

NORTHUMBERLAND

Northumberland County Council

CABINET

Date: 8 February 2018

Proposals for Education in Belford

Report of the Executive Director of Children's Services

Cabinet Member: Councillor Wayne Daley

Report prepared by Andy Johnson, Director of Education and Skills

Purpose of Report

This report sets out the results of the statutory consultation process undertaken by the Council in relation to the proposal to close St Mary's Church of England Middle School with effect from 31 August 2018 and to extend the age range of Belford First School with effect from 1 September 2019. An analysis of the representations received during the statutory period is also provided. This report requests Cabinet to decide whether or not to approve the proposals as consulted upon.

Recommendations

It is recommended that Cabinet:

1) Approve:

- the proposal to close St Mary's Church of England Middle School as with effect from 31 August 2018;
- the proposal to extend the age range of Belford First School from an age 2 to 9 first school to an age 2 to 11 primary school with effect from 1 September 2018

2) Note:

The impact of the proposal is set out in the Statutory Proposal attached at Appendix 1 of this report.

4) When deciding, take into account:

The Department for Education's (DfE) guidance as set out in para. 6 of this report and decide how to proceed with the proposals set out in Recommendation 1 in the light of the four options available:

- reject the proposal;
- approve the proposal without modification;
- approve the proposal with such modifications as Cabinet think desirable after consultation with the Governing Bodies of St Mary's Church of England Middle School and Belford First School; or
- approve the proposal (with or without modification) subject to certain conditions being met.

Key Issues

1. Following a request from the Governing Bodies of St Mary's Church of England Middle School and Belford First School, Cabinet approved a six week informal consultation on 12 September 2017 on proposals to close St Mary's with effect from 31 August 2018 and to extend the age range of Belford First School from 1 September 2018. Informal consultation began on 13 September and closed on 1 November 2017. The rationale, process and outcomes of this informal consultation are set out in the Report of the Interim Director of Children's Services, 12 December 2017, available in the Background Papers to this report.
2. Following consideration of the outcomes of information consultation, Cabinet approved the publication of statutory proposals to close St Mary's Church of England Middle School and to extend the age range of Belford First School from an age 2 to 9 first school to an age 2-11 primary school in line with the proposed timeline.

Representations

4. 5 Representations were submitted to the Council during the four week statutory period which ran from 14 December 2017 to 11 January 2018.

Representation 1 - Governing Body of Belford First School

The Chair of Governors of the Governing Body of Belford First School has submitted a representation on behalf of the Governing Body in support of the proposals as follows:

I am responding on behalf of the governors of Belford First School to the statutory consultation on changes to the pattern of schooling in Belford.

In line with our response to the informal consultation, I can confirm that the governors of Belford First School support the proposed change. Should a final decision be made to approve the proposals, we will be ready to make the changes and enhancements required to become a successful primary school.

*Yours sincerely,
Phil Green*

Representation 2 – Resident and former education professional

Representation in support of the proposals. The key issues raised in this representation are:

- *St Mary's is no longer viable because of low numbers and resulting budget. It cannot offer the appropriate curriculum under such restrictions.*
- *A two tier model of education has a major advantage over three tier in that it keeps the number of transfers a pupil must make to a minimum. It is well established that children regress in the year following a transfer.*
- *When the Council made the decision not to proceed with a whole authority schools reorganisation some years ago, the current haphazard changes to certain groups of schools within the county could easily have been predicted to lead to anomalies. Belford has been a victim of the Alnwick Partnership deciding to become two tier.*

Commentary: The comments are noted in relation to the viability of St Mary's and the views on a 2-tier structure of education. With regard to the views on the reorganisation of schools generally in Northumberland, parents have the right to express a preference for any school for their children and where places are available, they must be offered.

Representation 3 – Parent of pupil in Belford First School

Representation with general comments on proposals. The key issues raised in the representation are:

- *If best way to keep child in Belford for longer is primary, then would like to see the school become part of the Alnwick Partnership*
- *Do not support the proposal to send children to Berwick Middle for 2 years in Years 7 and 8*
- *The headship of Belford Primary [as it would become] should be interviewed to ensure the best candidate was appointed*

Commentary: In relation to the first two points above, there are no proposals to include the locality of Belford within the Alnwick Partnership. School Partnerships within the county are well established and ensure that there are sufficient numbers of pupils to support the schools in each educational phase, whether organised as 2-tier or 3-tier. However, as stated previously, parents have the right to express a preference for a place at any school for their child on an individual basis. As Belford First School would be the continuing school should these proposals be approved, staff at the school would not be at risk of redundancy; however, the headteacher and Governing Body would need

to review the current staffing structure to ensure that it is organised as an effective primary school, rather than as a first school.

Representation 4 – Local resident/member of the public (not stated whether a parent)

Representation objecting to the closure of St Mary's. The key issues were:

- *Against the closure of St Mary's Middle School.*
- *If closure is approved, children should be provided with free transport to the local school of their choice, whether Alnwick or Berwick.*
- *the Middle School would make a perfect small High School for those children who would find a large School like Alnwick or a School with a poor history such as Berwick not to be appropriate.*

Commentary: The first point is noted. In relation to the second point above, eligibility for free transport under the Home to School Transport Policy is ascertained on an individual basis. In general, where distance from home to school criteria or religious grounds are met, or where there is no safe walking route, pupils would be eligible for free transport to their catchment school or nearest school (or nearest faith school). In relation to the third point, given that parents residing in the Belford locality are already sending their children to The Duchess High School in Alnwick when there is a middle school available in the village would indicate that it is unlikely that a small high school in Belford would be viable.

Representation 5 – Parent of pupil in Belford First School

Representation generally in support of the proposals, but with the following concerns for consideration:

- *Impact on the Community, including loss of the middle school building for community group and village activities*
- *Transport - extended journeys of children in Years 7 and 8*
- *Change of school mid-way through middle school age. The proposal that children should transfer to Berwick Middle for 2 years before high school goes against the benefit of the 2 tier system*
- *Berwick Partnership – Belford should move to Alnwick Partnership where it is 2-tier rather than remain in Berwick Partnership which is 3-tier – children will be disadvantaged*
- *Building and access – middle school building is in better state of repair and first school is also on a dangerous road*
- *Ofsted rating – St Mary's has recently been given a 'Good' rating by Ofsted, while Belford First School has a rating of 'Requires Improvement'*

Commentary: St Mary's building is used by some community groups e.g. weekly Army cadets, toddlers group on Thursday mornings, but it is possible that Belford First School would be willing to accommodate these groups and others in the future. Furthermore, as the St Mary's building is in the ownership of the Newcastle Diocesan Education Board, they would need to consider the future use of the building, particularly if representations are received for use by the community. The community may also decide to submit a request for 'Community Transfer' of the playing fields for community use.

It is recognised that should the proposals be approved, pupils in Years 7 and 8 would have longer journeys to school. The length of journey from Belford to Berwick is approximately 25 minutes, while the journey from Belford to Alnwick approximately 21 minutes. DfE guidelines suggest that a pupil of secondary school age (i.e. from age 11) should travel a maximum of 75 minutes each way to school, therefore the proposals would not increase any pupils journeys above these recommended limits. With regard to buildings, Belford First School is in a good state of repair and would not require any additional works to make it suitable to become a primary school; it is also in the ownership of the Council, whereas the buildings of St Mary's are owned by the Newcastle Diocesan Education Board. Belford First School has suitable arrangements in place to ensure the safe entrance and exit of pupils into school.

With regard to the final point, Belford First School received a monitoring visit from Ofsted in January 2017 and was judged to be making effective progress towards becoming a good school. St Mary's received a very pleasing Ofsted report in November 2017 when it was judged to be good. However, the ability of the school to continue to provide a good standard of provision for pupils in the medium to longer term in the light of the continuing projected fall in pupil numbers remains an issue. In the light of the proposal to close the school, the Governing Body has not yet reduced staffing numbers pending the decision of the Cabinet. There are currently 39 pupils on roll at the school, with 2 pupils in Year 7 and 3 pupils in Year 8 and 4.6 teaching staff (full-time equivalent). It is unlikely that this ratio of teaching staff to pupils would be able to be maintained should the budget continue to reduce as predicted.

4. If the proposals to close St Mary's and extend the age range of Belford First School are approved by Cabinet it is proposed that for children residing in the current St Mary's catchment, Belford Primary (as it would be) would become the catchment school for children in Years 5 and 6, and that Berwick Middle School would become the catchment school for children in Years 7 and 8. Should all pupils that would be displaced by the closure of St Mary's transfer to Berwick Middle School in September 2018, there would be 2 pupils over the planned admission number in the new Year 7; there would be sufficient places

for the pupils from St Mary's who would move into Year 8 at Berwick Middle in September 2018. Belford Primary school would retain pupils currently in Year 4 as they move into Year 5 in September 2018, while pupils currently in Year 5 at St Mary's would be offered places in Belford Primary School as Year 6. Pupils who would have transferred into Years 7 and 8 at St Mary's in September 2018, would be offered places at Berwick Middle School, which is 15.3 miles from Belford. Lowick First School currently part-feeds into St Mary's and therefore from September 2018, Berwick Middle School would wholly become the feeder school for pupils residing in the Lowick catchment.

5. However, this proposed pathway would not preclude parents from expressing a preference for a place for their child in any other school, in accordance with the School Admissions Code 2014. For example, Glendale Middle School in Wooler has provision in Years 5 to 8 and is 9 miles from Belford. For parents who in particular would wish their children to continue their education within a faith school, the nearest faith school to Belford with Year 5 and 6 provision is Ellingham CE Primary School, which is 8.6 miles from Belford. Dr Thomlinson's CE Middle School is the nearest faith school to Belford with provision in Years 7 and 8 and is 27 miles from the village. The Council would guarantee transport to those schools for eligible pupils.
6. As the Decision Maker, Cabinet must have regard to the following Department for Education (DfE) guidance (attached at Appendix 6a-c) before formulating a decision in relation to the proposals for St Mary's Church of England Middle School and Belford First School, as set out in the Statutory Proposal published on 14 December 2017 ;
 - 'Guidance for decision-makers: Statutory guidance for decision-makers deciding prescribed alteration and establishment and discontinuance proposals, April 2016';
 - the 'Opening and closing maintained schools; Statutory guidance for proposers and decision makers April 2016'; and
 - the 'Making 'prescribed alterations' to maintained schools Statutory guidance for proposers and decision-makers April 2016'.
7. If Cabinet is not able to make a decision in relation to the proposals within two months of the end of the representation period i.e. by 11 March 2018, they must forward the proposal and any representations received during the representation period to the Schools Adjudicator within one week of the end of the two month period for determination.
8. Cabinet is now recommended to decide that the proposals to close St Mary's Church of England Middle School on 31 August 2018 and extend the age range of Belford First School on 1 September 2018 should be agreed and implemented.

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PROPOSALS FOR EDUCATION IN BELFORD

Background

9. The details of the rationale for the proposed closure of St Mary's and the extension of the age range of Belford First School are set out in the Reports of the Interim Director of Children's Service to Cabinet of 12 September 2017 and 12 December 2017, available in the Background Papers to this report. In summary, previous informal consultation on a proposal to close St Mary's had been carried out by Governing Body of the school in early 2017 on the basis of the continuing fall in pupil numbers at the school. The Governing Body believed that this would have a continuing detrimental impact on the school budget and therefore the ability of the Governing Body to ensure that the school delivered a broad and balanced curriculum to pupils in line with their peers. The school had also received at that time a letter from the Regional Schools Commissioner stating explaining that St Mary's has been identified as a "coasting" school meaning that pupils' academic performance has not improved in the past 3 years (although the school has since been inspected by Ofsted in November 2017 and was rated Good).
10. Feedback from the informal consultation carried out by the Governing Body of St Mary's had indicated that there was significant support from parents for a wider consultation to be held to include a proposal to extend the age range of Belford First School, which would enable educational provision in the village for children up to the age of 11. Therefore, Cabinet approved informal consultation on 12 September 2017 at the behest of the Governing Bodies of both schools in the village.
11. Alternative proposals to those consulted on were put forward during informal consultation and are set out in the Report of the Interim Director of Children's Service to Cabinet of 12 December 2017; however Cabinet agreed that none of the alternatives provided a viable alternative to the proposals consulted upon. Furthermore, the proposals to close St Mary's and extend the age range of Belford First School were supported by the Governing Bodies of the schools and by the CE Diocese.
12. The capacity of St Mary's is 120. In October 2017, there were only 40 pupils on roll at the school and only 13 pupils joined the school in Year 5. In January 2018, there were 39 pupils on roll, with 2 in Year 7 and 3 in Year 8.

Standards

13. As stated in para. 4, although Belford First School was judged to Require Improvement in March 2016, the school was judged to be making effective progress towards becoming a 'good' school at its monitoring inspection in January 2017. St Mary's was inspected by Ofsted in November 2017 when pleasingly it was judged to be good; however, the

ability of the school to continue to provide a good standard of provision for pupils in the medium to longer term in the light of the continuing projected fall in pupil numbers remains an issue as currently the school has not yet reduced staffing numbers pending the decision of the Cabinet on the proposed closure of the school. There are currently 39 pupils on roll at the school, with only 2 pupils in Year 7 and 3 pupils in Year 8, with 4.6 teaching staff (full-time equivalent, including the Headteacher). This ratio of teaching staff to pupils would be unlikely to be able to be maintained as the budget is further reduced by falling pupil numbers.

Rural Schools and the presumption against closure

14. While St Mary's Church of England Middle School is not listed on The Designation of Rural Primary Schools (England) Order 2016 and therefore does not require consideration in relation to the DfE guidance on presumption against closure of rural schools, it is classified as a rural secondary school by the Department for Education using the Officer for National Statistics Rural and Urban Area Classification. Cabinet would need to consider this indicator when making the final decision on whether or not to implement the proposal. Belford First School is listed on The Designation of Rural Primary Schools (England) Order 2016, but the presumption against closure is not relevant in relation to the proposal for this school.

Provision for pupils and transition

15. There are currently 39 pupils on roll at St Mary's as follows;

Year 5 - 13
Year 6 - 21
Year 7 - 2
Year 8 - 3

6 applications have been made for a place in Year 5 in St Mary's for September 2018. Should Cabinet approve the proposal to close the school, the 37 pupils on roll who would otherwise have attended the school would be displaced in September 2018 (as the 2 pupils currently in Year 8 will transfer to high school for Year 9). Therefore, to facilitate this proposal, it is proposed that the model be implemented in accordance with the arrangements and timeline set out in para. 16.

16. Proposed timeline

31 August 2018

- St Mary's CE Middle School would close.

1 September 2018

- Pupils in Year 8 in the middle school in August 2018 would transfer as Year 9 as usual to a local high school according to parental preference.
- Pupils in Year 6 and 7 in the middle school in August 2018 would transfer to join the Year 7 and 8 cohort at Berwick Middle School or to another school providing education in those year groups according to parental preference.
- Pupils in Year 5 in the middle school in August 2018 would join the roll of Belford Primary School (as it would be) as the new Year 6.
- Pupils in Year 4 in Belford First School in August 2018 would remain in the school as it becomes Belford Primary School as the new Year 5.

Catchment area

17. Should St Mary's be approved for closure, it would be proposed that the catchment area of the school would be incorporated into the catchment area of Berwick Middle School with respect to pupils in Years 7 and 8 only. The catchment area of Belford Primary (as it would be) mirrors the catchment of St Mary's and would therefore remain as it is currently, but would be shown to be the catchment school for pupils living in that area up to the end of Year 7. Lowick First School also currently part-feeds into St Mary's and therefore from September 2018, Berwick Middle School would wholly become the feeder school for pupils residing in the Lowick catchment.

Feedback in two of the representations received during the statutory consultation indicated disagreement with the proposal to include the children living in the Belford catchment in Years 7 and 8 within the Berwick Middle catchment (refer to para. 4). However, the allocation of catchment areas does not preclude parents from exercising their parental preference to apply for a place for their child at any school should they wish to do so.

Staff

18. If a decision to approve closure of the school is made, staff employed at St Mary's would be deemed to be 'at risk'. Belford First School and Berwick Middle School Governing Bodies have agreed to utilise their Alternative Employment policy in relation to any vacancies that may arise within their schools. Furthermore, Council officers would work with at risk staff in order to identify suitable alternative employment opportunities elsewhere in the County in order to avoid redundancies where possible. Any costs associated with ongoing salary protections of redeployed staff would need to be met from the Dedicated Schools Grant (DSG) from the revenue savings that would be made as a result of the proposed closure. Any costs associated with any possible redundancies could also be met from the savings within the DSG.

Transport

19. Should closure of St Mary's be approved, there would be a cost implication for the Council's Home to School Transport budget in relation to eligible pupils in Years 7 and 8 who would require transport to schools outside of Belford in accordance with parental preference. There may also be a cost implication for the school transport budget in relation to parents in Belford who may in future seek a place for their child in a faith school within the primary and/or secondary phases.

It is not expected that there would be a significant increase in use of motor vehicles should the school be approved for closure. In any event, individual pupil's eligibility would be assessed against the requirements of the Council's Home to School Transport Policy.

Impact on the Community and Denominational Provision

20. There would be a denominational impact on the Belford community should these proposals be approved as education in Years 5 to 8 within a faith school would be removed. However, parents would be able to apply for places at other local faith schools; the nearest faith school providing education in the primary phase is Ellingham CE Primary School, which is 8.6 miles from Belford. The nearest faith school to Belford providing education in Years 7 and 8 is Dr Thomlinson's CE Middle School, which is 27 miles from the village.

There is no evidence to suggest that the closure of St Mary's and the extension of the age range of Belford First School would have either a positive or negative impact on community cohesion within the local area. St Mary's building is used by some community groups e.g. weekly Army cadets, toddlers group on Thursday mornings and so on, but it is possible that Belford First School would be willing to accommodate any groups. Furthermore, as the building is in the ownership of the Newcastle Diocesan Education Board, they would need to consider the future use of the building, particularly if representations are received for use by the community. The community may also decide to submit a request for 'Community Transfer' of the playing fields for community use.

Special Educational Needs

21. There are currently no pupils on roll within St Mary's of Belford First School with a statement of Special Educational Needs or an Education and Healthcare Plan. In any event, appropriate provision for pupils with additional needs would be available at other schools, subject to parental preference.

Early Years Provision

22. Belford First School has nursery classes for children aged 2 to 4 and this provision would continue should the school expand to include Years 5 and 6.

Land and Buildings

23. It is proposed that should St Mary's CE Middle School be approved for closure, statutory education would cease to be provided from that building and primary education would be provided from the Belford First School site. The St Mary's school building is owned by Newcastle Diocesan Education Board, while the playing field is owned by the County Council.

