

REPORT TO: THE MORAY COUNCIL ON 12 MAY 2010

SUBJECT: REVIEW OF THE SCHOOL ESTATE

BY: CHIEF EXECUTIVE

1. REASON FOR REPORT

1.1 To consider the recent change in legislation concerning the school closures and to approve a review of the Primary School estate.

2. RECOMMEDATION

2.1 It is recommended that the Council:-

- Notes the change in legislation regarding school closures
- Considers the current moratorium on schools which were subjected to review in 2007, and
- Approves that a Sub Committee of Policy and Resources be formed to review the current strategy, carry out a review of the primary school estate and to bring forward proposals for public consultation.

3. BACKGROUND

3.1 In Scotland, local authorities have a statutory duty to ensure the adequate and efficient provision of school education in their area. In that context, authorities can re-organise their school estate at any time and the need for school closures, amalgamations or alterations to catchment areas can be prompted by changing population patterns and the need to provide suitable school buildings for pupils and teachers.

3.2 If a local authority proposes to change any part of the existing education provision in their area then they must engage in a formal consultation process.

3.3 On 19th November 2009 the Scottish Parliament passed the Schools (Consultation) (Scotland) Act 2010, which came fully into force on 5 April 2010. The Act revokes and supersedes the previous legislation – the Education (Publication and Consultation Etc) (Scotland) Regulations 1981 – that set out the process that had to be followed when a local authority was consulting on a school reorganisation proposal.

3.4 The new legislation updates and strengthens that consultation process and its overarching aim is to establish a process for all school closures, and other major changes that affect schools, that is robust, coherent, open and transparent, and above all which commands the trust and confidence of the public. Further, the Act aims to safeguard rural schools by ensuring that a decision to consult on a closure proposal

would not be made until the local authority had explored all possible alternatives and fully assessed the likely implications of closure. The Act also replaces the system of referring certain local authority decisions – under prescribed restricted criteria – for Ministerial consent with a power for Ministers to call in any school closure decisions.

- 3.5 Enclosed at Appendix 1 is a timeline provided by the Scottish Government which sets out the consultation process that must be followed by local authorities
- 3.6 As described above, the Act provides for School Ministers to call in a local authority decision to close a school. Ministers will only call in a decision if there is evidence of the local authority failing to comply in a significant way with the requirements set out in the Act, or failing to take proper account of a material consideration relevant to its decision. After the local authority has taken its decision to close a school there is a 3 week period for anyone to make representations to Ministers requesting the case to be called in and a further 3 week period for Ministers to reach a decision on whether or not to call in the case.
- 3.7 The Act also sets out special safeguards for rural schools by requiring local authorities to have regard to 3 factors before deciding to propose and consult on a rural school closure. These factors acknowledge and reflect the particular importance of a school to the more fragile and vulnerable rural and remote communities of Scotland. The 3 factors are:-
- Any viable alternative to closure
 - The likely effect on the local community if the school were to close, and
 - The likely effect of different travelling arrangements occasioned by the closure.
- 3.8 A list of rural schools in Moray which was compiled by the Scottish Government is set out at Appendix 2

4. CURRENT POSITION

- 4.1 It is recognised that the school estate currently operates with significant excess capacity and this situation is likely to continue to deteriorate in future due to falling birth rates and population movement. While recent population forecasts give cause for optimism in terms of total population it is still predicted that there will be a reduction in schools rolls.

