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DEPARTMENT OF EDUCATION AND SCIENCE

ELIZABETH HOUSE YORK ROAD LONDON SE1 7PH

TELEPHONE 01-934 9000

FROM THE SECRETARY OF STATE

Pine Marks

Rt Hon Viscount Whitelaw PC CH MC  
Lord President of the Council  
68 Whitehall  
London SW1

W 2/7

21 July 1986

mb

Jim Miller

PROVIDING FOR QUALITY: THE PATTERN OF ORGANISATION TO AGE 19

I am grateful to those who responded <sup>at nap</sup> to my letter to you, copied to colleagues, of 30 June circulating my proposed draft Circular on this subject.

I think from what has been said that colleagues are generally content with the draft. I therefore propose to issue it for consultation in August, having done a little updating to reflect the publication, since I wrote, of the White Paper "Working Together: Education and Training".

I wholly agree with the Prime Minister's point about sixth form size. Paragraph 31 of the draft seeks fully to reflect this, but I shall certainly consider after the consultations whether the point needs further strengthening.

Norman Tebbit concentrated on the procedures for handling reorganisation. This is a matter that concerns me a great deal. I have announced a scrutiny of the Department's procedures. I shall look at the text of the Circular in its final form in the light of the recommendations the scrutineer makes. As to incentives, the essential one has been, and remains, the opportunity rationalisation offers local authorities to make the most effective use of their resources. The Circular emphasises this.

I shall be keeping in mind John MacGregor's point about Annex I when I consider the responses to the consultation. The Annex is of course procedural and subordinate to the Circular itself; I have made sure that the text of the Circular makes it very clear that we mean business.

I am sending copies of this letter to the Prime Minister, Norman Tebbit, David Young, Malcolm Rifkind, and John MacGregor, and to Sir Robert Armstrong.



EDUCATION: Providing for Quality, June, 86  
TPM.





Chancellor of the Duchy of Lancaster

*ZPPS*  
CABINET OFFICE,  
WHITEHALL, LONDON SW1A 2AS

*WBA*  
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7471

*9<sup>th</sup>* July 1986

The Rt Hon Kenneth Baker MP  
Secretary of State for Education  
and Science  
Department of Education and Science  
Elizabeth House  
York Road  
LONDON  
SE1 7PH

*M3PM*

*D Kenneth*

PROVIDING FOR QUALITY: THE PATTERN OF ORGANISATION TO AGE 19

Thank you for the copy of your letter of 30 June to Willie Whitelaw, which I read with interest.

I have to say that I am unclear as to how far the proposed Circular takes the position forward from that which applies at present in terms of providing additional real incentives to LEAs and local communities to accept that school reorganisation can lead to marked improvements in the value-for-money of school spending, and in the quality of schooling overall. Also, does the Circular reduce the apparent ease with which proposals are objected to and called in to the Secretary of State; this seems to place Central Government too often in the rôle of arbiter.

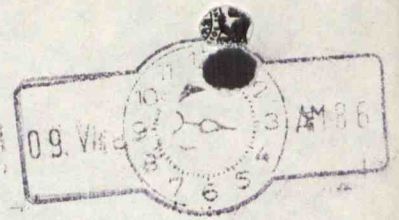
I have looked recently also at the Audit Commission report "Towards Better Management of Secondary Education", to which you refer in your letter. I would not necessarily endorse the conclusions reached in para 151 of that report, but I am sure that your Circular will in part be viewed as needing to respond to those points. I have to say that I am not clear to what extent it does so. Could you perhaps say how you see this being presented?

I am sending a copy of this letter to the Prime Minister, Willie Whitelaw, Nigel Lawson, other members of H Committee, David Young, and to Sir Robert Armstrong.

*g*  
*Norman*  
NORMAN TEBBIT



EDUCATION  
PROVIDING FOR QUALITY  
6/16







ccBG  
NEW ST. ANDREW'S HOUSE  
ST. JAMES CENTRE  
EDINBURGH EH1 3SX

9 July 1986

The Rt Hon Kenneth Baker MP  
Secretary of State for Education  
and Science  
Elizabeth House  
York Road  
LONDON  
SE1 7PH

Dear Ken,

Thank you for sending me a copy of your letter of 30 June to Willie Whitelaw enclosing a draft circular on the reorganisation of education up to age 19.

I have no objection to your proposal to undertake consultations on the draft circular. I shall be considering the scope for similar action in Scotland.

I am sending copies of this letter to the Prime Minister, to members of H Committee, the Chancellor of the Exchequer and the Secretary of State for Employment and the Secretary of the Cabinet.

MALCOLM RIFKIND



EDUCATION

Providing for

quality

G/V







CCBS

Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Kenneth Baker MP  
Secretary of State for Education and Science  
Department of Education and Science  
Elizabeth House  
York Road  
London  
SE1 7PH

NBPM

7 July 1986

Dear Kenneth,

**PROVIDING FOR QUALITY: THE PATTERN OF ORGANISATION TO AGE 19**

I have seen your letter of 30 June to Willie Whitelaw enclosing a draft circular to LEAs on the organisation of education up to age 19, and the removal of surplus places in particular.

Our officials are already in touch about strengthening the material on investment appraisal in the circular, but that can proceed during the consultative period and need not hold up the issue of the document for consultation as you propose.

I am content with the draft and have no comments on it except for Annex 1. While I see the need for it, it does rather emphasise the obstacles without conveying much sense of commitment to overcoming them. It would I think help if this Annex could have a new opening paragraph which made clear that it was also your policy to encourage cost-effective reorganisation; and that the purpose of what followed was to draw attention to some of the pitfalls, in order to reduce the risk that proposals would fail unnecessarily on policy, legal, or technical grounds.

I am copying this letter to the Prime Minister, to the members of H Committee and the Secretary of State for Employment; and to Sir Robert Armstrong.

Yours etc,

JOHN MacGREGOR



EDUCATION

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10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

7 July 1986

Dear Rob

PROVIDING FOR QUALITY: THE PATTERN OF ORGANISATION  
TO AGE 19

The Prime Minister has seen your Secretary of State's letter to the Lord President of 30 June.

The Prime Minister congratulates your Secretary of State on his efforts to rationalise provision, which should help see that resources in education are used to the best effect and that expenditure is contained. She has also commented, in relation to paragraphs 24-27, that the figure for the minimum size of sixth forms of 150 should be treated as a guideline only. She believes the important point is that provision should be most cost effectively managed in the light of all the local circumstances, whatever specific size of sixth form that might point to.

I am copying this letter to the Private Secretaries to members of H Committee and to Rachel Lomax (H M Treasury), John Turner (Department of Employment) and Michael Stark (Cabinet Office).

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Mark Addison

MARK ADDISON

Rob Smith, Esq.,  
Department of Education and Science

SLW



PRIME MINISTER

DRAFT CIRCULAR ON THE ORGANISATION OF EDUCATION UP TO AGE 19

Mr. Baker proposes to issue for consultation the draft circular at Flag A (under his covering letter). The essential aim is to encourage greater efficiency in schools in the face of falling rolls.

Brian Griffiths' comments are at Flag B.

Agree, as Brian proposes:

(i) to congratulate the Secretary of State on his efforts to rationalise provision which will help see that resources in education are spent to the best effect, and also that expenditure is contained?

(ii) to suggest that the figure for the minimum size of sixth formers of 150 should be treated as a guideline only. The important point is that provision should be most cost effectively managed in the light of all the local circumstances, whatever specific size of sixth form that might point to? ✓

and ✓  
Make Addition

Mark Addison

4 July 1986

I would argue  
sharply with some of the  
views in paras 23-27 inclusive  
and also with para 10.

(Written before I had read B.G.'s  
note.  
not)



PRIME MINISTER

4 July 1986

PROVIDING FOR QUALITY: THE PATTERN OF ORGANISATION TO AGE 19

X Your letter to the Secretary of State of 24 March has clearly had its intended effect. The present draft of the DES circular for 16+ education is noticeably different from the earlier drafts.

In view of this there are two responses which you should make. First, you might applaud the Secretary of State's efforts to rationalise provision. At present there is space in secondary schools for 4.1 million pupils, yet the present number is only 3.5 million, and by 1991 the total is expected to fall to 2.8 million - and not rise above 3 million for the rest of the century; in primary schools, there is space for 4.6 million pupils, but at present there are only 3.6 million, and by 1991 the total is expected to be 3.9 million. You might also hint that you expect to see the impact of this policy on reduced PES bids for future years.

Second, you should question the DES doctrine that a "broad balanced relevant and differentiated curriculum", implies a minimum size for comprehensive schools of at least a 6 form entry, and a minimum size of the sixth form of at least 150 students. (Appendix 2). In terms of sixth forms and 16+ education, one can imagine a variety of arrangements between secondary schools (including grammar schools) and between secondary schools and local FE colleges which preserves the



identity of the school (including their sixth forms), offers a good education, but in which sixth form size is far less than 150. LEAs need to be flexible in their interpretation of the circular, putting the interests of the pupils and parents before the arbitrary rules of educational planners.

Brian Griffiths

BRIAN GRIFFITHS



Providing for Quality: EDUCATION

June 86





cc Bf  
reborn

DEPARTMENT OF EDUCATION AND SCIENCE

ELIZABETH HOUSE YORK ROAD LONDON SE1 7PH

TELEPHONE 01-934 9000

FROM THE SECRETARY OF STATE

CP  
Any p/c comments  
by Friday please.

The Rt Hon Viscount Whitelaw PC CH MC  
Lord President of the Council  
68 Whitehall  
LONDON SW1

OKS  
2/7

30 June 1986

Don Whitelaw

PROVIDING FOR QUALITY: THE PATTERN OF ORGANISATION TO  
AGE 19

Because of its political sensitivity I thought that I should let you know of my intention to issue for consultation the enclosed draft Circular on the organisation of education up to age 19.

The Circular is designed to encourage a renewed drive for the efficient organisation of provision, including where necessary school closures. Why? Because the school population is still falling rapidly. In secondary schools, where there are 4.1 million places, actual pupil numbers stand at about 3.5 millions, and are expected to fall to 2.8 millions by 1991. The Circular is central to our efforts to secure better value for money in school education by the removal of surplus school places. New national targets for the removal of such places were published in this year's Public Expenditure White Paper, and the Audit Commission has pressed strongly the economic case for reorganisation. But it is not just a question of numbers and money. It is as much - if not more so - a question of organising provision to maintain and improve the quality of education.

Reorganisations of course raise political problems with colleagues in the House of Commons, many of whom find themselves opposed to local proposals. The draft seeks to respond to their concerns by making clear the need to preserve what is best in the existing system and to maintain as broad a parental choice as practicable. I have sidelined some of the passages to which I would draw particular attention in this context.



I intend that in its final form the Circular will be illustrated by charts showing graphically the forecast numbers of pupils and the consequent removal of surplus places. The purpose of the Annexes is to provide a comprehensive guide for local education authorities (and, where appropriate, the governors of aided schools) through the somewhat complicated route to rationalisation. I have also just announced a scrutiny of the Department's procedures under the Education Act 1980 with a view particularly to reducing the time taken to reach decisions; and the Circular itself should help by setting out more clearly the framework within which decisions will be taken.

School closures are necessary to redeploy resources. If we don't do this we'll be maintaining half full schools at a cost in the Secondary area alone of £200m a year. The dilemma is that many of our backbenchers line up against specific proposals in their own constituencies. We do have to think out how this necessary programme can be made more popular. My discussions with John MacGregor are key to this.

Subject to any comments you or colleagues may wish to make, and which I should be grateful to receive by 7 July, I propose to issue it for consultation in the following week.