The Belford First School building has the capacity to accommodate an additional two year groups and is in a good state of repair and in the ownership of the County Council. Therefore there aren't any capital implications of this proposal.

Any proposal to dispose of the school playing fields at any point in the future would be subject to the Government's 'Protection of school playing fields and public land' non-statutory guidance. Furthermore, Sport England is a statutory consultee on all planning applications for development affecting playing field land and it is its policy to oppose any plan that would involve the loss of playing fields unless it meets with one or more of the five exceptions within its "Policy on planning applications for development on playing fields".

BACKGROUND PAPERS

Report of the Interim Director of Children's Service to Cabinet, 12 September 2017

Report of the Interim Director of Children's Services to Cabinet, 12 December 2017

Responses to the Consultation from consultees

Minutes of Staff Meeting, St Mary's CE Middle School, 3 October 2017

Minutes of Staff Meeting, Belford First School, 9 October 2017

St Mary's CE Middle School, pupil feedback

IMPLICATIONS ARISING OUT OF THE REPORT

Policy:	This consultation has been consistent with the Council's policy to review changes to schools in accordance with local wishes and needs.
Finance and value for money	<p>For information purposes, the possible closure of St Mary's CE Middle School would result in a saving of £140k in a full year, based on the current formula. This saving would accrue to the Dedicated Schools Grant and be spent on the education of pupils across the whole county.</p> <p>Should St Mary's be approved for closure, it may close with a surplus or a deficit depending upon the costs, including redundancy costs which the County Council may need to incur during the period leading up to the proposed closure. Any surplus would accrue to the DSG whilst any deficit would have to be met from the DSG contingency budget.</p>
Human Resources:	There would be a need to support staff displaced as a result of the proposed reorganisation with redeployment opportunities.
Property	The St Mary's school building is owned by Newcastle Diocesan Education Board, while the playing field is owned by the County Council. Disposal of any education site is subject to Secretary of State approval.
Equalities	An Equalities Impact Assessment has been carried out concurrently with the consultation process and is included at Appendix 4.
Risk Assessment	A full risk assessment has been carried out on these proposals.
Carbon Reduction	It is not envisaged that this proposal would have a significant positive or negative impact on carbon reduction.
Crime & Disorder	This report has considered Section 17 (CDA) and the duty it imposes and there are no implications arising from it.
Customer Considerations:	The proposal set out in this report is based upon the request of the Governing Bodies of St Mary's CE Middle and Belford First Schools on the basis that this proposal is in the best educational interests of the pupils

Consultation

This report has been considered by the Cabinet Member for Children’s Services and the Chief Legal Officer.

Wards

Bamburgh; Norham and Islandshires

BACKGROUND PAPERS**Report sign off**

Finance Officer	SD
Monitoring Officer/Legal	LH
Human Resources	n/a
Procurement	n/a
I.T.	n/a
Executive DCS	AJ
Portfolio Holder	WD

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Appendices

- Appendix 1 Statutory Proposal, published 7 September 2017
- Appendix 2 Full Representations received during 4 week statutory period
- Appendix 3a DfE ‘Guidance for decision-makers Statutory guidance for decision-makers deciding prescribed alteration and establishment and discontinuance proposals, April 2016’
- Appendix 3b DfE ‘Opening and closing maintained schools; Statutory guidance for proposers and decision makers April 2016’
- Appendix 3c DfE ‘Making ‘prescribed alterations’ to maintained schools Statutory guidance for proposers and decision-makers April 2016’
- Appendix 4 Equalities Impact Assessment

NORTHUMBERLAND COUNTY COUNCIL

**STATUTORY PROPOSAL FOR THE PROPOSED CLOSURE OF
ST MARY'S CE MIDDLE SCHOOL, BELFORD AND THE EXTENSION OF THE
AGE RANGE OF BELFORD FIRST SCHOOL**

The following proposals fall into two categories.

Discontinuance

In accordance with section 15(1) of the Education and Inspections Act 2006, this proposal sets out the intention of Northumberland County Council, County Hall, Morpeth, Northumberland NE61 2EF to discontinue the following school;

- **St Mary's Church of England Middle School, Belford**, Williams Way, Belford, Northumberland, NE70 7NX, with effect from 31 August 2018.

St Mary's Church of England Middle School is a local authority maintained aided middle school.

Change of age range

In order to facilitate the above proposal, it is linked to the following proposal. In accordance with Section 19(1) of the Education and Inspections Act 2006, Northumberland County Council intends to make the following prescribed alterations to the school below:

- **Belford First School**, West Street, Belford, Northumberland, NE70 7QF by changing the age range of the school from an age 2 to 9 first school to an age 2 to 11 primary school with effect from 1 September 2018.

Belford First School is a local authority maintained community school.

Contact Details

Copies of this this proposal may be obtained from :

Northumberland County Council
County Hall
Morpeth
Northumberland
NE61 2EF

Or from the Council's website at www.northumberland.gov.uk

Both schools named above form part of the Berwick Partnership of schools.

Implementation.

St Mary's Church of England Middle School, Belford is proposed to close with effect from 31 August 2018.

Belford First School is proposed to extend its age range to become an age 2 to 11 primary school with effect from 1 September 2018.

Objectives and reason for closure of St Mary's Church of England Middle School, Belford and extension of the age range of Belford First School

The objective of the above proposals are to:

- discontinue (close) St Mary's Church of England Middle School, Belford, Williams Way, Belford, Northumberland, NE70 7NX with effect from 31 August 2018;
- extend the age range of Belford First School, West Street, Belford, Northumberland, NE70 7QF with effect from 1 September 2018

Reasons for proposed closure of St Mary's Church of England Middle School, Belford and extension of the age range of Belford First School:

The consultation on a proposal to close St Mary's and extend the age range of Belford First School was brought forward as a result of the request of the Governing Bodies of St Mary's CE Middle School and Belford First School and following a consultation undertaken by the Governing Body of St Mary's CE Middle School from 25 January to 15 March 2017 on a stand-alone proposal to close the school with effect from 31 August 2017. The Governing Body had reluctantly initiated the consultation at that time on the basis that the school budget would be impacted by the continuing low pupil numbers over recent years, and in particular by the projected fall in pupil numbers at the school in September 2017 due to the transfer of a significant number of pupils transferring at the end of Years 6 and 7 to Years 7 and 8 in The Duchess High School. St Mary's Church of England Middle School has for many years had around 75% take up of places available at the school.

The Governing Body believed that the school would be placed beyond financial viability and would not be able to continue to offer a broad and balanced curriculum to students on this basis. Furthermore, the school had received a letter from the Regional Schools Commissioner stating explaining that St Mary's has been identified as a "coasting" school meaning that pupils' academic performance has not improved in the past 3 years. In October 2017, there were only 40 pupils on roll at the school and only 13 pupils joined the school in Year 5. Furthermore, there were only 2 pupils in Year 7 and 4 pupils in Year 8 on roll at the October census. The capacity of the school is 120.

As a result of the request of the two Governing Bodies of St Mary's Church of England Middle School and Belford First School, consultation on the proposals set out in this document was approved by the Council's Cabinet on 12 September 2017. The results of consultation showed that the Governing Bodies of St Mary's CE Middle and Belford First Schools, the Newcastle Diocesan Education Board and the majority of respondees to the consultation, including parents, all expressed support for the proposal to close St Mary's and extend the age range of Belford First School. Although six alternative models or proposals were submitted for consideration during the consultation and considered by the Council's Cabinet at their meeting on 12 December 2017, it was concluded that none were viable alternatives to the original proposals consulted upon i.e. to close St Mary's Church of England Middle School and extend the age range of Belford First School. The alternative proposals are set out in the Report of the Interim Director of Children's Services which can be accessed at

<http://committee.northumberland.gov.uk/Meeting.aspx?MeetID=7792>

Pupil Numbers and Admissions

St Mary's Church of England Middle School, Belford

There are currently 40 pupils on roll at St Mary's Church of England Middle School in Year 5 to Year 8.

The age range of the school is 9-13 and provides education to both boys and girls.

There are currently no pupils with statements of Special Educational Needs/Educational Health Care Plans enrolled at the school.

Belford First School

There are currently 57 pupils on roll at Belford First School in Reception to Year 4.

The age range of the school is 2-9 and provides education to both boys and girls.

There are currently no pupils with statements of Special Educational Needs/Educational Health Care Plans enrolled at the school.

Displaced Pupils

In accordance with section 15(1) of the Education and Inspections Act 2006, Northumberland County Council intends to discontinue (close) the following schools with effect from 31 August 2018:

- **St Mary's Church of England Middle School, Belford**, Williams Way, Belford, Northumberland, NE70 7NX

To facilitate this, it is proposed that the following model be implemented in accordance with the following arrangements and timeline:

- **St Mary's Church of England Middle School, Belford**

31 August 2018

- St Mary's Church of England Middle School, Belford would close on 31 August 2018;

1 September 2018

- Pupils in Year 8 in St Mary's Church of England Middle School in August 2018 would transfer as Year 9 as usual to a local high school according to parental preference;
- Pupils in Year 6 and 7 in the middle school in August 2018 would transfer to join the Year 7 and 8 cohort at Berwick Middle School, as the new catchment school for pupils in Year 7 and 8 residing in the former St Mary's Church of England Middle School catchment area, or to another school providing education in those year groups according to parental preference.
- Pupils in Year 5 in the middle school in August 2018 would join the roll of Belford Primary School (as the new catchment school for pupils in Years 5 and 6 residing in the former St Mary's Church of England Middle School catchment area) as the new Year 6, or would transfer to another school providing education in those year groups according to parental preference.

- **Belford First School**

1 September 2018

- Belford First School would extend its age range to include Years 5 and 6 and becomes the catchment school for pupils in these year groups residing in the former St Mary's Church of England catchment area.
- Pupils in Year 5 in St Mary's Church of England Middle School in August 2018 would join the roll of Belford Primary School (as the new catchment school) as the new Year 6 or to would transfer to another school providing education in this year group according to parental preference;
- Pupils in Year 4 in Belford First School in August 2018 would remain in the school as the new Year 5 as it becomes Belford Primary School or would transfer to another school providing education in this year group according to parental preference.

1 September 2019

- Pupils in Year 6 in Belford Primary School (as it would be) in August 2019 would transfer to join the Year 7 and 8 cohort at Berwick Middle School (as the catchment school) or to another school providing education in this year group according to parental preference.
- Pupils in Year 5 in Belford Primary School in August 2019 would remain in

the school as the new Year 6, or would transfer to another school providing education in this year group according to parental preference.

Belford First School is located 0.2 miles from St Mary's Church of England Middle School.

Berwick Middle School is located at Lovaine Terrace, Berwick-Upon-Tweed, Northumberland, TD15 1LA and is located 16.3 miles from Belford. Pupils in Years 7 and 8 residing in the former catchment area of St Mary's Church of England Middle School may therefore have longer journeys to school.

Impact on the Community

There is no anticipated impact on the community as a result of this proposal as educational provision up to Year 6 would continue to be provided in Belford at Belford Primary School (as it would be). Berwick Middle School is proposed to become the catchment school for pupils in Years 7 and 8 from 1 September 2018, although parents would be able to apply for a place at any other school providing education in those year groups according to their preference.

Balance of denominational provision

There would be an impact on the balance of denominational provision within Belford as, with the closure of St Mary's Church of England Middle School, there would no longer be a school with a religious character in Belford providing education for pupils in Years 5 to 8. However, parents who would wish to have their children educated within a faith school would be able to apply for places at other local schools with a religious character.

The nearest school to Belford providing education in Years 5 and 6 with a religious character is Ellingham C of E VA Primary School, Ellingham, Chathill, Northumberland, NE67 5ET, which is 8.6 miles from St Mary's Church of England Middle School, Belford

The nearest school to Belford providing education in Years 7 and 8 with a religious character is Dr. Thomlinson's C Of E Middle School, Silverton Lane, Rothbury, Morpeth, Northumberland, NE65 7RJ, which is 27.7 miles from St Mary's Church of England Middle School, Belford.

Pupils who meet the eligibility criteria would be provided with free home to school transport on denominational grounds.

Rural Primary Schools

St Mary's Church of England Middle School is a middle school, deemed secondary therefore in the opinion of Northumberland County Council it does not fall within the categorisation of a rural primary school as set out in Section 15 (4) of the Education and Inspections Act 2006.

Belford First School is a designated rural primary school, listed on the Department for Education's designated list of primary schools 2016.

Maintained nursery schools

There is no nursery provision at St Mary's Church of England Middle School.

Belford First School has a maintained nursery with provision for children from the age of 2 to 4. This provision would not be affected by the implementation of the proposals set out in this document.

Provision for 16-19 year olds

N/A - There is no provision for students aged 16 to 19 in either St Mary's Church of England Middle School or Belford First School.

Special educational provision

Provision for pupils with SEN is provided at Belford First School and Berwick Middle School.

- There are currently no pupils with a statement of Special Educational Needs on roll at St Mary's Church of England Middle School, Belford.
- There are currently no pupils with a statement of Special Educational Needs on roll at Belford First School.

Travel

- Transport for all pupils affected by the proposed closure of St Mary's Church of England Middle School, Belford and the extension of the age range of Belford First School should it be approved would be arranged in accordance with the Council's Home to School Transport Policy.
- Pupils on roll at Belford First School transferring from Year 4 to Year 5 in September 2018 would remain in Belford First School as it extends its age range and becomes a primary status. There would be no increase to the length of the school journey for these pupils as a result of the implementation of this proposal.
- Pupils on roll at St Mary's Church of England Middle School, Belford transferring from Year 5 to Year 6 in September 2018 would transfer to the roll of Belford Primary School or to another school according to parental preference. There would be no increase to the length of the school journey for these pupils as a result of the implementation of this proposal as Belford Primary School (as it would be) is approximately 0.2 miles from St Mary's Church of England Middle School.
- Pupils on roll at St Mary's Church of England Middle School, Belford transferring from Years 6 and 7 to Years 7 and 8 in September 2018 would transfer to the roll of Berwick Middle School or to another school according to parental preference. Berwick Middle School is approximately 16.3 miles from St Mary's Church of England Middle School, Belford.
- Some pupils transferring from Years 6 and 7 into Years 7 and 8 at Berwick Middle School in September 2018 would have an extended journey length dependent on where they reside.
- Pupils transferring to Berwick Middle School from the school and those from low income backgrounds may be eligible to free Home to School Transport. Transport issues have been analysed and the change proposed would mean that on average secondary aged pupils from Belford village would spend approximately 25 minutes each way travelling to and from school, subject to the number of pick up points along en route. This would not breach the Department for Education's School Travel and Transport guidance, which recommends that students of secondary age (11 upwards), should travel no more than 75 minutes each way to and from school.
- Transport arrangements for pupils currently on roll at Belford First School who would continue to be on roll at the school in September 2018 as it becomes primary would not be affected by the implementation of these proposals.
- As stated in 'Balance of denominational provision', some pupils who would be displaced by the closure of St Mary's Church of England Middle School whose parents would wish to continue their child's education within a faith school may be eligible for free Home to School Transport on denominational grounds. The nearest school to Belford providing education in Years 5 and 6 with a religious character is Ellingham C of E VA Primary School, Ellingham, Chathill, Northumberland, NE67 5ET, which is 8.6 miles from St Mary's Church of England Middle School, Belford. The nearest school to Belford providing education in Years 7 and 8

with a religious character is Dr. Thomlinson's C of E Middle School, Silverton Lane, Rothbury, Morpeth, Northumberland, NE65 7RJ, which is 27.7 miles from St Mary's Church of England Middle School, Belford.

- In any event, transport for displaced pupils would be arranged in line with the County Council's Home to School Transport Policy.
- There would be no anticipated significant increase in car use as a result of these proposals.

Consultation

In the interests of providing further information, all of the applicable statutory requirements to consult on this proposal as set out in Section 15(1) and Section 19(1) of the Education and Inspections Act 2006 were complied with during the pre-publication consultation period of 13 September and 1 November 2017.

Notification of the consultation was distributed to a range of consultees in line with Department of Education guidance, including parents, staff and Governors of the St Mary's CE Middle School and Belford First School. A consultation document was also made available on the Council's website and electronic and hard-copy versions of the consultation feedback form could be accessed.

A meeting for the staff of St Mary's CE Middle School was held at the school on 3 October 2017 and a meeting for the staff of Belford First School was held on 9 October 2017; staff representatives were also present at both meetings. A drop-in event was held at St Mary's on 11 October 2017 to which all interested parties were invited. Around 20 consultees attended over the course of the event, most of whom were parents and members of the Governing Bodies of St Mary's CE Middle School and Belford First School. The Director of the Newcastle Diocesan Education Board also attended the event.

An advertisement was placed in the Northumberland Gazette on 28 September 2017 detailing the consultation drop-in event and on the Council's website.

Details of the persons and parties consulted, the minutes of the staff consultation meetings, and views of the persons consulted are detailed in the Interim Director of Children's Services Report to Cabinet 12 December 2017 and the Report of the Interim Director of Children's Service to Cabinet, 12 September 2017 and Report of the Interim Director of Children's Services 10 November 2015, which are available on the Council's website at www.northumberland.gov.uk.

Submission of Objections and Comments on Proposals

Within four weeks after the date of publication of these proposals (**i.e. by midnight on Thursday 11 January 2018**), any person may object to or make comments on the proposals by sending their written representations to: **The Executive Director of Children's Services, County Hall, Morpeth, Northumberland NE61 2EF, or by email to Lorraine.Fife@northumberland.gov.uk.**

Signature

Publication Date: 14 December 2017



Cath McEvoy
Executive Director of Children's Services
Northumberland County Council

Appendix 2

4. 5 Representations were submitted to the Council during the four week statutory period which ran from 14 December 2017 to 11 January 2018.

Representation 1 - Governing Body of Belford First School.

I am responding on behalf of the governors of Belford First School to the statutory consultation on changes to the pattern of schooling in Belford.

In line with our response to the informal consultation, I can confirm that the governors of Belford First School support the proposed change. Should a final decision be made to approve the proposals, we will be ready to make the changes and enhancements required to become a successful primary school.

*Yours sincerely,
Phil Green
Chair of Governors, Belford First School*

Representation 2 – Resident and former education professional

PROPOSED CLOSURE OF ST MARY'S C OF E MIDDLE SCHOOL BELFORD AND EXTENSION OF AGE RANGE OF BELFORD FIRST SCHOOL

As a resident of Belford and former Headteacher of First and Primary Schools in West Yorkshire I would like to offer the following comments:

The Middle School is no longer viable because of low numbers and resulting budget. It cannot offer the appropriate curriculum under such restrictions.