- 4.2 The Council agreed a strategy to address the issue of excess capacity in 2006. It was recognised that the Council must balance its legal duty to deliver best value with both the educational and financial consequences of operating with excess capacity, and the implications for the community in reducing that capacity.
- 4.3 At that time, the Council agreed that, in terms of school reviews:-
- The Council's primary efforts should be directed towards encouraging the long term viability of individual schools
 - To develop a strategy consisting of a two stage review process which would both meet the Council's obligation to obtain best value and provide a transparent process for the review of the future of individual schools in consultation with a wide range of stakeholders in the community.
- 4.4 The first stage is aimed at encouraging the viability of individual schools, and only where this is unsuccessful is a second stage review to be carried out. Even then, it was recognised that it will be necessary to balance the educational case with the wider benefits to a community of retaining a local school.
- 4.5 A summary of the current approved strategy is set out at Appendix 3
- 4.6 The last review of the Primary school estate was conducted in 2006/07 when the following schools were subjected to detailed review: Cabrach, Crossroads, East End, Inveravon, Knockando, Logie, Portknockie and St Peters Primary Schools.
- 4.7 Following deliberation the Council decided to proceed to a second stage review of Cabrach and St Peters. At this stage the Council also agreed a 5 year moratorium on the remaining 6 schools (i.e. until may 2012).
- 4.8 Following the second stage review of Cabrach and St Peters, the Council agreed to retain St Peters (and include it in the 5 year moratorium detailed above) and moved to close Cabrach. The closure decision regarding Cabrach was referred to Scottish Ministers as per regulation at that time and Ministers subsequently refused to grant the closure request. Consequently Cabrach remained open but no formal decision was taken by the Council to include it in the moratorium.
- 4.9 The Council requires to confirm, in terms of the moratorium, whether the review which is proposed should exclude the following schools at this time:-
- Crossroads
 - East End
 - Inveravon

- Knockando
- Logie
- Portknockie
- St Peters

5. PROPOSED REVIEW OF THE SCHOOL ESTATE

5.1 The Council has a duty to regularly review the school estate management plan and must attempt to balance a number of factors including issues such as:-

- The legal position
- The educational and financial consequences of operating with excess capacity, and
- Implications for the community in reducing that capacity.

5.2 A positive strategy is required for managing the difficult issue of excess capacity in schools. It is also important to recognise that it is not only small rural schools that are faced with capacity issues and there it will also be important to consider any changes to the pattern of schooling in towns.

5.3 It has previously been agreed that the strategy must not be viewed as a process which automatically leads to the closure of schools but rather one which genuinely seeks to meet the needs of the community and attempts to balance the factors outlined at 5.1. The strategy must take account of the wider needs of the community and sustainability of communities.

5.4 The current strategy which involved a 2-stage review process requires to be reviewed in order to ensure that it meets the requirements of the new legislation and is management within the resources available. Previously development of the detail of the strategy was remitted to a Sub Committee of Policy and Resources Committee which was formed specifically for that purpose.

5.5 It is proposed that a Sub Committee of Policy and Resources be formed to review the current strategy and to carry out a review of the primary school estate and to bring forward proposals for public consultation. The Sub Committee would be supported by officers from all departments of the Council.

6. SUMMARY OF IMPLICATIONS

(a) Single Outcome Agreement/Service Improvement Plan

A review of the School Estate will contribute to the delivery of national outcome 15 which relates to ensuring that public

services are high quality, continually improving, efficient and responsive to local people's needs.

(b) Policy and Legal

The Forward Strategy which was considered by Policy and Resources Committee on 30 March 2010 includes a review of the School Estate.

The Schools (Consultation) (Scotland) Act 2010 came into force on 5 April 2010.

(c) Resources (Financial, Risks, Staffing and Property)

There are no immediate financial implications arising from this report. It is however recognised that there is significant excess capacity within the school estate at present.

(d) Consultations

There have been no consultations at this stage though it is recognised that any school reorganisation proposal will require to follow a comprehensive consultation process.

7 CONCLUSION

7.1 The Council's forward strategy includes a review of the school estate. Various issues such as the recent change in legislation the moratorium which was agreed in 2006/07 and the current agreed process for review of the estate require to be considered if a review is approved. It is proposed that a Sub Committee of Policy and Resources Committee be formed to review the current strategy, carry out a review of the primary school estate and to bring forward proposals for public consultation.

Author of Report: Alastair Keddie

Background Papers: