academy might enable the school to deliver good educational outcomes on a cost-effective basis, but the case for this approach is yet to be evaluated.

6. THE OPTIONS CONSIDERED

6.1. The review team considered a number of options to address the educational and financial viability of the school. The options fell into two categories – those within the powers of the local authority and those within the powers of the Secretary of State.

6.2. The Local Authority has powers to:

- appoint new governors
- remove the delegation of the school's budget
- require a badly performing school to link up with a well performing one
- create an interim executive board
- close, merge or otherwise re-organise the school
- request an Ofsted inspection

6.3. Apart from directing the Local Authority to use its powers of intervention, the Secretary of State also has powers to:

- appoint additional governors
- direct the closure of the school
- appoint an Interim Executive Board
- Make an Academy Order

6.4. With these powers in mind, the following options were considered:

- Continuation of current strategy for school improvement.
- Soft Federation
- Hard Federation
- Amalgamation
- Suspension of delegated authority and/or the establishment of an Interim Executive Board (IEB) by the Local Authority.
- Academy status
- Closure

Evaluation of the Options:

Option 1: Continuation of current strategy for school improvement.

This option is not recommended because to continue with this approach without extensive structural change in leadership or teaching would prove poor value for pupils, parents, the Council and the SEC.

Many schools have had weaknesses from time to time and there is a body of experience which demonstrates that applying effective leadership and management to improve teaching quality can progressively lead to good outcomes for pupils. This experience has been the subject of very well resourced interventions in John Loughborough for many years, including links with leading schools.

Nevertheless, the overall quality of leadership and teaching has remained stubbornly inadequate. The review team did not seek to further define the reasons for such sustained inadequacy, but it is clear that the long term ineffectiveness of school leadership, the size of the school and its inspection history each place important constraints on the pool of potential leaders and teaching recruits available.

Since January 2012 the SEC and governing body have engaged a consultant headteacher, from another school. Whilst the school and SEC feels empowered in this approach and has greater ownership of change, the review team agreed that this approach is unsustainable in the medium or long term. Similar arrangements have been tried several times previously with other experienced headteachers, funded by London Challenge or by the Church and working as consultants. Such history suggests that however good the current support is from another school, without some fundamental structural change it is unlikely to have a lasting impact on improvement at John Loughborough.

This option is not likely to be acceptable to the Secretary of State.

Option 2: Soft Federation

This is not recommended as an option because it is unlikely that a 'soft federation' (where no formal governance is in place) will be any more successful than the previous attempts over some years using the same approach. The option would not deal with the school's fundamental weaknesses in leadership and teaching.

The option is not likely to be acceptable to the Secretary of State.

Option 3: Hard Federation

This option is not recommended because it is unlikely that an acceptable hard federation with an outstanding school can be established to achieve the expected outcomes, and particularly one aligned to the particular faith ethos of John Loughborough School.

The option is unlikely to be acceptable to the Secretary of State outside an academy order.

Both soft and hard federations have reportedly been discussed as ways forward previously and dismissed as viable options by the school.

Option 4: Amalgamation

This option is not recommended because it is unlikely that within the expected timescale there is another successful school that would be prepared to undergo the challenge of amalgamation with John Loughborough school. Amalgamation is also likely to require fundamental changes to the nature of John Loughborough's SDA ethos. The school site is too small for higher numbers of pupils and the other options of split sites or wholesale removal to another site would create major challenges.

The option is not likely to be acceptable to the Secretary of State.

Option 5: Suspension of delegated authority and/or the establishment of an Interim Executive Board (IEB).

This option is not recommended as a long term solution because it has already been tried and was unsuccessful in establishing sustained improvement. An IEB was established following the 2007 Ofsted inspection. Despite extensive resources to support the school and the best endeavours of the IEB to establish rapid change, including the appointment of a new headteacher and a revised governing body, the Ofsted reports in 2009 and 2011 showed that improvements were not embedded and that fundamental weaknesses remained.

As a Local Authority action, the option is not likely to be acceptable to the Secretary of State. It is also not a long-term solution, merely an 'enabling step' for other processes.

Option 6 : Academy status

The review concluded that the South of England Conference should pursue this option.

With the right sponsor, the option has the potential to provide good access to the skills, expertise and resources needed to make the school successful. Any sponsor would need to be approved by the Secretary of State.

Option 7 : School Closure

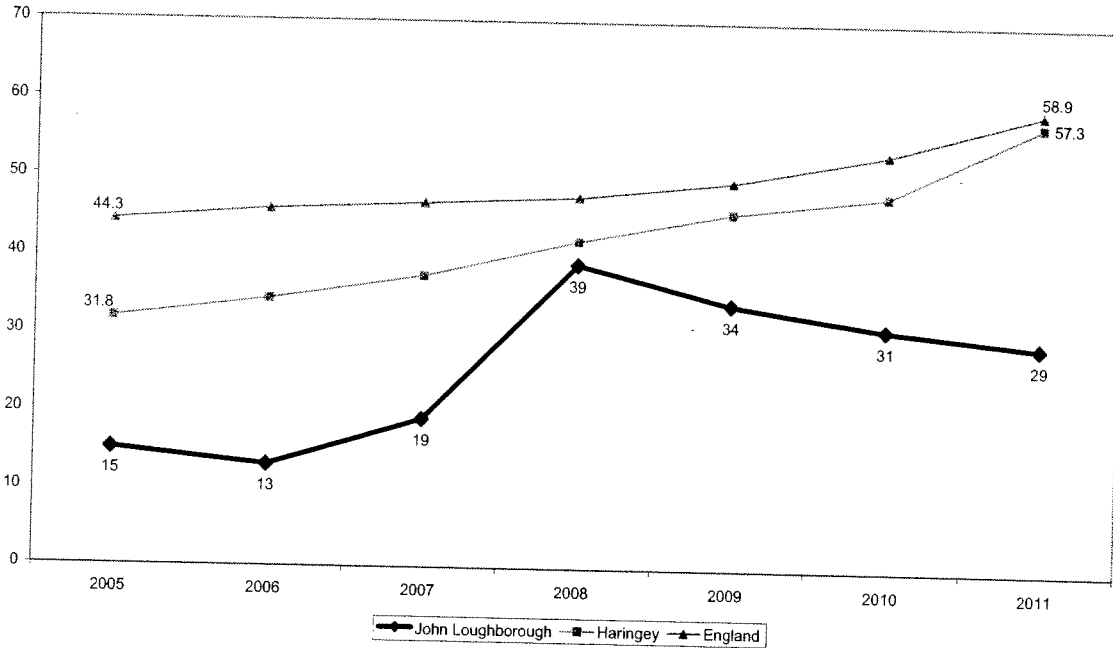
This option is recommended as the only option available under the Local Authority's powers which mitigates the high risk of current and future generations of pupils having an unsatisfactory education at the school. If this recommendation is adopted solution, the authority has statutory responsibilities for a consultation process.

Appendix 1 – Data considered by the review group

1) Attainment at GCSE

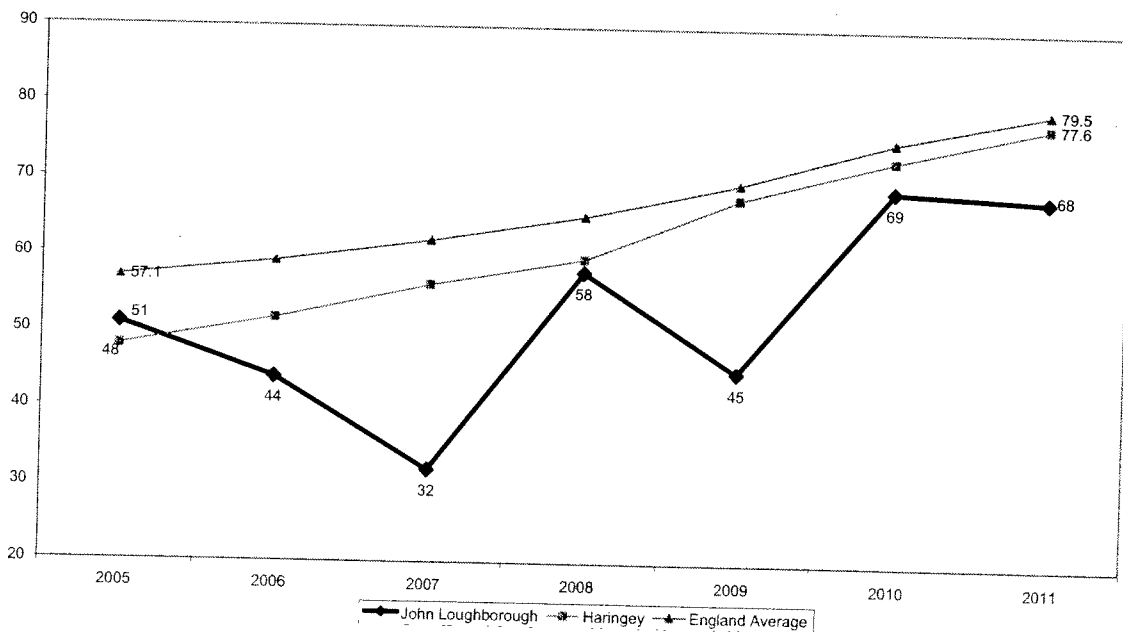
1(a) GCSE 5+ A* - C (including English and maths)

Trend in 5+ A* - C (including English and maths)



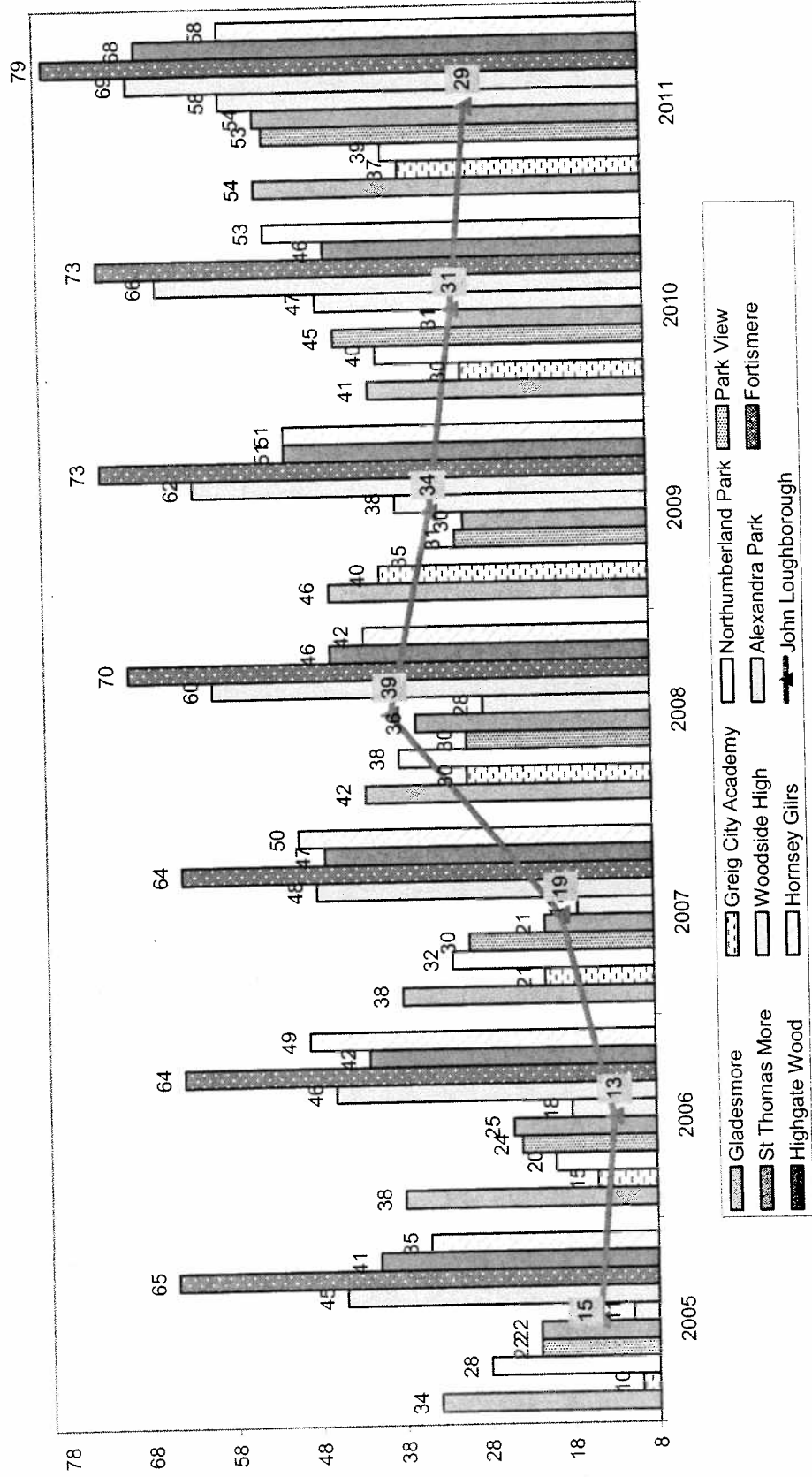
1(b) GCSE 5+ A* - C

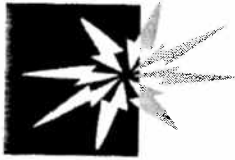
Trend in 5+ A* - C



1(c) Comparison to other Haringey schools

Trend in 5+ A* - C (inc English and maths) for John Loughborough compared to other Haringey schools (2005-2011)





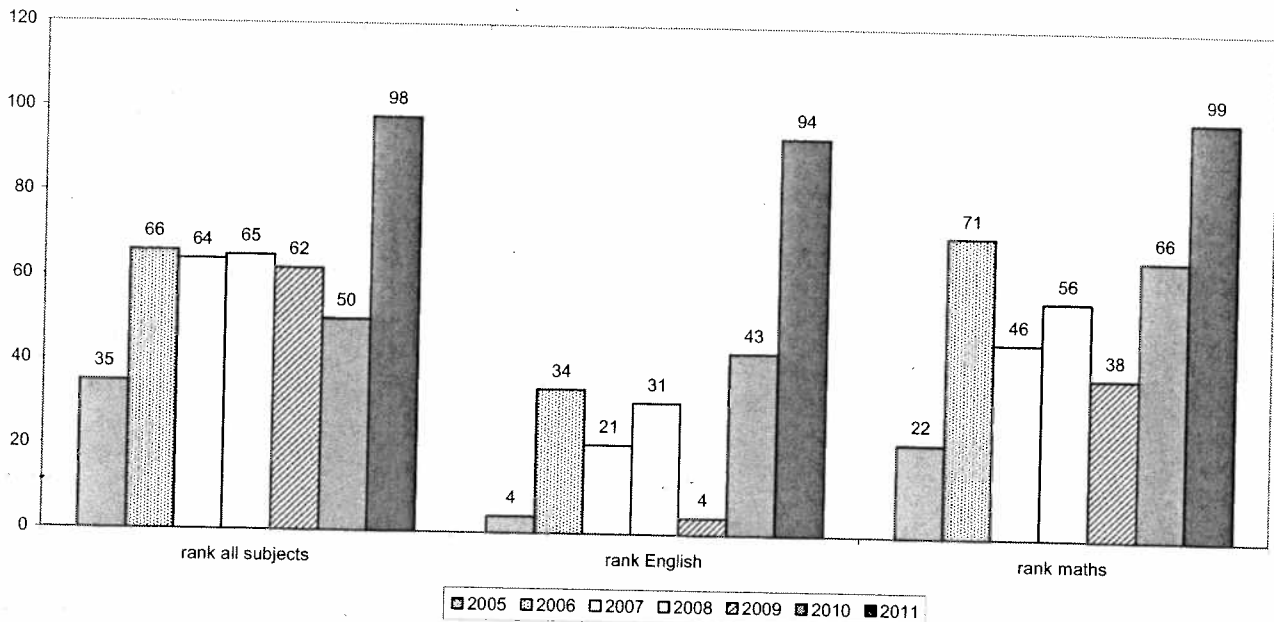
Haringey Council

1(d) Trend in the ranking of the school using contextual value added (2005-10) and value added (2011)

'Contextual value added' is a way of measuring the progress pupils make from Key Stage 2 to GCSE that takes into account factors such as gender, ethnicity, eligibility for free school meals and levels of special educational needs. In 2011 the Department for Education replaced 'contextual value added' with 'value added' – this measure disregards any such contextual factors.

