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|  | **European Schools**Office of the Secretary-GeneralGeneral Secretariat |

**Ref.: 2015-10-D-22-en-2**

**Orig.: EN**

**The phasing out of European School Culham - Progress report.**

**BOARD OF GOVERNORS OF THE EUROPEAN SCHOOLS**

Meeting on 1-3 December 2015 in Brussels

The phasing out of European School Culham - Progress report

## Introduction

ES Culham (ESC) has a very particular, extraordinary situation due to the foreseen phasing out on 31 August 2017. ESC is the first and only Type 1 European School that is to be closed down.

In 2007 the Board of Governors decided that ES Culham should close in August 2016 for the primary school and in August 2017 for the rest of the school.

The phasing out process was discussed at the Board of Governors’ meeting in 2008 (*Document 2111-D-2008-en-2, The Phasing-Out of the European School Culham as a Type I School*). It was decided that ESC would remain under the responsibility of the Board of Governors until 31st August 2017. At the time, specific reference was made to the pupils who would enter S6 in September 2016 and who would not be able to take the Baccalaureate in ESC because of the closure of the school. It was decided that parents would be clearly informed in good time of both the closure and of the possibility of moving to another European School for the S7 year. However, the founding of an Accredited European School in the same site (European School, UK – ESUK) has now given the Culham students another option.

The phasing out process started with the closure of Nursery 1 in September 2010 and will continue with the closure of a further year group each year. It was thus planned that, for the school year 2016-2017, all the classes of the secondary school will still be open with a forecast number of 430 pupils in order to ensure the viability of the school and the provision of education until 2017. (2011-01-D-36-en-3).

During the last year, a special ESC/ ESUK Working Group chaired by the Secretary General has tackled issues related to the phasing out process and the possible transfer of pupils from ESC to ESUK in 2017.

The Head of Human Resources Unit and the Secretary-General have together with the Direction of the school explored the legal framework for locally recruited teachers and administrative staff members.

The School has started the planning for the archiving of records, the final clearance of documents and other administrative tasks related to the closure

## European School Culham 2015-2016

Although the school is approaching its closure, it remains buoyant and vibrant and the fall in numbers of students in secondary has levelled off in the past two years, remaining at about 400, with a healthy number of new admissions.

The school year 2015-2016 started with 399 students in the secondary school (last year 404) and 63 in primary school. There are 111 students in the German section, 185 students in the English section and 166 students in the French section.

Although the student numbers this academic year (2015/2016) are healthy it has to be borne in mind that next year (2016/2017), the last year of ES Culham, might be different.

Realistically some students may leave before the closure: Current S3 students might leave at the end of S3 in order to avoid making a transition mid-way through the pre-specialisation cycle. S5 students may leave at the end of S5 before their Baccalaureate cycle. It is very difficult to predict what will happen, and in addition, there have been as many new admissions at this time as in previous years. Critical classes are DP5, DS4 and DS5 where the current number of students is 10 in each class.

## ESC/ ESUK Working Group

During the last academic year (2014/2015), ESUK, a national free school, has obtained the status of an Accredited European School and is going to continue to provide European education on the Culham site.

The vision of Europa School UK – ESUK – is to have a full secondary school immediately from September 2017 offering the possibility for the students of ESC to join the school who so wish.

It is hoped that the majority of ESC students stay at ESC and join ESUK in September 2017.The numbers of today support that hope.

Although ESC and ESUK are both European schools there is a significant difference between them. In ESC there are three language sections: EN, FR, and DE whereas ESUK is going to have only one big English section providing mathematics and science only in English. That difference will pose challenge for ESC students in the French and German sections who have studied the above mentioned subjects in the respective languages.

To make the transfer as smooth as possible a Working Group was convened in summer 2014 chaired by the Secretary-General of the European Schools, Mr Kivinen. The working group was created to facilitate the transformation process, to consider the many questions, to provide a detailed mapping of the future, to discuss and coordinate the numerous transfer issues. The members of the working group were the management of both schools (ESC and ESUK), Department of Education of UK, representatives of teachers and parents of ESC.