I am sending copies of this letter with the draft Circular to the Prime Minister; and to the other members of H Committee, the Chancellor of the Exchequer and the Secretary of State for Employment; and to the Secretary of the Cabinet.

*[Handwritten signature]*

*[Handwritten signature]*



DRAFT

PROVIDING FOR QUALITY: THE PATTERN OF ORGANISATION TO AGE  
19

CHALLENGES

1. There is widespread agreement on the need for changes in the pattern of organisation in education to meet the challenges in the late 1980s and 1990s. The challenges are threefold and inter-related. One is the need, set out in the White Paper, "Better Schools"<sup>1</sup>, to improve standards of achievement on the part of pupils and students of all abilities, the quality of the curriculum and the effectiveness of its delivery. The second is the need to respond to both the immediate and long term effects of sharply falling age groups particularly for the 11-19 age range. The third challenge is to make schools and colleges as cost-effective as possible, so as to optimise the use of the resources available for curricular and related improvements: this entails reducing to a minimum the already large surplus capacity, which is further increased by falling rolls.

2. These challenges have prompted a constructive response in many parts of the education service. But they continue to require action by all partners in the service. For many schools and colleges, internal changes eg in the organisation of classes and teaching duties will be necessary. For some of them, this will be enough. For others, internal reorganisation on its own will not be enough to prevent a decline in educational effectiveness and disproportionate increases in costs: more radical action including closures and amalgamations will be required. Considerable forward planning is called for, both at the level of the individual school or college, and more generally, and some hard decisions need to be taken. The Secretary of State calls for action to rationalise provision so that it can provide a more effective response to national and local needs and circumstances. Financial considerations

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<sup>1</sup> Cmnd 9469



are always important for educational effectiveness, but the Secretary of State is also concerned that full account should be taken of educational considerations in the planning and change which must now take place. The new arrangements should offer an education better suited to the needs of pupils and students of all abilities than would be offered by those they replace.

3. In the case of a school of proven worth, the Secretary of State would normally be prepared to approve a closure only if it was both unlikely on the evidence that the school would be able to sustain its established quality and likely that the alternative provision would be better. He would need to be satisfied that the proposed new arrangements, whether for primary or secondary age pupils, would provide an appropriate curriculum, sufficiently differentiated so that all pupils can be stretched throughout to the limit of their abilities. Proposals should also give full weight to parental preferences for schools of particular types, notably grammar schools, denominational schools and single sex schools (see Annex 1, paragraphs 2-4).

4. The purpose of this Circular is to improve the educational effectiveness of provision for all pupils and students up to age 19. In the light of extended discussions about school provision with the local authority associations and the other partners in the education service, it draws attention to the educational opportunities and imperatives now facing local education authorities, the voluntary bodies and school governors; elucidates the policies of the Secretary of State; promulgates new national targets for the removal of surplus capacity; recommends that provision be kept under review; and consolidates and updates existing procedural guidance to facilitate the action which is now necessary. It supersedes Circulars 2/80, 2/81 and 4/82 and Administrative Memorandum 4/84. In relation to 16-19 provision<sup>2</sup>, the Circular asks local education authorities to review their non-advanced

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<sup>2</sup>"16-19 used to refer to the three-year age group of those aged 16, 17 and 18 at the start of the relevant academic year.



provision for the whole of this age group and to take any appropriate action in the interests of educational effectiveness and value for money.

## EDUCATION IN SCHOOL

### Organising for quality

5. The Department's discussions with the partners in the education service have revealed widespread agreement that schools need to be of a certain minimum size if they are to be well-placed to develop and deliver high quality education cost-effectively to all their pupils; and if the maximum benefit is to be derived from the teaching and other resources available to the education service as a whole. There are many small schools in which good teachers have done much to overcome the limitations of size, but there is agreement that, in general, schools below a certain size cannot, even with disproportionate resourcing, fully compensate for the educational disadvantages of smallness (see Annex 2).

6. Even the largest schools face difficulties from contraction. Falling rolls (now affecting principally the secondary age range) bring more and more schools into the range where they are unable to organise and sustain an acceptable curriculum cost-effectively. For an increasing number of schools, rolls will fall to a point where these difficulties will not be overcome even with disproportionate resourcing.

7. Looked at in general terms, the desirable minimum size of a school depends to a considerable extent on its age range and its character. A true assessment of the viability of an individual school must also take account of the ethos of the school, the quality and balance of expertise of its teachers and its non-teacher support, links with neighbouring schools and colleges, and the fitness for purpose of the premises. However, the following principles, consolidating what was said in "Better Schools" and earlier guidance, give a general indication of the size thresholds at which schools



of different types can deliver a satisfactory curriculum economically. They are drawn from inspection evidence supported by curriculum modelling and reflect the experience of many LEAs: Annex 2 sets out details of the background assumptions.

8. Given appropriate augmentation of their resources some smaller schools may be justifiable in exceptional circumstances, but otherwise the number of pupils in a primary school should not fall below the level at which a complement of three teachers is justified. Generally speaking, infants (5-7), first (5-8 and 5-9), and JMI (5-11) schools should have at least one form of entry, and 7-11 schools at least two forms of entry, to secure the necessary range and mix of teacher experience and curricular expertise.

9. Middle schools need to provide teaching adapted to the needs of primary age children as well as the more specialised teaching required for older pupils. For 8-12 schools, these needs indicate a minimum desirable size of two forms of entry; and for 9-13 schools three forms of entry.

10. An 11/12-16 comprehensive school of fewer than six forms of entry is unlikely to be able to offer to the whole range of its pupils a curriculum which is appropriately broad, balanced, relevant and differentiated, and delivered through a sufficient number of teaching groups.

11. The minimum size of comprehensive schools with sixth-forms should be sufficient at least to sustain that form at around a figure of the order of 150 students as recommended in paragraphs 24-27 below, having regard to the number of pupils admitted at age 16, without detriment to the staffing of the rest of the school.

12. Declining pupil numbers will mean that more and more secondary schools - as already many primary schools - fall short of these thresholds. In many of these, the best answer



from both an educational and economic point of view will be to amalgamate or close some of the schools in an area, or to reorganise their age ranges (eg by moving from a three-tier system with middle schools to a two-tier system), or some other strategy for rationalising the pattern of schools in the area. In other localities, for geographic and other reasons it may not be possible to bring all small schools up to the educationally desirable minimum size at which they can operate cost-effectively. It is nevertheless important that where possible they should at least approach that size; and that, where practical alternatives are available, schools should not be retained if the educational and financial arguments for their closure are clear.

13. Where small schools have for practical reasons to be retained, and where larger schools have a good prospect of long-term viability, LEAs, school governors and teachers nevertheless need to consider whether internal changes are desirable to minimise the strains imposed by contraction. For example, in a secondary school, priorities may need to be considered between the preservation of the existing curriculum, the size and nature of teaching groups, and the amount of class-contact time for teachers. The levels and distribution of capitation may have become inappropriate, obsolete staffing structures may unbalance the distribution of scale points, and teachers may need in-service training before taking up new responsibilities. Matters such as these need to be kept under active review if breadth, balance, relevance and differentiation are to be maintained, and preferably enhanced.

#### Organising for efficiency

14. Small schools incur disproportionately high unit costs on staffing if they are to sustain quality; and schools of any size with a substantial proportion of surplus places incur disproportionately high unit costs on maintaining under-used capacity. The extra expenditure thus incurred is often found at the expense of other schools in the area, to the detriment



of value for money in the latter, and is hard to justify unless geographic considerations require it.

15. It has been calculated that in terms of premises costs alone, it costs an average of £100 a year to retain a surplus primary place and £170 a surplus secondary place. Some of what is technically surplus space can be used very productively by schools, but even then it is important for providers to consider whether this represents the best use of limited resources. The removal of surplus space often entails not only upheaval for pupils and teachers, but capital costs in bringing up to standard the premises that remain, and sometimes additional transport costs. Even taking these into account, investment appraisal of rationalisation options will often show a good rate of return (see Annex 3).

16. Surplus capacity affects individual authorities to different extents and on differing timescales. In aggregate, however, the position may be seen in the following terms. In the primary sector, the total current capacity of the stock is about 4.6 million places. Primary pupil numbers reached a low point in 1985 of 3.6 millions. They are expected to rise to 3.9 millions by 1991, but this would still mean excess capacity of not far short of 20 per cent if no further action were taken to reduce the surplus. On the calculations above the cost of maintaining these places would be about £70 millions a year. Beyond 1991, projected numbers depend significantly on future births, and a further modest rise in overall numbers is expected, so some of that surplus may need to be retained unless investment appraisal and other considerations indicate that providing anew in the 1990s represents a better option.

17. As to secondary schools, the total current capacity of the stock is about 4.1 millions. The fall in pupil numbers, which stood at 3.5 millions in 1985, is still gathering momentum: by 1991, the total is expected to fall to 2.8 millions, and although it should rise slightly after that it is not expected to exceed about 3.0 millions for the rest of the century.



To maintain the surplus of well over a third which this represents would cost something like £200 millions a year if nothing is done to reduce it.

18. LEAs collectively have already made substantial progress in removing surplus places. Targets for the removal of surplus places, covering the period up to March 1987, were last set in Circular 2/81, and the interim target of 790,000 places to be removed by March 1985 has been comfortably exceeded in the outturn figure of 855,000 by December 1984. In the light of all these considerations, the Secretary of State believes that a higher rate of removal than that originally proposed is both feasible and necessary. Following a report by a joint Working Group of officers from the local authority associations and officials of the Department, the Secretary of State has discussed with representatives of the associations the proposed new targets to 1991 for the removal of half the primary surplus and 3 in 5 of the secondary surplus. In accordance with previous practice, these targets were set out in the January 1986 Public Expenditure White Paper (Cmnd 9702) and are reflected in the Government's expenditure plans. A review of progress in meeting the targets and any further detailed assessment of them which may be necessary will be undertaken as part of the normal annual discussions with the local authority associations on local authority expenditure.

#### 16-19 PROVISION

19. The need for educational effectiveness and value for money in 16-19 provision is best met on the basis of a comprehensive review of the whole range of that provision, taking account of the variety of courses which has developed to meet the needs of 16-19 year olds. These courses can be:

- (1) GCE A levels (to be supplemented by AS levels);
- (2) full-time and sandwich vocational courses leading to qualifications offered at present by the Business



and Technician Education Council the City and Guilds of London Institute, the Royal Society of Arts and other bodies, and within the scope of the proposed National Council for Vocational Qualifications;

- [(3) the Certificate of Pre-Vocational Education (CPVE);]
- (4) resit or additional O levels and CSEs, or both (to be replaced by GCSEs);
- (5) off-the-job provision for Youth Training Scheme (YTS) trainees;
- (6) part-time courses leading to qualifications offered by BTED, CGLI, RSA and other bodies;
- (7) courses within further education for young people with special educational needs.

These categories are not mutually exclusive: in particular, the new 2-year YTS will offer all trainees the opportunity to obtain, or make significant progress towards, a recognised qualification, and category (5) will thus merge with category (6). Nor is provision limited to the 16-19 age group: nearly all courses other than the CPVE can also be taken by those over 19 and some, notably GCSE, by those below 16.

20. For the 16-19 age group there is considerable overlap between the type of course which can be taken in, or under arrangements made by, schools (sixth-forms and sixth-form colleges) and in further education (FE and tertiary colleges). Courses in categories, (1), (3) and (4) and many courses in category (2), can be taken in both sectors. Schools, however, do not have the specialised machinery and workshop capacity to be able to provide the full range of vocational courses; and in addition YTS provision and part-time vocational courses are normally excluded from the school sector because of the



absence of any statutory provision for part-time schooling and because tuition fees cannot be charged in respect of school courses. Courses in all 7 categories are available within the FE sector.