A two tier model of education has a major advantage over three tier in that it keeps the number of transfers a pupil must make to a minimum. It is well established that children regress in the year following a transfer.

The Middle School imposes an unnecessary fragmentation of the curriculum as it covers part of two different Key Stages. The National Curriculum since its introduction in 1988 is geared to the two tier model with a clear match between age range of pupils and Key Stage.

Belford First School is in an ideal situation to absorb extra pupils. It has the necessary accommodation and can provide continuity of the curriculum. I believe parents will come to see how valuable this is.

The manner in which the proposed arrangements have been made is disappointing. When the LEA made the decision not to proceed with a whole authority schools reorganisation some years ago, the current haphazard changes to certain groups of schools within the county could easily have been predicted to lead to anomalies. Belford has been a victim of the Alnwick Partnership deciding to become two tier. Most Belford pupils transfer to secondary education in Alnwick despite belonging to the Berwick Partnership. Problems were inevitable. The LEA should have recognised earlier that the composition of the Partnerships were due revision. As a result some pupils notably those who wish to transfer to Berwick Academy will have further disruption to their education by having to find another Middle School for a mere two years after age 11.

However the proposed arrangements offer the best possible solution for the majority of pupils provided the LEA agrees to pay for home to school transport for children moving to Alnwick for secondary education. This should be confirmed as soon as possible and is the only fair outcome now and in the future.

Representation 3 – Parent of pupil in Belford First School

Dear Lorraine Fife

I wanted to get in touch regarding the latest submission regarding the unfortunate impending closure of the middle and the proposal to make the first a possible primary.

I am a parent of a child currently attending the first school and I write with the hope that this messy situation will be resolved by the time he is nearing the end of this period of school life. And of course with the outcome that I would prefer to see.

I would like to keep my child in education in Belford as long as possible, and if the only option is a primary I would like to see that it falls under the Alnwick partnership. Why would I put my child through the Belford system then still have to find them a place for 2 years (which could be repeated work) before then going to Berwick as per the ridiculous suggestion by head teacher Miss Robinson. It was one of the key points that the action group had gathered from all the feedback from those concerned.

I don't think we even need to touch on the reputation of Berwick and their future is particularly poor reading at present!

I understand the reason why the headship isn't reviewed because the first school isn't the one closing, however I, like many, would like to see that position be interviewed for, ensuring the best candidate has the position to take the future of Belford schooling forward and to see improvements to the ofsted reports.

Which leads me onto a proposal put forward by Miss Robinson about staffing numbers for the new primary and I cannot understand how you can go from a whole school (Middle) to a for one more teacher, the numbers do not add up. The class sizes will be huge as I can only imagine that several year groups will have to be merged together.

Without me writing an essay on this I will conclude with these been my strongest concerns and hope that you will give some consideration to my small points.

Many thanks in advance.

Representation 4 – Local resident/member of the public (not stated whether a parent)

Dear Lorraine Fife

I am against the closure of Belford Middle School anyway.

However, if it must happen, children need provided with FREE TRANSPORT to the local School of their choice, be it Alnwick or Berwick.

Personally I think it is clear that the Middle School would make a perfect small High School for those children who would find a large School like Alnwick or a School with a poor history such as Berwick not to be appropriate.

Regards,

Representation 5 – Parent of pupil in Belford First School

Dear Ms Fife,

I write to you in connection to the statutory proposal to close St Mary's Church of England Middle School Belford with effect from 31st August 2018.

I have read through all the various paperwork relating to this proposal and have several concerns and questions relating to the proposal. These are listed below.

* Impact on the Community

There will be a major impact on community if the middle school building is lost. Currently it is accessible to all sorts of groups, army cadets,

baby and toddler group, pensioners lunches to name a few. The annual village show is also held in the building. None of these activities will be able to continue if the building is lost as the first school doesn't have a caretaker so therefore doesn't allow the building to be used outside of school hours for anything.

* Transport

There will be an extended journey of 16.3 miles each way per day. Which is not beneficial to children who currently walk to school.

* Change of school mid way through middle school age.

The proposals state that children will attend the new primary school until the end of year 6 then they will be transferred to Berwick middle school for 2 years then onto the high school. This goes against everything that has been said in support of the 2 tier system. It is stated that the 2 tier system is more beneficial to children's education than the 3 tier as there is less disruption to the learning as there's fewer school moves. This proposal will place our children at a distinct disadvantage in their education as you will be making them move 3 times one of those moves is only to attend the middle school for 2 years. This is not an acceptable position to place our children in.

* Berwick Partnership

If this proposal goes ahead Belford must be moved into the Alnwick partnership. It simply makes no sense to force Belford to go 2 tier but make them remain in the Berwick partnership which is 3 tier. You are placing our children at a massive disadvantage by forcing them to change schools unnecessarily.

* Building and access

The first school building is much older than the middle school building and it is in a worse state of repair. The first school is also located on a dangerous busy road heading out of the village. The middle school building is in excellent repair, most probably down to having a caretaker, and is accessed via a quiet residential street. The middle school has far superior facilities for the children and most importantly it has disabled access, something which the first school building doesn't have.

* Ofsted rating

Why are the council proposing to close a school which has just retained their "Good" ofsted rating at the recent inspection in favour of a school which was placed in "requires improvement" at their last ofsted inspection???

St Mary's managed to retain good rating despite all the difficulties that they've faced recently. The leadership and management of the school were highly praised. This is in stark contrast to the first school. This school was rated as a "good" school prior to the current head and in the time which she has been there it had deteriorated to a "requires improvement" with serious concerns raised over the leadership and management of the school. This isn't a good basis to create a new primary school on. I would like to know the councils stand on the ofsted inspection results.

In summary I agree that changes are required to the education provision within Belford. I agree that a primary school is the way forward, however this needs to be a GOOD primary school with strong leadership and management. It also needs to be in the best building available in the safest place for our children to attend. None of this will happen if the first school becomes a primary under the current leadership and management. We need a head with a proven track record of being able to lead and manage a good school. We also need to retain the school as a facility open to the village as a whole outside of school hours. Belford also must be moved into the Alnwick partnership to ensure that our children are not disadvantaged by moving schools unnecessarily.

Unfortunately I fear that if this proposal goes ahead in its current format we will be fighting to keep a primary school open in a few years as the numbers attending will fall significantly. There are many people who will remove their children from the school.

I look forward to your reply in response to my questions regarding the Ofsted inspection reports.

Kind regards



Guidance for decision-makers

Statutory guidance for decision-makers deciding prescribed alteration and establishment and discontinuance proposals

April 2016

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1: Summary

About this guidance

This is statutory guidance from the Department for Education. This means that recipients must have regard to it when carrying out duties relating to making decisions about prescribed alteration proposals and establishment (opening) and discontinuance (closure) proposals.

This guidance should be read in conjunction with; the Education and Inspections Act (EIA) 2006 as amended by the Education Act (EA) 2011; the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013; the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 and the School Organisation (Removal of Foundation, Reduction in the Number of Foundation Governors and Ability of Foundation to Pay Debts) (England) Regulations (2007).

Review date

This guidance will be reviewed in April 2017.

Who is this guidance for?

This guidance is for those making decisions about prescribed alteration proposals (LAs, the Schools Adjudicator and governing bodies), and opening and closing maintained schools (LAs, the Schools Adjudicator) and for information purposes for those affected by such proposals (dioceses, trustees, parents etc.)

It is the responsibility of LAs and governing bodies to ensure that they act in accordance with the relevant legislation when making changes to or opening or closing a maintained school and they are advised to seek independent legal advice where appropriate.

Main points

- The decision-maker will need to be satisfied that the appropriate fair and open local consultation and/or representation period has been carried out and that the proposer has given full consideration to all the responses received. The decision-maker must consider the views of those affected by a proposal or who have an interest in it, including cross-LA border interests. The decision-maker should not simply take account of the numbers of people expressing a particular view. Instead, they should give the greatest weight to responses from those stakeholders likely to be most directly affected by a proposal – especially parents of children at the affected school(s).

- If the proposer has failed to meet the statutory requirements, a proposal may be deemed invalid and therefore should be rejected. The decision-maker must consider **ALL** the views submitted, including all support for, objections to and comments on the proposal.
- When deciding on a proposal, decision-makers will need to consider whether the new provision is genuinely a change to an existing school or is in effect a new school which should have triggered the free school presumption.
- The 2016 White Paper [Education Excellence Everywhere](#), sets out the department's aim that by the end of 2020, all schools will be academies or in the process of becoming academies. The decision-maker should, therefore, take into account the extent to which the proposal is consistent with this policy.
- In determining proposals decision-makers must ensure that the guidance on [schools causing concern](#) (Intervening in falling, underperforming and coasting schools) has been followed where necessary.
- All decisions in relation to the opening and closing of a maintained school should be copied to the Secretary of State, within one week of the decision being made. The notification must be sent to schoolorganisation.notifications@education.gsi.gov.uk. The necessary amendments will then be made to the EduBase system.

2: Factors relevant to all types of proposals

Related proposals

Any proposal that is 'related' to another proposal must be considered together. A proposal should be regarded as 'related' if its implementation (or non-implementation) would prevent or undermine the effective implementation of another proposal. Decisions for 'related' proposals should be compatible.

Where a proposal is 'related' to another proposal to be decided by the [Regional Schools Commissioner \(RSC\)](#) (e.g. for the [establishment of a new free school established under the presumption route](#)) the decision-maker should defer taking a decision until the RSC has taken a decision on the proposal, or where appropriate, grant a conditional approval for the proposal.

Conditional approval

Decision-makers may give conditional approval for a proposal subject to certain prescribed events¹. The decision-maker must set a date by which the condition should be met but can modify the date if the proposer confirms, before the date expires, that the condition will be met later than originally thought.

The proposer should inform the decision-maker (and the Secretary of State via schoolorganisation.notifications@education.gsi.gov.uk for school opening or closure cases) when a condition is modified or met. If a condition is not met by the date specified, the proposal should be referred back to the decision-maker for fresh consideration.

Publishing decisions

All decisions (rejected and approved – with or without modifications) must give reasons for such a decision being made. **Within one week** of making a decision the decision-maker should arrange (via the proposer as necessary) for the decision and the reasons behind it to be published on the website where the original proposal was published. The decision-maker must also arrange for the organisations below to be notified of the decision and reasons²:

- the LA (where the [Schools Adjudicator](#) or governing body is the decision-maker);
- the governing body/proposers (as appropriate);

¹ under paragraph 8 of Schedule 3 to the Prescribed Alterations Regulations (for prescribed alterations), regulation 16 of the Establishment and Discontinuance Regulations (for closures and new schools) and paragraph 16 of Schedule 1 to the Prescribed Alterations Regulations (for foundation and trust proposals).

² In the case of proposals to change category to foundation, acquire / remove a Trust and / or acquire / remove a Foundation majority the only bodies the decision-maker must notify are the LA and the governing body (where the Schools Adjudicator is the decision-maker).

- the trustees of the school (if any);
- the local Church of England diocese;
- the local Roman Catholic diocese;
- for a special school, the parents of every registered pupil at the school;
- any other organisation that they think is appropriate; and
- the Secretary of State via schoolorganisation.notifications@education.gsi.gov.uk (in school opening and closure cases only).

Consideration of consultation and representation period

The decision-maker will need to be satisfied that the appropriate fair and open local consultation and/or representation period has been carried out and that the proposer has given full consideration to all the responses received. If the proposer has failed to meet the statutory requirements, a proposal may be deemed invalid and therefore should be rejected. The decision-maker must consider **ALL** the views submitted, including all support for, objections to and comments on the proposal.

Education standards and diversity of provision

Decision-makers should consider the quality and diversity of schools in the relevant area and whether the proposal will meet or affect the needs of parents; raise local standards and narrow attainment gaps.

A school-led system with every school an academy,

The 2016 White Paper [Education Excellence Everywhere](#), sets out the department's aim that by the end of 2020, all schools will be academies or in the process of becoming academies. The decision-maker should, therefore, take into account the extent to which the proposal is consistent with this policy.

Demand v need

Where a LA identifies the need for a new school, to meet basic need, section 6A of EIA 2006 places the LA under a duty to seek proposals to establish a free school via the '[free school presumption](#)'. However it is still possible to publish proposals for new maintained school outside of the competitive arrangements, at any time, in order to meet demand for a specific type of place e.g. places to meet demand from those of a particular faith.

In assessing the demand for new school places the decision-maker should consider the evidence presented for any projected increase in pupil population (such as planned

housing developments) and any new provision opening in the area (including free schools).

The decision-maker should take into account the quality and popularity of the schools in which spare capacity exists and evidence of parents' aspirations for a new school or for places in a school proposed for expansion. The existence of surplus capacity in neighbouring less popular schools should not in itself prevent the addition of new places.

Reducing surplus places is not a priority (unless running at very high levels). For parental choice to work effectively there may be some surplus capacity in the system as a whole. Competition from additional schools and places in the system will lead to pressure on existing schools to improve standards.

School size

Decision-makers should not make blanket assumptions that schools should be of a certain size to be good schools, although the viability and cost-effectiveness of a proposal is an important factor for consideration. The decision-maker should also consider the impact on the LA's budget of the need to provide additional funding to a small school to compensate for its size.

Proposed admission arrangements

In assessing demand the decision-maker should consider all expected admission applications, not only those from the area of the LA in which the school is situated.

Before approving a proposal that is likely to affect admissions to the school the decision-maker should confirm that the admission arrangements of the school are compliant with the [School Admissions Code](#). Although the decision-maker cannot modify proposed admission arrangements, the decision-maker should inform the proposer where arrangements seem unsatisfactory and the admission authority should be given the opportunity to revise them.

National Curriculum

All maintained schools must follow the [National Curriculum](#) unless they have secured an exemption for groups of pupils or the school community³.

Equal opportunity issues

The decision-maker must have regard to the Public Sector Equality Duty (PSED) of LAs/governing bodies, which requires them to have 'due regard' to the need to:

³Under sections: 90, 91,92 and 93 of the of the Education Act 2002.

- eliminate discrimination;
- advance equality of opportunity; and
- foster good relations.

The decision-maker should consider whether there are any sex, race or disability discrimination issues that arise from the changes being proposed, for example that where there is a proposed change to single sex provision in an area, there is equal access to single sex provision for the other sex to meet parental demand. Similarly there should be a commitment to provide access to a range of opportunities which reflect the ethnic and cultural mix of the area, while ensuring that such opportunities are open to all.

Community cohesion

Schools have a key part to play in providing opportunities for young people from different backgrounds to learn with, from and about each other; by encouraging, through their teaching, an understanding of, and respect for, other cultures, faiths and communities. When considering a proposal, the decision-maker must consider its impact on community cohesion. This will need to be considered on a case-by-case basis, taking account of the community served by the school and the views of different sections within the community.

Travel and accessibility

Decision-makers should satisfy themselves that accessibility planning has been properly taken into account and the proposed changes should not adversely impact on disadvantaged groups.

The decision-maker should bear in mind that a proposal should not unreasonably extend journey times or increase transport costs, or result in too many children being prevented from travelling sustainably due to unsuitable walking or cycling routes.

A proposal should also be considered on the basis of how it will support and contribute to the LA's duty to promote the use of sustainable travel and transport to school.

Further information is available in the statutory [Home to school travel and transport guidance](#) for LAs.

Funding

The decision-maker should be satisfied that any land, premises or necessary funding required to implement the proposal will be available and that all relevant local parties (e.g. trustees or religious authority) have given their agreement. A proposal cannot be approved conditionally upon funding being made available.

Where proposers are relying on the department as the source of capital funding, there can be no assumption that the approval of a proposal will trigger the release of capital

funds from the department, unless the department has previously confirmed in writing that such resources will be available; nor can any allocation 'in principle' be increased. In such circumstances the proposal should be rejected, or consideration deferred until it is clear that the capital necessary to implement the proposal will be provided.

School premises and playing fields

Under the School Premises Regulations all schools are required to provide suitable outdoor space in order to enable physical education to be provided to pupils in accordance with the school curriculum; and for pupils to play outside safely.

[Guidelines](#) setting out suggested areas for pitches and games courts are in place although the department has been clear that these are non-statutory.

3: Factors relevant to prescribed alteration proposals:

Enlargement of premises

When deciding on a proposal for an expansion on to an additional site (a 'satellite school'), decision-makers will need to consider whether the new provision is genuinely a change to an existing school or is in effect a new school (which would trigger the free school presumption in circumstances where there is a need for a new school in the area⁴).

Decisions will need to be taken on a case-by-case basis, but decision-makers will need to consider the following non-exhaustive list of factors which are intended to expose the extent to which the new site is integrated with the existing site, and to ensure that it will serve the same community as the existing site:

- **The reasons for the expansion**
 - What is the rationale for this approach and this particular site?
- **Admission and curriculum arrangements**
 - How will the new site be used (e.g. which age groups/pupils will it serve)?
 - What will the admission arrangements be?
 - Will there be movement of pupils between sites?
- **Governance and administration**
 - How will whole school activities be managed?
 - Will staff be employed on contracts to work on both sites? How frequently will they do so?
 - What governance, leadership and management arrangements will be put in place to oversee the new site (e.g. will the new site be governed by the same governing body and the same school leadership team)?
- **Physical characteristics of the school**
 - How will facilities across the two sites be used (e.g. sharing of the facilities and resources available at the two sites, such as playing fields)?
 - Is the new site in an area that is easily accessible to the community that the current school serves?

⁴Or require an proposal under section 11 of the EIA 2006 for a new maintained school.

Expansion of existing grammar schools

Legislation prohibits the establishment of new grammar schools⁵. Expansion of any existing grammar school onto a satellite site can only happen if it is a genuine continuance of the same school. Decision-makers must consider the factors listed above when deciding if an expansion is a legitimate enlargement of an existing school.

Changes to boarding provision

In making a decision on a proposal to close a school that has boarding provision, or to remove boarding provision from a school that is not closing, the decision-maker should consider whether there is a state maintained boarding school within reasonable distance from the school. The decision-maker should consider whether there are satisfactory alternative boarding arrangements for those currently in the school and those who may need boarding places in the foreseeable future, including the children of service families.

Addition of post-16 provision

The department expects that only schools that are rated as 'good' or 'outstanding' will seek to add a sixth form.

In assessing a proposal to add post-16 provision, decision-makers should look for evidence that the proposal will improve, extend the range, and increase participation in high quality educational or training opportunities for post-16 pupils within the LA or local area.