After the 3rd meeting in February 2015 the management of ESC finalised the possible support measures to be presented to the parents of ESC students who would like to be transferred to ESUK.

Meetings were organised to inform parents about the possibilities of future European schooling at Culham after August 2017. After the meetings parents were asked to fill in a questionnaire about preferred measures and give some information about their plans how they see the continuation of education for their children.

At the beginning of April, a letter was sent to all the parents of those year groups providing information on the feedback from the questionnaires that the parents were asked to complete. A list of additional questions was collated out of the questions sent directly to the management as well as a list of questions sent via ES Culham Parents’ Assosciation.

A further feedback meeting was organised with the parents of each section of the S4 (2014/2015) year group students of which will be in S6 in 2016/2017.

The fourth working group meeting formalised the ESC proposals for the transfer.

### Difficulties to overcome

In September 2017, ESC students wanting to join ESUK following the closure of ESC will form part of a large English section with SWALS (in DE, FR, ES, NE, PO, IT, DA).Students in ESC French and German Section will also become SWALS being able to continue with their L1 course.

Most of the courses at ESUK will be taught in English except L1-L5 courses other than English, Human Science (in S3) and History and Geography (from S4) for ESC students whose L2 is French or German.

The change in the language of instruction in ESUK will affect students in the French and German sections in particular. All French and German section students will be equally affected by the change in Mathematics instruction into English. Students in S5 & S6 in 2016-17 will be affected by a change in teaching Science in English to varying degrees depending on the choice of option courses taken from the start of S6.

ESC will provide support for the students who want to join ESUK in 2017. The change in the language of instruction to English underpins the support strategy but there are also other concerns such as university applications early in S7, staffing issues and student numbers.

It is important to note the following:

* the support measures will be mainly targeted at the S6 cohort in the final academic year 2016/17
* Due to budgetary constraints, formal support measures for lower year groups will be introduced mainly in the final academic year (2016/2017).
* Any support measures must be fully funded and agreed by the Board of Governors.
* Students will remain in their language section classes and will not form a large English section with SWALS before the closure.

### Current situation 2015/2016

A detailed curriculum and staffing map for the next two curriculum years has been established. Several points need noting:

* The large number of students in S6 has allowed the school to open a very wide range of courses in S6 including some courses which have not run for several years (L1 Advanced French and Lab Physics) and more courses in the language of the section.
* The new curriculum changes in S1-S3 and specifically the earlier choice of L3 from S1 has led to a more diverse choice of L3 which has benefitted the German and French section teaching.
* There are a larger number of German L2 students in the lower part than in the upper part of the school which will reduce the period reductions that have had to be applied in the past.

Given a good retention of students, the number of teaching periods for the seconded teachers has been maintained at a minimum of 21 periods without any significant falls in the locally recruited staff’s allocations in 2015-16.

### Support plan

### Support plan for students 2016/2017

Many of ESC students who study English as L2 in the DE and FR sections have achieved the C1 level by the end of S4 which is comparable to L1 English of the same year group in the UK national system. Taking into consideration the high level of English L2, the ESC management has considered four options for support in Mathematics and Sciences for our current S3-S5 cohorts, to be delivered in the academic year 2016-17:

* Extra learning support lessons with Anglophone specialist teachers.
* Within-lesson Support in French and German classes using a CLIL approach (CLIL is ‘Context and language integrated learning’ where the language of instruction is other than the students' L1)
* Team Teaching – a specialist Anglophone teacher could team up with French and German section teachers whose English is not at such a high level.
* Cross curriculum support

In order to identify any additional required English language support, the level of English of the students in the French and German sections will be assessed where necessary.

### S6 cohort in 2016-17: Baccalaureate cycle (Current S5)

This cohort will make their option choices for S6 in November 2015 (3 months earlier than normal). When choosing their options students in the French and German sections will also be allowed to specify the dominant classroom language (English/ French or English/German) in Mathematics and Science. The minimum number required to run a compulsory course in any language section will be 1 student for this year group in order to allow those students who do not want to join ESUK in S7 in 2017 to continue courses in their L1.