#### New opportunities for students

21. The Secretary of State believes that a sound framework of courses is being established within which local education authorities can effectively, efficiently and economically meet the needs and the 16-19 age group. The curriculum, and the structure of qualifications, are being reformed through the introduction of the GCSE, AS Levels, the CPVE and the various initiatives for the improvement of vocational qualifications. Moreover, as stated in paragraph 24 of "Education and Training for Young People",<sup>3</sup> "the Government believes it to be right that we should set ourselves the target that all young people should enter the labour market with a qualification, either general or work-related, relevant to employment." Schools and colleges, though not the sole providers, can expect to play a part in meeting the increased demand for post-16 education and training which it is the Government's policy to encourage.

22. A number of Government initiatives support this policy. One aim of the measures described in "Better Schools" is to raise the level of attainment of pupils and their confidence in their own abilities, and thus to encourage more positive attitudes to continuing education and training after the compulsory period. The CPVE offers courses which are designed to be attractive and relevant to young people who are not pursuing A Level studies. Action generally to encourage employers to make better use of education and training should increase participation in NAFE. For example, one of the objectives of the 2-year YTS is that all trainees should have the opportunity to obtain, or make progress towards obtaining, a recognised qualification; and while other providers will supply some of the demand, colleges have the opportunity to attract many young people who would not previously have continued their



education and training after the age of 16.

23. The new and changing educational opportunities for 16-19 year olds may modify the effects of demography, which will nevertheless be important. The 16-19 year old population in England will fall by one-third from a peak of 2.4 million in 1983 to a trough of 1.6 million in 1995. Numbers will recover slightly thereafter but are projected to remain at less than 1.8 million (25% below the 1983 peak) for the rest of this century. The experience of the great majority of individual authorities will reflect the national trend.

#### Provision in schools

24. Many different arrangements for course provision both between and within the institutions of a local education authority can effectively meet the needs of the 16-19 age group at an acceptable cost and without detriment to provision for any part of that group or for pupils below the age of 16. The great majority of local education authorities make substantial provision in school sixth-forms for categories (1), (3) and (4), and some provision for category (2) of paragraph 19. Such provision is usually either in a school which also caters for pupils below age 16, or in sixth-form colleges.

25. Given the variety of student needs, it is appropriate for school sixth-forms to cater both for A level students and for students who usually spend only one year in the sixth-form. Such students may be studying for a GCSE examination (and the subjects studied may or may not have been studied pre-16) or they may be on CPVE, vocational or other non-A level courses.

26. A school sixth-form can be expected, not least by parents and students, to offer a choice of A level subjects which



include all those commonly taken and an appropriate selection of other subjects. Such an approach would normally lead to a choice of not less than about 15 subjects, on the basis of which AS level courses might also be offered in perhaps 6 or so contrasting or complementary subjects. Each A or AS level subject needs to give rise to teaching groups large enough to provide sufficient stimulus to the students and to avoid the wasteful use of teaching resources. The desirable size of groups will depend on the subject (for example the amount of practical work involved) and it may be impossible to achieve, even through specialisation between institutions, when the aim is to preserve a minority subject or to develop a new one. On the basis of student/staff ratios which are normal for sixth-form provision, there are usually strong educational advantages in securing teaching groups of not less than about 7-10 students.

27. The considerations in paras 25 and 26 suggest that if a sixth-form is to sustain its educational viability at an acceptable cost, the minimum number of students in it, taking one year with another, should be of the order of 150 in the case of a non-selective school. A lower minimum figure may be appropriate in the case of a grammar school.

#### Provision in colleges

28. In those cases where a tertiary college replaces school sixth-form provision, it should provide for at least 150 full-time students in the 16-19 age group on the basis outlined in paragraphs 25 and 26 above (tertiary colleges, as also sixth-form colleges, will in practice normally provide for many more than 150).

29. As regards NAFE in general, the considerations in paragraph 26 relating to the desirable size of A and AS level teaching groups apply throughout the sector; on the other hand for FE colleges other than tertiary colleges it is inappropriate



to stipulate a minimum number of subjects at A level. The Secretary of State's policy is to increase the overall efficiency of NAFE. The 1986 Public Expenditure White Paper assumes a student:staff ratio (SSR) of 9:1 in 1986-87 and the Secretary of State expects to see a steady improvement in the light of the joint DES/local authority associations study of NAFE efficiency. LEAs should consider whether their NAFE institutions (including tertiary) can be staffed in accordance with national SSR targets and what local action, including the possible amalgamation or closure of small colleges, may be required to match or improve on these targets.

#### Optimising the distribution of courses

30. Where provision for the 16-19 age group embraces both schools and further education establishments it is for the local education authority, in consultation with governing bodies, to plan the deployment of resources between institutions in accordance with a considered judgment of the optimum distribution of courses. Such a judgment should be made in the light of the needs of the local community, should be based on educational effectiveness and value for money, and should have regard to the statutory functions of governing bodies head teachers and college principals.

31. Falling rolls are likely to increase the number of sixth-forms which cannot achieve the desirable minimum size. In the interest of good education and economy, authorities should take action to avoid sixth-forms which do not, or are unlikely to, reach and maintain this size, unless prevented by geography. Such action should not be taken purely with reference to the school(s) in question but on the basis of a review of all 16-19 provision in the area in relation to the needs of all the categories in paragraph 19 and with due regard to the implications for effective provision for pupils below age 16. It should have regard to the cost and disruption of change, and in particular to the cost of shifting provision from one sector to another. Provided these requirements



are met, and the wider guidance in this Circular is followed, the Secretary of State has no preferred solution for the outcome of such a review. If the arrangements are well adapted to local circumstances, they may for example take the form of amalgamations of schools catering also for pupils below 16; the creation of a single school whose sixth-form caters both for students who were pupils at the school pre-16 and for students who pre-16 were registered at another school in the area; or the creation or amalgamation of sixth-form colleges or the creation of tertiary colleges.

32. All the above patterns are compatible with effective co-operation between institutions in meeting students' needs economically and effectively whether by systematic institutional specialisation or by consortium-type arrangements. The latter may take many forms, but experience suggests that unless the arrangements are simple and enjoy the whole-hearted commitment of all concerned, even a sustained effort by all parties may not realise the potential for an effective division of labour which such co-operation appears to offer.

33. The Secretary of State believes that local education authorities should endeavour to make provision which, among other things, reflects employment, including self-employment, opportunities, primarily at the local level, but also nationally. To this end, they should provide appropriate information and guidance to prospective students (see paragraph 34). However, ultimately, so long as provision can be made cost-effectively and does not reflect mere passing fashions, authorities should seek to satisfy the demand for courses as it is expressed by young people themselves, and in particular should not turn away from vocational courses suitably qualified potential students on the basis of purely local estimates of labour market supply and demand. Responding in this way places a premium on the provision within courses of curricula which are sufficiently broad and balanced to allow students, as far as possible, to move on to a range of related, but different, areas of employment, as opportunities and their



developing competence and preferences permit.

### Careers education and guidance

34. The full benefit of planning 16-19 provision will be realised only if the students are guided towards the most appropriate choices of study. The less appropriate are the choices made in the fifth secondary year at school, the more likely it is that there will be a high rate of failure and wastage from courses undertaken in the 16-19 period. The Secretary of State therefore considers it essential for all pupils approaching 16 to receive clear, comprehensive and impartial advice on the educational provision available in accessible schools and further education colleges. He understands that this is sometimes a source of difficulty, and commends the practice of some authorities in issuing to all fifth-formers and their parents a leaflet setting out the courses available in schools and colleges and the opportunities which they provide for obtaining employment or progressing to further and higher education. In this context he draws attention to the Department's own booklet, 'Choosing at 16'. Authorities might also wish to arrange for representatives of local colleges to make a personal presentation of what they have to offer.

### **ACTION**

#### General

35. Much remains to be done in organising provision up to age 19 to improve educational quality in the most cost-effective way. The appropriate strategy will differ from one locality to another. Educational, financial, social and practical considerations should all play a part. Although the weight accorded to each will vary with circumstances, it is important that rationalisation plans should be drawn up in a systematic way so that the providers, and the communities they serve, can take account of all available options and assess them in the light of their educational implications and financial



consequences.

36. Experience of rationalisation studies suggests that they may best be undertaken on an area basis, and should include the following elements:

- (1) a forecast of future pupil or student numbers; an appraisal of the building stock, including an assessment of the physical capacity, area and condition of the buildings and land; and estimates of running costs;
- (2) the identification of options, taking account of educational, organisational, economic and social criteria;
- (3) educational and economic evaluation of each option, including the option of doing nothing, taking account of recurrent as well as capital expenditure and receipts, and giving due weight to the educational costs of the disruption involved.

Those contributing to such studies may also find it helpful to refer to what was said in "Better Schools" about school staffing, contact ratios, class sizes and the effective deployment of the teacher force. Further joint work is in hand between the Department and the local authority associations with the aim of providing additional guidance.

#### Schools

37. Whether the demands of school size and the impact of falling rolls call for radical or less radical change will vary from one area to another, and from one school to another. The Secretary of State's concern is to preserve the best of what we have already, and to improve the rest, having regard to prospective changes in local circumstances. He expects local authorities and voluntary bodies to undertake



systematic reviews of their provision, area by area, and to involve school governors, teachers and parents fully in their planning. Annex 1 sets out some important considerations which the Secretary of State asks providers to bear in mind in drawing up plans for rationalisation, and which will, where they apply, form part of the background to his consideration of any statutory proposals arising from those plans.

38. As easier options are used up, rationalisation plans increasingly involve closing or amalgamating schools, or other arrangements which call for the use of formal statutory procedures. These procedures can be very time-consuming, and their outcome by definition can never be certain, entailing as they do public debate on matters which are important to those affected. To the extent that proposals come to the Secretary of State for decision, he must judge them impartially and strictly on their individual merits; though he does so within the framework of the policy considerations set out in this Circular. These considerations neither require nor rule out any one pattern of organisation. They allow for diversity of provision between and within authorities' areas and for the approval of statutory proposals whether these involve the retention of existing types of school, the introduction of new types of school or the reintroduction of types previously abandoned.

39. Annex 5 sets out details of the normal procedural routes for major rationalisations, with a view both to minimising procedural obstacles to what needs to be done, thus assisting the Secretary of State to reach early decisions; and to ensuring at the same time that all concerned are able to play their full part in bringing about the optimum pattern of school organisation in every area.

16-19

40. The Secretary of State also invites each local education authority, in the light of the considerations and guidance in this Circular, to review, plan, and take the necessary



action to organise their 16-19 provision in order to maximise educational effectiveness and value for money. Insofar as an authority's action leads to the publication of statutory proposals, the Secretary of State will consider these on their merits in the light of the policies set out in this Circular.

41. In carrying out reviews, authorities will need to consider, inter alia, the size and type of institutions, the area each is to serve, and the type of courses each is to provide; staffing policies, including where appropriate target student-staff ratios; and target levels of space utilisation within institutions. Reviews will also need to take account of the extent to which institutions offering 16-19 non-advanced provision also provide for other age groups, for advanced courses, and for the needs of the wider community. Annexes 3 and 4 offer advice on certain of these aspects. The Secretary of State recognises that authorities will differ considerably in terms of their existing provision and the extent to which they have already reviewed that provision. He does not therefore wish to prescribe the form which the review should take.

#### Follow-up

42. The Secretary of State intends in due course to appraise progress with those concerned in the action now necessary to improve the organisation of provision for pupils and students up to age 19 in the interest of educational quality and effectiveness.