John Loughborough rank trend
 2005-10 ranking uses contextual value added, 2011 ranking uses value added
 2011 rank for all subjects uses best 8 subjects

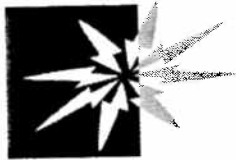
The rank number gives the school's position compared to all other schools in England. A rank of 1 is in the top 1 percentile, a rank of 94 is in the bottom 6th percentile.



1(e) Basics thresholds by Ethnicity - 2011

The table below shows the percentage of pupils attaining the 'basics indicator' (grade C or above in both English and Maths GCSE) in 2011. Figures are broken down by ethnicity and provided for both the school and the national average. Figures for small cohorts of pupils have been excluded for data protection reasons.

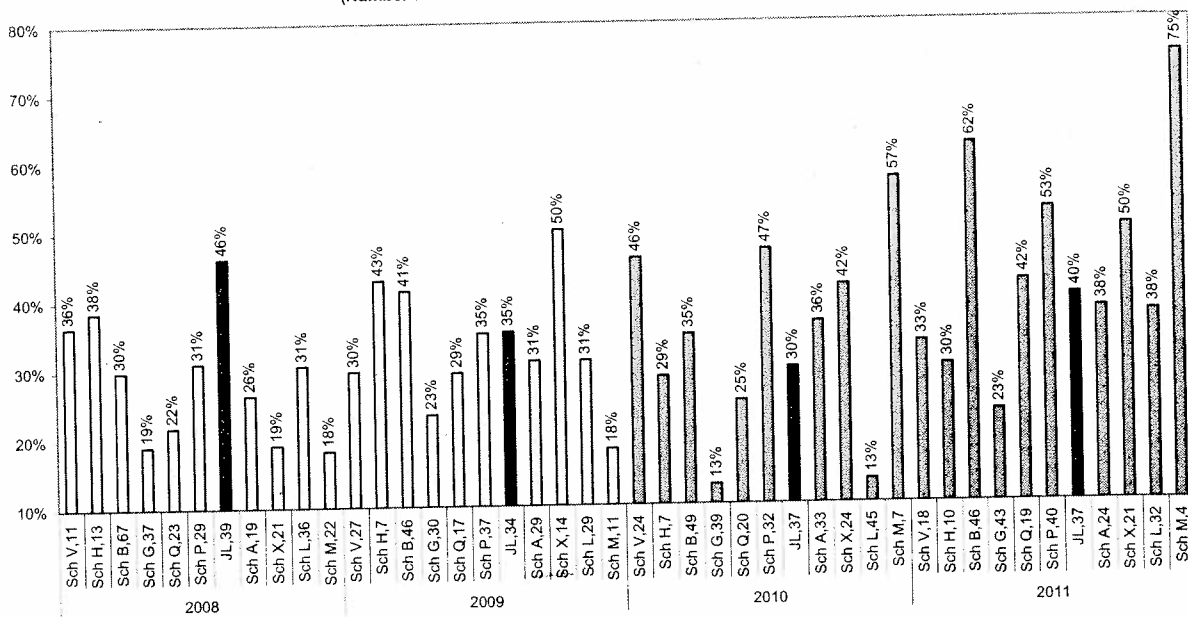
Ethnicity	No. pupils in cohort 2011	English		Maths		Basics - English and Maths	
		% School	% National	% School	% National	% School	% National
Black Caribbean	35	69	65	40	55	40	49
Black African	18	50	69	28	66	17	58
All Pupils	60	57	68	33	64	28	58

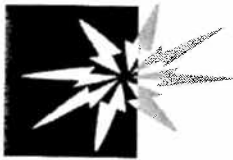


1(f) and (g) Caribbean and African attainment – comparison with other Haringey schools

The charts below show the percentage of Caribbean and African pupils attaining 5+ A*-C (including English and Maths) at all Haringey secondary schools.

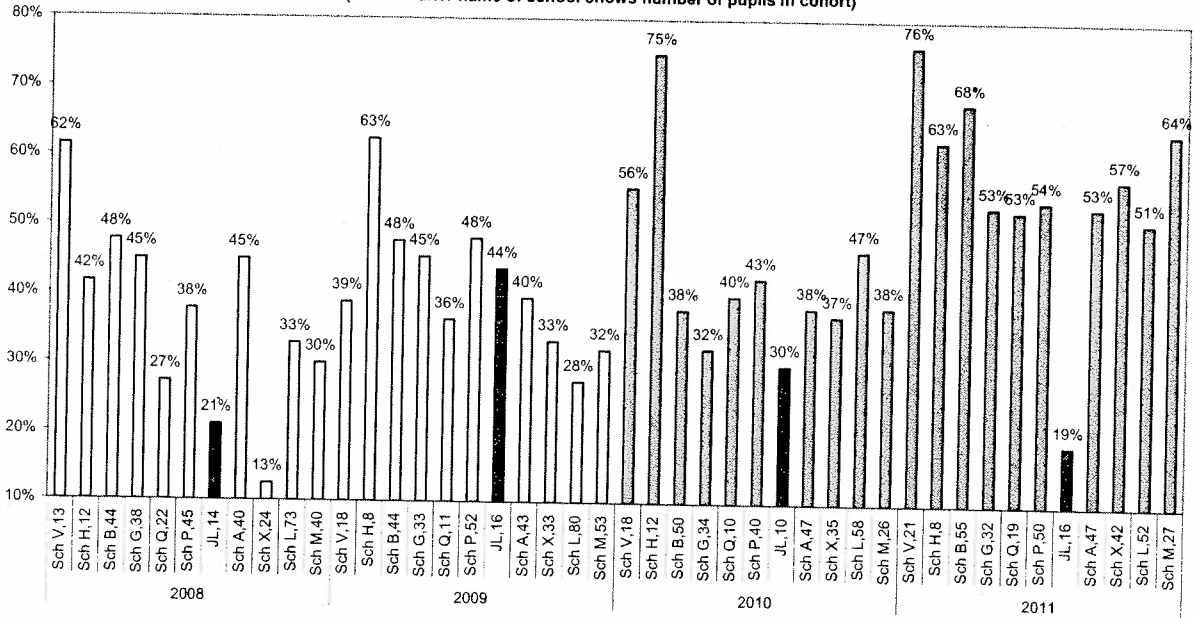
Trend in 5+ A* - C (including English and maths) for Caribbean pupils in Haringey schools (2008-2011)
(Number after name of school shows number of pupils in cohort)





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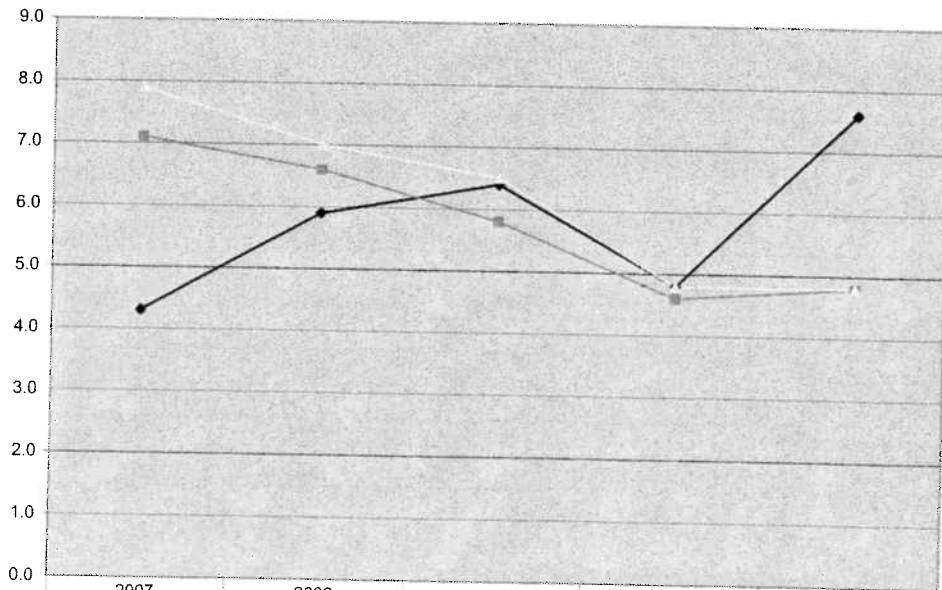
Trend in 5+ A* - C (including English and maths) for Black African pupils in Haringey schools (2008-2011)
(Number after name of school shows number of pupils in cohort)



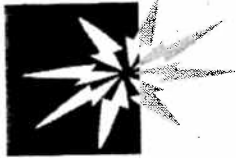
2) Attendance

2(a) Persistent absentees

% Persistent absentees - absent for 20% or more sessions



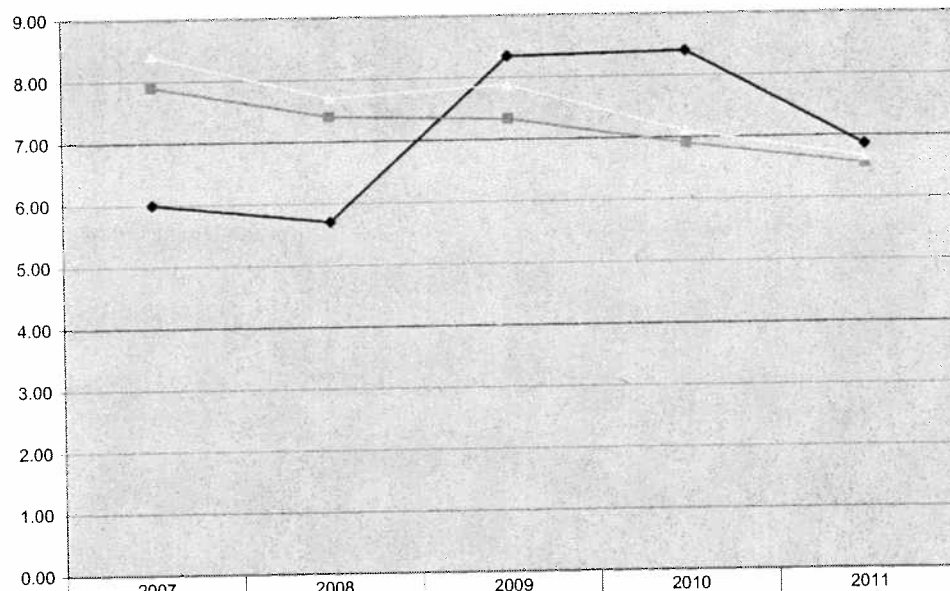
	2007	2008	2009	2010	2011
—●— School	4.3	5.9	6.4	4.8	7.6
—■— National - secondary	7.1	6.6	5.8	4.6	4.8
Median trendline for school's FSM level	7.9	7.0	6.5	4.8	4.8



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2(b) Overall absence

% of sessions missed due to overall absence



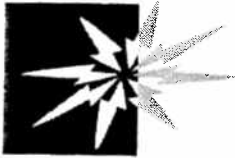
	2007	2008	2009	2010	2011
—●— School	6.00	5.70	8.34	8.40	6.86
- - -■- National - secondary	7.90	7.40	7.33	6.90	6.55
Median trendline for school's FSM level	8.40	7.70	7.88	7.10	6.66

2(c) Attendance by SEN status - 2011

	% of sessions missed due to overall absence		% persistent absentees - absent for 20% or more sessions	
	School	National - secondary	School	National - secondary
No identified SEN	6.91	5.69	8.5	3.1
School Action	6.41	8.29	2.4	7.8
School Action Plus	6.51	11.58	11.1	15.3
Statement of SEN	6.34	8.82	0	9.5
All Pupils	6.86	6.55	7.6	4.8

2(d) Attendance by ethnicity – 2011

Attendance by ethnicity - 2010-11	% of sessions missed due to overall absence	% persistent absentees - absent for 20% or more sessions



Haringey Council

	School	National - secondary	School	National - secondary
White - Irish	6.93	7.13	0	6
White - Romany or Gypsy	17.56	19.34	12.5	31.1
Any other White Background	8.18	7.06	10	5.1
Mixed - White & Black Caribbean	7.46	7.91	0	7.4
Mixed - White & Black African	4.03	6.31	0	4.4
Mixed – Any other mixed background	7.54	6.63	7.7	4.8
Black - Caribbean	6.90	5.86	7.4	4.1
Black - African	5.47	4.03	9.5	1.5
Black - Any other Black background	4.23	5.44	0	3.6
Chinese	0.75	2.82	0	0.7
Any other ethnic group	6.72	5.87	5.9	3.2
All pupils	6.86	6.55	7.6	4.8



Haringey Council

3) School population data

3(a) Parental preference information

The table below shows the number of first preferences expressed for each secondary school. For 2012, the ratio of parental first preferences to the Planned Admission Number (PAN) is also shown in order to provide an indication of the popularity of schools that takes into account school size. Information showing further preferences expressed is available on request.

On offer day this year 16 places at John Loughborough were offered to parents for September 2012 entry, meaning that there are currently 44 vacancies.