The minimum number of students required to open a complementary course will be decided in collaboration with ESUK. Otherwise minimum numbers will be set according to European School regulations.

This will mean that parents and students will know what courses will be opened in S6 in September 2016 before they have to make choices about applying to ESUK or other schools. This will also facilitate school management in seeking the approval for necessary derogations.

Transfer possibility for any student wanting to move to another European school should be granted.

### Support for teachers

Subject teachers of Mathematics and Sciences are highly experienced in teaching their subjects in their first language. The support measures that have been proposed in this document will require these teachers to have training on teaching their subject in a foreign language, in this case English supporting students with L2 English. Teachers will be encouraged to observe each other’s teaching within subject groups and the school will share expertise from History and Geography and L2 teachers and support CLIL (Content and Language Integrated Learning) training. The first internal training day on CLIL approach was organised in September 2015.

The success of above mentioned support measures will depend on harmonisation of forward planning, teaching resources and assessment in all year groups. It will also require on the part of teachers a much closer working relationship between colleagues in subject groups and better understanding of differences in methodology, vocabulary and cultural context for the learning. ESC is a small community and one where teachers have always worked well together so we are confident that this can be achieved.

Measures to be taken are the following:

* Meeting with the “strategic “ subject groups to decide on the measures
* Needs analyses
* Peer observation plan
* Preparing glossaries
* Working together across sections to harmonise the approach to topics of the subjects

### Other issues to be solved

Many parents have expressed concern that applicants to UK universities via UCAS and Art foundation courses will be affected by the transition to ESUK with uncertainties about continuity of staffing and the absence of seconded teachers, many of whom teach in S6. It will be important to ensure that all subject references are completed by ESC teachers before the end of the academic year 2016/17 especially for those students applying to Oxbridge or for Medicine, Dentistry and Veterinary Science.

ESC would seek permission for S6 students (in 2016/17) in the French and German section to be allowed to have the examination papers in the two languages and to choose the language in which they sit the examination. We would work with ESUK to ensure that this measure was planned for 2017/18. It may also be appropriate to modify the ESUK dossier of conformity with respect to this issue.

### 5. Staff issues

### 5.1. Teaching Staff

It is necessary to guarantee for the teachers in all three language sections a sufficient amount of teaching periods in order to keep the teachers experienced in ES system engaged with the ESC and so maintain the high quality of education up to closure.

The Whole School Inspection (WSI) follow-up report (January 2015) made following recommendation “changes in staff should be reduced to a minimum during the phasing out period.”

The measures for the redeployment of staff was discussed and in principle approved already at the Board of Governors meeting in 2008.

*The Board of Governors approved in its meetings in 2008 and 2011 The Document 2111-D-2008-en-2, The Phasing-Out of the European School Culham as a Type I School* the following:

*The criteria for the setting up, closure or maintenance of European Schools agreed by the Board of Governors in 2000 (the “Gaignage” criteria) provide that the closure of a school will be accompanied by measures designed to:*

*permit redeployment of the members of the teaching, administrative and ancillary staff within the European Schools system (or, where appropriate, within the Member State in question) in satisfactory conditions, compatible with their service rules and in accordance with national regulations.*

*The management of the Culham School will take all possible steps to ensure that suitable measures are put in place to meet this objective.*

## 5.2 Locally recruited teachers and **administrative and ancillary staff**

The document 2011-01-D-36-en-3 stipulated in detail the “Measures to permit redeployment of locally recruited staff whose contracts will be terminated.” For example, “*In cases where the posts of locally recruited staff at Culham are suppressed as a direct result of the closure of the school, the Director shall establish whether there are vacancies in other European Schools or the Office of the Secretary­ General which might be of interest to the staff in question. These measures would be derogation from the normal rules insofar as they give priority to the recruitment of staff from Culham*.”

For the administrative and ancillary staff, the measures would also be derogation from the normal rules on starting salary; the arrangements proposed above are normally only available to staff who change school within the same country. The arrangements for salary applicable to locally recruited teachers would be the same as for any other staff in post before September

2011 who subsequently change school (subject to approval by the Board of Governors of the new regulations for these staff).

During 2015 the Management of ESC together with the support of OSG clarified the procedures and processes for the locally recruited staff members and the settlement agreement was prepared to clarify their employment situation at the time of redundancy.

### 5.3 Seconded teachers

The rights of the seconded staff are defined by the *Regulations for Members of the Seconded Staff of the European Schools*. Article 4 of the Regulations permits transfers of staff from one European school to another on the advice of the Director and on a proposal from the relevant national Inspector.

If a transfer to another European School is not possible in individual cases, Articles 31 and 35 of the regulations would apply. These articles provide that a secondment may be terminated on grounds of redundancy in the interest of the service when a post is suppressed and no other post is available within the European Schools. In such a case, an allowance of three months’ salary is payable, in addition to the normal departure and resettlement allowances. It would then be the responsibility of the national seconding authority to meet its own statutory or contractual obligations towards the member of staff concerned.

Article 29 of the regulations specifies that the maximum length of secondment for teaching staff is nine years, with the possibility of a one-year extension in special cases, on the request of the Director in the interest of the School.

There are 27 seconded members of staff at ES Culham in 2015/2016 academic year (*See Annex I for the breakdown of the numbers.)*

In April 2011 (2011-04-D-7-en-3) the Board of Governors decided, in support of ES Culham, that if seconding authorities of the member states so wished they could extend the contracts of their seconded staff at ES Culham beyond the normal term of 9 years until the school closed in August 2017. In approving this derogation from Article 29 of the Regulations of the Seconded Staff of the European Schools, the Board of Governors accepted the concept of making special provisions for ES Culham and the desirability of extending the contracts of secondary seconded teachers whose contracts would normally finish between August 2014 and August 2016.

The Director of ES Culham has asked for prolongation from the delegations of the Member States according to the following:

1 Italian teacher: prolongation from 9/2010 to 8/2011 (1 year)

1 Spanish teacher: prolongation from 9/2016 to 8/2017 (1 year)

2 British teachers: prolongation from 9/2016 to 8/2017 (1 year)

The Management of the School is still waiting for the answer from the Italian authorities.

## 6. Legal issues

Due to the phasing out of ES Culham up to 31 August 2017, locally recruited teaching and administrative staff have been or will be made redundant during the phasing out period.

On 1 September 2017 all pupils from ESC will have the option to transfer over to ESUK which will provide a similar curriculum to ESC.

Under UK law there could be a transfer of undertaking from ESC to ESUK in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 referred to as “TUPE”. The legal consequence of this would be that the employees of ESC would become employees of ESUK on the same terms and conditions as apply at ESC.

In November 2014 ESC obtained a detailed legal opinion as to whether there would be a transfer of undertaking under TUPE for both the phasing out of the primary school and the closure of the secondary school. The conclusion was that TUPE should apply in both cases. This is of course an opinion rather than a definite ruling.

This opinion was shared with ESUK and in February 2015 ESUK informed ESC that their view remained unchanged in that TUPE does not apply owing to the differences in funding, organisation and educational programme.

In order to obtain a legal ruling on TUPE, employees of ESC would have to lodge a claim to the Employment Tribunal within 3 months of finishing employment with ESC. No employees have taken this action so far. The risk to the employee is that the Employment Tribunal may decide that TUPE does not apply and the employee is then left without employment when he or she could have applied for other jobs in the period leading up to the termination of employment with ESC.

Some members of staff in the primary school have already been made redundant by ESC and they have obtained jobs at ESUK under open competition. Others have applied for posts but have been unsuccessful. ESUK have stated that they will encourage ESC staff to apply for posts in ESUK as vacancies arise but this will be under open competition with other applicants.

Staff who will end their employment with ESC may opt out of any possible TUPE transfer to ESUK by signing a Settlement Agreement with the consequence that they would be paid the equivalent of statutory redundancy pay by ESC but they could still apply for jobs at ESUK under open competition. The signing of a settlement agreement would mean that the employee would waive any claims against ESC in respect of TUPE.

It is in the interest of the School as an employer to offer legal certainty to employees during the two years leading up to closure. The option of a settlement agreement will encourage members of staff to stay until their posts become redundant (mainly in August 2017).

## 7. Settlement Agreements - Financial impact

The last Culham school draft budget for 2017 will be presented to the Budgetary Committee in March 2016. In spite of the fact that the school is functioning only 8 months, it is necessary to reserve funds for the payments of settlement agreements.

A settlement agreement was drawn up by the School’s lawyers in June 2015 and the first agreement was signed by a member of staff whose employment ended on 31 August 2015 following the closure of primary year 4. The amount of statutory redundancy pay for this employee was included in the Budget 2015.

The Budget 2016, approved by the Board of Governors in April 2015, includes provision for statutory redundancy pay for employees whose employment will be terminated in August 2016 and provision will also be made in the Budget 2017 for the remaining employees whose employment will be terminated when the school finally closes on 31 August 2017.

Before entering into a settlement agreement, employees are required to seek independent legal advice on its terms and effect. The cost of this legal advice will be paid by ESC up to a maximum of £500 plus VAT. The bill for legal advice for the first settlement agreement signed in August 2015 amounted to £300 plus VAT.

The budgetary consequences of the settlement agreements are as follows:

Teaching Staff:

Budget 2015: Actual 1 employee €19,874

Budget 2016: Estimated 6 employees €39,557

Budget 2017: Estimated 40 employees €315,000

Administrative and Ancillary Staff:

Budget 2015: €0

Budget 2016: €0

Budget 2017: Estimated 19 employees €180,000

The statutory redundancy payments in respect of the settlement agreements are calculated on the basis of age, salary and number of years employed by ESC subject to the following maximum amounts:

Salary: £475 per week

Length of service: 20 years

Age related multipliers:

* 0.5 week’s pay for each full year worked when aged under 21
* 1 week’s pay for each full year worked between the age of 22 and 41
* 1.5 week’s pay for each full year worked when aged 41 or older

The maximum statutory redundancy pay is currently £14.250 (€19.465).

Statutory redundancy pay is free of income tax and social charges.

Statutory redundancy pay does not apply for employees with less than 2 years’ service so an employee with 1 year’s service would receive no redundancy pay.

Article 9.2 of the Service Regulations for Administrative and Ancillary Staff (AAS) provides that “Where the discontinuance of a post is decided by the Board of Governors, a member of the AAS who cannot be redeployed shall receive what is laid down by the legislation of the host country but never less than an allowance equivalent to one month’s basic salary per year of service in the school up to a maximum of three months’ salary, the intermediate portion being calculated in twelfths. Where a member of the AAS refuses a reasonable offer of an alternative post, the above allowance shall not be granted.”

AAS staff with less than 2 years’ service would therefore receive some financial settlement.

No such allowance is available under the regulations for locally recruited teaching staff and therefore teaching staff with less than 2 years’ service would receive no financial settlement.

The following illustration sets out the situation for teaching staff:

Person aged 50 with a salary of £2058 per month, £475 per week.

Statutory redundancy pay

2 years’ service £475 x 2 years x 1.5 = £1425

1 year’s service £0

The Administrative Board in September 2015 approved the following incentive for the locally recruited teachers:

1. Payment of a settlement to teaching staff with less than 2 years’ service based on the formula for calculating statutory redundancy pay. From the illustration above the settlement would be:

 £475 x 1 year x 1.5 = £713

This would be paid to staff appointed after the start of the school year 2015/16 i.e. those with less than 2 years’ service. The period of service should be calculated in months up to a maximum of 1 year 11 months. The minimum settlement should be £100.

At this stage it is not possible to provide budget implications for this proposal as the number of appointments after 1 September 2015 is not yet known however the cost is likely to be a maximum of £5000 (€6830).

This proposal should also apply to two members of staff with less than 2 years’ service who were made redundant on 31 August 2015. The amount involved would be £1.575 (€2.151).

For calculating the amount of salary per week, the average number of hours/periods of the last 3 years should be applied if this is in favour of the employee so that employees with a decreasing timetable leading up to the end of the school year 2016/17 are not at a disadvantage (or 2015/16 in the case of primary staff).