GENERAL CONSIDERATIONS AGAINST WHICH THE SECRETARY OF STATE JUDGES  
RATIONALISATION PROPOSALS

1. It is the policy of the Secretary of State, having regard to his legal obligations, to keep an open mind as to what pattern of school organisation might best suit the needs of a particular area, and it is for those responsible at local level for providing the service to initiate change. In deciding statutory proposals for changes of pattern, however, he will bear in mind a number of considerations.

Parental choice

2. The Government is committed to giving the fullest possible effect to parental preferences for particular schools. This commitment does not however extend to circumstances where to meet it would prejudice the provision of efficient education or the efficient use of resources. A large volume of expressed parental commitment to a particular school will be a consideration (sometimes a very telling one) which the Secretary of State takes into account in deciding proposals, but it will not of itself be conclusive if the educational and financial arguments point the other way.

3. There are particular aspects of parental preference which the Secretary of State is anxious to preserve where the demand warrants it. These are preferences for selective schools, denominational schools, and single sex schools. Such schools need, no less than others, to be educationally effective, eg by virtue of their size, and like others they are subject to the impact of falling rolls. They should therefore be included in any review of provision in a particular area. In considering proposals for change the Secretary of State will give weight to the extent to which they satisfy the general parental demand for these particular types of provision.



4. Proposals to reduce single sex provision need to be approached with particular care. Where existing provision meets the demand for single-sex education for one sex more fully than for the other, proposals which would go some way to correcting the balance are likely (all other things being equal) to be acceptable even if they involve reducing the number of schools available to one sex as against the number available to the other. What is likely to be unacceptable is the creation of significant inequality of opportunity (eg the withdrawal in its entirety of all provision for one sex, whilst provision for the other is retained), which would be likely to lead to successful challenge under the Sex Discrimination Act 1975. Proposals to remove all single sex provision from an area, for boys and girls alike, whilst possibly not contrary to sex discrimination legislation, would nevertheless give the Secretary of State pause on policy grounds for the overall reduction in choice implied, though wider considerations might in the end make such proposals acceptable. (See Annex 5, Appendix B, footnote 2 on transitional exemption orders.)

#### Special needs

5. The Education Act 1981 requires LEAs to arrange for the education of pupils with statements of special educational needs in ordinary schools, provided that certain conditions are satisfied. In reviewing their school stock, LEAs, voluntary bodies and governors should consider the extent to which there is scope for tackling the questions of integration and falling rolls together. Whilst it is not expected that a large scale transfer of pupils from special schools to ordinary schools will take place in the short term, there may be opportunities for considering whether accommodation in the ordinary schools is suitable - or could be made so, perhaps as part of a rationalisation scheme - for a population which includes children with special educational needs. In other cases special education provision could be improved by moving badly housed special schools into the vacated premises of surplus ordinary schools. Guidance on the ways in which ordinary school buildings can be used or adapted to meet the requirements of children with special educational needs, and how new primary and secondary schools can be designed to meet these requirements was given in the Department's Building Bulletin 61 published in 1984. (See also Annex 5 Appendix B on significant changes of character or enlargements).



### Siting of schools

6. For all proposals, the accessibility and suitability of the site (or sites) for all pupils concerned are important considerations, as also may be the transport arrangements proposed.

7. Proposals to establish or enlarge a school on more than one site are undesirable in principle, and are likely to be costly in terms of duplication of accommodation, services and equipment, as well as the loss of staff time and additional transport costs. In some circumstances however they may represent the best solution available in practical terms, or an acceptable interim arrangement until building work can be completed. In considering such proposals the Secretary of State will pay particular attention to the extent to which the proposers have planned to overcome the organisational and educational problems inherent in split-site working.

8. Special procedures apply to proposals involving compulsory purchase: see Annex 5, Appendix J.

### Consultation on section 12-15 proposals

9. The Secretary of State has made clear in previous guidance the importance he attaches to the adequacy of consultation. This policy has received judicial backing from two recent High Court decisions which held that parents have a legitimate expectation that they will be consulted on proposals affecting reorganisation of their children's school, which is enforceable to the same extent as a statutory requirement to consult. The Secretary of State expects appropriate consultation to have taken place with parents, teaching and other staff, governors and other interested parties at the formative stage of the proposals with sufficient information and time available to permit intelligent consideration of and response to the issues involved; such consultation should normally have taken place within the 12 months immediately prior to publication.



10. It may be appropriate that a range of options is explored before arriving at a specific proposal, but it is important that before a final decision is made, proposers should ensure that in the course of consultation the emerging choice is sufficiently identified to allow those being consulted to focus on it. Where an entirely new option emerges from the consultation process, the Secretary of State generally expects proposers to broaden the consultations to take account of that option.

11. The Secretary of State expects proposers to be able to demonstrate that they have considered the views of interested parties in their formulation of proposals. He would not expect proposals to be published in the face of overwhelming local opposition unless they could show that no other form of rationalisation could meet the circumstances of the area. He expects proposers to bear in mind that adapting their plans in the light of local people's views is likely to forestall objections and improve the climate of opinion in which they are considered and implemented. He accepts, however, that the statutory responsibility for the formulation of proposals rests with the proposers and that they have the right to select their own preference, which would mean that views expressed on consultation were not pursued.

12. Authorities are reminded of the desirability of consulting Diocesan Authorities - and in the case of non-Diocesan Schools, any connected charitable or other body - at an early stage on any proposals which could have implications for voluntary schools in their area<sup>1</sup>.

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<sup>1</sup> This is of particular importance in the case of proposals to cease to maintain voluntary schools to which the law on "reverter" applies. In such cases the Secretary of State may make orders under section 2 of the Education Act 1973 to bar reverter and reapply the trusts' assets. However orders can only be made after the Secretary of State has approved proposals. Authorities are invited to take account of this when deciding on the date of publication and the timing of proposals, and to inform the Department when submitting published proposals to the Secretary of State if reverter applies.



### Timing

13. The Secretary of State's general policy on the timing of proposals for the closure of schools is that there should be at least one term between the date of the decision and the date of implementation. He is however prepared to approve proposals which have been put forward on a shorter timescale provided that he is satisfied that, among other things, consultation with those most concerned has been adequate and that early implementation is compatible with the interests of the pupils, their parents, staff, and any others concerned. In practice, however, given the number of proposals that can be before the Secretary of State at any time, proposals to discontinue a school at the end of the school year should be published no later than early autumn for a decision by the following Easter. For proposals involving two or more schools a longer period is desirable, and may be essential if considerable preparatory work is required.

14. Where proposals are published on a timetable which implies that the decision is likely to be made less than a term in advance, the proposers will be invited to provide a written justification for the timing of their proposals, and to submit details of the effect which the consequent timing of the decision will have on the parents, staff and children concerned; and they must recognise the likelihood of being consulted on the prospect of a deferred date of implementation (if the proposals otherwise command the Secretary of State's assent) unless the Secretary of State is satisfied that the proposals can be implemented smoothly on the original timetable.

15. In general, it is desirable that closures or significant changes should take place at the end of the summer term. It would, for example, be inappropriate if proposals to cease to maintain a primary school at the end of the Spring term meant that some children would be involved in changes of school in two successive terms.



### SCHOOL SIZE AS AN INDICATOR OF EDUCATIONAL VIABILITY

1. The thresholds for the minimum size of various categories of school set out in paragraphs 8-11 of this circular are based on extensive evidence from HMI inspections and on curriculum modelling, and reflect the judgments which many authorities have been making in the preparation of statutory proposals.
2. In judging any proposals which come to him for decision, the Secretary of State will have regard to these thresholds. He will however be prepared to approve proposals involving the creation or continuation of schools below the thresholds if he is convinced that this is justified by the circumstances; in such a case the proposers should take care to set out their case fully, either to show that the schools will be educationally viable at a smaller size (and that the economic implications of this have been fully considered), or to show that, although educational efficiency may be in question, there is no practical alternative or there is a strong policy reason, such as the need to give adequate effect to parental preference, for retaining the school.

#### Primary phase

3. Better Schools (see in particular paragraphs 60-65) sets out the vital main areas of the curriculum which every school should offer to every pupil in pursuit of the necessary breadth, balance, relevance and differentiation.
4. The size thresholds recommended for primary schools are based on the need to offer a curriculum on these lines and, for this purpose, on the desirability of securing a sufficient number of teachers - if necessary by the use of part-time staff - to preserve an appropriate pool of professional expertise, to secure the necessary professional stimulus for all members of staff, and to permit the flexibility in deployment required by, for example, in-service training or the various possible special calls on a teacher's time (eg for withdrawal or consultancy work) during school hours. The difficulty and expense of satisfying these requirements increases as the number of teachers in the school declines and becomes acute when this falls below three. In that



situation, special support measures on the part of the LEA become essential in order to mitigate the educational disadvantages of the situation.

### Middle schools

5. Paragraph 65 of Better Schools sets out some curricular considerations concerning the transition from primary to secondary schooling. This has particular implications for middle schools, which should be of a size to justify a number of teachers sufficient to teach a suitably broad curriculum and to carry out appropriate organisational responsibilities.

6. 9-13 schools in particular must be able to provide for the educational needs of children who are increasingly able to benefit from the quality and range of specialist teaching that is normally found in the early years of other secondary schools. The schools have to provide a transition from primary education towards the education in upper schools to which their pupils transfer at a crucial time in their school career.

### Secondary phase

7. Paragraphs 65-71 of Better Schools set out principles which should guide the curriculum for pupils aged 11-16. The need is to present to each pupil in every school a broad, balanced, relevant and differentiated curriculum, covering all the main subject areas from ages 11 to 13, and offering a similarly broad curriculum in years 4 and 5 but with some choice of subject to allow for the focussing of interests that takes place in these years.

8. This entails: the provision of differentiated work, not least for both the lower attainers and the most able pupils, in teaching groups of a size that is likely to be educationally stimulating and to allow experimental, practical, and oral work to flourish; the preservation of subjects in years 4 and 5 for which there is relatively little demand; the need for teachers to teach subjects for which they are qualified and have expertise; the offering of practical, technical and pre-vocational courses; the provision of experience outside the school; and the provision of non-contact time both for probationer teachers, and for all teachers to carry out essential non-classroom duties. If all these requirements are to be met, they point under typical staffing ratios to 6 FE as the minimum desirable size of secondary comprehensive schools.



**ORGANISING FOR EFFICIENCY****Targets and Expenditure Plans**

1. The targets for the removal of surplus school places set out in paragraph 18 of the Circular are reflected in the Government's public expenditure plans. The overall planned total of relevant expenditure for Rate Support Grant purposes will assume that savings commensurate with the targets will be made, on premises-related costs in particular.

2. The targets are national, aggregate targets. They will not be reflected directly in any individual local authority's Rate Support Grant: the distribution of the grant will continue to reflect broad differences in local circumstances - such as the pace of decline in pupil numbers, or the extent of population sparsity - which have a bearing on the proportion of surplus places which an individual authority can take out of use, and the speed at which this can be done. It will remain for individual LEAs to judge how best they can maximise the opportunities which falling rolls offer to redeploy resources to better effect, but the national targets will serve as a yardstick against which they can assess their performance.

**Capital expenditure**

3. It must be assumed that resources for capital programmes will remain constrained. In making capital allocations in the schools sector, priority will continue to be accorded to projects which meet basic need<sup>1</sup> and facilitate the removal of surplus places, and to other works to which local authorities or governing bodies are committed by virtue of approved proposals under sections 12-16 of the Education Act 1980.

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<sup>1</sup> ie projects to provide new accommodation in areas of population growth



4. Whilst there remains a large surplus of places in use, the next priority in allocations will remain those projects which both remove surplus places and improve the fitness of the school buildings for their purpose. Such projects should generate revenue savings which authorities will be able to use to the advantage of the service in various ways.