The decision-maker should look for evidence on how new places will fit within the 16-19 organisation in an area and that schools have collaborated with other local providers in drawing up a proposal.

The decision-maker may turn down a proposal to add post-16 provision if there is compelling and objective evidence that the expansion would undermine the viability, given the lagged funding arrangements, of an existing high quality post-16 provider.

Decision-makers should consider the viability of a proposal bearing in mind the formulaic approach to funding; that the school will have to bear any potential diseconomies of scale; and the impact of future demographic trends.

A proposal should take account of the timeline for agreeing 16-19 funding which will be available in the most recent guidance on the department's website. Decision-makers should note that post-16 funding runs on an August – July academic year cycle.

In deciding whether new sixth-form provision would be appropriate, proposers and decision makers should also consider the following guidelines:

⁵ Except where a grammar school is replacing one of more existing grammar schools.

- the quality of pre-16 education must be good or outstanding;
- the proposed sixth-form will provide places for a minimum of 200 students;
- the proposed sixth-form will, either directly or through partnership, offer a minimum of 15 A level subjects;
- there is a clear demand for the new sixth-form (including evidence of a shortage of post-16 places and a consideration of the quality of L3 provision in the area);
- the proposed sixth-form is financially viable (there is evidence of financial resilience should student numbers fall and the proposal will not impact negatively on 11-16 education or cross subsidisation of funding).

Changes of category to voluntary-aided

For a proposal to change the category of a school to voluntary-aided, the decision-maker must be satisfied that the governing body and/or the foundation are able and willing to meet their financial responsibilities for building work. The decision-maker may wish to consider whether the governing body has access to sufficient funds to enable it to meet 10% of its capital expenditure for at least five years from the date of implementation, taking into account anticipated building projects.

Changes to special educational need provision

In planning and commissioning SEN provision or considering a proposal for change, LAs should aim for a flexible range of provision and support that can respond to the needs of individual pupils and parental preferences. This is favourable to establishing broad categories of provision according to special educational need or disability. Decision-makers should ensure that proposals:

- take account of parental preferences for particular styles of provision or education settings;
- take account of any relevant local offer for children and young people with SEN and disabilities and the views expressed on it;
- offer a range of provision to respond to the needs of individual children and young people, taking account of collaborative arrangements (including between special and mainstream), extended school and Children's Centre provision; regional centres (of expertise) and regional and sub-regional provision; out of LA day and residential special provision;

- take full account of educational considerations, in particular the need to ensure a broad and balanced curriculum, within a learning environment where children can be healthy and stay safe;
- support the LA's strategy for making schools and settings more accessible to disabled children and young people and their scheme for promoting equality of opportunity for disabled people;
- provide access to appropriately trained staff and access to specialist support and advice, so that individual pupils can have the fullest possible opportunities to make progress in their learning and participate in their school and community;
- ensure appropriate provision for 14-19 year-olds; and
- ensure that appropriate full-time education will be available to all displaced pupils. Their statements of special educational needs must be amended and all parental rights must be ensured. Other interested partners, such as the Health Authority should be involved. Pupils should not be placed long-term or permanently in a Pupil Referral Unit (PRU) if a special school place is what they need.

When considering any reorganisation of provision that the LA considers to be reserved for pupils with special educational needs, including that which might lead to children being displaced, proposers will need to demonstrate how the proposed alternative arrangements are likely to lead to improvements in the standard, quality and/or range of educational provision for those children. Decision-makers should make clear how they are satisfied that this SEN improvement test has been met, including how they have taken account of parental or independent representations which question the proposer's assessment.

4: Factors relevant to establishment proposals

Suitability

When considering a proposal for a new maintained school, the decision-maker should consider each proposal on its merits, and take into account all matters relevant to the proposal. Any proposals put forward by organisations which advocate violence or other illegal activity must be rejected. In order to be approved, a proposal should demonstrate that, as part of a broad and balanced curriculum, they would promote the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, as set out in the department's guidance on [Promoting fundamental British values through SMSC](#).

The free school presumption

Where a LA considers that there is a need for a new school in its area, to address basic need, it must first seek proposals to [establish a free school](#) under section 6A of EIA 2006. In such cases the Regional Schools Commissioner (RSC) is the decision-maker.

New schools through a competition

Where no academy/free school proposals are received (or are received but are deemed unsuitable) a statutory competition under section 7 of EIA 2006 may be held.

Where two or more proposals are complementary, and together meet the requirements for the new school, the decision-maker may approve all the proposals.

The specification for the new school is only the minimum requirement; a proposal may go beyond this. Where a proposal is not in line with the specification, the decision-maker must consider the potential impact of the difference to the specification.

Where additional provision is proposed (e.g. early years or a sixth-form) the decision-maker should first judge the merits of the main proposal against the others. If the proposal is judged to be superior, the decision-maker should consider the additional elements and whether they should be approved. If the decision-maker considers they cannot be approved, they may consider a modification to the proposal, but will need to first consult the proposers and - if the proposal includes provision for 14-19 year olds - the Education Funding Agency (EFA).

For competitions, the LA will be expected to provide premises and meet the capital costs of implementing the winning proposal, and must include a statement to this effect in the notice inviting proposals. Where the estimated premises requirements and/or capital costs of a proposal submitted in response to a competition exceed the initial cost estimate made by the LA, the decision-maker should consider the reasons for the

additional requirements and/or costs, as set out in the proposal and whether there is agreement to their provision.

New schools outside competition

Section's 10 and 11 of the EIA 2006 permits proposals to establish new schools under certain conditions either with the Secretary of States consent (section 10 cases) or without (section 11 cases).

In all cases proposals must have followed the required statutory process and may be for a school with or without a designated religious character.

Independent faith schools joining the maintained sector

The department expects that independent schools wishing to join the maintained sector will do so through the new free schools route.

However if a proposal is made, through the statutory process to establish a new voluntary school, , decision-makers must ensure that the decision to proceed with such a proposal is clearly based on value for money and that the school is able to meet the high standards expected of state-funded educational provision. The department would expect the decision-maker to consider the following points:

- that there is genuine demand/need for this type of school place in the local community;
- that the current and projected financial health of the proposer is strong;
- that the proposal represents long term value for money for the taxpayer;
- that the school will be able to deliver the whole of the national curriculum to the expected high standard;
- that all aspects of due diligence have been considered and undertaken; and
- that the school building is appropriate for the delivery of a high standard of education and in good condition throughout, or can easily be improved to meet such standards.
- In the case of a new VC school the independent school must have existed for at least two years and must close before the new maintained school opens.

If the proposal is approved a separate [application for religious designation](#) would need to be made to the department.

5: Factors relevant to discontinuance (closure) proposals

Closure proposals (under s15 EIA 2006)

The decision-maker should be satisfied that there is sufficient capacity to accommodate displaced pupils in the area, taking into account the overall quality of provision, the likely supply and future demand for places. The decision-maker should consider the popularity with parents of the schools in which spare capacity exists and evidence of parents' aspirations for those schools.

Schools to be replaced by a more successful/popular school

Such proposals should normally be approved, subject to evidence provided.

Schools causing concern

In determining proposals decision-makers must ensure that the guidance on [schools causing concern](#) (Intervening in falling, underperforming and coasting schools) has been followed where necessary.

Rural schools and the presumption against closure

There is a [presumption against the closure of rural schools](#). This does not mean that a rural school will never close, but the case for closure should be strong and the proposal clearly in the best interests of educational provision in the area⁶. Those proposing closure should provide evidence to show that they have carefully considered the following:

- alternatives to closure including the potential for federation with another local school or conversion to academy status and joining a multi-academy trust or umbrella trust to increase the school's viability;
- the scope for an extended school to provide local community services; and facilities e.g. child care facilities, family and adult learning, healthcare, community internet access etc.;
- the transport implications; and
- the overall and long term impact on local people and the community of closure of the village school and of the loss of the building as a community facility.

⁶ Not applicable where a rural infant and junior school on the same site are closing to establish a new primary school on the same site(s).

When deciding a proposal for the closure of a rural primary school the decision-maker must refer to the [Designation of Rural Primary Schools Order](#) to confirm that the school is a rural school.

For *secondary schools*, the decision-maker must decide whether a school is to be regarded as rural for the purpose of considering a proposal. In doing so the decision-maker should have regard to the department's register of schools – EduBase⁷ which includes a rural/urban indicator for each school in England. Where a school is not recorded as rural on Edubase, the decision-maker can consider evidence provided by interested parties, that a particular school should be regarded as rural.

Early years provision

In considering a proposal to close a school which currently includes early years provision, the decision-maker should consider whether the alternative provision will integrate pre-school education with childcare services and/or with other services for young children and their families; and should have particular regard to the views of the Early Years Development and Childcare Partnership.

The decision-maker should also consider whether the new, alternative/extended early year's provision will maintain or enhance the standard of educational provision for early years and flexibility of access for parents. Alternative provision could be with providers in the private, voluntary or independent sector.

Nursery schools and the presumption against closure

There is a presumption against the closure of nursery schools. This does not mean that a nursery school will never close, but the case for closure should be strong and the proposal must demonstrate that:

- plans to develop alternative provision clearly demonstrate that it will be at least as equal in terms of the quantity as the provision provided by the nursery school with no loss of expertise and specialism; and
- replacement provision is more accessible and more convenient for local parents.

Balance of denominational provision

In deciding a proposal to close a school that has been designated with a religious character, decision-makers should consider the effect that this will have on the balance of denominational provision in the area.

⁷ Any school classed as urban will have a rural/urban indicator of either 'Urban>10K – less sparse' or 'Urban>10K – sparse' – all other descriptions refer to rural schools.

The decision-maker should not normally approve the closure of a school with a religious character where the proposal would result in a reduction in the proportion of relevant denominational places in the area. However, this guidance does not apply in cases where the school concerned is severely under-subscribed, standards have been consistently low or where an infant and junior school (at least one of which has a religious character) are to be replaced by a new all-through primary school with the same religious character on the site of one or both of the predecessor schools.

Community Services

Some schools may be a focal point for family and community activity, providing extended services for a range of users, and its closure may have wider social consequences. The effect on families and the community should be considered when considering proposals about the closure of such schools. Where the school is providing access to extended services, provision should be made for the pupils and their families to access similar services through their new schools or other means.

6: Factors relevant to proposals to change category to foundation

This section includes proposals to change category to foundation, acquire/remove a Trust and acquire/remove a foundation majority governing body.

It is the department's view that governing bodies should convert to academy status rather than change category to a foundation. Governing bodies wishing to discuss this issue should email schoolorganisation.notifications@education.gsi.gov.uk and a member of the school organisation team will contact them to discuss the proposed change of category.

Standards

Decision Makers should consider the impact of changing category to foundation and acquiring or removing a Trust on educational standards at the school. Factors to consider include:

- the impact of the proposals on the quality, range and diversity of educational provision in the school;
- the impact of the proposals on the curriculum offered by the school, including, if appropriate, the development of the school's specialism;
- the experience and track record of the Trust members, including any educational experience and expertise of the proposed trustees;
- how the Trust might raise / has raised pupils' aspirations and contributes to the ethos and culture of the school;
- whether and how the proposals advance / have advanced national and local transformation strategies;
- the particular expertise and background of Trust members. For example, a school seeking to better prepare its pupils for higher education might have a higher education institution as a partner.

In assessing standards at the school, the decision-maker should take account of recent reports from Ofsted or other inspectorates and a range of performance data. Recent trends in applications for places at the school (as a measure of popularity) and the local reputation of the school may also be relevant context for a decision.

if a proposal is not considered strong enough to significantly improve standards at a school that requires it, the decision maker should consider rejecting the proposal.

Community Cohesion

Trusts have a duty⁸ to promote [community cohesion](#), and decision-maker should carefully consider the Trust's plans for partnership working with other schools, agencies or voluntary bodies.

New Trust schools Acquiring a Trust

For new Trust schools (foundation schools with a charitable foundation) the decision-maker must be satisfied that the following criteria are met for the proposal to be approved:

- the proposal is not seeking for a school to alter, acquire or lose a designated religious character. These alterations cannot be made simply by acquiring a Trust;
- the necessary work is underway to establish the Trust as a charity and as a corporate body; and
- that none of the trustees are disqualified from exercising the function of trustee, either by virtue of:
 - disqualifications under company or charity law;
 - disqualifications from working with children or young people;
 - not having obtained a criminal record check certificate⁹; or
 - the Requirements Regulations which disqualify certain persons from acting as charity trustees.

Adding or removing a Trust

Decision-makers should consider the following factors for proposals to add or remove a Trust:

- whether the Trust acts as the Trust for any other schools and / or any of the members are already part of an existing Trust;
- if the proposed Trust partners already have a relationship with the school or other schools, how those schools perform (although the absence of a track record should not in itself be grounds for regarding proposals less favourably);
- how the partners propose to identify and appoint governors. What, if any, support would the Trust/foundation give to governors?

⁸ Under section 23(A)6 of the EIA 2006.

⁹ Under section 113A of the Police Act 1997.

- to what extent the proposed Trust partners have knowledge of the local community and the specific needs of the school/area and to what extent the proposal addresses these; and
- the particular expertise and background of Trust members.

If a proposal is for the removal of a Trust, the governing body should consider the proposal in the context of the original proposal to acquire the Trust, and consider whether the Trust has fulfilled its expectations. Where new information has come to light regarding the suitability of Trust partners, this should be considered.

Suitability of partners

Decision-makers will need to be satisfied of the suitability of Trust partners and members. They should use their own discretion and judgement in determining on a case-by-case basis what circumstances might prevent the reputation of a Trust partner being in keeping with the charitable objectives of a Trust, or could bring the school into disrepute. However, the decision-maker should seek to come to a balanced judgement, considering the suitability and reputation of the current/potential Trust. Decision-makers should seek to assure themselves that:

- the Trust members and proposed trustees (where the trustees are specified in the proposals) are not involved in illegal activities and/or activities which could bring the school into disrepute;
- the Trust partners are not involved in activities that may be considered inappropriate for children and young people (e.g. tobacco, gambling, adult entertainment, alcohol).

The following sources may provide information on the history of potential Trust partners:

- [The Health and Safety Executive Public Register of Convictions](#)¹⁰
- [The Charity Commission's Register of Charities](#); and
- [The Companies House web check service](#).

Removing a Trust / foundation majority

Land and Assets

When removing a Trust, the governing body is required to resolve all issues relating to land and assets before the publication of proposals, including any consideration or

¹⁰ Appearance on this database should not automatically disqualify a potential Trust member; decision-makers will wish to consider each case on its merits.

compensation that may be due to any of the parties. Where the parties cannot agree, the issues may be referred to the Schools Adjudicator to determine.

The Schools Adjudicator will take account of a governing body's ability to pay when determining any compensation. Therefore, all of these issues must be resolved by the point at which the decision is made and the amount of compensation due to either party may be a factor in deciding proposals to remove a Trust.

Finance

Trusts are under no obligation to provide financial assistance to a school, but there may be instances where the Trust does provide investment. The well-being and educational opportunities of pupils at the school should be paramount, and no governing body should feel financial obligations prevent the removal of a Trust where this is in the best interests of pupils and parents.

Other services provided by the Trust

Trusts may offer a variety of services to the school, such as careers advice, work experience placements, strategic partnerships with other schools, access to higher education resources and so on. The damage to relationships and/or loss of any of these advantages should be weighed up against the improvements envisaged by a change in governance or the removal of the Trust.

Annex A: Further Information

- [The Education and Inspections Act 2006](#), as amended by the [Education Act 2011](#)
- [The School Standards and Framework Act 1998](#), as amended by the [Education Act 2002](#)
- [The School Organisation \(Prescribed Alterations to Maintained Schools\) \(England\) Regulations 2013](#)
- [The School Organisation \(Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations 2007](#)
- [The School Organisation \(Requirements as to Foundations\) \(England\) Regulations 2007](#)
- [Academy/Free School Presumption – departmental advice \(2013\)](#)
- [Establishing New Maintained Schools – departmental advice for local authorities and new school proposers \(2013\).](#)
- [The Schools Admissions Code](#)
- [Education Excellence Everywhere](#)
- [White paper - Education Excellence Everywhere](#)
- [Schools Adjudicator](#)
- [Free school presumption](#)
- [School Admissions Code](#)
- [National Curriculum](#)
- [Home to school travel and transport guidance](#)
- [School land and property: protection, transfer and disposal](#)
- [Promoting fundamental British values through SMSC.](#)
- [Religious designation](#)
- [Schools causing concern](#)
- [Presumption against the closure of rural schools.](#)
- [The Health and Safety Executive Public Register of Convictions:](#)
- [The Charity Commission's Register of Charities;](#) and
- [The Companies House web check service.](#)

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Opening and closing maintained schools

**Statutory guidance for proposers and
decision-makers**

April 2016

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1: Summary

About this guidance

This is statutory guidance from the Department for Education. This means that recipients must have regard to it when carrying out duties relating to establishing (opening) a new school and / or the discontinuance (closing) of an existing school.

The purpose of this guidance is to ensure that good quality school places are provided where they are needed. It should be read in conjunction with Part 2 and Schedule 2 of the Education and Inspections Act (EIA) 2006 as amended by the Education Act (EA) 2011 and *The School Organisation (Establishment and Discontinuance of Schools) Regulations 2013*.

Review date

This guidance will be review in April 2017.

Who is this guidance for?

This guidance is relevant to all categories of maintained school, unless explicitly stated otherwise, and is for those proposing (e.g. governing bodies, dioceses and local authorities (LAs)) to open and / or close a school, decision-makers (LAs, the [Schools Adjudicator](#)), and for information purposes for those affected by a proposal (e.g. dioceses, trustees, parents etc.).

A governing body, LA or the Schools Adjudicator must have regard to this guidance when making decisions under Schedule 2 of [EIA 2006](#) (as amended by [EA 2011](#)) and the details set out in the [Establishment and Discontinuance Regulations](#).

Separate advice is available on making [prescribed alterations to maintained schools](#) and [significant changes to academies](#).

It is the responsibility of LAs and governing bodies to ensure that they act in accordance with the relevant legislation when making changes to or opening or closing a maintained school and they are advised to seek independent legal advice where appropriate.

Main points

- Where a LA identifies the need for a new school, specifically to meet increased basic need in their area section 6A of EIA 2006 places the LA under a duty to seek proposals to establish an academy (free school) via the [‘free school presumption’](#).

The LA is responsible for providing the site for the new school and meeting all associated capital and pre-/post-opening costs.