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## 8. Reorganisation of the management structure for 2016/2017 academic year

Many issues have been resolved but this required a huge increase in workload on top of the normal management’s time. The director and secondary deputy-director regularly worked an excessive amount of hours on top of their regular working time. The deputy director primary has all the time been involved in the process, but the overload of work is still there.

In the final year of the school the management team will lose one member of its current team (deputy-director – primary). This will place even greater demands on the remaining team at a time when there will be an increasing workload due to the closure.

European School Culham is the only European School where both deputy directors teach aside from their duties as deputy heads. The deputy head secondary teaches mathematics 5 period course for ES7 and the primary deputy head teachers Irish for secondary students as well as English L2, and religion.

Therefore Mrs Soekov, the acting director of ESC has made an exceptional official request regarding the management structure in 2016/2017. She has officially requested the Irish government and the Board of Governors to prolong the contract of the Primary Deputy Director, although there will not be any primary pupils in the school during the school year 2016-017.

## 9. Proposal

The Budgetary committee is requested to give its opinion about the measures which will be presented to the approval of the Board of Governors.

It is proposed that the Board of Governors should approve following special measures related to the phasing out process:

* the priority of Culham students to be admitted to any European School outside UK of their choice according to the conditions described in the Gaignage document.
* the support measures in principal
* the proposed measures designed to permit the redeployment of staff set out in the articles above according to the Gaignage criteria
* the derogation concerning the number of teaching hours for seconded staff (if needed)
* some extra internal structures/ extra amount of teaching periods spent for the tasks in providing support for the students wanting to join ESUK on top of their contracted tasks based on the regulations for European schools
* the prolongation of contracts for 4 teachers whose contracts finish in August 2016.

The Board of Governors is requested formalise the approval of settlement agreement to opt out TUPE laws which is permitted by the local law.

In addition, the Board of Governors is requested to gran, if possible, the relocation allowance for the locally recruited teachers transferring to other European Schools.

The issue related to the possible prolongation of the Irish seconded Primary Deputy Director in the managerial role of a deputy director for the 2016/2017 academic year will be presented in a separate document.

**OPINION OF THE BUDGETARY COMMITTEE**

At its meeting on 3 and 4 November 2015, the Budgetary Committee considered that the proposed measures were consistent with the continuous provision of European schooling in Culham. It recommended their approval to the Board of Governors.

However, the Committee had reservations about the locally recruited teachers’ relocation allowance as it did not have access to any relevant figures nor to a detailed table.

**Annex I. Seconded staff at ES Culham**

The table below summarises the contractual data concerning 27 currently seconded secondary teachers:

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| **Delegation** | **Number** | **Current year of secondment** | **Comments** |
| **1** | **2** | **3** | **4** | **5** | **6** | **7** | **8** | **9** | **10** |
| DE | 9 |  |  | 4 |  |  | 1 |  | 1 |  | 3 | 3 seconded staff in their 10th year have extensions to 2017 including I counsellor |
| EN | 6 |  |  |  |  |  |  | 1 | 1 | 2 |  | +2 teachers with continual contracts |
| FR | 5 |  | 2 | 1 |  |  |  |  | 1 |  |  |  |
| ET | 1 |  |  | 1 |  |  |  |  |  |  |  | Director |
| IRL | 2 |  |  |  |  |  |  |  |  |  |  | 1 teacher with continual contract +1 in 13th year due to management role |
| NE | 1 |  |  |  |  |  |  |  |  | 1 |  | Will not have enough teaching periods in 2016-17. |
| IT | 1 |  |  |  |  |  |  |  |  | 1 |  | Will have enough teaching period in 2016-17 due to sufficient number of L3 +L4 classes |
| ES | 1 |  |  |  |  |  |  |  |  | 1 |  | Will have enough teaching period in 2016-17 due to sufficient number of L3 classes |
| DA | 1 |  |  |  |  |  |  |  | 1 |  |  | Teaching in primary as well in 2015-16 |