5. In further education likewise, priority will be given in the distribution of the scarce capital resources available to projects geared to rationalising provision, particularly where the quality and suitability of the resultant stock of buildings is improved in the process.

#### Investment Appraisal and Efficiency Studies

6. It is fully recognised that, as the easier opportunities for rationalisation are used up, more and more will require building work - such as the extension or adaptation of one school's buildings to accommodate children from another.

7. Full and realistic costings need to be made before proposals involving capital works can be properly assessed: these should take account of any capital receipts and of annual revenue savings. Costs and savings will differ markedly from one project to another, and there is no simple yardstick by which the economics of any given project can be sensibly appraised. Case studies conducted by the department suggest that a minimum rate of return<sup>2</sup> of 5 per cent (which might represent the threshold of viability in economic terms) will often be exceeded. The publication "Investment Appraisal in the Public Sector" (HM Treasury 1984) describes techniques for assessing the resource implications of project options and the Secretary of State commends such techniques to local authorities and the governors of aided schools. An overview of techniques which may be applicable to all phases of education provision is given in the manual Costing Educational Provision for the 16-19 Age Group (DES, 1981).

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<sup>2</sup> on the formula: 
$$\frac{\text{annual revenue savings}}{\text{capital expenditure less capital receipts}} \times 100$$



8. For further education colleges, the Audit Commission report, Obtaining Better Value for Further Education is also commended. The means of improving efficiency in NAFE in the light of these recommendations are currently being considered within the DES/local authority associations Joint Efficiency Study. It is intended to publish a manual of guidance drawing upon the findings of the study later in the year.

9. Adequate property records are essential in appraising options for rationalisation: they will also assist in the monitoring of progress both locally and nationally in the removal of surplus places and with, for example, efficiency appraisals of school cleaning and caretaking. The Secretary of State urges all authorities to maintain such records.

10. The Secretary of State recognises that there is a need for practical guidance on the building stock management aspects of rationalisation, and guidance is currently being considered in a joint working group with the local authority associations. It is hoped to issue agreed guidance on the improvement and rationalisation process, including investment appraisal, and on property information systems.

#### Surplus School Places: calculation and monitoring

11. The calculation of the new target for the removal of surplus places is based, like the earlier one, on the overall surplus in 1975. The original target implied the removal of 1.125 million places by March 1987. The new target increases this to a total of just under 2 millions by 1992. However, in setting the new target, the 1975 figure for the estimated capacity of the school building stock has been reduced to allow for the increased teaching area which will be required when the Education (School Premises) Regulations 1981 come into force in 1991.

12. The removal of the 850,000-odd places between 1987-88 and 1991-92 implies a continuation of the removal of places at about the same annual aggregate rate as at present. In order to maintain the momentum, LEAs will need to look particularly now to rationalisation of secondary provision. There are long lead-times which means that no time must be lost if the necessary reductions in



capacity are to be achieved to target. Progress in the removal of surplus places by individual LEAs will continue to be monitored through the Form A3329 returned annually to the Department and is likely also to be the subject of increasing attention from District Auditors.

13. The temporary removal of accommodation, or 'mothballing', yields some savings on running costs and maintenance, and counts towards the target for removal of surplus places. It is not however cost-free: security in particular can be expensive. In economic terms the permanent removal of redundant accommodation from the education service is generally to be preferred, since it will yield higher revenue savings and possibly also capital receipts.

14. The national school building stock includes large numbers of mobile classrooms in varying states of repair. The removal of these from the system counts towards the target for the removal of surplus places. The Secretary of State urges LEAs and governors to review their stock of mobile classrooms, considering both the extent to which they are needed in their existing locations, and their state of repair. The Secretary of State believes that many LEAs and governors could do more to take out of use mobile classrooms which are in a poor state of repair and to move mobile classrooms which are in good repair to where they are most needed.



**REVIEWING PROVISION**

1. Paragraph [471] of the Circular recommends as the starting point for any review a forecast of future pupils and/or student numbers and an appraisal of the relevant building stock, in terms both of its physical capacity and its quality.

**Forecasting**

2. Individual local authorities and voluntary bodies will have their own forecasting methods, but the Secretary of State would normally expect these to be built up on the following principles. First, account should be taken of the national projections, whether those for the overall population produced by the Office of Population Censuses and Surveys, or those of pupil and student numbers in the maintained sector, produced by the Department of Education and Science and set out both in the annual public expenditure white papers and, from time to time, in statistical bulletins and reports on education. For 16-19 provision, a crucial additional element is the participation rate: the Appendix to this Annex sets out participation rates nationally over the last five years. The Department is currently considering with the local authority associations what developments and improvements in projection methods might be possible.

3. In translating national trends into local projections, account will normally need to be taken of some or all of the following:

- i. local planning department projections, allowing for the rate, timing and nature of any new housing developments;
- ii. the local rate of cross-border traffic;
- iii. the local take-up of places outside the maintained sector (applying especially to schools);



- iv. local trends in post-compulsory participation rates by, for example, age, sex, and mode and type of provision (cf para [21] of the Circular);
- v. in the context of work-related NAFE, the assumptions in development plans for the MSC.

#### Accommodation

4. For schools buildings, on physical capacity local authorities and voluntary bodies may find it helpful to refer to the Department's "Method for Assessing Capacity of Existing Schools"<sup>1</sup>. On quality, a number of publications may be found to be instructive on improvement projects which have been carried out with the involvement of the Department's professional staff<sup>2</sup>.

5. As regards FE colleges, authorities' attention is drawn to the guidance on the measurement of space utilisation in the Department's Design Note 37<sup>3</sup>. Many colleges may fall short of the space utilisation rate of 64% considered reasonable for the purposes of that Design Note; and it is hoped as part of the NAFE Joint Efficiency Study to conduct further studies of the opportunities for realising savings, and other benefits, in the use of FE accommodation, and to issue further guidance in due course.

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<sup>1</sup> attached to letter S24/123/D104 of 28 June 1985

<sup>2</sup> DN26 "Opportunities for improvement - Penistone Grammar School"

DN28 "Opportunities for improvement - North East Wiltshire"

DN42 - "The Dukeries Complex - a place for the family"

Broadsheet 21 - "Opportunities for improvement - Wheatley Park School -

A rationalisation project serving school and community"

<sup>3</sup> "Assessing the Capacity of Further Education Buildings", DES Architects and Buildings Group, 1984



## APPENDIX

## PERCENTAGE OF THE 16-19\* YEAR OLD POPULATION IN SCHOOL OR NON-ADVANCED FURTHER EDUCATION

|           |              | Academic Year |         |         |         |         |
|-----------|--------------|---------------|---------|---------|---------|---------|
|           |              | 1980-81       | 1981-82 | 1982-83 | 1983-84 | 1984-85 |
| Full-time | A            | 12.2          | 13.0    | 13.2    | 12.7    | 12.6    |
|           | O/CSE        | 3.7           | 4.2     | 4.2     | 3.7     | 3.7     |
|           | Other        | 7.0           | 8.1     | 8.9     | 8.2     | 8.2     |
|           | Total        | 22.9          | 25.3    | 26.2    | 24.7    | 24.5    |
| YTS/YOP   |              | 0.3           | 0.8     | 1.4     | 4.4     | 5.0     |
| Part-time | Released     | 11.2          | 8.8     | 7.6     | 6.6     | 6.3     |
|           | Other day    | 1.1           | 1.8     | 1.8     | 1.5     | 1.6     |
|           | Evening only | 3.7           | 3.1     | 3.1     | 3.1     | 3.1     |
|           | Total        | 16.1          | 13.7    | 12.5    | 11.2    | 11.0    |
| TOTAL     |              | 39.3          | 39.8    | 40.1    | 40.3    | 40.6    |

## NOTES

1. "16-19" refers to the 3-year age group of those aged 16,17 and 18 at the start of the relevant academic year.
2. Figures refer only to the maintained sector in England, as at November in each academic year for NAFE & YTS/YOP, and as at January for schools.
3. The YTS/YOP figures refer to trainees actually attending college at the time of the count (ie not just on a scheme), YTS/YOP trainees are excluded from the other figures for part-time and full time attendance.
4. For further information on 16-19 participation rates contact Mr R M Ellison in DES Statistics and Computing Services Branch (tel. 01 934 9117).



**PROCEDURES FOR RATIONALISATION**

1. The main statutory vehicle for rationalisation is the Education Act 1980 ("the 1980 Act"). This sets out in sections 12-16 the procedures to be followed in - using layman's terms-closing or amalgamating schools<sup>1</sup>, opening new ones, or changing them in any of the ways specified<sup>2</sup>. In addition, or alternatively, providers might seek to rationalise by means of site transfer or substitution<sup>3</sup>.
2. This Annex and its Appendices set out general guidance on the application of these procedures, based both on the relevant statutes and on case law arising from them. This cannot be taken as authoritative legal interpretation, and is not prescriptive as to the procedures to be adopted (other than those which have statutory force). It is the responsibility of proposers themselves to follow the appropriate procedures correctly, looking beyond the present guidance where it does not fit the particular case.
3. The notes which follow cover the main stages in the preparation and follow-through of statutory proposals. Proposers are reminded that in practice the interval between initial formulation and implementation of proposals is inevitably long, and time enough must be allowed for this. In particular, they must allow several months before publication of specific proposals for consultation with those affected (see Annex 1, paras 9-12), and they should normally allow at least a term between decision/determination and implementation (see Annex 1, paras 13-15). The period between publication and decision/determination can itself never be short: two months must be allowed for the receipt of statutory objections; and where by reason of objections or otherwise the proposals fall to be decided by the Secretary of State, it takes on average a further four months or so to do this (and in complex cases can take much longer).

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1 See Appendix A.

2 Namely, significant change of character, significant enlargement of premises, or reduction in admission by 20 per cent or more: see Appendices B and C respectively.

3 See Appendices D and E respectively.



4. Proposers can assist in minimising delays by ensuring that in all cases, whether statutory objections are considered likely or not, they lodge their full statement of case (subject to any comments on objections) with the Secretary of State at the point at which the proposals are published. Notes on the items which should normally be covered at this stage, to save referral back later, are at Appendix F. Attention is particularly drawn to the need for promoters to forward a reasoned case for any building works required, and a full estimate of the necessary costs, at the time of publication of proposals.

5. Responsibility for the preparation, publication and, if approved (or so determined by the Authority), implementation of proposals rests with local authorities, governors or promoters as the case may be. In discharging his functions under Sections 12, 13 and 15 the Secretary of State is under a duty to act fairly; accordingly he cannot take any steps which might be seen as prejudging eventual proposals, and it would not be proper for him or his officials to seek to influence the formulation of proposals in any way prior to publication. The Department does nevertheless welcome an early intimation of proposals being formulated, and will always be willing to advise in advance on policy considerations to which the Secretary of State is likely to address his mind so that proposers can, if they wish, take account of these in formulating plans for their areas and in making their case to the Secretary of State.

#### **Content of Proposals**

6. The 1980 Act makes a clear distinction between the proposers' intention to carry out actions specified in Sections 12(1), 13(1) or 15(1) and their proposals for carrying out the intention. The particular intentions should be identified and worded in the terms used in these sections so that there can be no room for doubt, such as in the following model form:

"The x authority hereby gives notice in accordance with section y of the Education Act 1980 that it intends to ..... and has made the following proposals for this purpose....."



7. Full details of the proposals for implementing these intentions, including any transitional arrangements, should follow. The Act requires, according to the procedure being adopted, that the published proposals shall include some or all of the following: the time or times of implementation; the number of pupils to be admitted to the school or schools in question in each relevant age group in the first school year in which the proposals are wholly implemented, excluding pupils who will not have attained the age of 5 years within 6 months after their admission and a statement of the effects of Sections 12(3) or 13(3) (whichever is appropriate, which may be done most easily by reproducing the text of the appropriate section), which should state the name and address to which objections should be sent. Where these details are lacking, republication of the proposals may well be necessary and time thereby lost.