School	Planned Admission Number (PAN)	First preferences					Ratio of first preferences to PAN - 2012
		2008	2009	2010	2011	2012	
Alexandra Park School	216	290	296	256	233	277	1.28
Fortismere Secondary	243	366	366	318	362	291	1.20
Gladesmore Community	243	257	250	286	281	299	1.23
Greig City Academy	200	118	108	110	115	88	0.44
Heartlands High School* ¹	189	—	—	211	224	218	1.15
Highgate Wood	243	266	257	252	234	242	1.00
Hornsey Secondary* ²	216	182	173	135	134	99	0.46
Northumberland Park	210	162	165	153	117	125	0.60
Park View Academy	216	171	167	132	138	113	0.52
St Thomas More	192	56	47	22	28	17	0.09
John Loughborough	60	20	9	13	19	12	0.20
Woodside High School* ³	162	81	70	54	77	128	0.79
Grand Total	2390	1969	1908	1942	1962	1909	0.80

*¹ For September 2012 entry, the PAN at Heartlands High was increased by 27 to 189 from 167 the previous year. Please note that this school opened in September 2010.

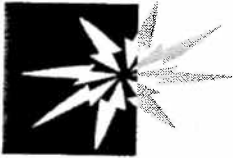
*² For September 2012 entry, the PAN at Hornsey School for Girls was lowered by 27 from 243 to 216.

*³ For September 2009 entry, the PAN at Woodside High was lowered from 8fe to 6fe or 216 to 162.

3(b) School population and mobility

The table below shows the school population broken down by year group.

Year	PAN	Pupils on Roll					Total
		7	8	9	10	11	
1999-2000	60	58	86	57	53	48	302
2000-2001	60	49	65	83	57	51	305



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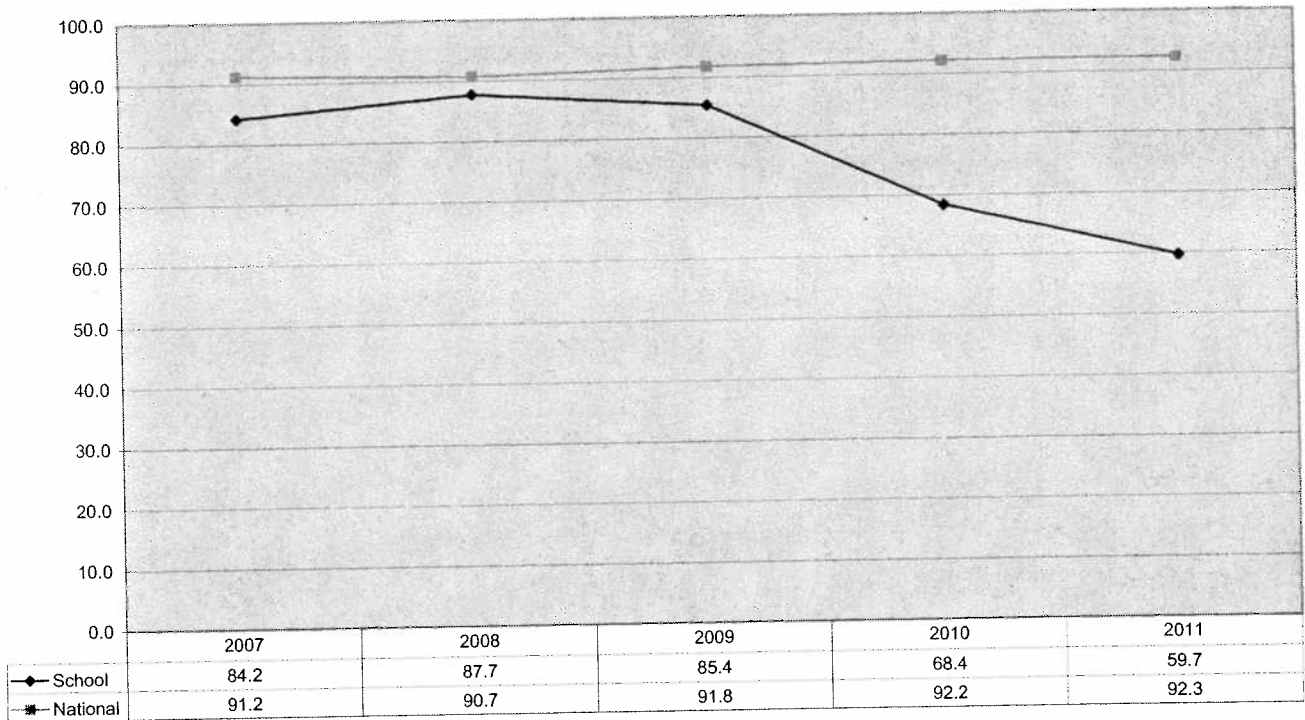
Year	PAN	Pupils on Roll					Total
		7	8	9	10	11	
2001-2002	60	53	53	63	78	60	307
2002-2003	60	48	57	53	64	78	300
2003-2004	60	59	54	62	55	58	288
2004-2005	60	58	62	56	61	55	292
2005-2006	60	59	60	60	59	55	293
2006-2007	60	59	57	57	59	60	292
2007-2008	60	55	51	54	60	57	277
2008-2009	60	37	57	48	46	59	247
2009-2010	60	26	48	64	57	52	247
2010-2011	60	45	46	58	74	60	283
2011-2012	60	40	48	61	60	71	280

3(c) Stability

RAISEonline defines stability as the percentage of pupils on roll who joined the school before October 1st in the usual join year (i.e. year 7 for secondary schools). The indicator is based on the January school census. The table below shows stability for John Loughborough compared to the national average.



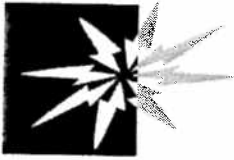
% Stability



3(d) In year admissions data

The table below provides data on in-year admissions for the period January 2011 – April 2012.

School	Total Number of In Year Admissions	Number of Pupils Allocated a Place through IYFAP	Of those pupils allocated a place through IYFAP, how many expressed the school as a preference on their application	% of in year admissions allocated through IYFAP
Alexandra Park	57	23	18	40.4%
Fortismere	55	15	11	27.3%
Gladesmore	114	78	54	68.4%
Greig City	74	15	15	20.3%
Heartlands	22	0	0	0.0%
Highgate Wood	70	15	14	21.4%

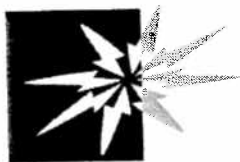


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Hornsey	45	8	6	17.8%
John Loughborough	70	18	13	25.7%
Northumberland Park	93	37	27	39.8%
Park View	116	22	11	19.0%
St Thomas More	73	14	9	19.2%
Woodside High	99	24	15	24.2%
Total	888	269	193	30.3%

The following table provides information on preferences expressed by parents/carers of pupils admitted to John Loughborough School in-year, again for the period January 2011 – April 2012.

	Year 7	Year 8	Year 9	Year 10	Year 11	Total
Total number of pupils offered a place at John Loughborough	12	19	22	14	3	70
Of those, how many expressed John Loughborough as a preference on their application	10	10	20	13	3	56
As a first preference	6	4	12	5	2	29
As a second preference	0	3	0	4	0	7
As a third preference	2	2	5	2	1	12
As a fourth preference	1	0	0	0	0	1
As a fifth preference	1	1	1	1	0	4
As a sixth preference	0	0	2	1	0	3

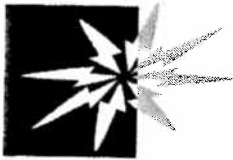


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4) Ofsted inspection outcomes

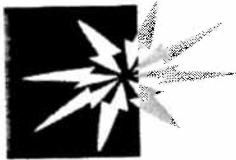
4(a) Historical inspection outcomes

Full Inspections (S10 in 2002, then S5)								
Judged Areas	4-8 Mar 2002	13-14 Feb 2007	20-21 May 2008	7-8 Oct 2009			6-7 Dec 2011	
Overall Judgement /Effectiveness Capacity for Improvement	3: 'Sound' N/A	4: Notice to improve 3: Satisfactory	4: Notice to improve (IEB) 3: Satisfactory	4: Special Measures 4: Inadequate			4: Special Measures 4: Inadequate	
Achievement Standards/ Attainment Progress	3: Satisfactory 4: Low/ well below average N/A	4: Low 3: Satisfactory 4: Inadequate	4: Low 3: Satisfactory 4: Inadequate	4: Low 4: Inadequate 4: Inadequate			4: Low 4: Inadequate 4: Inadequate	
Behaviour	3: Satisfactory	3: Satisfactory	3: Satisfactory	4: Inadequate			3: Satisfactory	
Teaching	3: Satisfactory	4: Inadequate	4: Inadequate	4: Inadequate			4: Inadequate	
Leadership & Management	"Very well led" but weaknesses in L+M relating to raising achievement	3: Satisfactory	3: Satisfactory	4: Inadequate			4: Inadequate	
Summary Areas for Development	-Improve attainment -Use assessment to promote achievement -Improve T+L in French, D+T, aspects of Sc + ICT -Teaching styles for indep/ co-operation -L+M of achievement.	-Improve standards + achievement, esp in Ma + MFL -Improve behavr -Improve T+L	- Improve standards + achievement -Use assessment to meet needs -Increase proportion of good T+L/ eradicate inadeq -Develop SEF at middle leadership level to improve achvmt.	(-Use assessment to meet needs) -Improve behavr -Increase proportion of good T+L - Improve L+M of SEND, T+L, achievement, middle leadership			-Improve attainmt esp in Ma -Improve T+L esp in Ma -Improve all levels of L+M to improve achvm	
Section 8/ Monitoring Visits		Oct 2007	Jan 2009	Mar 10	July 10	Dec 10	Mar 11	July 11
Progress since S5		N/A	N/A	3	3	3	3	3
Progress since last monitoring visit		N/A	N/A	N/A	3	3	3	3
Progress re standards/ achievement		4	3	N/A	N/A	N/A	N/A	N/A
Progress re use of assessment to raise standards			3					
Progress re behaviour		3	N/A	3	3	3	3	3
Progress re T+L		4	3	3	3	3	3	3
Progress re L+M		N/A	3	3	3	3	3	3 (2 for Middle



4(b) Comparison with other Haringey schools

School	Network	Overall grade	Inspection date	Achievement	Behaviour and safety	Quality of teaching	Leadership and management
Alexandra Park	W	Outstanding	Nov 2011	1	2/1	1	1
Fortismere	W	Outstanding	Nov 2011	1	2	2	2
Woodside High	N	Outstanding	Feb 2011	2	1	2	1
Gladesmore	S	Outstanding	Oct 2008	1	1	1	1
Greig City Academy	W	Good	Nov 2011	2	2/3	2	2
Heartlands	N	Good	Mar 2012				
Highgate Wood	W	Good	Nov 2011	2	2	2	2
Northumberland Park	N	Good	Jan 2012	2	2	2	2
Haringey 6th Form Centre	N	Good	Nov 2008	3	2	2	2
Hornsey	W	Satisfactory	May 2010	3	2	3	2
Park View Academy	S	Satisfactory	Mar 2010	3	3/2	2	2
St Thomas More	N	Satisfactory	Nov 2009	3	3/2	3	3
John Loughborough	S	Special measures	Dec 2011	4	3/2	4	4
Haringey 6th Form Centre	N	Good	Nov 2008	3	2	2	2



Haringey Council

(5) Contextual information

5(a) Ethnicity

% of pupils	2009	2010	2011
White			
British	0.0	0.0	0.0
Irish	0.0	0.0	0.7
Traveller of Irish Heritage	0.0	0.0	0.0
Romany or Gypsy	0.0	0.0	5.3
Any other White Background	1.6	6.1	9.2
Mixed			
White & Black Caribbean	0.8	0.8	0.7
White & Black African	0.4	1.2	1.4
White & Asian	0.0	0.0	0.0
Any other mixed background	0.8	2.8	4.2
Asian or Asian British			
Indian	0.0	0.0	0.0
Pakistani	0.0	0.0	0.0
Bangladeshi	0.0	0.0	0.0
Any other Asian background	0.0	0.0	0.0
Black or Black British			
Caribbean	61.8	55.5	42.8
African	28.0	24.7	25.1
Any other Black background	3.7	5.7	4.2
Chinese	0.0	0.0	0.7
Any other ethnic group	2.8	3.2	5.7
Parent/pupil preferred not to say	0.0	0.0	0.0
Ethnicity not known	0.0	0.0	0.0

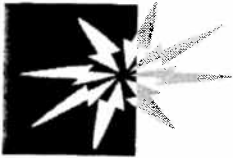
5(b) Free School Meal eligibility (FSM) & English as an Additional Language (EAL)

% of pupils		2007	2008	2009	2010	2011
FSM eligibility	School	19.9	19.6	21.7	22.9	20.6
	National	13.4	14.2	14.5	15.4	15.9
EAL	School	7.5	14.1	9.3	23.6	41.3
	National	10.5	10.6	11.4	11.7	12.3

5(c) Special Educational Needs

New categorisations for proportions of pupils with SEN were introduced in 2011 which are not comparable to previous years.

2011 data places John Loughborough School in the lowest quintile nationally for the proportion of pupils with statements of SEN or at School Action Plus and the second highest quintile for proportion of pupils at School Action.



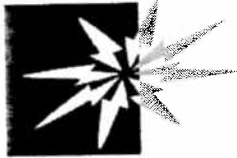
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% of pupils		2007	2008	2009	2010	2011
School Action	School					14.1
	National					12.8
School Action Plus or Statement of SEN	School					4.6
	National					8.5
Statement of SEN	School	5.8	4.7	5.3	3.2	
	National	2.1	2.1	2.0	2.0	
All SEN (inc statements)	School	14.0	12.3	19.1	19.0	18.7
	National	18.5	19.9	21.1	21.7	21.3

5(d) Religion

The table below shows the numbers of pupils at John Loughborough School who are Seventh-day Adventists. This data is extracted from the Seventh-day Adventist Trans-European Division School Statistics.

YEAR	SDA population	Non-SDA population (including other Christians)	Total population	% of SDA pupils
2007	101	189	290	35%
2008	81	163	244	33%
2009	100	151	251	40%
2010	95	184	279	34%
2011	94	185	279	34%

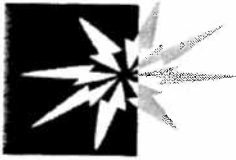


Haringey Council

(6) Financial information

The table below sets out the key financial information that was used to inform the assessment of financial viability.

	2008-09	2009-10	2010-11	2011-12
Pupil Numbers	247	247	284	280
End of Year inc. Capital	-108,130	-210,114	-134,494	
Revenue Surplus/Deficit	-95,770	-211,684	-134,539	
Other Income				
SEC	48,312	151,741	316,701	
SEC % of Spend	2.16	6.94	13.91	
Other Income Misc.	24,185	18,373	19,589	220,400
Other Income Misc.% of Spend	1.08	0.84	0.86	8.58
	Teaching	Total Staff	Premises	
Benchmarking Group				
JL	59.50	79.62	7.97	
Average of Group	55.57	73.52	6.46	
<i>Other income misc. 2011-12 analysed from quarter 3 projection code 108</i>				
<i>Breakdown between SEC & other income will not be known until outturn is submitted.</i>				



Haringey Council

Appendix 3
Closing a Maintained School - Guidance

department for
children, schools and families

Closing a Maintained Mainstream School

A Guide for Local Authorities and Governing Bodies

For further information:

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Last updated 1 February 2010

CLOSING A MAINTAINED MAINSTREAM SCHOOL - A GUIDE FOR LOCAL AUTHORITIES AND GOVERNING BODIES

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INTRODUCTION

CLOSING A MAINTAINED MAINSTREAM SCHOOL - A GUIDE FOR LOCAL AUTHORITIES AND GOVERNING BODIES

Introduction (Paragraphs 1-33)

1. This guide provides information on the procedures established by The Education and Inspections Act 2006 (EIA 2006) and The School Organisation (Establishment and Discontinuance of Schools)(England) Regulations 2007 (as amended by The School Organisation and Governance (Amendments) (England) Regulations 2007 which came into force on 21 January 2008 and The School Organisation and Governance (Amendment)(England) Regulations 2009 which came into force on 1 September 2009). For your convenience, a consolidated version of the Establishment and Discontinuance Regulations and the two sets of Amending Regulations can be found at: www.dcsf.gov.uk/schoolorg/guidance.cfm?id=29. The relevant provisions of EIA 2006 came into effect on 25 May 2007.

2. This guide contains both statutory guidance (i.e. guidance to which local authorities (LAs) and governing bodies have a statutory duty to have regard) and non-statutory guidance, on the process for closing a maintained mainstream school. Supplementary guidance is available for special schools under the relevant guidance section on the School Organisation website at www.dcsf.gov.uk/schoolorg.

NOTE: For more detailed information on when proposals are required, see paragraphs 11 to 23 below.

The statutory guidance sections are indicated by shading, the word **must** in bold refers to a requirement in legislation, whilst the word **should** in bold is a recommendation.

3. If you have any comments on the content or layout of this guide please send these to the School Organisation & Competitions Unit (using the School Organisation website's "Contact Us" facility [www.dcsf.gov.uk/schoolorg/contact.cfm] or by email to: school.organisation@education.gsi.gov.uk) making sure that you identify the title of the guide and quote the page and paragraph numbers where relevant.

Who is this Guide for? (Paragraphs 4-5)

4. This guide is for those considering publishing proposals to close maintained mainstream schools under Section 15 of EIA 2006, referred to as "proposers" (i.e. the LA or the governing body), those deciding proposals, referred to as the "Decision Maker" (i.e. the LA and the schools adjudicator) and also for information for those affected by school closure proposals.

5. Separate guides are available from the School Organisation website for:

- Opening a new school – "Establishing a new maintained

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mainstream school” -

www.dcsf.gov.uk/schoolorg/guidance.cfm?id=2;

- Becoming a Foundation or “Trust” school (changing category to foundation; a foundation school acquiring a foundation (i.e. a Trust); a Trust school acquiring a majority of foundation governors on the governing body) - “Changing School Category to Foundation” and “Trust School Proposals” - www.dcsf.gov.uk/schoolorg/guidance.cfm?id=25;
- Expanding a maintained mainstream school by enlarging or adding a sixth form - www.dcsf.gov.uk/schoolorg/guidance.cfm?id=5; and
- Making other prescribed alterations to a maintained school (e.g. change of age range other than adding a sixth form, add SEN, transfer of site) – “Making Changes to a Maintained Mainstream School (Other than Expansion, Foundation, Discontinuance & Establishment Proposals)” - www.dcsf.gov.uk/schoolorg/guidance.cfm?id=6.

School Organisation Planning Requirements (Paragraphs 6-8)

6. LAs are under a **statutory duty** to ensure that there are sufficient school places in their area, promote high educational standards, ensure fair access to educational opportunity and promote the fulfilment of every child’s educational potential. They **must** also ensure that there are sufficient schools in their area, promote diversity and increase parental choice.

7. Parents can make representations about the supply of school places and LAs have a **statutory duty** to respond to these representations. Further statutory guidance on this duty is available in “Duty to Respond to Parental Representations about the Provision of Schools” which is on the School Organisation website at: www.dcsf.gov.uk/schoolorg/guidance.cfm?id=26.

8. Currently, LAs **must** publish a Children and Young People’s Plan (CYPP) as the single strategic overarching plan for all services affecting children and young people which also includes reference to strategic planning for school places. It is for LAs, in partnership with other stakeholders, to plan for the provision of places. LAs **should** also explore the scope for collaborating with neighbouring authorities when planning the provision of schools. In particular, LAs are encouraged to work together to consider how to meet the needs of parents seeking a particular type of school for their children in cases where there is insufficient demand for such a school within the area of an individual LA.

Responsibility for CYPPs is passing to The Children’s Trust Board for each area and from 1 April 2011 each will be required to have a new ‘jointly owned’ CYPP in place.

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Children's Trusts are the sum total of co-operation arrangements and partnerships between organisations with a role in improving outcomes for children and young people in each area. The Trust is not in itself a separate legal entity; each partner retains its own functions and responsibilities within the partnership framework. However, the Apprenticeships, Skills, Children and Learning Act 2009 strengthens Children's Trusts by requiring all local authorities to have a Children's Trust Board in place by April 2010. It also extends the number of statutory "relevant partners" who will be represented on the Board to include schools (including Academies), colleges, Job Centre Plus and the management committees of short stay schools (formerly PRUs).

In each local authority area the Children's Trust Board will be responsible for preparing and monitoring the implementation of the CYPP. This will give ownership of the plan to the partnership – whereas at present the CYPP is the responsibility of the local authority alone.

The Secretary of State's role (Paragraphs 9-10)

9. The Secretary of State has the power to issue guidance to which the Decision Maker **must** have regard when deciding proposals. This should ensure that proposals and consultation responses and representations received from stakeholders are considered in a consistent way and that Ministers' key priorities for raising standards and transforming education are taken into account when decisions are taken. When drawing up their proposals, proposers are strongly advised to look at the factors which the Decision Maker **must** take into account when considering their proposals (see Stage 4).

10. The Secretary of State does not decide statutory proposals relating to schools, except where proposals have been published by the Learning and Skills Council (LSC)¹ under Section 113A of the Learning and Skills Act 2000 (as inserted by section 72 of the Education Act 2002), for changes to 16-19 provision in schools. For further information please see guidance "School Organisation Proposals by the Learning and Skills Council" available at: www.teachernet.gov.uk/docbank/index.cfm?id=4390.

When are closure proposals required? (Paragraph 11)

11. If a LA or governing body needs to close a maintained mainstream school for the following reasons:

- it is surplus to requirements (e.g. as a result of an area-wide reorganisation and/or there are sufficient places in neighbouring schools to accommodate displaced pupils);

¹ References throughout this document to the LSC only apply up to April 2010. The Apprenticeships, Skills, Children and Learning Act (ASCL) Act 2009 will transfer the responsibilities of the LSC in respect of 16-19 education and training to LAs, supported by the Young People's Learning Agency. This guidance will be revised by April 2010 to take account of these changes.

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- it is to be amalgamated/merged with another school (see paragraph 12 below);
- it is to gain, lose or change religious character (see paragraph 13 below);
- it is to be replaced by an Academy (see paragraph 14 below); or
- it is to be replaced by a new school under the National Challenge Trust programme (see paragraph 22 below)

statutory proposals will be required. The statutory process to close a school does not have to precede proposals to re-build a school on its existing site or to transfer an existing school to a new site UNLESS the intention is to statutorily cease to maintain the school and replace it with a new school established under section 7 (school competition), 10 (exemption from a school competition) or 11 (special case) of the EIA 2006.

Amalgamations/Mergers (Paragraph 12)

12. There are two ways to 'merge' or 'amalgamate' two or more existing schools:

a. The LA or GB (depending on school category) can publish proposals to close two (or more) schools and the LA or a proposer other than the LA (e.g. Diocese, faith or parent group, Trust) depending on category, can publish proposals to open a new school, either through a competition (under section 7 of EIA 2006), or after receiving exemption from the Secretary of State* (under section 10 of the EIA 2006). This results in a new school number being issued for the new school.

b. The LA and/or GB (depending on school category) can publish proposals to close one school (or more) and proposals to enlarge/change the age range/transfer site etc of an existing school, to accommodate the displaced pupils. The remaining school would retain its original school number, as it is not a new school, even if its phase has changed.

*All section 10 exemption applications are considered on their individual merits. However there is a 'presumption for approval' for infant/junior amalgamations, faith school reorganisations and new schools proposed by proposers other than the LA, because Ministers have indicated, during debates in Parliament, that they may be prepared to give consent to requests under these criteria, for publication of proposals without holding a competition. See Section B of the "Establishing a Maintained Mainstream School" guide for further information (www.dcsf.gov.uk/schoolorg/guidance.cfm?id=2).

Schools wishing to acquire, change or lose a Religious Character (Paragraph 13)

13. It is not possible for a community, voluntary or foundation school to acquire, lose or change religious character by making a prescribed alteration

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to the school. To make a change from, for example, a community school to a voluntary school with a religious character, the LA would need to publish proposals to close the community school, and a faith organisation (as proposers) would need to bring forward “related” proposals to establish a new voluntary school with a religious character (either through “competition” under section 7 of the EIA 2006, or “exemption” under section 10 of the EIA 2006). Please refer to “Establishing a New Maintained Mainstream School” - (<http://www.dcsf.gov.uk/schoolorg/guidance.cfm?id=2>).

Closing school(s) to be replaced by an Academy (Paragraph 14)

14. Academies are publicly funded independent schools, which do not fall under School Organisation regulations. Where a maintained school is proposed for closure, to be replaced by an Academy, the normal statutory process applies to the school closure proposals, but not to the new Academy (see <http://www.standards.dfes.gov.uk/academies> for further information about Academies). Section 482 of the Education Act 1996 provides for the Secretary of State to enter into funding agreements for new Academies with sponsors. The school closure proposals, if approved, **should** be conditional upon the Funding Agreement being signed, which could be explained in “Explanatory Notes” in the statutory notice along the lines of:

Academies are publicly funded independent schools with sponsors from the private and voluntary sectors. The establishment of an Academy is subject to the agreement of the Secretary of State. It is proposed that the closure of X school(s) should be approved to take effect only if by the date of closure an agreement has been made under section 482(1) of the Education Act 1996 for the establishment of an Academy to replace X school(s).

NOTE: The minimum amount of information about the proposed Academy **should** be included in the closure notice; the proposals are about the closure of the school(s), not the specifications of the new Academy. Because Academy proposals do not fall under School Organisation regulations, they are not considered as “related” to the school closure proposal(s) (see paragraph 2.5 below).

Schools Causing Concern (Paragraphs 15-21)

15. The categories of schools causing concern are defined in sections 59-62 of the EIA 2006. Further information on these categories and the relevant duties, powers and responsibilities can be found in the DCSF guidance on schools causing concern, available at: <http://www.standards.dcsf.gov.uk/sie/si/SCC/>.

16. The Apprenticeships, Schools, Children and Learners (ASCL) Act 2009 introduces new provisions relating to schools causing concern. These provisions come into force on 12 January 2010. The existing schools causing concern guidance will be replaced with new guidance to reflect the new provisions in the New Year.

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17. All maintained schools causing concern **should** receive intensive support from their LA. The National Strategies section of the DCSF Standards website provides further information:
<http://nationalstrategies.standards.dcsf.gov.uk/>.

18. The Education Act 2005 (Section 44) changed the definition of a school in Special Measures and introduced a new category - Significant Improvement – which replaced previous Ofsted categories of Serious Weaknesses, Inadequate Sixth Form or Underachieving (a non-statutory category). Before reaching a judgement that a school requires Special Measures, Ofsted inspectors **must** now take into account a school's capacity to improve. A school that is not considered to need Special Measures but is nevertheless not performing as well as it ought to be, may be judged to require Significant Improvement. Schools requiring Significant Improvement are sometimes described as being under a Notice to Improve.

19. Schools that are made subject to Special Measures will continue to receive termly monitoring visits; those requiring Significant Improvement will be re-inspected after one year. In addition, Ofsted carry out monitoring visits to schools requiring Significant Improvement 6-8 months after the initial inspection.

20. When considering the closure of any school causing concern and the expansion of other schools in the area, the LA **should** take into account the popularity with parents of alternative schools.

21. Where a school is to be closed so that it may be amalgamated with a more successful and popular school, the Decision Maker will normally approve these proposals, subject to evidence being provided by the LA and other interests that the development will have a positive impact on standards.

Proposals published under National Challenge (Paragraph 22-23)

22. The National Challenge programme was launched in June 2008 as a major initiative to improve standards in all secondary schools. The aim is that by 2011, at least 30% of pupils in every school will gain five or more GCSEs at A*-C, including both English and mathematics. One of the structural solutions (interventions) available through the programme is the closure of a school which is below this target, and the opening of a new National Challenge Trust (NCT) school, which will have clear and specific plans for raising attainment, agreed with the Department. The new NCT school **must** be a foundation school with a foundation (i.e. a Trust school) composed of Trust partners agreed with the LA and the Department in the Statement of Intent, including a strong education partner; the foundation (Trust) **must** also appoint a majority of governors to the school's governing body.

23. The proposals for both the closure of the weak school and the opening of the new school, usually on the same site, **should** be published as "related" statutory proposals. NCT proposals for a new school can only be published without a competition for the new school if the Secretary of State has granted consent under Section 10 of EIA 2006 (see Part B of "Establishing a New

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Maintained Mainstream School” -

(<http://www.dcsf.gov.uk/schoolorg/guidance.cfm?id=2>). There is a strong presumption to approve proposals for a NCT school where a Statement of Intent has been agreed with the Department.

Secretary of State’s power to direct school closure (Paragraph 24)

24. Section 68 of EIA 2006 gives the Secretary of State the power to direct an LA to close a school requiring special measures. This will usually be done only where there is no prospect of the school making sufficient improvements. Prior to making the direction, the Secretary of State **must** consult with the LA, the governing body that is to be replaced, and – in the case of a voluntary or foundation school – the diocesan or other appointing authority, and the LSC (if the school has a sixth form). Such a direction will not require the publication of statutory proposals for the school’s closure but proposals may be required for the opening of a new school or for alterations as a consequence of the directed closure. If the direction to close a school has been given, the LA will be expected to meet any costs of terminating staff contracts, and make appropriate arrangements for the pupils’ continuing education, whether in a replacement school or through transition to an alternative school (see chapter 5 of Schools Causing Concern Guidance for further information – <http://www.standards.dcsf.gov.uk/sie/documents/sccamendedguidance.doc>).

LSC Powers to publish proposals to close 16-19 schools (Paragraph 25)

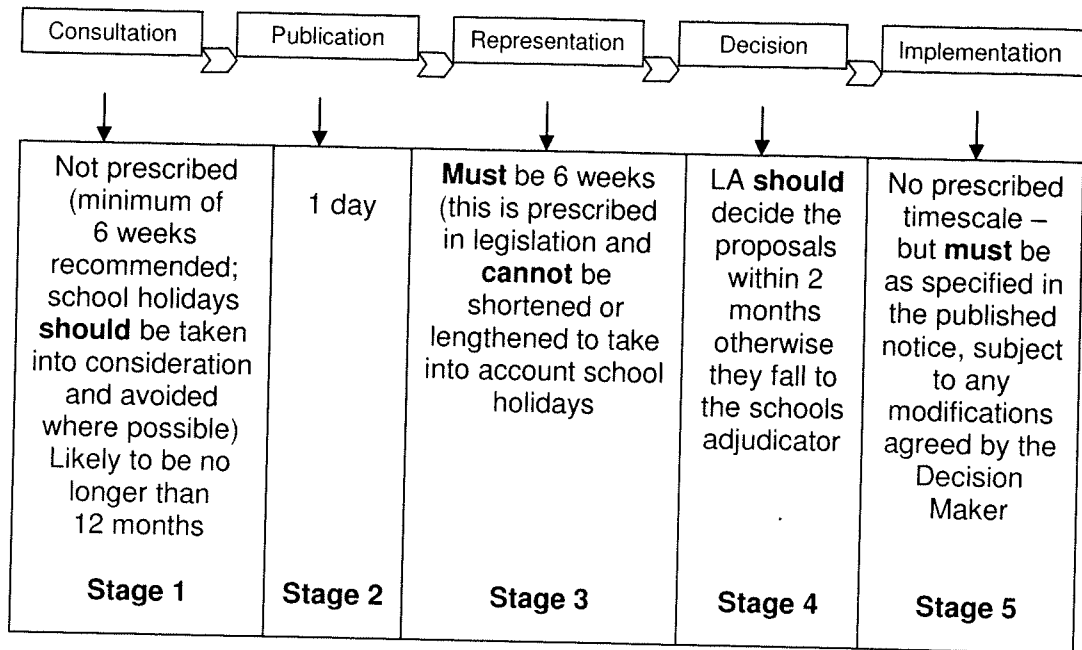
25. The Learning and Skills Council (LSC)² will work with LAs to support the improvement of sixth form provision. The LSC has the power to publish proposals for the closure of an inadequate school sixth form. Where a school sixth form has been judged to require Significant Improvement in two consecutive Ofsted inspections, or where a maintained school for 16-19 year olds has been judged to require Special Measures in two consecutive Ofsted inspections, the LSC may publish proposals to close the sixth form or 16-19 school. The proposals will be decided by the LA or schools adjudicator in accordance with the same procedures as set out in Stage 4 of this guide.

Overview of process (Paragraph 26)

26. There are 5 statutory stages for a statutory proposal to close a maintained mainstream school:

² References throughout this document to the LSC only apply up to April 2010. The Apprenticeships, Skills, Children and Learning Act (ASCL) Act 2009 will transfer the responsibilities of the LSC in respect of 16-19 education and training to LAs, supported by the Young People’s Learning Agency. This guidance will be revised by April 2010 to take account of these changes.

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Two Years Notice of Closure – Voluntary and Foundation Schools (Paragraphs 27-28)

27. Alternatively (instead of following the statutory process outlined above), under section 30 of the School Standards and Framework Act 1998, the governing body of a voluntary or foundation school may (subject to specified provisions) give at least two years' notice of their intention to close the school, to the Secretary of State and the LA. The Secretary of State's prior consent is required if expenditure has been incurred on the school's premises by the Secretary of State, the Funding Agency for Schools (in the case of a school which was formerly grant-maintained) or by the school's current, or any previous, LA. Similarly, trustees of a foundation or voluntary school may give the governing body a minimum of two years notice, if they intend to terminate the school's occupation of the school's site, and as a result the school can no longer continue. A copy of the served notice **must** also be given to the Secretary of State and the LA at the time when it is given to the governing body. The minimum two years' notice allows the LA and/or governing body time to make alternative arrangements for the school and its pupils, which may include following the normal statutory process to enlarge/change the age range of other schools etc.

28. Statutory proposals are not required in the case of closure proposed under section 30; the full process is set out in section 30 of the School Standards and Framework Act 1998 and is not covered by this guidance.

Who can publish statutory proposals to close schools? (Paragraph 29)

29. An LA can publish proposals to close any category of maintained school (community, community special, foundation [including Trust], foundation special, voluntary aided, voluntary controlled and nursery schools). The governing body of a voluntary, foundation [including Trust], or foundation

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special school may also publish proposals to close their own school.

Where to start? (Paragraph 30)

30. Before commencing formal consultation, the LA or governing body **should** ensure they understand the statutory process that **must** be followed, the factors that are likely to be considered by the Decision Maker and that they have a sufficiently strong case and supporting evidence for their proposals.

Rural Primary Schools (Paragraphs 31-32)

31. EIA 2006 requires that an LA or governing body, that is considering proposing the closure of a rural primary school **must** consider the following matters, when formulating their proposals:-

- the likely effect of the discontinuance of the school on the local community;
- the availability, and likely cost to the LA, of transport to other schools;
- any increase in the use of motor vehicles which is likely to result from the discontinuance of the school, and the likely effects of any such increase; and
- any alternatives to the discontinuance of the school.

Although there is a presumption against closure of a rural school, that does not mean that no rural schools will close (see 4.42 below).

32. A list of primary schools that are designated as rural can be found at: www.dcsf.gov.uk/schoolorg/useful-links.cfm. Secondary schools are not designated; it is for the Decision Maker to determine whether or not a secondary school should be considered as rural; the Department's register of schools – Edubase (<http://www.edubase.gov.uk>) - includes a rural/urban indicator for each school in England based on an assessment by the Office for National Statistics. See paragraphs 4.43-4.44 for further information.

NOTE: On Edubase, any school classed as urban will have a rural/urban indicator of either 'Urban>10K – less sparse' or 'Urban>10K – sparse' – all other descriptions refer to rural schools.

Nursery Schools (Paragraph 33)

33. Nursery schools generally offer high quality provision, and have considerable potential as the basis for developing integrated services for young children and families; there is a presumption against closure of LA maintained nursery schools, but that does not mean that no nursery schools will close. The LA **should** consider the following matters (which **must** be considered by the decision maker), when formulating proposals:-

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- the number of empty places consistently being funded;
- developing the school into a Sure Start Children's Centre, unless there is evidence of unsuitable accommodation, poor quality provision and low demand for places;
- alternative planned provision will be at least as equal in terms of the quantity and quality of early years provision provided by the nursery school, with no loss of expertise and specialism; and
- replacement provision is more accessible and convenient for local parents.

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Stage 1 – Consultation (Paragraphs 1.1-1.8)

1.1 Under section 16 of EIA 2006, those considering bringing forward statutory proposals to close a school **must** consult interested parties, and in doing so **must** have regard to the Secretary of State's guidance. The statutory guidance for this purpose is contained in paragraphs 1.2 to 1.5. Where an LA or governing body carries out any preliminary (informal) consultation to consider a range of options, and/or principles, for a possible reorganisation, this would not be regarded as the statutory (formal) period of consultation as required by regulations. The statutory consultation would need to cover the specific closure proposal of the school in question.

1.2 The Secretary of State requires those bringing forward proposals to consult all interested parties (see paragraph 1.3 below). In doing so they **should**:

- allow adequate time;
- provide sufficient information for those being consulted to form a considered view on the matters on which they are being consulted;
- make clear how their views can be made known; and
- be able to demonstrate how they have taken into account the views expressed during consultation in reaching any subsequent decision as to the publication of proposals.

1.3 The Secretary of State considers that the interested parties who **should** be consulted by proposers include:

- the governing body of any school which is the subject of proposals (if the LA are publishing proposals);
- the LA that maintains the school (if the governing body is publishing the proposals);
- families of pupils, teachers and other staff at the school;
- any LA likely to be affected by the proposals, in particular neighbouring authorities where there may be significant cross-border movement of pupils;
- the governing bodies, teachers and other staff of any other school that may be affected;
- families of any pupils at any other school who may be affected by the proposals including where appropriate families of pupils at feeder primary schools;
- any trade unions who represent staff at the school; and

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representatives of any trade union of any other staff at schools who may be affected by the proposals;

- (if proposals involve, or are likely to affect a school which has a particular religious character) the appropriate diocesan authorities or the relevant faith group in relation to the school;
- the trustees of the school (if any);
- (if the proposals affect the provision of full-time 14-19 education) the Learning and Skills Council (LSC);
- MPs whose constituencies include the schools that are the subject of the proposals or whose constituents are likely to be affected by the proposals;
- the local district or parish council where the school that is the subject of the proposals is situated;
- any other interested party, for example, the Early Years Development and Child Care Partnership (or any local partnership that exists in place of an EYDCP) where proposals affect early years provision, or those who benefit from a contractual arrangement giving them the use of the premises; and
- such other persons as appear to the proposers to be appropriate.

1.4 Under Section 176 of the Education Act 2002 LAs and governing bodies are also under a duty to consult pupils on any proposed changes to local school organisation that may affect them. Guidance on this duty is available on the Teachernet website: www.publications.teachernet.gov.uk and is entitled "Pupil Participation Guidance: Working Together – Giving Children and Young People a Say".

Rural Primary Schools – Consulting on Closure (Paragraph 1.5)

1.5 Section 16(1) of EIA 2006 places a statutory **duty** on those proposing the closure of a rural primary school to consult:-

- the registered parents of registered pupils at the school;
- the LA (where proposals are to be made by the school governing body);
- in a case where the LA are a county council in England, any district council for the area in which the school is situated;
- any parish council for the area in which the school is situated; and

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- such other persons as appear to the relevant body to be appropriate.

Conduct of Consultation (Paragraphs 1.6-1.8)

1.6 **How** statutory consultation is carried out is not prescribed in regulations and it is for the proposers to determine the nature of the consultation including, for example, whether to hold public meetings. Although regulations do not specify the consultation's duration, the Department strongly advises that the proposers **should** allow at least 6 weeks for this. This will allow consultees an opportunity to consider what is being proposed and to send their comments. Proposers **should** avoid consulting on proposals during school holidays, where possible.

1.7 At the end of the consultation the proposer **should** consider the views expressed during that period before reaching any final decision on whether to publish statutory proposals. Where, in the course of consultation, a new option emerges which the proposer wishes to consider, it will probably be appropriate to consult afresh on this option before proceeding to publish statutory notices.

1.8 If the need for the closure arises from an area wide reorganisation e.g. as a result of long-term LA planning, any related proposals **should** be consulted on at the same time. Notices for related proposals **should** be published at the same time and specified as "related" so that they are decided together (see 2.5).

Remember:

Do	Don't
Consult all interested parties	Consult during school holidays (where possible)
Provide sufficient time and sufficient information	Use language which could be misleading, e.g. We <u>will</u> close the school – instead, use 'propose to'.
Think about the most appropriate consultation method	
Consider feedback and views	
Consider alternative options	
Explain the decision making process	

STAGE 2

Stage 2 – Publication (Paragraphs 2.1-2.10)

2.1 LAs can publish proposals to close any category of maintained school within the LA. Governing bodies of voluntary or foundation schools can publish proposals to close their own school. Proposals **should** be published within a reasonable timeframe following consultation so that the proposals are informed by up-to-date feedback. Proposals **should** therefore be published within 12 months of consultation being concluded.

2.2 Proposals **must** contain the information specified in the Regulations. The regulations specify that part of the information (as set out in Part 7 of Schedule 5) is published in a statutory notice (see paragraph 2.3 below), but the complete proposal (as set out in Schedule 4), **must** be sent to a range of copy recipients (see paragraph 2.9-2.10 below). Annex A can be used to prepare the complete proposal; the notice builder tool (see 2.4 below) can be used to prepare the draft statutory notice.

2.3 A statutory notice containing specified information (indicated by the shaded information in Annex A) **must** be published in a local newspaper, and also posted at the main entrance to the school (or all the entrances if there is more than one) and at some other conspicuous place in the area served by the school (e.g. the local library, community centre or post office etc). The 'date of publication' is regarded as being the date on which the last of the above conditions is met. Proposers may circulate a notice more widely in order to ensure that all those substantially affected have the opportunity to comment.

2.4 To help proposers prepare their statutory notice, the School Organisation website includes an online Notice Builder tool which will help ensure that the statutory notice complies with the Regulations and offers an opportunity for the notice to be checked by the School Organisation & Competitions Unit of the DCSF. Proposers are strongly advised to use this facility. The Notice Builder can be found at www.dcsf.gov.uk/schoolorg. To gain access the proposer needs to register for the "Members' Area" on the website but this is free of charge. A template for the complete proposal is provided automatically by the Notice Builder when the draft statutory notice is finalised, alternatively the template can be found in "Standard Forms" in the Members' Area of the website.

Related proposals (Paragraph 2.5)

2.5 Where proposals are interdependent (linked) they **should** be identified as "related", either by being published in a single notice or the link to the other proposals made clear in each notice. Where proposals by the LA are "related" to proposals by governing bodies or other proposers (e.g. where a school is to be closed and another enlarged, or a school is to be replaced by a new school) the LA and governors or proposers may publish a single notice but this **must** make it clear who is making which proposals, under their respective powers, and there **should** be separate signatures for each relevant section. Where proposals are not "related", they **should not** be published on the same notice unless the notice makes it very clear that the proposals are not

STAGE 2

“related”. This does not include proposals that fall under other regulations e.g. removal of a Trust, opening of an Academy or federation proposals.

Implementation date (Paragraph 2.6)

2.6 There is no maximum limit on the time between the publication of a proposal and its proposed date of implementation but circumstances may change significantly if too long a period elapses. In general, therefore - with the possible exception of BSF or major authority-wide reorganisation proposals which may have to be phased in over a long period - the implementation date for the proposals (stated in the statutory notice) **should** be within 3 years of their publication. Proposers may be expected to show good reason if they propose a longer timescale. If the proposals are approved, they **must** then be implemented by the proposed implementation date, subject to any modifications made by the Decision Maker.

Explanatory note (Paragraph 2.7)

2.7 If the full effect of the proposals is not apparent to the general public from the statutory notice, it may be supplemented by an explanatory note or background statement, but this **should** be clearly distinguishable from the formal proposals as it does not form a statutory part of the notice. Ideally, whilst complying with regulations, the statutory notice **should** be as concise as possible, so that it is easily understood (this will also help keep publication costs to a minimum), with more detailed information contained in the complete proposal (see [paragraph 14](#) for suggested explanatory notes if a closing school is to be replaced by an Academy).

Invalid notice (Paragraph 2.8)

2.8 Where a published notice has not been properly formulated in accordance with the regulations, the notice may be judged invalid and therefore ineligible to be determined by the LA or schools adjudicator. In these circumstances the proposer **should** publish a revised notice making it clear that this replaces the first notice and that the statutory period for representations will run from the publication date of the revised notice (and whether or not any representations already received will still be considered by the Decision Maker). If the issue is very minor, e.g. a typo, a published addendum may suffice, in which case, the representation period would not need to change.