- The final decision on all new /free school presumption proposals lies with the [Regional Schools Commissioner](#) (RSC) on behalf of the Secretary of State.
- Any persons ("proposer") for example LA or diocese may publish a proposal at any time for a new school outside of the free school presumption and section 7 competitions process under section 11 of EIA 2006. It is also possible to apply to the Secretary of State for consent to publish proposals to establish a new school under section 10 of EIA 2006.
- All decisions on proposals to open or close a maintained school must be based on the factors outlined in the [guidance for decision-makers](#), following the [statutory five stage process](#).
- Consultations should be carried out in term time to allow the maximum numbers of people to see and respond to statutory proposals.
- Within one week of the date of their publication the documents below **MUST** be sent to the Secretary of State (via schoolorganisation.notifications@education.gsi.gov.uk):
 - a copy of the statutory proposal
 - a copy of the statutory notice
 - a copy of the decision record on the proposal.
- The school organisation team will make the necessary updates to the EduBase system.

2: Establishment of new schools

The following information sets out details of the free school presumption process as well as the other circumstances in which the establishment of a new maintained school can be proposed.

The free school presumption

Where a LA identifies the need for a new school, to meet basic need, section 6A of EIA 2006 places the LA under a duty to seek proposals to establish an academy (free school) via the [‘free school presumption’](#). The LA is responsible for providing the site for the new school and meeting all associated capital and pre-/post-opening revenue costs. All new free school presumption proposals require the RSC’s approval (on behalf of the Secretary of State) as it is the Secretary of State who will enter into a funding agreement with the academy trust/sponsor.

School competitions

If the free school presumption does not result in a suitable proposal, a statutory competition can be held under ‘section 7’ of EIA 2006. This will not require a separate application for approval, since the Secretary of State will inform the LA that approval to hold a competition is given at the same time as informing the LA that no suitable free school was identified.

Free school presumption proposals and proposals for foundation, foundation special and voluntary schools can be submitted into the competition. However the RSC will consider any free school proposals first when making a decision on the case.

If a free school proposal is considered suitable, the competition ends and the proposer works with the department and LA to progress its proposal. If a free school presumption proposal is not considered suitable, or none are received, the competition continues and it is for the LA to decide on the most suitable maintained school proposal that should be approved. However, if the LA is involved¹ in the Trust of a proposed foundation school, the [Schools Adjudicator](#) will be the decision-maker.

Where approval is given to hold a section 7 competition, the LA must follow the statutory process set out in Schedule 2 to EIA 2006 and the [Establishment and Discontinuance Regulations](#).

For section 7 competitions there is no right of appeal.

¹ As set out in para 10(2) of schedule 2 to EIA 2006

Establishing new provision outside competitive arrangements

It is still possible to publish proposals for new maintained school outside of the competitive arrangements at any time.

Section 11 proposals

Any persons ('proposer') e.g. LA or diocese may publish a proposal, at any time, for a new school outside of the free school presumption and competitions process under section 11 of EIA 2006.

The Secretary of States consent is not required in the case of proposals for:

- a new community or foundation primary school to replace a maintained infant and a maintained junior school;
- a new voluntary-aided school in order to meet demand for a specific type of place e.g. places to meet demand from those of a particular faith;
- a new foundation or voluntary school resulting from the reorganisation of existing faith schools in an area, including an existing faith school losing or changing its religious designation;
- a new foundation or community school, where there were no suitable free school proposals and a competition has been held but did not identify a suitable provider;
- a former independent school wishing to join the maintained sector; and
- a new LA maintained nursery school.

The proposer should be able to demonstrate to the decision-maker a clear demand for the places the new school will provide.

The statutory process in [part 4](#) must be followed to establish the new school. The [Schools Adjudicator](#) will decide LA proposals (and cases where the LA are involved in the Trust of a proposed foundation school). The LA will decide proposals from other proposers.

Section 10 proposals

It is also possible to apply to the Secretary of State for 'consent to publish' proposals to establish a new school under section 10 of EIA 2006:

- to replace a community school; or
- for a brand new or replacement foundation or voluntary controlled school.

Each request for consent will be considered on its merits and the particular circumstances of the case, including whether the need for a new school might be better met by a free school.

If consent is given the statutory process in [part 4](#) must be followed to establish the new school. The Schools Adjudicator will decide LA proposals (and cases where the LA are involved in the Trust of a proposed foundation school). The LA will decide proposals from other proposers.

The table below sets out a summary of the processes.

Proposer	Type of proposal	Decision-maker	Right of appeal to the Adjudicator?
Other proposers	Free school presumption	RSC	N/A
LA	Section 11	Schools Adjudicator	CofE Diocese RC Diocese
Other proposers	Section 11	LA (Schools Adjudicator if LA involved in Trust of foundation school)	CofE Diocese RC Diocese Proposers (if LA is decision-maker)
Other proposers	Section 7 (competition)		
	Stage 1. Free school proposals considered first. If a proposal is received and considered suitable completion ends and proposer / LA / department take forward the free school proposal.	RSC	N/A
	Stage 2. Where no suitable free school bid received proposals for new foundation, foundation special or voluntary school submitted will be considered.	LA (Schools Adjudicator)	N/A
LA	Section 10	Schools Adjudicator.	CofE Diocese RC Diocese
Other proposers	Section 10	LA (Schools Adjudicator if LA involved in Trust of foundation school)	CofE Diocese RC Diocese Proposers (if LA is decision-maker)

3: School closures

All decisions related to school closures are taken locally following a statutory process to allow those directly affected by the proposals to feed in their comments.

All decisions on proposals to close a school must be made in accordance with the factors outlined in the [guidance for decision-makers](#).

Who can close a school?

An LA can propose the closure of ALL categories of maintained school, following the five-stage statutory process in [part 4](#).

The governing body of a voluntary, foundation, or foundation special school may also publish proposals to close its own school following the statutory process. Alternatively, it may give [at least two years' notice of its intention to close](#) the school to the Secretary of State and the LA.

Reasons for closing a maintained school include where:

- it is surplus to requirements (e.g. result of an area-wide reorganisation and/or neighbouring schools have sufficient places to accommodate displaced pupils);
- it is to be [‘amalgamated’ with another school](#);
- it is failing and there is no viable sponsored academy solution;
- it is to [acquire, lose or change religious character](#); or
- it is being replaced by a new school.

Closure of rural schools

There is a presumption against the closure of rural schools. This does not mean that a rural school will never close, but the case for closure should be strong and a proposal must be clearly in the best interests of educational provision in the area.

When producing a proposal, the proposer must carefully consider:

- the likely effect of the closure of the school on the local community;
- educational standards at the school and the likely effect on standards at neighbouring schools;
- the availability, and likely cost to the LA, of transport to other schools;
- any increase in the use of motor vehicles which is likely to result from the closure of the school, and the likely effects of any such increase; and
- any alternatives to the closure of the school.

When deciding a proposal for the closure of a rural primary school, there is a legal requirement² that the decision-maker must refer to the [Designation of Rural Primary Schools \(England\) Order](#) to confirm that the school is a rural primary school.

Secondary schools are identified on the EduBase system using the Office for National Statistics' [Rural and Urban Area Classification](#). Decision-makers should consider this indicator when deciding a proposal for the closure of a rural secondary school.

The [free school presumption](#) will not apply in cases where a rural infant and junior school on the same site are being closed to establish a new primary school.

In order to assist the decision-maker, the proposer of a rural school closure should provide evidence to show that it has carefully considered:

- alternatives to closure including: federation with another local school; conversion to academy status and joining a multi-academy trust; the scope for an extended school to provide local community services and facilities e.g. child care facilities, family and adult learning, healthcare, community internet access etc.;
- transport implications i.e. the availability, and likely cost of transport to other schools and sustainability issues; and
- the overall and long term impact on local people and the community of the closure of the village school and of the loss of the building as a community facility.

Amalgamations

There are two ways to amalgamate two (or more) existing maintained schools:

- The LA or governing body (depending on school category) can publish a proposal to close two, or more, schools and the LA or a proposer other than the LA (e.g. diocese, faith or parent group, Trust) depending on category, can publish a proposal to open a new school or presumption free school (see [part 2](#)). This results in a new school number being issued.
- The LA and / or governing body (depending on school category) can publish a proposal to close one school (or more) and enlarge / change the age range / transfer site (following the statutory process as / when necessary) of an existing school, to accommodate the displaced pupils. The remaining school would retain its original school number, as it is not a new school, even if its phase has changed.

²Section 15(7)(b) of EIA 2006

Existing schools wishing to acquire, change or lose a religious character

It is not possible for an existing school to make any change to its religious character. Instead the LA or governing body must publish a proposal to close the existing school, and a faith organisation, as proposer, must issue a 'related' proposal to establish a new voluntary or foundation school, with a religious character. This can be done by either gaining the Secretary of State's consent under section 10 or as a special case under section 11 of EIA 2006.

In **ALL** cases before the religious designation flexibilities can be utilised, the proposer will need to [apply separately, to the Secretary of State, for the new school to be designated with a religious character](#). This would normally be done once the decision on the new school has been approved. Schools that have been designated with a religious character that close will automatically have the designation revoked.

Upon gaining a religious designation a school can not automatically change its admissions policy to include faith-based criteria. It will need to consult in accordance with the [School Admissions Code](#) and determine revised admission arrangements.

The table below sets out a summary of the process for closing a maintained school.

Proposer	Type of proposal	Decision-maker	Right of appeal to the Adjudicator?
LA	Following a statutory process to close a community, community special or maintained nursery school	LA	CofE Diocese RC Diocese
LA	Following a statutory process to close a foundation, foundation special or voluntary school	LA	CofE Diocese RC Diocese GB Trustees
Governing Body	Following a statutory process to close a voluntary, foundation or foundation special school	LA	CofE Diocese RC Diocese GB Trustees

NB: the LA must make a decision within a period of two months of the end of the representation period or they must be referred to the [Schools Adjudicator](#).

Two years notice of closure – voluntary and foundation schools

Instead of following the statutory process for closure, the governing body of a voluntary or foundation school may, subject to specified provisions³, give the Secretary of State and the LA at least two years' notice of their intention to close the school.

The trustees of a foundation or voluntary school must give their governing body at least two years notice if they intend to terminate the school's occupation of its site. The minimum two years' notice allows the LA and / or governing body time to make alternative arrangements for pupils.

Closure of a community or foundation special school in the interests of pupils

The Secretary of State may direct⁴ a LA to close a community special or foundation special school if she considers it is in the interests of the health, safety or welfare of the pupils. Prior to making the direction, the Secretary of State, must consult: the LA, any other LA who would be affected by the closure of the school; for a foundation special school with a foundation, the person who appoints the foundation governors; and any other persons the Secretary of State considers appropriate.

The Secretary of State must give notice in writing, of the direction, to both the governing body and head teacher of the school. The school must be closed on the date specified by the Secretary of State.

Temporary school closures

A proposal to close a school is not required where a school will temporarily cease to operate due to a rebuild. Where a school operating over multiple sites proposes to cease operations on one (or more) of its sites the proposal will be for a [prescribed alteration](#) and not a school closure.

³ As outlined in section 30 of the SSFA 1998, and including those in the DBE Measure 1991

⁴ Section 17 of EIA 2006

4: The statutory process

The statutory process for opening⁵ and closing⁶ a maintained school has five stages:

Stage	Description	Timescale	Comments
Stage 1	Consultation	No prescribed timescale.	Informal / pre consultation. Recommended to last a minimum of 6 weeks. School holidays should be taken into consideration and avoided where possible. Likely to be no longer than 12 months.
Stage 2	Publication		Publication of the statutory notice and proposal
Stage 3	Representation	Must be 4 weeks, at least, from date of publication.	Formal consultation. As prescribed in the Establishment and Discontinuance of Schools Regulations and cannot be shortened or lengthened.
Stage 4	Decision	LA should decide a proposal within 2 months otherwise it will fall to the Schools Adjudicator.	Where permitted appeals must be made within 4 weeks of notification of the decision.
Stage 5	Implementation	No prescribed timescale.	However the date must be as specified in the published notice, subject to any modifications agreed by the decision-maker.

⁵ Under sections 10 and 11 of EIA 2006

⁶ Under section 15 of EIA 2006

Consultation

Except where the school is a rural school or a special school where there are prescribed consultees (see [Annex A](#)), proposers of a school closure must consult organisations, groups and individuals they feel to be appropriate (the information in Annex A can be used for examples). The information that **MUST** be included in a closure proposal is set out at [Annex B](#). The information that **MUST** be included in a proposal to establish a new school under the section 10 or 11 processes is set out in [Annex C](#).

Where a LA or governing body carries out a preliminary (informal/ stage one) consultation to consider a range of options for a possible reorganisation, this would not be regarded as a statutory consultation as set out in legislation. The statutory consultation would need to cover the specific opening or closure proposal of the school in question.

How the stage one consultation is carried out is not prescribed in regulations and it is for the proposer to determine the nature of the consultation and its length (although a minimum of six weeks is recommended). It is best practice for consultations to be carried out in term time to allow the maximum number of people to respond. The Cabinet Office guidance on [Consultation principles](#) can be used for other examples of best practice.

Publication

A statutory proposal should be published within 12 months of the stage one consultation period being completed. This is so that it can be informed by up-to-date feedback. A proposal must contain the information specified in either Schedule 1 for establishing a new school (see [Annex C](#)) or Schedule 2 for closing a school (see [Annex B](#)) of the Establishment and Discontinuance Regulations.

The full proposal must be published on a website (e.g. the school or LA's website) along with a statement setting out:

- how copies of the proposal may be obtained;
- that anybody can object to, support, or comment on, the proposal;
- the date that the representation period ends; and
- the address to which objections or comments should be submitted.

A brief notice (including details on how the full proposal can be accessed e.g. the website address) must be published in a local newspaper and in a conspicuous place on the school premises and at all of the entrances to the school.

Within one week of the date of publication of a section 10 or 11 proposal to open a new school, the proposer **MUST** send a copy of the proposal to the LA which it is proposed would maintain the school.

On the day of publication of a proposal to close a school the proposer **MUST** send a copy of the proposal to the governing body/LA (as appropriate).

In all cases, within one week of the date of publication on the website, the proposer **MUST** send a copy of the proposal and the information set above to:

- the Secretary of State (schoolorganisation.notifications@education.gsi.gov.uk);
- the parents of every registered pupil at the school - where the school is a special school;
- the local Church of England diocese;
- the local Roman Catholic diocese; and
- any other body or person that the proposer thinks is appropriate (e.g. relevant faith group).

Within one week of receiving a request for a copy of the proposal the proposer must send a copy to the person requesting it.

Related proposals

A proposal for one change can be linked to another proposal(s) for example such an amalgamation where two schools are closing and are to be replaced by a completely new school or if the need for the closure arises from an area-wide reorganisation such as a result of long-term LA planning.

In these cases this should be made clear in any informal or formal consultation processes, in published notices and proposals. All notices should be published together / or as one notice (e.g. where one school is to be enlarged because another is being closed a single notice could be published) and specified as 'related'.

Decisions on 'related' proposals should also be made at the same time.

Representation

The representation period starts on the date of publication of the statutory proposal and must last for at least four weeks. During this period, any person or organisation can submit comments on the proposal, to the LA, to be taken into account by the decision-maker. It is also good practice for representations to be forwarded to the proposer to ensure that they are aware of local opinion.

Decision

The LA will be the decision-maker on a school closure proposal, unless the closure proposal is 'related' to another proposal that is to be decided by the [Schools Adjudicator](#).

The Schools Adjudicator will decide LA proposals for new schools (and cases where the LA are involved in the Trust of a proposed foundation school). The LA will decide proposals for new schools from other proposers.

If the LA does not make a decision within a period of two months of the end of the representation period, they must, within a week of the end of the two month period, refer the case to the Schools Adjudicator.

However, the body or individual that takes the decision must have regard to the statutory '[Decision-makers Guidance](#)'.

When issuing a decision, the decision-maker can:

- reject the proposal;
- approve the proposal without modification;
- approve the proposal with such modifications, as the LA think desirable, after consulting the LA and/or governing body (as appropriate); or
- approve the proposal – with or without modification – subject to certain conditions⁷ (such as the granting of planning permission) being met.

A proposal can be withdrawn by the proposer at any point before a decision is taken.

When doing so the proposer must send written notice to the LA and the [Schools Adjudicator](#) (if the proposal has been sent to them). A notice must also be placed on the website where the original proposal was published.

Within one week of making a determination the decision-maker must arrange (via the proposer as necessary) for their decision and the reasons for it to be published on the website where the original proposal was published. They must arrange for notification of the decision and reasons for it to be sent to:

- The Secretary of State (via schoolorganisation.notifications@education.gsi.gov.uk)
- the LA (where the Schools Adjudicator is the decision-maker);
- the governing body/proposers (as appropriate);
- the trustees of the school (if any);
- the local Church of England diocese;
- the local Roman Catholic diocese;
- for a special school, the parents of every registered pupil at the school; and
- any other body considered appropriate (e.g. other relevant faith organisation).

Rights of appeal against a decision

Within four weeks of the decision being made the following bodies may appeal to the Schools Adjudicator against a decision made by a LA:

- the local Church of England diocese;
- the local Roman Catholic diocese;

⁷ As specified in Part 5 (20) of the Establishment and Discontinuance Regulations

- the proposers of section 10 and 11 proposals where the LA is the decision-maker; and
- the governors and trustees of a foundation, foundation special or voluntary school that is subject to a proposal for closure

On receipt of an appeal, an LA decision-maker must then send the proposal, representations received and the reasons for their decision to the [Schools Adjudicator](#) within one week of receipt.

There is no right of appeal on determinations made by the Schools Adjudicator.

Implementation

There is no maximum limit on the time between the publication of a proposal and its proposed date of implementation. However, proposers will be expected to show good reason (for example an authority-wide reorganisation) if they propose a timescale longer than three years.

The proposer must implement a proposal in the form approved, taking into account any modifications made by the decision-maker.

The school organisation team will make the necessary changes to the school(s) EduBase record(s).

Modification post determination

If it proves necessary, due to a major change in circumstance, or unreasonably difficult to implement a proposal as approved, the proposer can propose modifications (for example to the implementation date) to the decision-maker before the approved implementation date. However, proposals cannot be modified to the extent that new proposals are substituted for those that have been published.

Revocation

If the proposer cannot implement an approved proposal because circumstances have changed (so that implementation would be inappropriate or unreasonably difficult) the proposer must publish a revocation proposal, to be relieved of the duty to implement. A revocation proposal must contain:

- a description of the original proposal as published;
- the date of the publication of the original proposal; and
- a statement as to why the duty to implement the original proposal should not apply.

The proposer must publish the revocation proposal on the website (where the original proposal was published) and a brief notice of the proposal in a local newspaper. Details of what must be included in this notice are the same as in the [publication section](#).

