

REPORT TO: East Lothian Council

MEETING DATE: 24 February 2015

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: School Consultations – Main Issues Report (MIR)

1 PURPOSE

- 1.1 In accordance with processes pertaining to the Main Issues Report, to seek approval from Council to undertake consultations relating to the school estate (schools, catchment areas, location) regarding work necessary to inform the Local Development Plan (LDP), where there is likely to be a need for new or reprovioned facilities.
- 1.2 This approval is sought to enable such consultations to be undertaken without individual permission from council for each exercise, relating to the LDP, to mitigate any potential delays.

2 RECOMMENDATIONS

- 2.1 The Council agrees:
 - 2.1.1 that the Council can undertake consultations relating to the MIR without further reference to or approval by Council; and
 - 2.1.2 to report back to Council on the outcomes of such consultations in order that Council can make a decision on any proposed changes.

3 BACKGROUND

- 3.1 The Council has a commitment to deliver an increase in the number of new homes in the county. This action will have an effect on the school estate and new provisions and/or changes to existing provisions are likely to be required.
- 3.2 When any change to school arrangements are proposed the Schools (Consultation) (Scotland) Act 2010 sets out the process the Council has to follow.

- 3.3 A council has to consult with parents, children, young people and the wider community when it proposes changes to its school estate. This includes changes such as a change to a school's catchment area.
- 3.4 The Schools (Consultation) (Scotland) Act 2010 sets out the process that councils must follow when they do this. The Act also gives HM Inspectors a role in the process. The Act was amended in 2014 in part 15 of The Children and Young People (Scotland) Act 2014.
- 3.5 Consultation process:
- By way of background, when a council begins a consultation it must produce a proposal paper and must consult for at least six weeks. This must include at least thirty days when schools are routinely open for children and young people. During this time the council must hold a public meeting.
- 3.6 After the consultation period is over, HM Inspectors of Education have three weeks to write an independent and impartial report on the proposal for the council. When considering a proposal HM Inspectors undertake a number of activities. They attend public meetings and visit the schools affected by the proposal. They meet with parents, staff, children and young people. They consider any submissions made to the council during the consultation. They also consider any written representations made directly to Education Scotland. HM Inspectors send their report to the council by the end of the three weeks.
- 3.7 Once it receives the report the council must review the proposal. In reviewing the proposal the council must consider points raised during the consultation and in the report from HM Inspectors. The council must then produce a final consultation report. The council must include a copy of the report from HM Inspectors in its final consultation report. The council has to publish its final consultation report three weeks before it takes its final decision.
- 3.8 In the event that a council decides to close a school, it must notify Scottish Ministers within six working days of taking its final decision. Ministers have a power to call-in a closure decision. They can only do this where it appears to them that a council has failed in a significant regard to comply with the Act's requirements or, in coming to its decision, has failed to take proper account of a material consideration relevant to the proposal.
- 3.9 Ministers have eight weeks to decide whether or not to issue a call-in notice. Representations can be made to Ministers during the first three weeks of this period.
- 3.10 The council has a duty to inform consultees of this right.
- 3.11 Given the minimum timescale for a consultation is twelve weeks post preparation of the proposal paper, permission is sought to commence the exercises without further reference to Council.

4 POLICY IMPLICATIONS

- 4.1 Dependent on the outcome of the consultation, there may be the need to update school catchment areas and transport policies.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – See 6.2
- 6.2 Personnel - Dependent on number of consultations there will be a need to create a team to lead and manage the process. Indicative resourcing from other authorities indicate FTE 3.0 for the period of the consultations.
- 6.3 Other - The consultation period has to run for a minimum 30 clear school days and public meetings have to be held in the same period.

7 BACKGROUND PAPERS

- 7.1 The School (Consultation) (Scotland) Act 2010
- 7.2 Children and Young People (Scotland) Act 2014

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