Who should be sent copies of the proposals? (Paragraphs 2.9-2.10)

2.9 If the governing body are the proposers, they **must** submit a copy of their complete proposal to the LA that maintains the school, on the **date of publication**. It would also be helpful to submit a copy of the statutory notice. (see 2.2 above).

If the LA are the proposers, they **must** submit a copy of their complete proposal to the governing body of the school proposed for closure, on the

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date of publication. It would also be helpful to submit a copy of the statutory notice. (see 2.2 above).

In addition, the proposer **must, within one week of the date of publication**, send a full copy of the complete proposal, to:

- any other LA likely to be affected by the proposals;
- the Diocesan Board of Education for any diocese of the Church of England which is comprised in the area of the LA;
- the bishop of a diocese of the Roman Catholic Church which is comprised in the area of the LA;
- the Learning and Skills Council for England if the school provides 14-16 education or sixth form education;
- where the school is a voluntary or foundation - the trustees or foundation body; and
- any person who requests a copy.

2.10 The proposers **must** also send to the Secretary of State (i.e. to SOCU, DCSF, Mowden Hall, Darlington DL3 9BG or via email to school.organisation@education.gsi.gov.uk) **within a week of publication**:

- a complete copy of the proposal, excluding all documentation relating to the consultation; and
- a copy of the statutory notice that appeared in the local newspaper, showing the date of publication.

STAGE 3

Stage 3 – Representations (Paragraphs 3.1-3.2)

3.1 Once proposals are published there follows a **statutory 6 week representation period** during which comments on the proposals can be made. These **must** be sent to the LA. Any person can submit representations, which can be objections as well as expressions of support for the proposals. The representation period is the final opportunity for people and organisations to express their views about the proposals and ensure that they will be taken into account by the Decision Maker.

3.2 The representation period is specified in legislation as **6 weeks** and **must not** be altered e.g. cannot be shortened or extended to fit in with scheduled meetings or to take into account school holidays – meetings will need to be rescheduled and every effort **should** be made to advise stakeholders during the consultation period when the notice is likely to be published.

STAGE 4

Stage 4 – Decision (Paragraphs 4.1-4.70)

Who Will Decide the Proposals? (Paragraphs 4.1-4.4)

4.1 Decisions on school organisation proposals are taken by the LA or by the schools adjudicator. In this chapter both are covered by the form of words “Decision Maker” which applies equally to both. Paragraphs 7-8 and 19 of Schedule 2 to EIA 2006 set out who **must** decide proposals for school closures. Decisions on closure proposals will be taken by the LA with some rights of appeal to the schools adjudicator. Only if the closure proposals are “related” to other proposals that fail to be decided by the schools adjudicator, will the LA not be the decision maker in the first instance.

4.2 The Department does not prescribe the process by which an LA carries out their decision-making function (e.g. full Cabinet or delegation to Cabinet member or officials). This is a matter for the LA to determine but the requirement to have regard to statutory guidance (see paragraph 4.15 below) applies equally to the body or individual that takes the decision.

4.3 Where proposals are published by the LA and there are no objections and the proposals are not “related” to other proposals, the proposals **must** be determined by the LA under Paragraph 19 of Schedule 2 to EIA 2006. The proposals **should** then be decided within 2 months (and if not, the proposals **must** be referred to the schools adjudicator) and there is no provision for an appeal against the LA’s decision. A conditional approval cannot be given where proposals are decided under the paragraph.

4.4 If there are objections to the proposals, or there are no objections but the proposals are “related” to other proposals, the proposals **must** be decided under Paragraph 8 of Schedule 2 to EIA 2006. The LA will normally be the decision maker (i.e. except where the proposals are related to proposals for the establishment of a new school and the schools adjudicator is required to decide the new school proposals – see paragraph 5.6 of Part A, and paragraph 4.6 of Part B, of “Establishing a New Maintained Mainstream School” - www.dcsf.gov.uk/schoolorg/guidance.cfm?id=2). If the LA fail to decide proposals within 2 months of the end of the representation period the LA **must** forward proposals, and any received representations (i.e. not withdrawn in writing), to the schools adjudicator for decision. They **must** forward the proposals within one week from the end of the 2 month period.

Who Can Appeal Against an LA Decision? (Paragraphs 4.5-4.6)

4.5 There is no right of appeal where proposals are decided under Paragraph 19 of Schedule 2 to EIA 2006. In all other cases the following bodies may appeal against an LA decision on school closure proposals:

- the local Church of England diocese;
- the Bishop of the local Roman Catholic diocese;
- the LSC where the school provides education for pupils aged 14

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and over; and

- the governors and trustees of a foundation (including Trust) or voluntary school that is subject to the closure proposals.

4.6 Any appeals **must** be submitted to the LA within 4 weeks of the notification of the LA's decision. On receipt of an appeal the LA **must** then send the proposals, and the representations received (together with any comments made on these representations by the proposers), to the schools adjudicator within 1 week of the receipt of the appeal. The LA **should** also send a copy of the minutes of the LA's meeting or other record of the decision and any relevant papers. Where the proposals are "related" to other proposals, all the "related" proposals **must** also be sent to the schools adjudicator.

Checks on Receipt of Statutory Proposals (Paragraph 4.7)

4.7 There are 4 key issues which the Decision Maker **should** consider before judging the respective factors and merits of the statutory proposals:

- Is any information missing? If so, the Decision Maker **should** write immediately to the proposer specifying a date by which the information **should** be provided;
- Does the published notice comply with statutory requirements? (see paragraph 4.8 below);
- Has the statutory consultation been carried out prior to the publication of the notice? (see paragraph 4.9 below); and
- Are the proposals "related" to other published proposals? (see paragraphs 4.10 - 4.14 below).

Does the Published Notice Comply with Statutory Requirements? (Paragraph 4.8)

4.8 The Decision Maker **should** consider whether the notice is valid as soon as a copy is received. Where a published notice does not comply with statutory requirements - as set out in the Regulations - it may be judged invalid and the Decision Maker **should** consider whether they can decide the proposals.

Has the Statutory Consultation Been Carried Out Prior to the Publication of the Notice? (Paragraph 4.9)

4.9 Details of the consultation **must** be included in the proposals. The Decision Maker **should** be satisfied that the consultation meets statutory requirements (see Stage 1 paragraphs 1.2–1.5). If some parties submit objections on the basis that consultation was not adequate, the Decision Maker may wish to take legal advice on the points raised. If the requirements have not been met, the Decision Maker may judge the proposals to be invalid

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and needs to consider whether they can decide the proposals. Alternatively the Decision Maker may take into account the sufficiency and quality of the consultation as part of their overall judgement of the proposals as a whole.

Are the Proposals Related to Other Published Proposals? (Paragraphs 4.10-4.14)

4.10 Paragraphs 9 and 19 of Schedule 2 to the EIA 2006 provide that any proposals that are “related to” particular proposals (e.g. for a new school, or prescribed alterations to existing schools i.e. change of age range, enlargement, transfer of site) **must** be considered together. This does not include proposals that fall outside of the Regulations e.g. removal of a Trust, opening of an Academy, federation proposals. Paragraphs 4.11 – 4.14 provide statutory guidance on whether proposals **should** be regarded as “related”.

4.11 Generally, proposals **should** be regarded as “related” if they are included on the same notice (unless the notice makes it clear that the proposals are not “related”). Proposals **should** be regarded as “related” if the notice makes a reference to a link to other proposals (published under School Organisation and Trust regulations). If the statutory notices do not confirm a link, but it is clear that a decision on one of the proposals would be likely to directly affect the outcome or consideration of the other, the proposals **should** be regarded as “related”. Proposals for a school competition **should** be considered together with proposals for any school closure where there is a clear link.

4.12 Where proposals are “related”, the decisions **should** be compatible e.g. if one set of proposals is for the removal of provision, and another is for the establishment or enlargement of provision for displaced pupils, both **should** be approved or rejected.

4.13 Where proposals for a closing school are “related” to proposals published by the local LSC³, which are to be decided by the Secretary of State, the Decision Maker **must** defer taking a decision until the Secretary of State has taken a decision on the LSC proposals. This applies where the proposals before the Decision Maker concern:

- the school that is the subject of the LSC proposals;
- any other secondary school, maintained by the same LA that maintains a school that is the subject of the LSC proposals; or
- any other secondary school in the same LA area as any FE college which is the subject of the LSC proposals.

³ References throughout this document to the LSC only apply up to April 2010. The Apprenticeships, Skills, Children and Learning Act (ASCL) Act 2009 will transfer the responsibilities of the LSC in respect of 16-19 education and training to LAs, supported by the Young People's Learning Agency. This guidance will be revised by April 2010 to take account of these changes.

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4.14 The proposals will be regarded as “related” if their implementation would prevent or undermine effective implementation of the LSC proposals.

Statutory Guidance – Factors to be Considered by Decision Makers (Paragraphs 4.15-4.16)

4.15 Paragraphs 8(6) and 17 of Schedule 2 to the EIA 2006 provides that both the LA and schools adjudicator **must** have regard to guidance issued by the Secretary of State when they take a decision on closure proposals. Paragraphs 4.16 to 4.63 below contain the statutory guidance.

4.16 The following factors **should not** be taken to be exhaustive. Their importance will vary, depending on the type and circumstances of the proposals. All proposals **should** be considered on their individual merits.

EFFECT ON STANDARDS AND SCHOOL IMPROVEMENT

A System Shaped by Parents (Paragraphs 4.17-4.18)

4.17 The Government's aim, as set out in the Five Year Strategy for Education and Learners and the Schools White Paper Higher Standards, Better Schools For All, is to create a schools system shaped by parents which delivers excellence and equity. In particular, the Government wishes to see a dynamic system in which:

- weak schools that need to be closed are closed quickly and replaced by new ones where necessary; and
- the best schools are able to expand and spread their ethos and success.

4.18 The EIA 2006 amends the Education Act 1996 to place duties on LAs to secure diversity in the provision of schools and to increase opportunities for parental choice when planning the provision of schools in their areas. In addition, LAs are under a specific duty to respond to representations from parents about the provision of schools, including requests to establish new schools or make changes to existing schools. The Government's aim is to secure a more diverse and dynamic schools system which is shaped by parents. The Decision Maker **should** take into account the extent to which the proposals are consistent with the new duties on LAs.

Standards (Paragraphs 4.19-4.21)

4.19 The Government wishes to encourage changes to local school provision where it will boost standards and opportunities for young people, while matching school place supply as closely as possible to pupils' and parents' needs and wishes.

4.20 Decision Makers **should** be satisfied that proposals for a school closure will contribute to raising local standards of provision, and will lead to improved attainment for children and young people. They **should** pay

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particular attention to the effects on groups that tend to under-perform including children from certain ethnic groups, children from deprived backgrounds and children in care, with the aim of narrowing attainment gaps.

4.21 Where a school is to be closed so that it may be amalgamated with a more successful and/or popular school, the Decision Maker **should** again normally approve these proposals, subject to evidence being provided by the LA and other interested parties, that the development will have a positive impact on standards.

Schools Causing Concern (Paragraphs 4.22-4.23)

4.22 When considering the closure of any school causing concern and, where relevant, the expansion of other schools, the Decision Maker **should** take into account the popularity with parents of alternative schools.

4.23 For all closure proposals involving schools causing concern, copies of the Ofsted monitoring letters for the relevant schools **should** be made available. The Decision Maker **should** have regard to the length of time the school has been in special measures, needing significant improvement or otherwise causing concern, the progress it has made, the prognosis for improvement, and the availability of places at other existing or proposed schools within a reasonable travelling distance. There **should** be a presumption that these proposals **should** be approved, subject only to checking that there will be sufficient accessible places of an acceptable standard available in the area to meet foreseeable demand and to accommodate the displaced pupils.

National Challenge Trust Schools (Paragraph 4.24)

4.24 Where a school is proposed to close and re-open as a brokered National Challenge Trust school, the new school will have clear and specific plans for raising attainment which have been agreed by the Department (specified in the Statement of Intent agreed by Ministers). There **should** be a presumption to approve proposals where funding has been agreed by the Department, but the Decision Maker **should** be satisfied that the places the new school will provide are needed.

Academies (Paragraphs 4.25-4.27)

4.25 Academies are publicly-funded independent schools established in partnership with business and voluntary sector sponsors. They will normally replace one or more poorly-performing schools or will meet demand for new school places in diverse communities where there is only limited access to free high quality school places. Academies may be established in rural as well as urban areas. All Academies **should** contribute to a strategic approach to diversity in their area. The involvement of business and other non-Government partners will enable Academies to develop and implement new approaches to governance, teaching and learning in order to raise standards. All Academies will be required to share their facilities and expertise with other local schools and the wider community.

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4.26 Where an Academy is to replace an existing school or schools, the proposals for the closure of those schools **should** indicate whether pupils currently attending the schools will transfer to the Academy and, if appropriate, what arrangements will be made for pupils who are not expected to transfer.

4.27 If provision for pupils at a school proposed for closure is dependent on the establishment of an Academy, or the extension or enlargement of an existing Academy, any approval of the closure proposals **should** be conditional on the Secretary of State making an agreement for a new Academy, or agreeing to the extension or enlargement of an existing one (see paragraph 4.65), but there **should** be a general presumption in favour of approval.

Diversity (Paragraphs 4.28-4.30)

4.28 Decision Makers **should** be satisfied that when proposals lead to children (who attend provision recognised by the LA as being reserved for pupils with special educational needs) being displaced, any alternative provision will meet the statutory SEN improvement test (see paragraphs 4.58 to 4.62).

4.29 The Government's aim is to transform our school system so that every child receives an excellent education – whatever their background and wherever they live. A vital part of the Government's vision is to create a more diverse school system offering excellence and choice, where each school has a strong ethos and sense of mission and acts as a centre of excellence or specialist provision.

4.30 Decision Makers **should** consider how proposals will impact on local diversity. They **should** consider the range of schools in the relevant area of the LA and how the closure of the school will ultimately impact on the aspirations of parents, help raise local standards and narrow attainment gaps.

Balance of Denominational Provision (Paragraphs 4.31-4.32)

4.31 In deciding proposals to close a school with a religious character, the Decision Maker **should** consider the effect that this will have on the balance of denominational provision in the area.

4.32 The Decision Maker **should not** normally approve the closure of a school with a religious character where the proposal would result in a reduction in the proportion of denominational places in the area. This guidance does not however apply in cases where the school concerned is severely under-subscribed, standards have been consistently low or where an infant and junior school (at least one of which has a religious character) are to be replaced by a new all-through primary school with the same religious character on the site of one or both of the predecessor schools.