Where the proposer is the governing body it must send the revocation proposal to the LA within one week of the date of publication on the website. Where the original proposal was decided by the [Schools Adjudicator](#) the LA must refer the revocation proposal together with any comments or objections within two weeks of the end of the representation period to the Schools Adjudicator.

The LA decision-maker, who must determine the revocation proposal within two months of the end of the representation period, must arrange for the revocation decision to be published on the website where the original proposal and revocation proposal were published. The LA decision-maker must notify those with a [right of appeal](#) of the revocation and their reasons for doing so.

Annex A: School closure consultations

In the case of the closure of a rural primary school or a community or foundation special school proposers **must**, under section 16(1) of EIA 2006 consult:

- The LA (as appropriate);
- The registered parents of registered pupils at the school;
- where the LA is a county council the local district or parish council where the school that is the subject to the proposal is situated; and
- in the case of a special school – any LA which maintains an EHC plan or statement of special educational needs in respect of a registered pupil at the school.

The Secretary of State considers that these bodies, along with those listed below should be consulted in the case of the proposed closure of all schools:

- the governing body (as appropriate);
- pupils at the school⁸;
- (if a proposal involves, or is likely to affect a school which has a particular religious character) the appropriate diocese or relevant faith group⁹;
- the trustees of the school (if any);
- teachers and other staff at the school;
- any LA likely to be affected by the proposal, in particular neighbouring authorities where there may be significant cross-border movement of pupils;
- the governing bodies, teachers and other staff of any other school that may be affected;
- parents of any pupils at other schools who may be affected by the proposal including where appropriate families of pupils at feeder primary schools;
- any trade unions who represent staff at the school; and representatives of any trade union of staff at other schools who may be affected by the proposal;
- MPs whose constituencies include the school that is the subject of the proposal or whose constituents are likely to be affected by the proposal; and
- any other interested organisation / person that the proposer thinks are appropriate.

⁸ Under section 176 of the Education Act 2002.

⁹ Under the DBE Measure 1991 Church of England schools must consult with their diocese before making closure proposals.

Annex B: Statutory proposals for school closures

As set out in Schedule 2 to the Establishment and Discontinuance Regulations the information below **must** be included in a proposal to close a school:

Contact details

The name and contact address of the local authority or governing body publishing the proposals and the name, address and category of the school it is proposed that should be discontinued.

Implementation

The date on which it is proposed to close the school or, where it is proposed that the closure be implemented in stages, the dates of and information about each stage.

Reason for closure

A statement explaining the reason why closure of the school is considered necessary.

Pupil numbers and admissions

The numbers (distinguishing between compulsory and non-compulsory school age pupils), age range, sex, and special educational needs of pupils (distinguishing between boarding and day pupils) for whom provision is currently made at the school.

Displaced pupils

A statement and supporting evidence about the need for school places in the area including whether there is sufficient capacity to accommodate displaced pupils.

Details of the schools or further education colleges at which pupils at the school to be discontinued will be offered places, including—

- a) any interim arrangements;
- b) the provision that is to be made for those pupils who receive educational provision recognised by the local authority as reserved for children with special educational needs; and
- c) in the case of special schools, the alternative provision made by local authorities other than the local authority which maintain the school.

Details of any other measures proposed to be taken to increase the number of school or further education college places available in consequence of the proposed discontinuance.

Impact on the community

A statement and supporting evidence about the impact on the community of the closure of the school and any measures proposed to mitigate any adverse impact.

Rural primary schools

Where proposals relate to a rural primary school designated as such by an order made for the purposes of section 15, a statement that the local authority or the governing body (as the case may be) considered section 15(4).

Balance of denominational provision

Where the school has a religious character, a statement about the impact of the proposed closure on the balance of denominational provision in the area and the impact on parental choice.

Maintained nursery schools

Where proposals relate to the discontinuance of a maintained nursery school, a statement setting out—

- d) the local authority's assessment of the quality and quantity of the alternative provision compared to the school proposed to be discontinued and the proposed arrangements to ensure the expertise and specialism continues to be available; and
- e) the accessibility and convenience of replacement provision for local parents.

Sixth form provision

Where the school proposed to be discontinued provides sixth form education, the effect for 16 to 19 year olds in the area that the closure will have in respect of—

- a) their educational or training achievements;
- b) their participation in education or training; and
- c) the range of educational or training opportunities available to them.

Special educational needs provision

Where existing provision that is recognised by the local authority as reserved for pupils with special educational needs is being discontinued, a statement as to how the local authority or the governing body (as the case may be) believe the proposals are likely to lead to improvements in the standard, quality and/or range of the educational provision for these children.

Travel

Details of length and journeys to alternative provision.

The proposed arrangements for travel of displaced pupils to other schools including how the proposed arrangements will mitigate against increased car use.

Annex C: Statutory proposals for establishing a new school.

As set out in the Establishment and Discontinuance Regulations the information below must be included in section 10 and 11 proposals to establish a new school:

Contact details

The name and contact address of the LA or the proposers (as the case may be).

Implementation

The date on which it is proposed that the school be opened or, where it is proposed that the opening be implemented in stages, the dates of and information about each stage.

Where the proposals are to establish a voluntary, foundation or foundation special school, a statement as to whether the proposals are to be implemented by the local authority or by the proposers, and if the proposals are to be implemented by both,

(a) a statement as to the extent that they are to be implemented by each body,
and

(b) a statement as to the extent to which the capital costs of implementation are to be met by each body.

Reason for the new school

A statement explaining the reason why the new school is considered necessary and whether it is to replace an existing school or schools.

Category

The category of school that it is proposed be established (a foundation or foundation special school and, if so, whether it is to have a foundation, a voluntary school, a community or community special school, or a local authority maintained nursery school) and, if required by section 10, a statement that the Secretary of State's consent has been obtained to publish the proposals.

Ethos and religious character

A short statement setting out the proposed ethos of the school, including details of any educational philosophy, which it is proposed that the school will adhere to.

If it is proposed that the school is to have a religious character, confirmation of the religion or religious denomination in accordance with whose tenets religious education will, or may be required to be provided at the school; and a statement that the proposers

intend to ask the Secretary of State to designate the school as a school with such a religious character.

Where it is proposed that the school—

(a) has a religious character, evidence of the demand in the area for education in accordance with the tenets of the religion; or

(b) adheres to a particular philosophy, evidence of the demand for education in accordance with that philosophy that is not already met in other maintained schools or Academies in the area.

Pupil numbers and admissions

The numbers (distinguishing between compulsory and non-compulsory school age pupils), age range, sex, and special educational needs of pupils (distinguishing between boarding and day pupils) for whom provision is to be made at the school.

Admission arrangements

Except in relation to proposals for special schools, the proposed admission arrangements and over-subscription criteria for the new school including, where the school is proposed to be a foundation or voluntary school which is to have a religious character—

(a) the extent to which priority for places is proposed to be given to children of the school's religion or religious denomination; and

(b) the extent, if any, to which priority is to be given to children of other religions or religious denominations or to children having no religion or religious denomination.

Early years provision

Where the proposals are to include provision for pupils aged two to five—

(a) details of how the early years provision will be organised, including the number of full-time and part-time pupils, the number of places, the number and length of sessions in each week, and the services for disabled children that will be offered;

(b) how the school will integrate the early years provision with childcare services, and how the proposals for the establishment of the school are consistent with the integration of early years provision with childcare;

(c) evidence of parental demand for additional provision of early years provision;

(d) assessment of capacity, quality and sustainability of provision in schools, and in settings outside of the maintained school sector which deliver the Early Years Foundation Stage within three miles of the school; and

(e) the reasons why schools and settings outside the maintained school sector which deliver the Early Years Foundation Stage within three miles of the school

and which have spare capacity, cannot make provision for any forecast increase in the numbers of such children.

Sixth form provision

Where it is proposed that the school will provide sixth form education, how for 16 to 19 year olds in the area the proposals will—

- (a) improve the educational or training achievements;
- (b) increase participation in education or training; and
- (c) expand the range of educational or training opportunities available to them.

Special educational needs provision

Whether the school will have provision that is recognised by the LA as reserved for children with special educational needs and, if so, the nature of such provision.

Details of the proposed policy of the school relating to the education of pupils with special educational needs.

Where the school will replace existing educational provision for children with special educational needs—

- (a) a statement on how the proposer believes the proposal is likely to lead to improvements in the standard, quality and range of educational provision for these children;
- (b) details of the improvements that the proposals will bring in respect of—
 - (i) access to education and associated services including the curriculum, wider school activities, facilities and equipment with reference to the local authority's Accessibility Strategy;
 - (ii) access to specialist staff, both education and other professionals, including any external support or outreach services;
 - (iii) access to suitable accommodation; and
 - (iv) supply of suitable places.

Single sex school

Where the school is to admit pupils of a single sex—

- (a) evidence of local demand for single sex education and how this will be met if the proposals are approved; and
- (b) a statement giving details of the likely effect the new school will have on the balance of provision of single sex education in the area.

Curriculum

Confirmation that the school will meet the general requirements in relation to the curriculum contained in section 78 of EA 2002 and an outline of any provision that will be in addition to the basic curriculum required by section 80 of EA 2002, in particular any 14-19 vocational education.

Relevant experience of proposers

Evidence of any relevant experience in education held by the proposers including details of any involvement in the improvement of standards in education.

Effects on standards and contributions to school improvement

Information and supporting evidence on—

- (a) how the school will contribute to enhancing the diversity and quality of education in the area; and
- (b) how the school will contribute to school improvement.

Location and costs

A statement about—

- (a) the area or particular community or communities which the new school is expected to serve;
- (b) the location of the site or sites including, where appropriate, the postal address or addresses;
- (c) the current ownership and tenure (freehold or leasehold) on which the site will be held, and if the site is to be held on a lease, details of the proposed lease;
- (d) whether the site is currently used for the purposes of another school and if so why the site will no longer be required by the other school;
- (e) the estimated capital costs of providing the site and how those costs will be met (including the extent to which the costs are to be met by the proposers and the local authority) and how the proposers intend to fund their share of the costs of implementing the proposals (if any);
- (f) whether planning permission is needed under the Town and Country Planning Act 1990, and when it is anticipated that it will be obtained;
- (g) confirmation from the Secretary of State or LA (as the case may be) that funds will be made available (including costs to cover any necessary site purchase).

Travel

The proposed arrangements for travel of pupils to the school.

Federation

Details of any proposals for the school to be established as a federated school.

Voluntary aided schools

Where the school is to be a voluntary aided school—

- (a) details of the trusts on which the site is to be held; and
- (b) confirmation that the governing body will be able and willing to carry out their obligations under Schedule 3 to SSFA 1998.

Foundation schools

Where the school is to be a foundation or foundation special school, confirmation as to—

- (a) whether it will have a foundation and if so, the name or proposed name of the foundation;
- (b) the rationale for the foundation and the particular ethos that it will bring to the school;
- (c) the details of membership of the foundation, including the names of the members;
- (d) the proposed constitution of the governing body; and
- (e) details of the foundation's charitable objects.

Independent schools entering the maintained sector

Where a school is an independent school entering the maintained sector—

- (a) a statement that the requirements of section 11(3) are met;
- (b) a statement as to whether the premises will meet the requirements of the School Premises (England) Regulations 2012(4) and, if not,
 - (i) details of how the premises are deficient; and
 - (ii) details of how it is intended to remedy the deficiency.

Annex D: Further Information

This guidance primarily relates to:

- [The Education and Inspections Act 2006](#), as amended by the [Education Act 2011](#)
- [The School Standards and Framework Act 1998](#), as amended by the [Education Act 2002](#)
- [The School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013](#)
- [The School Organisation \(Prescribed Alterations to Maintained Schools\) \(England\) Regulations 2013](#)
- [The free school presumption – Departmental advice for local authorities and new school proposers \(July 2015\)](#)
- [Establishing New Maintained Schools – departmental advice for local authorities and new school proposers \(2013\)](#).
- [Presumption against the closure of primary schools](#)
- [Rural and Urban Area Classification](#)
- [The Religious Character of Schools \(Designation Procedure\) Regulations 1998](#)
- [How to apply for religious designation](#)
- [Guidance for decision-makers](#)
- [Schools Adjudicator](#)
- [School Admissions Code](#)

It also relates to:

- [School Governance \(Constitution\) \(England\) Regulations 2012](#)
- [School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013](#)
- [Governors handbook](#).
- [School Premises \(England\) Regulations 2012](#)
- [The School Companies Regulations 2002](#) as amended by the [2003 Regulations](#) and the [2014 Regulations](#)
- [Change your charity's governing document](#)
- [Academies Act 2010](#)
- [Making Significant Changes to an Existing Academy \(2014\)](#);
- [Regional Schools Commissioner](#)
- [Consultation principles](#)

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Making ‘prescribed alterations’ to maintained schools

Statutory guidance for proposers and decision-makers

April 2016

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1: Summary

About this guidance

This is statutory guidance from the Department for Education. This means that recipients must have regard to it when carrying out functions relating to making 'prescribed alterations' to maintained schools.

The purpose of this guidance is to ensure that additional good quality school places can be provided quickly where they are needed; that local authorities and governing bodies do not take decisions that will have a negative impact on other schools in the area, and that changes can be implemented quickly and effectively where there is a strong case for doing so. In line with these aims it is expected that, where possible, additional new places will only be provided at schools that have an overall Ofsted rating of 'good' or 'outstanding'.

A governing body, LA or the [Schools Adjudicator](#) must have regard to this guidance when exercising functions under [The School Organisation \(Prescribed Alterations to Maintained Schools\) \(England\) Regulations 2013](#) ('the Prescribed Alterations Regulations') and [The School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013](#) ('the Establishment and Discontinuance Regulations'). It should be read in conjunction with Parts 2 and 3 and Schedule 3 of the [Education and Inspections Act \(EIA\) 2006](#) (as amended by the [Education Act \(EA\) 2011](#)) and [the Prescribed Alterations Regulations](#). It also relates to [the Establishment and Discontinuance Regulations](#) and [The School Organisation \(Removal of Foundation, Reduction in the Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations \(2007\)](#).

It is the responsibility of LAs and governing bodies to ensure that they act in accordance with the relevant legislation when making changes to a maintained school and they are advised to seek independent legal advice where appropriate.

Review date

This guidance will be reviewed in April 2017.

Who is this guidance for?

Those proposing to make changes to maintained schools (e.g. governing bodies and LAs), decision-makers (LAs, the Schools Adjudicator and governing bodies), and for information purposes for those affected by a proposal (dioceses, trustees, parents etc.)

This guidance is relevant to all categories of maintained schools (as defined in section 20 of the [School Standards and Framework Act \(SSFA\) 1998](#)), unless explicitly stated. It is not relevant to [Pupil Referral Units](#). Separate advice [on making significant changes to an academy, opening and closing a maintained school](#) and the [guidance for decision-makers](#) is available.

Main points

- All proposals for prescribed alterations must follow the processes set out in this guidance.
- Where a LA proposes to expand a school that is eligible for intervention they should copy the proposal to the relevant [Regional Schools Commissioner](#)
- To enable the department to monitor potentially controversial proposals, the proposer should copy any proposal which falls within the definitions set out in part 3 to the School Organisation mailbox – schoolorganisation.notifications@education.gsi.gov.uk.
- Where a LA is the decision maker, it must make a decision within a period of two months of the end of the representation period, taking into account the factors outlined in the [guidance for decision-makers](#). Where a decision is not made within this time frame, the proposal must be referred to the Schools' Adjudicator for a decision.
- It is not possible for any school to gain, lose or change religious character through a change of category. Information on the process to be followed is available in the opening and closing maintained school guidance.
- It is the department's view that governing bodies should convert to academy status rather than change category to a foundation. Governing bodies wishing to discuss this issue should email schoolorganisation.notifications@education.gsi.gov.uk and a member of the school organisation team will contact them to discuss the proposed change of category.
- Once a decision has been made the [proposer](#) (school governing body or LA) should make the necessary changes to the school's record in the department's [EduBase](#) system and MUST have done so by the date the change is implemented.

2: Prescribed alteration changes

Enlargement of premises

Details of how [special schools can increase their intake](#) are covered below.

Local authorities are under a statutory duty to ensure the sufficiency of school places in their area. They can propose an enlargement of the premises of community foundation and voluntary schools. When doing so they must follow the statutory process as set out in the [Prescribed Alterations Regulations](#) (see [part 5](#)) if:

- the proposed enlargement of the premises of the school is permanent (longer than three years) and would increase the capacity of the school by:
 - more than 30 pupils; and
 - 25% or 200 pupils (whichever is the lesser).
- the proposal involves the making permanent of any temporary enlargement (that meets the above threshold).

Where a proposal seeks to increase the school's pupil number to over 2,000 or would result in an increase of over 50% of the school's current capacity, the LA should copy the proposal to schoolorganisation.notifications@education.gsi.gov.uk for monitoring purposes.

Governing bodies of all categories of mainstream schools and LAs can propose smaller expansions that do not meet the thresholds above without the need to follow the formal statutory process in [part 4](#). In many cases this can be achieved solely by increasing the school's published admissions number (PAN); please see [the School Admissions Code](#).

The table below sets out who can propose an enlargement of premises and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for community	Enlargement of premises	Statutory process	LA	CofE Diocese RC Diocese
LA for voluntary or foundation	Enlargement of premises	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for voluntary and foundation	Enlargement of premises (on small scale expansions)	Non statutory process	LA	N/A
GB of all categories mainstream	Enlargement of premises (on small scale expansions)	Non statutory process	GB	N/A

NB: the LA must make a decision within a period of two months of the end of the representation period or they must be referred to the [Schools Adjudicator](#).

Expansion onto an additional site ('or satellite sites')

Where proposers seek to expand onto an additional site they will need to ensure that the new provision is genuinely a change to an existing school and not in reality the establishment of a new school. Where a LA decides that a new school is need to meet basic need the free school presumption process must be followed. Other proposals seeking to establish a new school should follow the free school application process.

Decisions about whether a proposal represents a genuine expansion will need to be taken on a case-by-case basis, but proposers and decision makers will need to consider this non-exhaustive list of factors:

The reasons for the expansion

- What is the rationale for this approach and this particular site?

Admission and curriculum arrangements

- How will the new site be used (e.g. which age groups/pupils will it serve)?
- What will the admission arrangements be?
- Will there be movement of pupils between sites?

Governance and administration

- How will whole school activities be managed?

- Will staff be employed on contracts to work on both sites? How frequently will they do so?
- What governance, leadership and management arrangements will be put in place to oversee the new site (e.g. will the new site be governed by the same governing body and the same school leadership team)?