8. The requirement to specify the time or times of implementation allows some flexibility, since the time specified need not be a precise date, and will depend on how far in advance of implementation the proposals have been published (qv Annex 1, paras 13-15). Exact admission numbers are required for the purposes of the operation of Section 15 and these should be set at the level at which the Authority is prepared to maintain the school: it is not sufficient to give only approximate admission numbers.

9. The particulars set out in paragraphs 6 to 8 above constitute the only information which the Act specifies must always be included in proposals. Potential objectors should however be able to make an informed decision as to whether to object and in what terms, and the Secretary of State should know the precise nature of what he is being asked to approve. Proposers should therefore have regard to what other information might be necessary in the statutory notice to make clear exactly what is proposed and what the effects will be. If the full effects of the proposals are not readily apparent to the general public from the published notice, it may be supplemented by a statement which provides a clear explanation of what is intended. This explanatory statement should be clearly distinguishable from the proposals themselves and care should be taken to ensure that all relevant proposals appear in the body of the published notice. Appendix G provides proposers with a checklist of information that the Secretary of State would normally expect to see included in the statutory proposals themselves.



10. Where proposals concern two or more separate significant changes, eg change of age range and change of admission arrangements (eg by reference to sex or ability), the changes should be identified and listed separately.

11. Where related proposals are to be implemented over a period of several years, proposers will need to consider whether they should be published together at one time, or in more than one stage. In general, where the period does not exceed 5 years, the proposals should be published together. If, however, implementation is likely to be spread over more than five years, publication in stages is likely to be preferable. If this is done, both the body of the notice and the explanatory note should make clear how each stage will fit into the overall plan.

12. Where it is intended to terminate rather than reduce admissions to a school in advance of its closure, the proposals should fall under Section 12 rather than Section 15. Terminating admissions to a school is the start of its discontinuance, and the proposals to terminate admissions form part of the proposals to cease to maintain the school.

13. The Secretary of State cannot take responsibility for ensuring that public notices meet statutory requirements. The notes above offer general guidance which should meet most cases. Where further guidance on a specific point is required, the Department will always try to assist, but routine submission of draft proposals should not be necessary, can be time-consuming, and cannot guarantee that the final notices will be free from objection once the detailed intentions are known. Proposers must take full responsibility themselves for ensuring that the published proposals accurately communicate what is intended to happen in order to secure the implementation of what is proposed.

#### **Publication**

14. Those making proposals under Sections 12, 13 and 15 are required to make proposals public. In accordance with the Education (Publication of School Proposals) (No 2) Regulations 1980 (SI 1980/658) proposals are to be published:

- (a) in at least one newspaper circulating in the area served, or to be served, by the school to which the proposals relate;



(b) by being posted in at least one conspicuous place within that area;  
and

(c) where proposals relate to an existing school, by being posted at or near any main entrance to that school.

15. The purpose of the publication requirements is to ensure that all those substantially affected by proposals are likely to be informed of their exact nature. Proposers will need to consider how they should display their proposals prominently in order to give them such further publicity as they consider to be appropriate to their area. In areas with significant linguistic minorities, consideration should be given to their requirements. Where interdependent sets of proposals are made in respect of a voluntary school by the local education authority and other persons, it is desirable that all the proposals should be published together but it must be clear who is making and publishing each particular proposal. Proposers may consider other proposals to be interrelated in which case it is desirable that they should be published on the one notice. In reaching his decision on proposals however, the Secretary of State will form his own view on how far they are or are not strictly dependent on other proposals (or parts of nominally the same proposal); the presentation adopted by the proposers will be a factor he takes into account, but it will not of itself be conclusive.

16. To avoid confusion about the date on which proposals are published (and hence about the date from which the two month statutory period runs), the proposals should ideally be posted on the same day as they are first published in a local newspaper. If this is not possible they should be posted before, but as close as possible to, the date of publication in a local newspaper, and the formal date of the publication should be regarded as the date on which the proposals have been published in all the forms prescribed in the Regulations.

17. A copy of the proposals as published should be sent to the Secretary of State on or immediately after the date of publication. Submission of a final copy of what is to be published does not satisfy the requirements of Sections 12-15. Under Section 12(5)(a) the Secretary of State must give notice to a local authority within two months from the date on which the proposals are



submitted to him (and not from the date of publication) that the proposals will require his approval. Late submission of proposals falling to the Secretary of State to decide can lead to delays and confusion as to the expiry dates of the various periods. A full statement of the case in support of the proposals (subject to any comments on objections) should be forwarded at the point of publication, with a further copy sent direct to the member of HM Inspectorate who is District Inspector (Schools) for the area.

### Objections

18. Sections 12(3), 13(3) and 15(3) provide for objections to be made to proposals published under Sections 12(1), 13(1), or 15(3) ("statutory objections"). A statutory objection is defined as one made within two months of the publication of proposals by ten or more local government electors for the area, the governors of any voluntary school affected by the proposals and any (other) local education authority concerned. Statutory objections under Section 12(3) which have not been withdrawn in writing must be transmitted to the Department by the Authority within one month following the two month period for objections, together with the Authority's own comments on the objections. Statutory objections under Section 13(3) must be sent by objectors to the Secretary of State direct.

19. The onus is on the Authority to satisfy itself as to whether the objections it has received are within the scope of sections 12 or 15, as the case may be. If one person appears to be signing on behalf of a number of others, eg the secretary of an action committee, his or her signature alone may be sufficient if it is clear that he or she is acting on behalf of at least ten local government electors for the area. Likewise if ten people submit separate letters where there is clear evidence to show that there is in fact one objection jointly submitted, eg cyclostyled letters, various letters which refer to each other or ones submitted under a common letter, this would normally be regarded as a statutory objection. However if ten people separately submit a letter making the same point, these are unlikely to constitute an objection for the purposes of the Act. In cases where authorities are uncertain whether



separate letters have been submitted jointly to constitute one objection, they may wish to consider asking the originator to confirm the name and addresses of the ten or more local government electors for the area on behalf of whom the objection is submitted and to confirm that these persons have expressly authorized the submission of the objection on their behalf.

20. When transmitting statutory objections to the Department authorities are invited to submit any other representations received, with or without comments as they choose. The Secretary of State, as has been the practice of his predecessors, will continue to have regard to all objections received, statutory or otherwise.

21. The early resolution of proposals is much helped if objections received and the proposers' observations on them are transmitted as quickly as possible within the month allowed; this is essential where proposers are seeking to work within a shortened timetable.<sup>4</sup>

22. When proposals come to him for decision, the Secretary of State is frequently asked by objectors for sight of the proposers' comments on their objections. Some local education authorities disclose their comments to objectors as a matter of course. This practice is commended: by generating a constructive atmosphere, it can also help to speed up decisions. Where the proposers are not disposed to release their comments on request from the objectors, the Secretary of State will consider whether the proposers' submissions have raised new facts or arguments which are likely to be crucial to his decision. In such instances, and equally where new facts or arguments, likely to be crucial to the eventual decision, emerge in the course of the

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4 It also speeds the Secretary of State's consideration if each objection is numbered and submitted with a covering index showing the name of the first signatory (or the name of the objecting organisation) and the number of signatures appended to the objection. Where there is a large number of objections proposers may provide their observations in the form of a table listing them) with the proposers' comments given alongside.



Secretary of State's consideration of the proposals (though not covered in the proposers' formal submission) the Secretary of State will in the interests of fairness, consult the proposers with a view to securing for objectors a further opportunity to comment within a given time limit. Proposers would then themselves have the right of comment on the further points put forward by the objectors, again within a specified time limit.

23. However, it would not be compatible with good administration and the speedy resolution of the uncertainty surrounding the future of a school which is the subject of proposals if there were to be a continuing exchange of argument and counter-argument over every issue involved. Further the Secretary of State recognises that continuing exchanges of arguments would be incompatible with the functions of both the proposers and the Secretary of State in the statutory process. Unless therefore a potentially crucial point has emerged on which objectors could not have appreciated at an earlier stage that comment would be relevant, he will normally consider the matter of disclosure to be entirely one between proposers and objectors.

#### Calling in

24. Section 12(5)(a) of the 1980 Act empowers the Secretary of State to give notice to an authority, within two months of the submission to him of published proposals, that the proposals will require his approval. This power is in practice used sparingly. Examples of proposals which may be called in are:

1. those made by local education authorities dependent on, or related to, other proposals published at or near the same time either by themselves or the governors or promoters of voluntary schools whose proposals automatically fall to the Secretary of State to decide. This is to avoid any possible conflict between an authority's determination to implement proposals which have attracted no statutory objections and a decision by the Secretary of State to reject one or more of the proposals falling to him to decide.
11. those which are of particular concern to the Secretary of State on grounds of policy;



- iii. those which are prima facie deficient (eg in terms of the essential information they carry as to the Authority's intentions or in terms of the time allowed for between publication and the date proposed for implementation);
- iv. those which carry significant expenditure implications.

#### **Determination**

25. Under the 1980 Act, Section 12 and 15 proposals fall to be determined by the Authority where they have attracted no statutory objections (or none that have not been withdrawn) nor been called in by the Secretary of State. The Authority therefore has the opportunity to reconsider them in the light of any new circumstances and of observations - including representations which do not constitute statutory objections - which may have been made during the two-month period for the making of objections. The determination must be made within four months of submitting the proposals to the Secretary of State, and authorities must inform the Secretary of State in writing whether they have determined to implement the proposals.

26. This determination is final and must relate to the proposals as originally published. Authorities cannot make a conditional or modified determination to implement. If they wish to implement with modification they must first determine to implement the proposals as published, and then apply to the Secretary of State for modification under Section 12(9), or they must determine not to implement and publish fresh proposals, depending on the nature and extent of the modification. Applications for modification will be treated on their merits, and it cannot be assumed that they will invariably be approved; an Authority choosing to go down this route must therefore be prepared if need be to implement without modification. A determination not to implement kills the proposals and they can only be resurrected at a later date by publishing fresh proposals. Since all proposals must include the times when they will come into effect, proposers are under a duty to implement the proposals at the specified times, unless the Secretary of State has made a modification as to timing.



## **Modification**

27. Sections 12(6) and 13(4) empower the Secretary of State after he has undertaken the necessary consultation to modify proposals before giving his approval. The Secretary of State is not empowered to modify proposals to such an extent as to change them in substance, which would in effect substitute his own proposals for those of the proposers, or change the proposals in such a way as to deprive potential objectors of the opportunity of full and informed consideration of the proposals as a whole.

28. Sections 12(9) and 13(7) empower him at the request of the proposers to modify proposals which are required to be implemented. If proposers find that they are unable to comply with the precise terms of a proposal which they are under a duty to implement (eg because the date of implementation cannot be met) they should write to the Secretary of State requesting such a modification and setting out full reasons for their request.

29. Where proposers wish to make a change which goes beyond the Secretary of State's powers they will need to publish revised proposals to supersede the existing ones, and these will be judged on their merits.

## **Anticipatory actions**

30. Whilst those publishing proposals under sections 12, 13 or 15 of the Act are able to undertake certain preparations for their implementation in advance of approval, such preparations as form part of the actual implementation cannot be taken without the authority of the Secretary of State under section 16(1). It is difficult to generalise about what will or will not require the Secretary of State's authority as the applicability of section 16(1) will depend on the precise circumstances of individual cases. On the one hand, the Secretary of State's authority is likely to be required, for example, to let the contract for the execution of necessary building works, or to refuse applications for admission to a school. On the other hand, arrangements for the appointment or redeployment of teachers, or decisions about which pupils are to be admitted in the following school year can normally be made by the proposers without reference to section 16(1) so long as these preparations are clearly conditional on the Secretary of State's approval of the proposals.