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Every Child Matters (Paragraph 4.33)

4.33 The Decision Maker **should** consider how proposals will help every child and young person achieve their potential in accordance with “Every Child Matters” principles which are: to be healthy; stay safe; enjoy and achieve; make a positive contribution to the community and society; and achieve economic well-being. This **should** include considering how displaced pupils will continue to have access to extended services, opportunities for personal development, access to academic and applied learning training, measures to address barriers to participation and support for children and young people with particular needs, e.g. looked after children or children with special educational needs (SEN) and disabilities.

NEED FOR PLACES

Provision for Displaced Pupils (Paragraph 4.34)

4.34 Where proposals will remove provision, the Decision Maker **should** be satisfied that there is sufficient capacity to accommodate displaced pupils in the area, taking into account the overall supply and likely future demand for places. The Decision Maker **should** consider the quality and popularity with parents of the schools in which spare capacity exists and evidence of parents' aspirations for those schools.

Surplus Places (Paragraphs 4.35-4.36)

4.35 It is important that education is provided as cost-effectively as possible. Empty places can represent a poor use of resources - resources that can often be used more effectively to support schools in raising standards. The Secretary of State wishes to encourage LAs to organise provision in order to ensure that places are located where parents want them. LAs **should** take action to remove empty places at schools that are unpopular with parents and which do little to raise standards or improve choice. The removal of surplus places **should** always support the core agenda of raising standards and respect parents' wishes by seeking to match school places with parental choices.

4.36 The Decision Maker **should** normally approve proposals to close schools in order to remove surplus places where the school proposed for closure has a quarter or more places unfilled, and at least 30 surplus places, and where standards are low compared to standards across the LA. The Decision Maker **should** consider all other proposals to close schools in order to remove surplus places carefully. Where the rationale for the closure of a school is based on the removal of surplus places, standards at the school(s) in question **should** be taken into account, as well as geographical and social factors, such as population sparsity in rural areas, and the effect on any community use of the premises.

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IMPACT ON THE COMMUNITY AND TRAVEL

Impact on Community (Paragraphs 4.37-4.38)

4.37 Some schools may already be a focal point for family and community activity, providing extended services for a range of users, and its closure may have wider social ramifications. In considering proposals for the closure of such schools, the effect on families and the community **should** be considered. Where the school was providing access to extended services, some provision **should** be made for the pupils and their families to access similar services through their new schools or other means.

4.38 The information presented by those bringing forward proposals to close such schools, particularly when they are in receipt of funding as part of regeneration activity, **should** therefore include evidence that options for maintaining access to extended services in the area have been addressed. The views of other relevant agencies and partnerships with responsibility for community and family services **should** be taken into account, alongside those of the local police, Government Offices and Regional Development Agencies having responsibility for the New Deal for Communities.

Community Cohesion and Race Equality (Paragraph 4.39)

4.39 When considering proposals to close a school the Decision Maker **should** consider the impact of the proposals on community cohesion. This will need to be considered on a case by case basis, taking account of the community served by the school and the views of different sections within the community. In considering the impact of the proposals on community cohesion the Decision Maker will need to take account of the nature of the alternative provision to be made for pupils displaced by the closure and the effects of any other changes to the provision of schools in the area.

Travel and Accessibility for All (Paragraphs 4.40-4.41)

4.40 In considering proposals for the reorganisation of schools, Decision Makers **should** satisfy themselves that accessibility planning has been properly taken into account. Facilities are to be accessible by those concerned, by being located close to those who will use them, and the proposed changes **should not** adversely impact on disadvantaged groups.

4.41 In deciding statutory proposals, the Decision Maker **should** bear in mind that proposals **should not** have the effect of unreasonably extending journey times or increasing transport costs, or result in too many children being prevented from travelling sustainably due to unsuitable routes e.g. for walking, cycling etc. The EIA 2006 provides extended free transport rights for low income groups – see Home to School Travel and Transport Guidance ref 00373 – 2007BKT-EN at www.teachernet.gov.uk/publications. Proposals **should** also be considered on the basis of how they will support and contribute to the LA's duty to promote the use of sustainable travel and transport to school.

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Rural Schools and Sites (Paragraphs 4.42-4.44)

4.42 In considering statutory proposals to close a rural school, the Decision Maker **should** have regard to the need to preserve access to a local school for rural communities. There is therefore a presumption against the closure of rural schools. This does not mean that a rural school will never close, but the case for closure **should** be strong and the proposals clearly in the best interests of educational provision in the area. The presumption will not apply in cases where a rural infant and junior school on the same site are being closed to establish a new primary school. In order to assist the Decision Maker, those proposing closure **should** provide evidence to the Decision Maker to show that they have carefully considered:

- a. Alternatives to closure including the potential for federation with another local school to increase the school's viability; the scope for an extended school or children's centre to provide local community services and facilities e.g. child care facilities, family and adult learning, healthcare, community internet access etc;
- b. The transport implications as mentioned in paragraphs 4.40 to 4.41; and
- c. The overall and long term impact on local people and the community of closure of the village school and of the loss of the building as a community facility.

4.43 When deciding proposals for the closure of a rural primary school, the Decision Maker **should** refer to the Designation of Rural Primary Schools (England) 2007 to confirm that the school is a rural school. The list of rural primary schools can be viewed on line at: www.dcsf.gov.uk/schoolorg/useful-links.cfm.

4.44 In the case of secondary schools, it is the responsibility of the Decision Maker to decide whether a school is to be regarded as rural for the purpose of considering proposals for closure under this guidance and in particular the presumption against closure. The Department's register of schools – Edubase (<http://www.edubase.gov.uk>) - includes a rural/urban indicator for each school in England based on an assessment by the Office for National Statistics. The Decision Maker **should** have regard to this indicator. Where a school is not recorded as rural on Edubase, the Decision Maker may nonetheless wish to consider evidence provided by interested parties that a particular school **should** be regarded as rural.

NOTE: On Edubase, any school classed as urban will have a rural/urban indicator of either 'Urban>10K – less sparse' or 'Urban>10K – sparse' – all other descriptions refer to rural schools.

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SCHOOL CHARACTERISTICS

Boarding Provision (Paragraph 4.45)

4.45 In making a decision on proposals to close a school that includes boarding provision, the Decision Maker **should** consider whether there is a state maintained boarding school within one hour's travelling distance from the school. The Decision Maker **should** consider whether there are satisfactory alternative boarding arrangements for those currently in the school and those who may need boarding places in the foreseeable future, including the children of service families.

Equal Opportunity Issues (Paragraph 4.46)

4.46 The Decision Maker **should** consider whether there are any sex, race or disability discrimination issues that arise from the changes being proposed, for example that where there is a proposed change to single sex provision in an area, there is equal access to single sex provision for the other sex to meet parental demand. Similarly there needs to be a commitment to provide access to a range of opportunities which reflect the ethnic and cultural mix of the area, while ensuring that such opportunities are open to all.

SPECIFIC AGE PROVISION ISSUES

Early Years Provision (Paragraphs 4.47-4.48)

4.47 In considering proposals to close a school which currently includes early years provision, the Decision Maker **should** consider whether the alternative provision will integrate pre-school education with childcare services and/or with other services for young children and their families; and **should** have particular regard to the views of the Early Years Development and Childcare Partnership.

4.48 The Decision Maker **should** also consider whether the alternative early years provision will maintain or enhance the standard of educational provision and flexibility of access for parents. Alternative provision could be with providers in the private, voluntary or independent sector.

Nursery School Closures (Paragraph 4.49)

4.49 In deciding whether to approve any proposals to close a nursery school, the Decision Maker **should** be aware that nursery schools generally offer high quality provision, and have considerable potential as the basis for developing integrated services for young children and families. There **should** be a presumption against the closure of a nursery school unless the case for closure can demonstrate that:

- a. the LA is consistently funding numbers of empty places;
- b. full consideration has been given to developing the school into a Sure Start Children's Centre, and there are clear, justifiable grounds for not doing

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so, for example: unsuitable accommodation, poor quality provision and low demand for places;

c. plans to develop alternative provision clearly demonstrate that it will be at least as equal in terms of the quantity and quality of early years provision provided by the nursery school with no loss of expertise and specialism; and that

d. replacement provision is more accessible and more convenient for local parents.

14-19 Curriculum and Collaboration (Paragraph 4.50)

4.50 The Government has ambitious plans to increase post-16 participation rates and improve the skills of learners. The foundation for making progress is a transformed, coherent 14-19 phase offering a rich mix of learning opportunities from which young people can choose tailored programmes and gain qualifications appropriate to their aptitudes, needs and aspirations. This will be achieved by better collaboration between local providers, including schools, colleges, training providers and employers. Decision Makers **should** therefore consider what measures are being proposed to ensure that opportunities available to students in this age group are not reduced by the school closure, although the absence of such measures **should not** prevent the closure of a poorly-performing school.

16-19 Provision – General (Paragraphs 4.51-4.53)

4.51 The pattern of 16-19 provision differs across the country. Many different configurations of school and college provision deliver effective 14-19 education and training. An effective 14-19 organisation has a number of key features:

- standards and quality: the provision available **should** be of a high standard – as demonstrated by high levels of achievement and good completion rates;
- progression: there **should** be good progression routes for all learners in the area, so that every young person has a choice of the full range of options within the 14-19 entitlement, with institutions collaborating as necessary to make this offer. All routes **should** make provision for the pastoral, management and learning needs of the 14-19 age group;
- participation: there are high levels of participation in the local area; and,
- learner satisfaction: young people consider that there is provision for their varied needs, aspirations and aptitudes in a range of settings across the area.

4.52 Where standards and participation rates are variable, or where there is

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little choice, meaning that opportunity at 16 relies on where a young person went to school, the case for reorganisation, or allowing high quality providers to expand, is strong.

4.53 Where standards and participation rates are consistently high, collaboration is strong and learners express satisfaction that they have sufficient choice, the case for a different pattern of provision is less strong. The Decision Maker therefore will need to take account of the pattern of 16-19 provision in the area and the implications of approving new provision.

LSC Proposals to Close Inadequate 16-19 Provision (Paragraph 4.54)

4.54 The Learning and Skills Act 2000 (as amended by the Education Act 2005) gives the LSC⁴ powers to propose the closure of 16-19 schools judged to require Significant Improvement in two consecutive Ofsted inspections. Where a 16-19 school is proposed for closure in such circumstances there **should** be a presumption to approve the proposals, subject to evidence being provided that the development will have a positive impact on standards.

Conflicting Sixth Form Reorganisation Proposals (Paragraph 4.55)

4.55 Where the implementation of reorganisation proposals by the LSC conflict with other published proposals put to the Decision Maker for decision, the Decision Maker is prevented (by the School Organisation Proposals by the LSC for England Regulations 2003) from making a decision on the "related" proposals until the Secretary of State has decided the LSC proposals (see paragraphs 4.13 to 4.14 above).

SPECIAL EDUCATIONAL NEEDS (SEN) PROVISION

Initial Considerations (Paragraphs 4.56-4.57)

4.56 SEN provision, in the context of School Organisation legislation and this guidance, is provision recognised by the LA as specifically reserved for pupils with special educational needs. When reviewing SEN provision, planning or commissioning alternative types of SEN provision or considering proposals for change, LAs **should** aim for a flexible range of provision and support that can respond to the special educational needs of individual pupils and parental preferences, rather than necessarily establishing broad categories of provision according to special educational need or disability. There are a number of initial considerations for LAs to take account of in relation to proposals for change. They **should** ensure that local proposals:

- a. take account of parental preferences for particular styles of provision or education settings;
- b. offer a range of provision to respond to the needs of individual children

⁴ References throughout this document to the LSC only apply up to April 2010. The ASCL Act 2009 will transfer the responsibilities of the LSC in respect of 16-19 education and training to LAs, supported by the Young People's Learning Agency. This guidance will be revised by April 2010 to take account of these changes.

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and young people, taking account of collaborative arrangements (including between special and mainstream), extended school and Children's Centre provision; regional centres (of expertise) and regional and sub-regional provision; out of LA day and residential special provision;

- c. are consistent with the LA's Children and Young People's Plan;
- d. take full account of educational considerations, in particular the need to ensure a broad and balanced curriculum, including the National Curriculum, within a learning environment in which children can be healthy and stay safe;
- e. support the LA's strategy for making schools and settings more accessible to disabled children and young people and their scheme for promoting equality of opportunity for disabled people;
- f. provide access to appropriately trained staff and access to specialist support and advice, so that individual pupils can have the fullest possible opportunities to make progress in their learning and participate in their school and community;
- g. ensure appropriate provision for 14-19 year-olds, taking account of the role of local LSC funded institutions and their admissions policies; and
- h. ensure that appropriate full-time education will be available to all displaced pupils. Their statements of special educational needs will require amendment and all parental rights **must** be ensured. Other interested partners, such as the Health Authority **should** be involved.

4.57 Taking account of the considerations, as set out above, will provide assurance to local communities, children and parents that any reorganisation of SEN provision in their area is designed to improve on existing arrangements and enable all children to achieve the five Every Child Matters outcomes.

The Special Educational Needs Improvement Test (Paragraph 4.58)

4.58 When considering any reorganisation of provision that would be recognised by the LA as reserved for pupils with special educational needs, including that which might lead to some children being displaced through closures or alterations, LAs, and all other proposers for new schools or new provision, will need to demonstrate to parents, the local community and Decision Makers how the proposed alternative arrangements are likely to lead to improvements in the standard, quality and/or range of educational provision for children with special educational needs. All consultation documents and reorganisation plans that LAs publish and all relevant documentation LAs and other proposers submit to Decision Makers **should** show how the key factors set out in paragraphs 4.59 to 4.62 below have been taken into account by applying the SEN improvement test. Proposals which do not credibly meet these requirements **should not** be approved and Decision Makers **should** take proper account of parental or independent representations which question the LA's own assessment in this regard.

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Key Factors (Paragraphs 4.59-4.62)

4.59 When LAs are planning changes to their existing SEN provision, and in order to meet the requirement to demonstrate likely improvements in provision, they **should**:

- a. identify the details of the specific educational benefits that will flow from the proposals in terms of:
 - i. improved access to education and associated services including the curriculum, wider school activities, facilities and equipment, with reference to the LA's Accessibility Strategy;
 - ii. improved access to specialist staff, both education and other professionals, including any external support and/or outreach services;
 - iii. improved access to suitable accommodation; and
 - iv. improved supply of suitable places.
- b. LAs **should** also:
 - i. obtain a written statement that offers the opportunity for all providers of existing and proposed provision to set out their views on the changing pattern of provision seeking agreement where possible;
 - ii. clearly state arrangements for alternative provision. A 'hope' or 'intention' to find places elsewhere is not acceptable. Wherever possible, the host or alternative schools **should** confirm in writing that they are willing to receive pupils, and have or will have all the facilities necessary to provide an appropriate curriculum;
 - iii. specify the transport arrangements that will support appropriate access to the premises by reference to the LA's transport policy for SEN and disabled children; and
 - iv. specify how the proposals will be funded and the planned staffing arrangements that will be put in place.