Physical characteristics of the school

- How will facilities across the two sites be used (e.g. sharing of the facilities and resources available at the two sites, such as playing fields)?
- Is the new site in an area that is easily accessible to the community that the current school serves?

The purpose of considering these factors is to determine the level of integration between the two sites; the more integration, the more likely the change will be considered as an expansion. Where a LA considers there is a need for a new school to address basic need for school places it must¹ seek proposals to establish a free school under the free school presumption.

LAs should copy any proposal to expand a school onto a satellite site to schoolorganisation.notifications@education.gsi.gov.uk for monitoring purposes.

Quality of new places created by expansions

Where schools are underperforming, the quality of new places provided may be compromised by expansion. The department expects that schools should not generally expand if they are eligible for intervention by the local Regional Schools Commissioner ('RSC'). There will be exceptional cases where there is no viable alternative to ensuring sufficient school places locally. In cases where there is a proposal for a school that is eligible for intervention to expand, we expect LAs to send a copy of the proposals to the [RSC](#) so that they can ensure appropriate intervention strategies are agreed or, where appropriate, that there is a robust improvement plan in place.

Change in number of pupils in a special school

Governing bodies of all categories of special school and LAs for community special schools may seek to increase the number of places by following the statutory process in [part 5](#), if the increase is by:

¹ Under section 6A of Education and Inspections Act 2006

- 10%; or
- 20 pupils (five for all boarding special schools) (whichever is the lesser).

The exception to this is where a special school is established in a hospital.

Governing bodies of all categories of special school and LAs for community special schools may seek to decrease the number of pupils, by following the statutory process in [part 5](#).

The table below sets out who can propose a change in the number of pupils in a special school and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
GB foundation special	Increase by 10% or 20 pupils (5 for boarding special: or Decrease numbers	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees
GB community special	Increase by 10% or 20 pupils (5 for boarding special: or Decrease numbers	Statutory process	LA	CofE Diocese RC Diocese
LA for community special	Increase by 10% or 20 pupils (5 for boarding special: or Decrease numbers	Statutory process	LA	CofE Diocese RC Diocese

NB: the LA must make a decision within a period of two months of the end of the representation period or they must be referred to the [Schools Adjudicator](#).

Reducing pupil numbers in mainstream schools

Reductions in pupil numbers at maintained mainstream schools which result in a decrease to the Published Admission Number (PAN) are not covered by the [Prescribed Alterations Regulations](#). Where this is proposed the admissions authority (the LA in the case of community and voluntary controlled (VC) schools or the

governing body in the case of voluntary aided (VA) and foundation schools) must consult on the proposed change in accordance with [the School Admissions Code](#). Community and VC schools have the right to object to the Schools' Adjudicator if the PAN proposed is lower than they would wish.

Change of age range

For changes that are expected to be in place for more than 2 years (as these are considered permanent increases):

Local authorities can propose:

- a change of age range of up to 2 years (except for adding or removing a sixth-form) for voluntary and foundation schools by following the non-statutory process, see [part 4](#).
- a change of age range of 1 year or more for community schools (including the adding or removal of sixth-form or nursery provision) and community special schools or alter the upper age limit of a foundation or voluntary school to add sixth-form provision by following the statutory process, see [part 5](#).

Governing bodies of foundation and voluntary schools can propose

- an age range change of up to 2 years (except for adding or removing a sixth-form) by following the non-statutory process, see [part 4](#).
- an age range change of 3 years or more or alter the upper age limit of the school to add or remove sixth form provision by following the statutory process, see [part 5](#).

Governing bodies of community schools can propose the alteration of their upper age limit to add sixth-form provision following the statutory process, see [part 5](#)

Governing bodies of community special and foundation special schools can propose a change of age range of 1 year or more following the statutory process, see [part 5](#).

Where a proposed age range change would also require an expansion of the school's premises, the LA or governing body must also ensure that they act in accordance with the requirements relating to proposals for the [enlargement of premises](#).

Where a proposal seeks to change the age range of a primary school to make it an all-through (cross phase) school the proposer (as set out below) should copy the

proposal to schoolorganisation.notifications@education.gov.uk for monitoring purposes.

The table below sets out who can propose a change of age range and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for voluntary and foundation	Alteration of upper or lower age range of up to 2 years (excluding adding or removing a sixth form)	Non statutory process	LA	NA
GB of voluntary and foundation	Alteration of upper or lower age range by up to 2 years (excluding adding or removing a sixth-form)	Non statutory process	GB	N/A
GB of voluntary and foundation	Alteration of upper or lower age range by three years or more	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees
LA for community and community special	Alteration of upper or lower age range by 1 year or more (for community school including the adding or removal of sixth form or nurse provision)	Statutory process	LA	CofE Diocese RC Diocese
GB foundation special	Alteration of upper or lower age range by one year or more	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
GB community special	Alteration of upper or lower age range by one year or more	Statutory process	LA	CofE Diocese RC Diocese
LA for community	Alteration of upper age range so as to add or remove sixth-form provision	Statutory process	LA	CofE Diocese RC Diocese
LA for voluntary and foundation	Alteration of upper age range so as to add sixth-form provision.	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees
GB of voluntary and foundation	Alteration of upper age range so as to add sixth-form provision	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees
GB of community	Alteration of upper age range so as to add sixth-form provision	Statutory process	LA	CofE Diocese RC Diocese
GB of voluntary and foundation	Alteration of upper age range so as to remove sixth-form provision	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees

NB: the LA must make a decision within a period of two months of the end of the representation period or they must be referred to the [Schools Adjudicator](#).

Adding or removing a sixth-form

The department wants to ensure that all new provision is of the highest quality and provides genuine value for money. There is a departmental expectation that proposals for the addition of sixth-form provision will only be put forward for secondary schools that are rated as 'good' or 'outstanding' by Ofsted. Proposers should also consider the supply of other local post-16 provision in the area and assess if there is a genuine need for the proposal.

In deciding whether new sixth-form provision would be appropriate, proposers and decision makers should consider the following guidelines:

- the quality of pre-16 education must be good or outstanding;
- the proposed sixth-form will provide places for a minimum of 200 students;
- the proposed sixth-form will, either directly or through partnership, offer a minimum of 15 A level subjects;
- there is a clear demand for the new sixth-form (including evidence of a shortage of post-16 places and a consideration of the quality of L3 provision in the area);
- the proposed sixth-form is financially viable (there is evidence of financial resilience should student numbers fall and the proposal will not impact negatively on 11-16 education or cross subsidisation of funding).

To admit external pupils to the sixth-form a request for a variation to admission arrangements, in line with the [Schools Admissions Code](#) will be needed.

Closing an additional site

For foundation and voluntary schools that are already operating on a satellite site, governing bodies must follow the statutory process in [part 5](#), if they are proposing the closure of one or more sites where the main entrance at any of the school's remaining sites is one mile or more from the main entrance of the site which is to be closed. The LA may make such a proposal for a community school following the statutory process in [part 5](#).

The table below sets out who can propose the closure of an additional site and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for community	Closure of one or multiple sites	Statutory process	LA	CofE Diocese RC Diocese
GB voluntary or foundation	Closure of one or multiple sites	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees

NB: the LA must make a decision within a period of two months of the end of the representation period or the proposal must be referred to the [Schools Adjudicator](#) for a decision.

Transfer to a new site

Where the main entrance of the proposed new site for a school would be more than two miles from the main entrance of the current school site, or if the proposed new site is within the area of another local authority:

Local authorities can propose the transfer to an entirely new site for community schools, community special schools and maintained nursery schools following the statutory process in [part 5](#).

Governing bodies of voluntary, foundation, foundation special and community special schools can also propose a transfer to a new site following the statutory process in [part 5](#).

The table below sets out who can propose a transfer to a new site and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for community, community special and maintained nursery	Transfer to new site	Statutory process	LA	CofE Diocese RC Diocese
GB voluntary foundation or foundation special	Transfer to new site	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees
GB community special	Transfer to new site	Statutory process	LA	CofE Diocese RC Diocese

NB: the LA must make a decision within a period of two months of the end of the representation period or the proposal must be referred to the [Schools Adjudicator](#) for a decision.

Changes of category

The department has set out its intention to legislate to remove the option of making a change of category to a foundation. It is the department's view that schools considering foundation status should convert to academy status in order to gain these freedoms. Governing bodies wishing to discuss a change of category to a foundation should email schoolorganisation.notifications@education.gsi.gov.uk and a member of the school organisation team will contact them to discuss the proposed change of category.

Governing bodies of all categories of maintained schools may, exceptionally, propose to change category by following the statutory process. The [addition or removal of a foundation](#) is set out in [part 8](#).

The table below sets out who can propose a change of category and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
GB of voluntary	VC to VA VA to VC	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees
GB of voluntary	VC or VA to foundation VC or VA to foundation and acquire foundation VC or VA to foundation, acquire foundation and majority foundation governors on GB	Foundation proposals statutory process	GB	For proposals at a VA school when decided by the GB: LA CofE Diocese RC Diocese
GB of foundation	Foundation to VC or VA	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees
GB of foundation	Acquire foundation Acquire a majority of foundation governors on the GB Removal of foundation and/or reduction in majority of foundation	Foundation proposals statutory process	GB	N/A

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
	governors on GB			
GB of community	Community to VC or VA	Statutory process	LA	CofE Diocese RC Diocese
GB of community	Community to foundation Community to foundation and acquire foundation Community to foundation and acquire majority of foundation governors on GB	Statutory process	GB	N/A
GB of foundation special	Remove foundation and/or reduce majority of foundation governors on GB	Foundation proposals statutory process	GB	N/A

NB: the LA must make a decision within a period of two months of the end of the representation period or they must be referred to the [Schools Adjudicator](#).

Single sex school becoming co-educational (or vice versa)

Proposers can seek to change their school from single sex to co-educational (or vice versa) when they can show that this would better serve their local community. A co-educational school cannot change its nursery or post-16 provision to single sex.

The table below sets out who can change a school from single sex to co-educational (or vice versa) and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for community or community special	To co-ed or single sex provision	Statutory process	LA	CofE Diocese RC Diocese
GB of foundation, foundation special or voluntary	To co-ed or single sex provision	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees
GB of community special	To co-ed or single sex	Statutory process	LA	CofE Diocese

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
	provision			RC Diocese

NB: the LA must make a decision within a period of two months of the end of the representation period or they must be referred to the [Schools Adjudicator](#).

Mainstream school: establish/remove/alter SEN provision

The table below sets out who can propose to establish, remove or alter SEN provision and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for community	Establish, remove or alter SEN provision	Statutory process	LA	CofE Diocese RC Diocese
LA for voluntary and foundation	Establish or remove SEN provision	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees
GB of foundation and voluntary	establish, remove or alter SEN provision	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees

NB: the LA must make a decision within a period of two months of the end of the representation period or they must be referred to the [Schools Adjudicator](#).

Change the types of need catered for by a special school

The table below sets out who can propose a change to the type of need catered for by a special school and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for community special	change designation and categories of SEN provision	Statutory process	LA	CofE Diocese RC Diocese
LA for foundation special	change designation and categories of SEN provision	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
GB of community special	change designation and categories of SEN provision	Statutory process	LA	CofE Diocese RC Diocese
GB of foundation special	change designation and categories of SEN provision	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees

NB: the LA must make a decision within a period of two months of the end of the representation period or they must be referred to the [Schools Adjudicator](#).

Boarding provision

Local authorities can propose for:

- community schools the establishment, removal or alteration (decrease by 50 pupils or 50% whichever is the greater) of boarding provision by following the statutory process in [part 5](#).
- community special schools the establishment, removal or alteration (increase or decrease by 5 places or more where there are both day and boarding places) of boarding provision following the statutory process in [part 5](#).

Governing bodies of voluntary and foundation schools can propose the establishment or increase of boarding provision following the non-statutory process ([part 4](#)) and the removal or alteration (decrease by 50 pupils or 50% whichever is the greater) of boarding provision by following the statutory process([part 5](#)).

Governing bodies of special schools can add or remove boarding provision or where the school makes provision for day and boarding pupils can increase or decrease boarding provision by five pupils or more following the statutory process in [part 5](#).

The table below sets out who can propose to establish, change or remove boarding provision and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for community	Add, remove or change (decrease by	Statutory process	LA	CofE Diocese RC Diocese

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
	50 pupils or 50% whichever is greater) boarding provision.			
LA for community special	Add, remove or change (increase or decrease by 5 pupils or more) boarding provision.	Statutory process	LA	CofE Diocese RC Diocese
GB of foundation or voluntary	Add boarding provision.	Non-statutory process	GB	N/A
GB of foundation or voluntary	Remove or change (decrease by 50 pupils or 50% whichever is greater) boarding provision	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees
GB of foundation special	Add, remove or change (increase or decrease by 5 pupils or more) boarding provision	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees
GB of community special	Add, remove or change (increase or decrease by 5 pupils or more) boarding provision	Statutory process	LA	CofE Diocese RC Diocese

NB: the LA must make a decision within a period of two months of the end of the representation period or the proposal must be referred to the [Schools Adjudicator](#) for a decision.

Remove selective admission arrangements at a grammar school

The table below sets out who can propose the removal of selective admission arrangements² and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
GB of voluntary or foundation	Remove selective admission arrangements	Statutory process	LA	CofE Diocese RC Diocese GB / Trustees
GB of community	Remove selective admission arrangements	Statutory process	LA	CofE Diocese RC Diocese

NB: the LA must make a decision within a period of two months of the end of the representation period or the proposal must be referred to the [Schools Adjudicator](#) for a decision.

² In accordance with s.109 (1) of the School Standards and Frameworks Act 1998.

3: Contentious / controversial proposals

The department is keen to ensure that, when proposing:

- enlargement of premises;
- changes to a school's age range, and / or
- adding a sixth form.

LA's and governing bodies act reasonably, in line with the principles of public law, to ensure that the changes do not have a negative impact on the education of pupils in the area.

It is the department's expectation that, in the majority of cases, it would not be appropriate for a primary school to change its age range to meet the need for new secondary provision. Where the level of basic need is such that a new secondary school is needed, this will trigger the free school presumption process.

To enable the department to monitor potentially controversial proposals, LAs and governing bodies should notify

schoolorganisation.notifications@education.gsi.gov.uk of the publication of, any proposals which would:

- result in an [existing primary school becoming an all-through school / cross phase school](#);
- result in an [increase of over 50% in the school's capacity](#);
- [increase the school's pupil numbers to over 2,000](#);
- propose [expansion onto a separate 'satellite' site](#); or
- have received objections from the LA and / or neighbouring school that the proposed change will undermine the quality of education.

4: Changes that can be made outside of the statutory process

Local authorities and governing bodies of mainstream maintained schools can make limited changes (see [section 2](#) for the exact detail) to their schools without following a statutory process; they are nevertheless required to adhere to the usual principles of public law. They MUST:

- act rationally;
- take into account all relevant and no irrelevant considerations; and
- follow a fair procedure.

The department expects that in making these changes LA's and governing bodies will:

- liaise with the LA and trustees/diocese (as appropriate) to ensure that, a proposal is aligned with wider place planning/organisational arrangements, and that any necessary consents have been gained;
- not undermine the quality of education provided or the financial viability of other 'good' and 'outstanding' schools in the local area; or
- not create additional places in a local planning area where there is already surplus capacity in schools rated as 'good' or 'outstanding' and
- ensure open and fair consultation with parents and other interested parties to gauge demand for their proposed changes and to provide them with sufficient opportunity to give their views. The [consultation principles guidance](#) can be referenced for examples of good practice.

Before making any changes governing bodies should ensure that:

- they have consulted with the LA to ensure the proposal is aligned with local place planning arrangements
- they have secured any necessary funding;
- they have identified suitable accommodation and sites;

- they have secured planning permission and/or agreement on the transfer of land where necessary³;
- they have the consent of the site trustees or other land owner where the land is not owned by the governing body;
- they have the consent of the relevant religious authority (as required); and
- the admissions authority is content for the published admissions number (PAN) to be changed where this forms part of expansion plans, in accordance with the School Admissions Code.

Once a decision on the change has been made the proposer (i.e. LA or governing body) is responsible for making arrangements for the necessary changes to be made to the school's record in the department's [EduBase](#) system. These changes must be made no later than the date of implementation for the change.

³ Including, where necessary, approval from the Secretary of State for change to the use of playing field land under Section 77(1) of the SSFA 1998.

5: Statutory process: prescribed alterations

The statutory process for making prescribed alterations to schools has four stages:

Stage	Description	Timescale	Comments
Stage 1	Publication (statutory proposal / notice)		
Stage 2	Representation (formal consultation)	Must be at least 4 weeks	As prescribed in the 'Prescribed Alteration' regulations.
Stage 3	Decision	LA should decide a proposal within 2 months otherwise it will fall to the Schools Adjudicator.	Any appeal to the adjudicator must be made within 4 weeks of the decision.
Stage 4	Implementation	No prescribed timescale	However it must be as specified in the published statutory notice, subject to any modifications agreed by the decision-maker.

Although there is no longer a statutory 'pre-publication' consultation period for prescribed alteration changes, there is a strong expectation that schools and LAs will consult interested parties, in developing their proposal prior to publication, as part of their duty under public law to act rationally and take into account all relevant considerations. Schools will also need to ensure that they have the consent of the site trustees and other relevant religious authorities⁴ (where necessary).

When considering making a prescribed alteration change, it is best practice to take timing into account, for example:

- by holding consultations and public meetings – either formal or informal – during term time, rather than school holidays;
- plan where any public and stakeholder meetings are held to maximise response: and

⁴Including under the CoFE Diocesan Board of Education (DBE) Measure 1991-

- take into account the admissions cycle for changes that will impact on the school's admission arrangements.

A number of changes can impact on admissions, necessitating reductions in PAN, new relevant age groups for admission or the adoption of revised admission criteria. Changes to admission arrangements can be made by the admission authority in one of two ways:

- the consultation on changing the admission arrangements (as set out in the [School Admissions Code](#)) takes place sufficiently in advance of a decision on the prescribed alteration so that the change to admissions can be implemented at the same time as the proposals; or
- a variation is sought, where necessary in view of a major change in circumstances, from the [Schools Adjudicator](#) so that the changes to the admission policy can be implemented at the same time as the prescribed alteration is implemented.

Decision-makers should, so far as is possible, co-ordinate with the admission authority, if different, to ensure they avoid taking decisions that will reduce a PAN or remove a relevant age group for admission after parents have submitted an application for the following September (e.g. 31 October for secondary admissions or 15 January for primary admissions).