31. The Education Bill 1986 proposes to give statutory status for the first time to temporary governing bodies of new schools or existing schools that have changed status (including voluntary controlled to aided). The temporary governing body will be empowered to act as the governing body until such time as one is constituted under the school's instrument of Government, for the purposes of admissions, appointment of staff, disciplinary arrangements etc, subject always to the provisions of section 16(1) of the 1980 Act.

#### **Middle School Deeming Regulations**

32. The requirements of the Education Act 1964 for deeming middle schools to be primary or secondary schools for Education Act purposes were amended by the Education Act 1980 and the Education (Middle Schools) Regulations 1980 which followed. When it falls to the local education authority under section 12(7) to determine whether a proposal to establish a middle school should be implemented, they should, at the same time as notifying the Secretary of State of their decision under section 12(8), inform him whether in accordance with those Regulations it is deemed primary or secondary; or, in the case of a school with equal numbers of year groups on either side of the age of 11 (eg 9-13 schools) whether they wish the school to be deemed primary or secondary, with a statement of their case in support of that preference.



## APPENDIX A

### "AMALGAMATIONS"

1. The Education Acts do not provide any specific procedures for the amalgamation of schools, and the term 'amalgamation' should not be used in statutory proposals to express intentions for the purposes of Sections 12 and 13, although it may be used in the explanatory notes to make the nature of the proposal clearer to the general reader. Where it is proposed that one school should function in place of two or more there is a choice of procedures:

a. two (or more) existing schools may be discontinued and a new school established (either in the premises of one or more of them or elsewhere);  
or

b. the premises of one school may be significantly enlarged by the addition of the premises of the other school(s), which will be discontinued. When this procedure is used to amalgamate two schools with eg differing age ranges (such as a junior and an infant school) a parallel proposal will also be necessary to make a significant change of character to one of them. Proposals are of course unnecessary where the intention is to amalgamate the infant and junior departments of what is already in law one school; or

c. where one voluntary school is intended to be established in place of one or more voluntary schools, proposals under Section 13 may be published and a substitution order sought under Section 16(2) of the Education Act 1944 from the Secretary of State (see Appendix E).

2. It is for the proposers to decide which procedures to follow, and they should consider the implications for staffing, capital costs (see Annex 3) etc before making their decision.



## APPENDIX B

### SIGNIFICANT CHANGE OF CHARACTER AND ENLARGEMENT OF PREMISES

1. Sections 12-13 of the Education Act 1980 require the formal procedures associated with publication of proposals to be followed wherever it is intended that a school or schools should undergo a significant change of character or enlargement of premises. Questions arise from time to time as to what constitutes such significant change. Section 114 of the Education Act 1944 provides that, '"significant" in relation to a change in the character of a school or an enlargement of school premises implies that there is a substantial change in the function or size of the school'.
2. Section 67(4) of that Act as substituted by the Education Act 1968 provides that the Secretary of State shall determine any question which arises as to whether a change in the character of a county or voluntary school or an enlargement of the premises of such a school is a significant one. Section 16(2) of the 1980 Act cites three particular examples of circumstances in which a change of character will result, but whether that change or any other not specified in Section 16(2), is so substantial as to be "significant" will depend on the facts of the individual case, and relevant factors will include the nature of the change in terms for example of its size, extent, and implications for the organisation, staffing and curriculum of the school.
3. The following paragraphs are intended to give an indication of the basis on which the Secretary of State will reach decisions under Section 67(4) as to whether a change of character is or is not significant, including the three kinds of change particularly referred to in Section 16(2). This list is not exhaustive. Where a change of any kind is intended at a county or voluntary school, proposers should take account of all the circumstances and consider whether it involves substantial alteration to the school's functions in terms of organisation, resources, curriculum, teaching approaches, and so on.
4. Changes in age range - The extension or reduction of the age range of the school by a full year or more at either end will normally be regarded as significant, for example:



- i. the conversion of primary or secondary schools into middle schools or vice versa;
  - ii. changes in the age range of schools for primary age children (not internal changes between departments) eg from 5-11 to 5-7, 5-8, 5-9 or 7-11;
  - iii. the extension of the age range of a primary school by one or more years by the establishment of a nursery class or unit, or the extension of the age range of an existing nursery class or unit<sup>1</sup>, or the cessation of under-fives intakes in such a school;
  - iv. changes in the age range of secondary schools eg from 11-18 to 12-18 or 13-18; or from 11-18 to 11-16 or vice versa. This includes the establishment of a sixth form catering mainly for one year sixth form courses (but see paragraph 5 i below);
  - v. the conversion of a secondary school into a sixth form college and any consequential reduction in the age range of other schools.
5. The following are examples of age-range changes which will not normally be regarded as significant:

- i. provision at a school designated only for pupils up to age 16 of continuation or repeat courses, of a kind which would normally form

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<sup>1</sup> The numbers of pupils for whom the unit will cater should be included in the notice but, in accordance with Section 12(2) which excludes pupils under 4 years 6 months, the admission number for the primary school stated in the proposals will be the number of pupils who will be admitted to the reception class of the school direct. This number must necessarily exclude the number of children coming up straight from the nursery class, who are already registered pupils at the school. It is helpful to include a footnote to show that the two groups together make up the number entering the first year of compulsory education;



part of the school's curriculum for pupils up to 16, to pupils over compulsory leaving age who wish to stay on voluntarily for not more than one year;

ii. for a primary school, a change in the number of children below compulsory school age or in the number of nursery classes provided, where there is no change in the age range of the school by a full year or more;

iii. the admission or retention of individual pupils or small groups of pupils outside the normal age range of a school for periods not exceeding one academic year.

6. Changes from single sex to mixed or vice versa will generally constitute significant changes in character<sup>2</sup>. However, a significant change in character would not normally result from incidental arrangements for cooperation between single sex schools, eg at sixth form level, to widen the range of educational opportunity.

7. Arrangements for the admission of pupils by reference to ability or aptitude. The ending of selective admission arrangements (without ceasing to maintain the schools in question) and the consequent admission of pupils to secondary schools without reference to ability or aptitude will certainly be regarded as a significant change in character of the schools; as will corresponding changes associated with introduction of selection. The introduction of admission to an ordinary school of pupils with special educational needs may necessitate internal changes in the school which could require publication of proposals if these changes involve a substantial change

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<sup>2</sup>Where it is proposed that single sex establishments should become co-educational and proposers wish to move gradually to the new arrangements, Section 27 of the Sex Discrimination Act 1975 makes provision for the move to take place over a set period of time by means of a Transitional Exemption Order. The need for this will normally be readily apparent from the proposals, and no separate application for an Order will be required in these cases. If in any doubt, proposers should consult the Department.



in the school's function as described above, but it will be the extent and nature of change for the school as a whole which determines this.

8. The establishment of a significant number of boarding places at any county or voluntary school where no boarding places exist, the closure of all the existing boarding places where there have been a significant number, or a significant percentage increase or decrease in the number of boarding places available would generally be regarded as a significant change of character; but the provision of boarding places for pupils attending a county or voluntary day school at a hostel or other residential establishment run independently of the school would not normally be regarded as affecting the day school's character.

#### **Significant Enlargement of Premises**

9. Normally an important criterion for determining whether a proposed enlargement of the premises is significant is whether it will result in a substantial increase in the number of pupils for whom accommodation can be provided. This cannot be reduced to a simple set of rules nor to a simple arithmetical formula generally applicable. What counts is what the overall effect of the increase will be.

10. A proposal to enlarge a school may also be a proposal to change its character, eg by changing the age range, so that a straightforward comparison between existing and proposed accommodation is inappropriate; and account must also be taken, where applicable, of series of modifications over a period, none of which is substantial in isolation but whose cumulative affect is to produce a significant increase in size.

11. It is therefore not practicable to do more than give a broad indication of the types of enlargement which will not normally be regarded as significant:

1. Any enlargement which is intended to last for a short and predetermined period by means of additional accommodation of either permanent or temporary construction (eg pending the completion of another school).



The time limit should normally be not more than three years<sup>3</sup>;

- ii. Any enlargements attributable solely to the need to provide accommodation for pupils staying on voluntarily for courses beyond the end of the compulsory period (other than courses designed for and restricted to sixth form pupils);
- iii. An enlargement of playing field facilities in order to meet Regulation-prescribed standards (which by itself will substantially increase the number of pupils for whom accommodation can be provided in the school as a whole), provided it is not accompanied by an associated enlargement to the school building;
- iv. Any enlargement which occurs by reason of the transfer of a school to larger premises<sup>4</sup>. Only an enlargement of the premises currently occupied by a school will normally be regarded as capable of being significant.

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<sup>3</sup>In the case of a series of small temporary additions, this should be normally not more than three years from the date on which the first temporary accommodation was brought into use.

<sup>4</sup>Governors who wish to seek a transfer order must ensure that what they propose complies with the criteria specified in Section 16(1) of the Education Act 1944 and that they should not properly be seeking another route (such as substitution): see Appendices D and E.



## SECTION 15

1. Under Section 15(3) authorities and governors of voluntary schools must publish proposals where they intend to reduce the annual intake of a school by 20% or more of the Standard Number (see paras 5-7 below). Section 15 was designed to complement Section 6 of the Education Act 1980 (which entitles parents to express a preference for the school they wish their children to attend) and Section 8 (which requires authorities to publish information about admission arrangements including planned intake numbers to each school in each relevant admissions age group) by requiring the publication of statutory notices where it is intended so to reduce the intake, thus giving local people the opportunity to object to the proposal.

2. It follows from this that proposals are not required where numbers seeking admission fall naturally, so long as the authority or governors are prepared to admit up to a level exceeding 80% of the Standard Number if applications are forthcoming. Likewise, where Section 12 or 13 notices include admission figures for each of several years and any of the published figures are set at 20% or more below the Standard Number there will be no need for subsequent Section 15 proposals, since local people and the Secretary of State will have had the opportunity to consider the proposed admission levels when considering the original proposals. If however authorities or governors subsequently resolve to restrict intakes to below the published number, it will be necessary to publish Section 15 proposals.

3. There are two exceptions to the requirements to publish Section 15 proposals: in respect of pupils who will not have attained the age of 4 years 6 months on admission to the school and where the Standard Number for a primary school is less than 20. Authorities and governors should be aware that in the cases of schools that admit pupils aged under 4 years 6 months to their reception class, these pupils are excluded when calculating admissions as against the Standard Number. If, at the same time, pupils aged 4 years 6 months or more are to be refused a place at the school, this may represent an intention to restrict admissions which, if the reduction is by 20% or more against the Standard Number, may require the publication of Section 15 proposals.



4. The procedures relating to publication and approval of Section 12 and 13 proposals apply to those made under Section 15, the only difference being that there is no duty to implement.

5. The Standard Number as defined by Section 15(5) will usually be the total number of pupils in the relevant age group (this excludes any aged below 4½) who were admitted throughout the school year beginning September 1979, taking no account of any pupils who left the school in the course of that school year. It is unlikely that pupils admitted only on a temporary basis will count for the purpose of determining the standard number. Where proposals made under Sections 12 and 13 have been implemented, the Standard Number is that published in accordance with Section 12(2) or 13(2).

6. The approval of Section 15 proposals allows the proposers to implement plans to reduce a school's intake to a specified level below the Standard Number, but does not alter the Standard Number itself. Any further reduction beyond the level for which Section 15 approval has been given requires the publication of fresh statutory proposals. If authorities or governors intend to publish different admission figures for each of a few years, any of which may by itself trigger the need for Section 15 proposals, the figures may all be published on the one statutory notice, approval of which will have force for each figure.

