

**GOVERNING BODY PROPOSAL TO ALTER THE LOWER AGE LIMIT
(ESTABLISH A NURSERY CLASS) AT ST. ANNE'S ROMAN CATHOLIC
VOLUNTARY AIDED PRIMARY SCHOOL**

Report of the City Solicitor

1. Purpose of the Report

- 1.1 To consider a statutory proposal published by the Governing Body of St. Anne's Roman Catholic Voluntary Aided Primary School to alter the lower age limit of the school in order to establish a nursery class.

2. Description of Decision

- 2.1 That the Committee consider the above proposal. Under the provisions of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007, as amended, (the 2007 Regulations) the Authority can either reject the proposal or approve the proposal with or without modification.

3. Introduction and Background

- 3.1 Under the provisions of the Education and Inspections Act 2006 and the 2007 Regulations, the governing body of a voluntary school may publish proposals for certain alterations to be made to the school, one of which is an alteration to the lower age limit of the school.
- 3.2 The Authority has received a proposal by the Governing Body of St. Anne's RC Voluntary Aided Primary School. The proposal is to reduce the lower age limit of the school from 4 years to 3 years by the addition of a nursery class for 26 part time pupils.
- 3.3 The statutory notice is attached at Appendix 1 and the full proposal is attached at Appendix 2.
- 3.4 The notice was published on 15th January 2009, with the six week representation period expiring on 26th February, 2009.
- 3.5 One objection was received in response to the statutory notice and is attached at Appendix 3.

4. **Consultation**

- 4.1 The 2007 Regulations provide that those bringing forward statutory proposals to make a school alteration must consult prescribed, interested parties and must also have regard to the Secretary of State's guidance.
- 4.2 The Secretary of State's guidance states that when consulting interested parties, proposers should:-
- i) allow adequate time;
 - ii) provide sufficient information for those being consulted to form a considered view;
 - iii) make clear how consultee's views can be made known;
 - iv) be able to demonstrate how they have taken into account the views expressed during the consultation when reaching a decision to publish proposals.
- 4.3 Details of the consultation undertaken by the School in 2007 and 2008 are set out at Section 11 of Appendix 2.

5. **Relevant Extracts from DCSF Decision Makers' Guidance**

- 5.1 Regulation 8 of the 2007 Regulations provides that the Authority must have regard to guidance issued by the Secretary of State when making decisions on statutory proposals. The relevant parts of the current Guidance are set out here:-

Relevant Extracts

- 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

- 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;

the best schools are able to expand and spread their ethos and success; and

new providers have the opportunity to share their energy and talents by establishing new schools – whether as voluntary schools, Trust schools or Academies – and forming Trust for existing schools.

- The IEA 2006 amends the Education Act 1996 to place new duties on Local Authorities (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

- The Government wishes to encourage changes to local school provision where it will boost standards and opportunities for young people, whilst matching school place supply as closely as possible to pupils' and parents' needs and wishes.
- Decision Makers should be satisfied that proposals for changes to a school's provision will contribute to raising local standards of provision and will lead to improved attainment for children and young people. They should pay 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.

Diversity

- 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.

- Decision Makers should consider how proposals will contribute to local diversity. They should consider the range of schools in the relevant area of the LA and whether the expansion of the school will meet the aspirations of parents, help raise local standards and narrow attainment gaps.

Every Child Matters

- 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 the school will provide a wide range of extended services, opportunities for personal development, access to academic and vocational 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.

SCHOOL CHARACTERISTICS

Equal Opportunity Issues

- 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 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.

NEED FOR PLACES

Creating Additional Places

- Where proposals will increase provision, the Decision Maker should consider the supporting evidence presented for the increase. The Decision Maker should take into account the existence of spare capacity in neighbouring schools, but also the quality and popularity with parents of the schools in which spare capacity exists and evidence of parents' aspirations for places in particular schools. The existence of surplus capacity in neighbouring less popular or successful schools should not in itself prevent the addition of new places.
- Where the school has a religious character, or follows a particular philosophy, the Decision Maker should be satisfied

that there is satisfactory evidence of sufficient demand for places for the school to be sustainable.

- Where proposals will add to surplus capacity but there is a strong case for approval on parental preference and standards grounds, the presumption should be for approval. The LA in these cases will need to consider parallel action to remove the surplus capacity thereby created.

Travel and Accessibility for All

- 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.
- 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. 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.

FUNDING AND LAND

Capital

- The Decision Maker should be satisfied that any capital required to implement the proposals will be available. Normally, this will be some form of written confirmation from the source of funding on which the promoters rely (e.g. the LA, DCSF or LSC). In the case of an LA, this should be from an authorised person within the LA, and provide detailed information on the funding, provision of land and premises etc.
- There can be no assumption that the approval of proposals will trigger the release of capital funds from the Department, unless the Department has previously confirmed in writing that such resources will be available; nor can any allocation 'in principle' be increased. In such circumstances the proposals should be rejected, or consideration of them deferred until it is clear that the capital necessary to implement the proposals will be provided.

OTHER ISSUES

Views of Interested Parties

- 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.

6. Suggested Reason for Decision

The Governing Body have published a proposal which falls to be determined by the Authority under the provisions of the Education and Inspections Act 2006 and the 2007 Regulations.

7. Alternative Options to be Considered and Recommended to be Rejected

None. If the Authority fails to determine the proposal by 26th April, 2009 it must be referred to the Schools Adjudicator for determination.

8. Legal Implications

The proposal has been published in accordance with the 2007 Regulations.

9. Appendices

Appendix 1 – Statutory Notice.
Appendix 2 – Prescribed Information Proposal Document.
Appendix 3 – Objection received to Statutory Notice.