4.60 It is to be noted that any pupils displaced as a result of the closure of a BESD school (difficulties with behavioural, emotional and social development) **should not** be placed long-term or permanently in a Pupil Referral Unit (PRU) if a special school place is what they need. PRUs are intended primarily for pupils who have been excluded, although LAs can and do use PRU provision for pupils out of school for other reasons such as illness and teenage pregnancies. There may of course be pupils who have statements identifying that they have BESD who have been placed appropriately in a PRU because they have been

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excluded; in such cases the statement **must** be amended to name the PRU, but PRUs **should not** be seen as an alternative long-term provision to special schools.

4.61 The requirement to demonstrate improvements and identify the specific educational benefits that flow from proposals for new or altered provision as set out in the key factors are for all those who bring forward proposals for new special schools or for special provision in mainstream schools including governors of foundation schools and foundation special schools. The proposer needs to consider all the factors listed above.

4.62 Decision Makers will need to be satisfied that the evidence with which they are provided shows that LAs and/or other proposers have taken account of the initial considerations and all the key factors in their planning and commissioning in order to meet the requirement to demonstrate that the reorganisation or new provision is likely to result in improvements to SEN provision.

OTHER ISSUES

Views of interested parties (Paragraph 4.63)

4.63 The Decision Maker **should** consider the views of all those affected by the proposals or who have an interest in them including: pupils; families of pupils; staff; other schools and colleges; local residents; diocesan bodies and other providers; LAs; the LSC (where proposals affect 14-19 provision) and the Early Years Development and Childcare Partnership if one exists, or any local partnership or group that exists in place of an EYDCP (where proposals affect early years and/or childcare provision). This includes statutory objections and comments submitted during the representation period. The Decision Maker **should not** simply take account of the numbers of people expressing a particular view when considering representations made on proposals. Instead the Decision Maker **should** give the greatest weight to representations from those stakeholders likely to be most directly affected by the proposals.

Types of Decision (Paragraph 4.64)

4.64 In considering proposals for a school closure, the Decision Maker can decide to:

- reject the proposals;
- approve the proposals;
- approve the proposals with a modification (e.g. the school closure date); or
- approve the proposals subject to them meeting a specific condition (see paragraph 4.65), unless the decision is being made under paragraph 19 of Schedule 2 of the EIA 2006 – see

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4.3 above.

Conditional Approval (Paragraphs 4.65-4.66)

4.65 The regulations provide for a conditional approval to be given where the Decision Maker is otherwise satisfied that the proposals can be approved, and approval can automatically follow an outstanding event. Conditional approval can only be granted in the limited circumstances specified in the Regulations i.e. as follows:

- a. the making of any agreement under section 482(1) of the 1996 Education Act for the establishment of an Academy, where the proposals in question provide for some or all of the pupils currently at the school which is the subject of the proposals to transfer to the Academy;
- b. the agreement of the Secretary of State to the extension or enlargement of an existing Academy;
- c. the decision of the Secretary of State to establish a new FE college under section 16 of the Further and Higher Education Act 1992;
- d. the agreement to any change to admission arrangements of any other school or schools specified in the approval;
- e. where the proposals depend upon conditions being met, by a specified date, for any other school or proposed school, the occurrence of such an event.

4.66 The Decision Maker **must** set a date by which the condition **must** be met but will be able to modify the date if the proposers confirm (preferably before the date expires), that the condition will be met later than originally thought. The condition-to-be-met-by date **must** be before the proposed implementation date of the proposal (which can also be modified if necessary). Therefore care **should** be taken when setting condition-to-be-met-by dates, particularly if proposals are "related" e.g. if a school is proposed to add a sixth form on 1st September one year, and enlarge on 1st September the following year, and the enlargement requires planning permission, the condition set **must** be met before the addition of a sixth form can be implemented (the earlier proposal), because as "related" proposals, they **should** both have the same decision, which in this case, would have been approval conditional upon planning permission being met. The proposer **should** inform the Decision Maker and the Department (SOCU, DCSEF, Mowden Hall, Darlington DL3 9BG or by email to school.organisation@education.gsi.gov.uk) of the date when a condition is modified or met in order for the Department's records, and those of Edubase to be kept up to date. If a condition is not met by the date specified, the proposals **must** be referred back to the Decision Maker for fresh consideration.

Decisions (Paragraphs 4.67-4.69)

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4.67 All decisions **must** give reasons for the decision, irrespective of whether the proposals were rejected or approved, indicating the main factors/criteria for the decision.

4.68 A copy of the decision **must** be forwarded to:

- the LA or governing body who published the proposals;
- each objector except where a petition has been received. Where a petition is received a decision letter **should** be sent to the person who submitted the petition, or where this is unknown, the signatory whose name appears first on the petition;
- the Secretary of State (via the School Organisation & Competitions Unit, DCSF, Mowden Hall, Darlington DL3 9BG or by email to school.organisation@education.gsi.gov.uk);
- where the school includes provision for 14-16 education or sixth form education, the LSC;
- the local CofE diocese;
- the Bishop of the local RC diocese.

4.69 In addition, where proposals are decided by the LA a copy of the decision **must** be sent to the Office of the Schools Adjudicator, Mowden Hall, Darlington DL3 9BG. Where proposals are decided by the schools adjudicator, a copy of the decision **must** be sent to the LA who maintain the school.

Can proposals be withdrawn? (Paragraph 4.70)

4.70 Proposals can be withdrawn by the proposer, at any point before a decision is taken by the Decision Maker. Written notice **must** be given to the LA, or governing body, if the proposals were published by the LA. Written notice **must** also be sent to the schools adjudicator (if proposals have been sent to him) and the Secretary of State – i.e. via the School Organisation & Competitions Unit, DCSF, Mowden Hall, Darlington DL3 9BG or by email to school.organisation@education.gsi.gov.uk
Written notice **must** also be placed at the main entrance to the school, or all the entrances if there are more than one.

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Stage 5 – Implementation (Paragraphs 5.1-5.11)

5.1 The proposers are under a **statutory duty** to implement any proposals which an LA or schools adjudicator has approved, by the approved implementation date. The proposals **must** be implemented as published, taking into account any modifications made by the Decision Maker. If the approval was subject to a condition being met by a specified date, proposers **should** ensure that they meet this. If it looks as though it might not be possible to meet the condition by the specified date, the proposals **must** be considered afresh by the Decision Maker that decided the proposals. The proposer **should** seek a modification to the condition **before** the date has passed.

Can proposals be modified? (Paragraphs 5.2-5.4)

5.2 If it proves impossible to implement the proposals as approved, the proposers can seek a modification and **must** apply to the Decision Maker who decided the proposals. A modification **should** be made before the approved implementation date for the proposals is reached.

5.3 The most common modification is to the implementation date. However, proposals cannot be modified to the extent new proposals are substituted for those that have been consulted upon and published. If proposers wish to make a significant change to proposals after they have been approved, they **must** publish “revocation” proposals to be relieved of the duty to implement the proposals (see 5.5-5.11 below) and publish fresh proposals.

5.4 Before modifying proposals the Decision Maker **must** consult:

- the proposers or the LA who made the proposals;
- the LA, if the LA did not publish the proposals;
- the governing body, if the governing body did not publish the proposals.

The proposals should not be modified in a way that would in effect substitute new proposals – this would run the risk of successful legal challenge in the courts. The Secretary of State (via the School Organisation & Competitions Unit, DCSF, Mowden Hall, Darlington DL3 9BG or by email to school.organisation@education.gsi.gov.uk) **must** be notified of any modification and the date it was approved, within one week of the proposal being modified.

Revocation (Paragraphs 5.5-5.11)

5.5 If proposers cannot implement approved proposals they **must** publish fresh proposals to be relieved of the duty to implement. Regulation 26(2) of the School Organisation (Establishment and Discontinuance of

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Schools)(England) Regulations 2007 (as amended) provides that revocation proposals **must** contain the following information:

- a description of the original proposals as published;
- the date of publication of the original proposals;
- details of who published the proposals; and
- a statement as to why it is proposed that the duty to implement proposals **should not** apply in relation to the original proposals.

The proposals can be published as “related” proposals, if appropriate (following consultation). Templates for revocation notices can be found on the School Organisation website (www.dcsf.gov.uk/schoolorg) under ‘Standard Forms’ via the Members’ Area. You need to register to access this area; membership is free.

5.6 The notice **must** be published in a local newspaper circulating in the area served by the school, and also posted at the main entrance to the school (and all entrances if there are more than one) and at some other conspicuous place in the area served by the school. The proposals **must** provide for anyone to submit comments and objections on the proposals to the LA within 6 weeks of the proposals being published. The proposers **must** forward a copy of the proposals to the LA/governing body within 1 week of publication. Proposers are advised to consult interested parties on the planned revocation proposals before publication although there is no statutory requirement to do so.

5.7 Revocation proposals **must** be decided by the LA, except where the original proposals were decided by the schools adjudicator (or School Organisation Committee), or if the schools adjudicator is required to decide any “related” proposals, in which case the LA **must** forward the proposals, and any comments and objections received, to the schools adjudicator within 2 weeks from the end of the representation period. If the LA are to decide proposals they **must** do so within 2 months from the end of the representation period and if not, **must** pass the proposals to the schools adjudicator within 1 week from the end of the 2 month period.

5.8 To approve the proposals the Decision Maker **must** be satisfied that implementation of the original proposals would be unreasonably difficult, or that circumstances have so altered since the original proposals were approved that their implementation would be inappropriate.

5.9 A copy of the decision **should** be forwarded to:

- the LA or governing body who published the proposals;
- each objector except where a petition has been received. Where a petition is received a decision letter **should** be sent to the person who submitted the petition, or where this is unknown, the

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signatory whose name appears first on the petition;

- the Secretary of State (via the School Organisation & Competitions Unit, DCSF, Mowden Hall, Darlington DL3 9BG or by email to school.organisation@education.gsi.gov.uk);
- where the school includes provision for 14-16 education or sixth form education, the LSC;
- the local CofE diocese;
- the Bishop of the local RC diocese.

5.10 The following bodies have a right of appeal to the schools adjudicator if they disagree with the LA's decision:

- The local Church of England diocese;
- The bishop of the local Roman Catholic diocese;
- The LSC where the school is to provide education for pupils aged 14 and over; and
- The governing body and trustees (if relevant) of the school.

5.11 Appeals **must** be submitted to the LA within 4 weeks of the notification of the LA's decision. On receipt of an appeal the LA **must** then send the proposals and the representations (together with any comments made on these representations by the proposers) to the schools adjudicator within 1 week of the receipt of the appeal. The LA need to also send a copy of the minutes of the LA's meeting or other record of the decision and any relevant papers. Where the proposals are "related" to other proposals, all the "related" proposals **must** also be sent to the schools adjudicator.

ANNEX A

Annex A

MATTERS TO BE SPECIFIED IN SECTION 15 PROPOSALS TO DISCONTINUE A SCHOOL

The following sets out the information that must be contained in a complete proposal. Shaded information **must** be published in a statutory notice. See paragraphs 2.2 to 2.10.

NB. If the School Organisation Notice Builder tool is used to create a draft statutory notice, a template for the complete proposal is provided automatically by the Notice Builder when the draft statutory notice is finalised, alternatively the template can be found in "Standard Forms" in the Members' Area of the website or you can enter the information required in the expandable boxes below.

Extract of Schedule 4 to The School Organisation (Establishment and Discontinuance of Schools)(England) Regulations 2007 (as amended):

Contact details

1. The name of the LA or governing body publishing the proposals, and a contact address, and the name of the school it is proposed that should be discontinued.

Implementation

2. The date when it is planned that the proposals will be implemented, or, where the proposals are to be implemented in stages, information about each stage and the date on which each stage is planned to be implemented.

Consultation

3. A statement to the effect that all applicable statutory requirements to consult in relation to the proposals were complied with.

4. Evidence of the consultation before the proposals were published including:
 - a) a list of persons and/or parties who were consulted;
 - b) minutes of all public consultation meetings;
 - c) the views of the persons consulted;and
 - d) copies of all consultation documents and a statement of how these were made available.

Objectives

5. The objectives of the proposal.

ANNEX A

Standards and Diversity

6. A statement and supporting evidence indicating how the proposals will impact on the standards, diversity and quality of education in the area.

Provision for 16-19 year olds

7. Where the school proposed to be discontinued provides sixth form education, how the proposals will impact on:

- a) the educational or training achievements;
- b) participation in education or training; and
- c) the range of educational or training opportunities,

for 16-19 year olds in the area.

Need for places

8. A statement and supporting evidence about the need for places in the area including whether there is sufficient capacity to accommodate displaced pupils.

9. Where the school has a religious character, a statement about the impact of the proposed closure on the balance of denominational provision in the area and the impact on parental choice.

Current School Information

10. Information as to the numbers, age range, sex and special educational needs of pupils (distinguishing between boarding and day pupils) for whom provision is made at the school.

Displaced Pupils

11. Details of the schools or FE colleges which pupils at the school for whom provision is to be discontinued will be offered places, including:

- a) any interim arrangements;
- b) where the school included provision that is recognised by the LA as reserved for children with special educational needs, the alternative provision to be made for pupils in the school's reserved provision; and
- c) in the case of special schools, alternative provision made by LAs other than

ANNEX A

the authority which maintains the school.

12. Details of any other measures proposed to be taken to increase the number of school or FE college places available in consequence of the proposed discontinuance.

Impact on the Community

13. A statement and supporting evidence about the impact on the community and any measures proposed to mitigate any adverse impact.

14. Details of extended services the school offered and what it is proposed for these services once the school has discontinued.

Travel

15. Details of the length and journeys to alternative provision.

16. The proposed arrangements for travel of displaced pupils to other schools including how they will help to work against increased car use.

Related Proposals

17. A statement as to whether in the opinion of the LA or governing body, the proposals are related to any other proposals which may have been, are, or are about to be published.

Rural Primary Schools

18. Where proposals relate to a rural primary school designated as such by an order made for the purposes of section 15, a statement that the LA or the governing body (as the case may be) considered:

- a) the likely effect of discontinuance of the school on the local community;
- b) the availability, and likely cost to the LA, of transport to other schools;
- c) any increase in the use of motor vehicles which is likely to result from the discontinuance of the school, and the likely effects of any such increase; and

ANNEX A

- d) any alternatives to the discontinuance of the school,
as required by section 15(4)

Maintained nursery schools

19. Where proposals relate to the discontinuance of a maintained nursery school, a statement setting out:

- a) the consideration that has been given to developing the school into a children's centre and the grounds for not doing so;
- b) the LA's assessment of the quality and quantity of alternative provision compared to the school proposed to be discontinued and the proposed arrangements to ensure the expertise and specialism continues to be available; and
- c) the accessibility and convenience of replacement provision for local parents.

Special educational provision

20. Where existing provision that is recognised by the LA as reserved for pupils with special educational needs is being discontinued, a statement as to how the LA or the governing body believes the proposal is likely to lead to improvements in the standard, quality and/or range of the educational provision for these children.