7. Under Section 15(8) the Secretary of State may by Order vary any Standard Number, but on no account would such an order be made solely for the purposes of avoiding publication of proposals under Section 12 or 13, or if the intention could be achieved more properly either by a reduction in admissions of less than 20% or publication of proposals under Section 15. The Secretary of State would expect there to be a substantial and compelling case (eg fire damage, structural defect, or where otherwise the Standard Number has become wholly inappropriate) before such an Order would be made. Each case will however be considered on its merits and authorities or governors applying for a variation of a Standard Number under Section 15(8) should set out the full reasons for their request.



## APPENDIX D

### SITE TRANSFERS

1. Under Section 16(1) of the Education Act 1944 as amended by paragraph 1 of Schedule 1 to the Education Act 1968, the Secretary of State may make an order authorising the transfer of a county or voluntary school to a new site under certain conditions. In the case of a voluntary school no transfer may proceed without the authority of such an order. Application for such an order in the case of a voluntary school should be made by the governors; but the Secretary of State is required by Section 16(3) to consult any local education authority or governors of any other voluntary school who will be affected by the making of the order. In the case of a county school a formal order for the transfer need not be made unless the local education authority expressly requests it.

2. Under Section 16(1) the Secretary of State may only make a transfer order if one of the following three conditions is satisfied:

- i. where it is not necessarily practicable to bring the present buildings and/or site up to prescribed standards (ie currently those in the Education (Schools Premises) Regulations 1981); or
- ii. where there has been a movement of school children away from the area served by the school, eg by rehousing elsewhere; or
- iii. where the school's premises are to be affected by redevelopment under the Housing or Planning Acts.

3. Governors applying for a transfer order must submit to the Secretary of State their reasons for claiming that Section 16(1) applies. The new building should be provided on an entirely new and separate site; the rebuilding of a school on its existing site, or the retention of the existing site for the use of the school, will be regarded as an alteration to the school (possibly involving significant enlargement, qv Appendix B).



4. The matters as to which the Secretary of State has to be satisfied before a transfer order may be granted imply that the school as an institution will remain the same, or substantially the same, as the existing institution in all respects save those of premises and location. There should therefore be continuity of purpose or function before and after transfer - serving substantially the same pupils of the same area or parish with the same governing body, teachers and statement of curricular aims - otherwise the question arises whether in fact it is intended that a new school is to be established requiring proposals under Sections 12 or 13 of the 1980 Act, or a substitution order under Section 16(2) of the 1944 Act (qv Appendix E).

5. Under certain limited circumstances however, it may be possible for the Secretary of State to make a transfer order where the 'amalgamation' of two schools is also proposed. If an application for a transfer order is accompanied by other proposals under Sections 12 or 13 of the 1980 Act, the Secretary of State will consider whether there are grounds for the transfer of the existing institution in isolation from the other proposals and without prejudice to his eventual decision on them. So, for instance, where the amalgamation of two schools is proposed and the amalgamation is dependent on the transfer of one to a new site, the Secretary of State will have first to be satisfied that the school to be transferred, by itself and in its current form, justifies the making of a transfer order on the basis of the criteria specified in Section 16(1). He will subsequently give consideration to the other proposals which are dependent on the order being made. He will not however make a transfer order solely for the purpose of bringing the school up to the standard required to accommodate pupils displaced from another school.

6. In circumstances where the making of a transfer order is not permissible, proposers should consider whether amalgamation can be achieved through one of the routes suggested in Appendix A or, in the case of two or more voluntary schools, by means of substitution.



## APPENDIX E

### SUBSTITUTION

1. Where proposals are published under Section 13 of the 1980 Act for the establishment of a new school to be maintained by the Local Education Authority as a voluntary school and the school is being established in substitution for one or more voluntary schools at the time being maintained as such, the Secretary of State may, under Section 16(2) of the 1944 Act, order the school to be established in substitution for the school or schools to be discontinued. A substitution order prevents Section 14 of the 1944 Act from coming into effect for the schools to be discontinued.

2. It follows that for one school to be regarded as a substitution for another one or more schools, all - or substantially all - of the pupils of the existing school or schools should be accommodated in the new school; substantially the same body of teachers should be employed; and there should be a general continuity of character.



The Secretary of State's Information Requirements

1. The necessary preparation and follow-through of proposals are extensive and complex, and the Department's consideration of them has to be correspondingly meticulous. As mentioned in paragraph 4 of Annex 5, it assists the early resolution of proposals if proposers submit the full case for them (apart from any comments on statutory objections, which must follow later) at the time of publication, if not earlier. A common core of factual information is likely to be relevant in most cases, and a list of typical information requirements is shown below<sup>1</sup>. If proposers could submit to the Department a package of information on these lines, along with their general argument for their case in more discursive terms, there should be less need to refer back to them after the period for objections has expired (other than on issues raised by objectors); and the decision should as a consequence be available more quickly.

2. The most common requirements are as follows:

- i. a statement of the existing pattern of provision;
- ii. statistical information on pupil numbers at each of the institutions concerned, including admissions, numbers on roll and sixth form sizes in each of the last 5 years; along with projections for each of the next 10 years;
- iii. capacities of all the buildings currently in use, along with capacities proposed on implementation;

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<sup>1</sup> The list is not necessarily exhaustive, and it cannot be guaranteed that requests for additional information will not be made. Equally, while some of the items in the list apply for all proposals, all of the items should apply in only the most complex and contentious of proposals, for example secondary rationalisation involving several institutions. Proposers are asked to apply their judgement to the case in hand.



- iv. capital and revenue costs and savings estimated to result from the proposals;
- v. in the case of secondary school proposals, examination results for each institution over the past 5 years in an aggregated format convenient to the LEA;
- vi. details of geography and demography, additional transport needs, and a map of the area identifying the sites concerned;
- vii. details of the consultation process, copies of consultation documents and reports for LEA committees, a summary of local views and how they were taken into account, and an indication of other options considered (including a summary of their costs and benefits);
- viii. transitional arrangements, and an indication of how the interests of pupils welfare will be protected in terms of continuity of the curriculum, pastoral care and careers guidance;
- ix. details of proposed management of institutions, staffing arrangements, and proposed ranges of courses on offer at each proposed institution compared with existing provision.

[3. The Department is seeking to develop for its own purposes pro-forma "fact sheets" on which the main factual information on different types of proposals can be entered and readily assessed. Proposers who would be interested in using the fact sheets themselves to speed up the decision process are invited to make contact with the relevant territorial officers.]



## APPENDIX G

### WHAT SHOULD BE INCLUDED IN NOTICES

1. The following checklist offers to proposers a guide to the type of additional information which the Secretary of State would normally regard as essential in the public notice itself, both to allow local people the opportunity to give an informed view on them, and for himself to be able to reach an informed decision on them.
2. All proposals should state where appropriate:
  - i. how in physical terms the proposals will be implemented, eg by new building, use of existing premises etc;
  - ii. any transitional arrangements that may be necessary.
3. For proposals where it is intended to-
  - a. **cease to maintain** a school (or to reorganise schools in such a way that pupils will no longer be educated at the reorganised schools or will no longer be educated there beyond a certain age):
    - i. details of the school or schools which will accommodate the displaced pupils (expressed in terms which accord with parents' rights under Section 6 of the 1980 Act);
    - ii. details of the way in which it is proposed to make good any consequent deficiency of places (if applicable);
    - iii. any interim arrangements which may be necessary to lead up to the final closure of a school;
    - iv. if full-time education for pupils over compulsory school age is in future to be provided in a college of FE or tertiary college;



v. arrangements for pupil transport.

b. establish a new school:

- i. the exact location of the proposed new school;<sup>1</sup>
- ii. the admission arrangements for the new school;
- iii. arrangements for pupil transport.

c. make a significant change in the character of a school:

- i. the nature of the change, eg to make a significant change - "admitting pupils irrespective of sex" or by "admitting pupils without reference to ability or aptitude";
- ii. how the change will be effected eg to make a significant change by extending the range from 5-11 to 3-11 by "establishing a necessary unit for 3 and 4 year olds";
- iii. the new admission arrangements that will operate, where the proposals will mean an alteration to the school's existing admission arrangements;

d. make a significant enlargement of premises:

- i. the numbers of pupils the school can currently accommodate (on 1981 Regulations standards)<sup>2</sup>, area of present teaching accommodation, approximate age of the building;

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<sup>1</sup> If implementation will be dependent upon the outcome of an application for the confirmation of a Compulsory Purchase Order application, this should be stated. See also Appendix J.



ii. the numbers currently on roll;

iii. the numbers it is proposed the school should accommodate;

iv. the nature and extent of the proposed enlargement.

**e. to restrict admissions:**

i. whether the proposed intake is in respect of one year or reflects a settled pattern;

ii. the school's Standard Number;

iii. the previous year's admissions total;

iv. the alternative school or schools which should normally be available to unsuccessful applicants for the school in question (having regard to parents' rights under Section 6 of the 1980 Act).

4. The following are examples of what might be included in the accompanying statement:

i. the reasons for and background to the proposals;

ii. what is intended to happen in respect of schools other than those to which the proposals relate but which are affected by the proposals;

iii. a cross-reference to any other relevant proposals;

iv. the effects of the proposals on other schools in the same area (eg on admissions arrangements);

v. an explanation that to constitute a statutory objection for the purposes of the Act on the part of ten or more local government electors for the area, either the objection must be signed by each of the objectors or else it must be demonstrated that the objections submitted have been made in conjunction with others.



## SECRETARY OF STATE'S POWERS TO MODIFY PROPOSALS

1. In considering whether to modify any part of a set of proposals, the Secretary of State will be guided by whether such a modification would alter the substance of the whole to the extent <sup>that</sup> objectors or potential objectors could be disadvantaged by not having had the occasion to comment on it previously. Siting is a material factor in local people's consideration of proposals and it will not normally be open to the Secretary of State to make a modification to substitute another site for that specified in the proposals (unless, for example by reason of the two sites' proximity, and general similarity, there is unlikely to be a material difference between them in the eyes of those affected). For like reason, the Secretary of State cannot normally approve a modification which itself would change the proposed age range of a school. (This would normally constitute a significant change of character requiring separate statutory proposals: see Appendix B).
2. Where it is clear that implementation of proposals is not going to be possible on the date published in the notices, a modification to defer implementation by up to one year will normally be acceptable, and may be necessary where proposals have been published late. Any request for a longer delay would have to be judged in the light of the effect it would have on the schooling of the pupils for whom the proposals were initially intended, and also on the extent to which the original consultations brought in all those to be affected.
3. Where future need has clearly been under- or over-estimated the Secretary of State will normally be prepared to make a modification to alter the proposed size of the school .

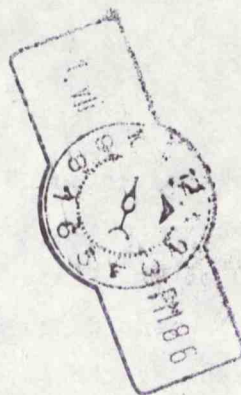


## APPENDIX J

### COMPULSORY PURCHASE

If a local authority wishes to purchase compulsorily land for educational purposes, the compulsory purchase order has to be confirmed by the Secretary of State under section 90 of the Education Act 1944 (following the procedures in Department of the Environment Circular 6/85). As stated in paragraph 3 of Appendix Q to that Circular, the procedure laid down in sections 12 or 13 of the Education Act 1980 should normally be followed, and approval obtained, before a compulsory purchase order is made.







\_\_\_\_ Grey Scale #13 \_\_\_\_



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**B**

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