Publication

A statutory proposal must contain sufficient information for interested parties to make a decision on whether to support or challenge the proposed change. [Annex A](#) sets out the minimum that this should include. The proposal should be accessible to all interested parties and should therefore use 'plain English'.

Where the proposal for one change is linked to another, this should be made clear in any notices published. Where a proposal by a LA is 'related' to a proposal by other proposers (e.g. where one school is to be enlarged because another is being closed) a single notice could be published.

The full proposal must be published on a website (e.g. the school or LA's website) along with a statement setting out:

- how copies of the proposal may be obtained;
- that anybody can object to, or comment on, the proposal;
- the date that the representation period ends; and

- the address to which objections or comments should be submitted.

A brief notice (including details on how the full proposal can be accessed e.g. the website address) must be published in a local newspaper. If the proposal is published by a governing body then notification must also be posted in a conspicuous place on the school premises and at all of the entrances to the school.

Within one week of the date of publication on the website, the proposer must send a copy of the proposal and the information set out in the paragraph above to:

- the governing body/LA (as appropriate);
- the parents of every registered pupil at the school - where the school is a special school;
- if it involves or is likely to affect a school which has a religious character:
 - the local Church of England diocese;
 - the local Roman Catholic diocese; or
 - the relevant faith group in relation to the school; and
- any other body or person that the proposer thinks is appropriate.

Within one week of receiving a request for a copy of the proposal the proposer must send a copy to the person requesting it.

There is no maximum limit on the time between the publication of a proposal and its proposed date of implementation. However, proposers will be expected to show good reason (for example an authority-wide reorganisation) if they propose a timescale longer than three years.

Representation (formal consultation)

The representation period starts on the date of the publication of the proposal and must last four weeks. During this period, any person or organisation can submit comments on the proposal to the LA to be taken into account by the decision-maker. It is also good practice for representations to be forwarded to the proposer to ensure that they are aware of local opinion.

Decision

The LA will be the decision-maker in all cases except where a proposal is 'related' to another proposal that must be decided by the [Schools Adjudicator](#)⁵.

Decisions must be made within a period of two months of the end of the representation period or they must be referred to the Schools Adjudicator.

However, the body or individual that takes the decision must have regard to the statutory [guidance for decision-makers](#).

When issuing a decision, the decision-maker can:

- reject the proposal;
- approve the proposal without modification;
- approve the proposal with modifications, having consulted the LA and/or governing body (as appropriate); or
- approve the proposal – with or without modification – subject to certain conditions⁶ (such as the granting of planning permission) being met.

A proposal can be withdrawn by the proposer at any point before a decision is taken. When doing so the proposer must send written notice to the LA or the governing body (as appropriate); or the Schools Adjudicator (if the proposal has been sent to them). A notice must also be placed on the website where the original proposal was published.

Within one week of making a decision the LA must publish their decision and the reasons for it, on the website where the original proposal was published and send copies to:

- the LA (where the Schools Adjudicator is the decision-maker);
- the Schools Adjudicator (where the LA is the decision-maker);
- the governing body/proposers (as appropriate);
- the trustees of the school (if any);
- the local Church of England diocese;

⁵ For example where a change is conditional on the establishment of a new school under section 10 or 11 of EIA 2006 (where the Schools Adjudicator may be the default decision maker).

⁶ The prescribed events are those listed in paragraph 8 of Schedule 3 to the Prescribed Alterations Regulations

- the local Roman Catholic diocese;
- the parents of every registered pupil at the school – where the school is a special school; and
- any other body that they think is appropriate (e.g. other relevant faith organisation).

If the [Schools Adjudicator](#) is the decision-maker they must notify the persons above of their decision, together with the reasons, within one week of making the decision. Within one week of receiving this notification the LA must publish the decision, with reasons, on the website where the original proposal was published.

Within one week of the decision being made the proposer (i.e. governing body or LA) should make the necessary changes to the school's record in the department's [EduBase](#) system and must make the change by the date of implementation.

Rights of appeal against a decision

The following bodies may appeal to the Schools Adjudicator against a decision made by a LA decision-maker, within four weeks of the decision being made:

- the local Church of England diocese;
- the local Roman Catholic diocese; and
- the governors and trustees of a foundation, foundation special or voluntary school that is subject to the proposal.

On receipt of an appeal, an LA decision-maker must then send the proposal, representations received and the reasons for their decision to the Schools Adjudicator within one week of receipt. There is no right of appeal on determinations made by the Schools Adjudicator.

Implementation

The proposer must implement a proposal in the form that it was approved, taking into account any modifications made by the decision-maker.

Modification post determination

If it proves necessary, due to a major change in circumstance, or unreasonably difficult to implement a proposal as approved, the proposer can seek modifications

(e.g. to the implementation date) from the decision-maker before the approved implementation date. However, proposals cannot be modified to the extent that new proposals are substituted for those that have been published.

Details of the modification must be published on the website where the original proposals were published.

Revocation of proposals

If the proposer cannot implement an approved proposal because circumstances have changed so that implementation would be inappropriate or implementation of the proposal would be unreasonably difficult, the proposer must publish a revocation proposal, to be determined by the decision-maker, to be relieved of the duty to implement. A revocation proposal must contain:

- a description of the original proposal as published;
- the date of the publication of the original proposal; and
- a statement as to why the duty to implement the original proposal should not apply.

The proposer must publish the revocation proposal on the website and a brief notice of the proposal, including the website address where the proposal is published in a local newspaper. The proposal must contain details of how copies can be obtained; details of where to send comments to; and the date by which comments must be sent.

Where the proposer is the governing body it must send the revocation proposal to the LA within one week of the date of publication on the website. Where the original proposal was decided by the [Schools Adjudicator](#) the LA must refer the revocation proposal together with any comments or objections within two weeks of the end of the representation period to the Schools Adjudicator.

The LA decision-maker, who must determine the revocation proposal within two months of the end of the representation period, must arrange for the revocation determination to be published on the website where the original proposal and revocation proposal were published. The LA decision-maker must also arrange for the following persons to be notified of the revocation decision together with reasons:

- the local Church of England diocese;
- the local Roman Catholic diocese; and

- the governors and trustees of a foundation, foundation special or voluntary school that is subject to the proposal.

The same persons also have the right of appeal to the [Schools Adjudicator](#) (within four weeks of determination of the revocation proposal) if they disagree with the decision to revoke the proposal.

Land and buildings for foundation, foundation special or voluntary controlled schools

Where a LA is required to provide a site for a foundation, foundation special or voluntary controlled school, the LA must:

- transfer their interest in the site and in any buildings on the site which are to form part of the school's premises to the trustees of the school, to be held by them on trust for the purposes of the school; or
- if the school has no trustees, to the governing body, to be held by that body for the purposes of the school.

In the case of a dispute as to the persons to whom the LA is required to make the transfer, the adjudicator will make a decision.

Further details on land and buildings can be found in paragraphs 17 and 18 of Schedule 3 of the Prescribed Alteration Regulations.

6: Statutory process: foundation proposals

Changing category to foundation, acquiring a Trust and/or acquiring a foundation majority

It is the department's view that governing bodies should convert to academy status rather than change category to a foundation. Governing bodies wishing to discuss this issue should email schoolorganisation.notifications@education.gsi.gov.uk and a member of the school organisation team will contact them to discuss the proposed change of category.

A 'Trust school' is a foundation school with a charitable foundation complying with the requirements set out in SSFA 1998⁷. These include that the Trust must have a charitable purpose of advancing education and must promote community cohesion.

The term 'acquire a foundation majority' means acquiring an instrument of government whereby the school's Trust has the power to appoint a majority of governors on the governing body.

Where exceptionally a school's governing body considers changing category:

- from community, VA or VC to foundation: or
- from community special to foundation special,

acquiring a Trust and / or acquiring a foundation majority on the school's governing body, the following five-stage statutory process must be followed:

Stage	Description	Timescale	Comments
Stage 1	Initiation		The governing body considers a change of category to foundation / acquisition of a trust / acquisition of a foundation majority.
Stage 2	Publication		Having gained consent where appropriate.
Stage 3	Representation (formal consultation)	Must be 4 weeks	As set out in the prescribed alteration regulations. The LA may refer a Trust proposal to the

⁷ Section 23A.

Stage	Description	Timescale	Comments
			Schools Adjudicator during this period if it considers the proposal to have a negative effect on standards at the school.
Stage 4	Decision	The governing body must decide within 12 months of the date of publication	Unless the LA has referred the proposal to Schools Adjudicator at Stage 3.
Stage 5	Implementation	No prescribed timescale.	Must be as specified in the statutory notice, subject to any modifications agreed by the decision-maker.

Initiation

For a proposal to change the category of a school to foundation, the governing body should inform the LA in writing, at least seven days in advance of a meeting, if a motion to consult on a change of category proposal is to be discussed.

Before the governing body can publish a proposal to change category from a voluntary school to a foundation school, the existing trustees and whoever appoints the foundation governors must give their consent.

Publication

A statutory proposal must contain sufficient information for interested parties to make a decision on whether to support or challenge the proposed change. Annex B specifies the information that the statutory proposal must contain.

Where a proposal is 'related' to another proposal, details of this should be made clear in the notice.

The full proposal must be published on a website (e.g. the school or LA's website) along with a statement setting out:

- how copies of the proposal may be obtained;
- that anybody can object to, or comment on, the proposal;
- the date that the representation period ends; and

- the address to which objections or comments should be submitted.

A brief notice (including details on how the full proposal can be accessed e.g. the website address) must be published in a local newspaper, and posted in a conspicuous place on the school premises and at all of the entrances to the school.

Within one week of the date of publication on the website, the governing body must send a copy of the proposal and notification information to:

- the LA;
- the parents of every registered pupil at the school - where the school is a special school;
- if it involves or is likely to affect a school which has a religious character:
 - the local Church of England diocese;
 - the local Roman Catholic diocese; or
 - the relevant faith group in relation to the school; and
- any other body or person that the proposer thinks is appropriate.

Within one week of receiving a request for a copy of the proposal the proposer must send a copy to the person requesting it.

Representation (formal consultation)

The representation period starts on the date of the publication of the proposal and must last four weeks. During this period, any person or organisation can submit comments on the proposal to the governing body, to be taken into account when the decision is made.

During the representation period, the LA has the power to require the referral of a proposal to acquire a Trust/foundation majority to the [Schools Adjudicator](#) for decision if they consider it will have a negative impact on standards at the school. The specific circumstances in which a referral can be made are if the proposed alteration would result in a community, community special, foundation, foundation special or VC school becoming either or both: a foundation or foundation special school having a foundation; or a foundation or foundation special school whose instrument of government provides for the majority of governors to be foundation

governors. The LA does not have this power in respect of a proposal solely to change category to foundation⁸.

Where a proposal is referred to the [Schools Adjudicator](#), the governing body must forward any objections or comments it has received to the Schools Adjudicator within one week of the end of the representation period.

Decision

Unless a proposal has been referred to the Schools Adjudicator (as set out above), the governing body will be the decision-maker and must make a decision on the proposal within 12 months of the date of publication of the proposal.

Where a proposal to acquire a Trust or a foundation majority is linked to a proposal to change category to foundation, they will fall to be decided together.

When issuing a decision, the decision-maker can:

- reject the proposal;
- approve the proposal without modification; or
- approve the proposal with modifications, having consulted the LA.
- approve the proposal with or without modifications but conditional upon:
 - the making of any scheme relating to any charity connected with the school; and
 - the establishment of a foundation⁹

Where the LA has referred a proposal to acquire a Trust/foundation majority to the Schools Adjudicator for decision, any related proposal(s) (including a change of category to foundation) will also fall to be decided by the Schools Adjudicator.

Within one week of making a decision the governing body must publish a copy of the decision (together with reasons) on the website where the original proposal was published and send copies to:

- the LA
- the local Church of England diocese; and

⁸ However, where such a proposal is related to a proposal to acquire a Trust, then the whole set of proposals will be referred to the Schools Adjudicator

⁹ As defined in section 23A of the School Standards and Framework Act 1998

- the local Roman Catholic diocese.

Within one week of the decision being made the proposer (i.e. governing body or LA) should make the necessary changes to the school's record in the department's [EduBase](#) system and must make the change by the date of implementation.

Where a proposal has been decided by the governing body and is to change the category of a VA school to foundation (with or without the acquisition of a Trust/foundation majority), the following bodies have the right of appeal to the [Schools Adjudicator](#)¹⁰:

- the LA;
- the local Church of England diocese; and
- the local Roman Catholic diocese.

Implementation

The governing body must implement any approved proposal by the approved implementation date, taking into account any modifications made by the decision-maker.

Modification post determination

Modifications can be made to a proposal by the governing body after determination but before implementation.

Revocation of proposals

See the advice set out for prescribed alteration changes.

Governance and staffing issues

Schedule 4 to the Prescribed Alterations Regulations provides further information on the requirements about:

- the revision or replacement of the school's instrument of government;

¹⁰The specific circumstances in which a referral can be made are prescribed under paragraphs 15 of Schedule 1 to the Prescribed Alterations Regulations

- reconstitution or replacement of the governing body;
- current governors continuing in office;
- Surplus governors;
- transfer of staff; and
- transitional admission arrangements.

Land transfer issues

Requirements as to land transfers, when a school changes category or acquires a Trust, are prescribed in Schedule 5 to the Prescribed Alterations Regulations.

Removing a Trust and/or removing a foundation majority

There are five or six statutory stages (depending on the proposal and circumstances) to remove a Trust and/or to reduce a Trust majority. It may be triggered in two different ways – either by a majority or a minority of the governing body:

Stage	Description	Timescale	Comments
Stage 1	Initiation		<p>Majority A majority of governors considers publishing a proposal to remove a Trust/reduce the number of governors appointed by the Trust.</p> <p>or</p> <p>Minority A minority (of not less than a third of the governors) notify the clerk of the governing body of their wish to publish a proposal to remove a Trust/reduce the number of governors appointed by the Trust.</p>
Stage 2	Land Issues (applicable only to removal of Trusts)	If not resolved within 3 months, disputes must be referred to the Schools Adjudicator.	In cases of removing Trusts, the governing body, Trustees and the LA must resolve issues related to land and assets before a proposal is published.
Stage 3	Consultation	<p>Majority A minimum of 4 weeks is recommended.</p> <p>or</p> <p>Minority No consultation required.</p>	Majority It is for the governing body to determine the length of consultation.
Stage 4	Publication and representation	<p>Majority 6 week representation</p>	

Stage	Description	Timescale	Comments
		<p>period.</p> <p>or</p> <p>Minority</p> <p>Where there are no land or asset issues – publish within 3 months of receipt of notice by governing body clerk – followed by a 6-week representation period.</p> <p>Where there are land issues, publish within 1 month of receipt of School Adjudicator’s determination – followed by a 6-week representation period.</p>	
Stage 5	Decision	Within 3 months.	(A proposal initiated by a minority of governors may not be rejected unless at least two-thirds of the governing body are in favour of the rejection).
Stage 6	Implementation	No prescribed timescale,	But must be as specified in the statutory notice, subject to any modifications agreed by the decision-maker.

Initiation

A proposal for removing a Trust and/or removing a foundation majority can be triggered by:

a) a majority¹¹ of the governing body or a committee deciding to publish a proposal. The decision to publish must be confirmed by the whole governing body at a meeting held at least 28 days after the meeting at which the initial decision was made; or

¹¹ Regulation 4 of the Removal Regulations

b) at least one-third¹² of the governors requesting in writing to the clerk of the governing body, that a proposal be published. No vote of the governing body is required as they are obliged to publish a proposal. To prevent on-going challenges there are a number of prescribed circumstances¹³ in which there is no obligation to follow the wishes of the minority of governors.

All decisions must be taken in accordance with the processes prescribed in Procedures Regulations¹⁴.

Land and assets (when removing a Trust)

Before publishing proposals to remove a Trust the governing body must reach agreement with the trustees and LA on issues relating to the school's land and assets. Where such issues remain unresolved within three months of the initial decision (majority) or receipt of notice by the clerk (minority), they must be referred to the [Schools Adjudicator](#) for determination.

On the removal of the Trust, all publicly provided land held by the Trust for the purposes of the school will transfer to the governing body¹⁵. Where the land originated from private sources (for example, where land was gifted on trust), the land will transfer to the governing body in accordance with a transfer agreement, providing for consideration to be paid by the governing body to the Trust where appropriate. However, there may be land which has benefited from investment from public funds which remains with the trustees under the transfer agreement.

Alternatively, there may have been investment by trustees in the publicly provided land or from public funding in the land provided by the trustees. In either of these cases, it may be appropriate for either the trustees or the public purse to be compensated. The possibility of stamp duty land tax may also need to be taken into account.

The Schools Adjudicator will announce its determination in writing to both parties.

Consultation

Where a minority of governors initiated the process, this stage does not apply.

Where a majority of governors initiated the process, before publishing a proposal the governing body must consult:

¹² See regulation 5 of the Removal Regulations

¹³ See regulation 5(4) of the Removal Regulations

¹⁴ Except as otherwise provided by the Removal Regulations.

¹⁵ By virtue of regulation 17(1) of the Removal Regulations

- Families of pupils at the school;
- Teachers and other staff at the school;
- The trustees and, if different, whoever appoints foundation governors;
- The LA;
- The governing bodies of any other foundation or foundation special schools maintained by the same LA for which the foundation acts as a foundation;
- Any trade unions who represent school staff;
- If the school has a religious character, the appropriate diocesan authority or other relevant faith group;
- Any other person the governing body consider appropriate.

Publication

Where the decision to publish a proposal was made by a majority of governors, the governing body at this stage must decide whether to go ahead with publishing the proposal.

Where the decision to publish a proposal was made by a minority of governors and there are no land issues to be determined, the governing body must publish the proposal within 3 months of the receipt of the notice by the clerk. If land issues were referred to the [Schools Adjudicator](#), the proposal must be published within 1 month of receipt of its determination.

Proposals to remove a Trust must contain the information at Annex C. Proposals to alter the instrument of government so that foundation governors cease to be the majority of governors must contain the information at Annex D.

Representation

The representation period starts on the date of the publication of the proposal and must last six weeks. During this period, any person or organisation can submit comments on the proposal to the governing body to be taken into account when the decision is made.

Unlike the Trust acquisition process there is no power for the LA to refer to the Schools Adjudicator a proposal to remove a school's Trust or to reduce the number of governors appointed by the Trust. However, governing bodies must bear in mind

that failure to follow the requirements of the statutory process could lead to a complaint to the Secretary of State under Section 496/497 of the Education Act 1996, and/or ultimately be challenged through judicial review.

Decision

The governing body is the decision-maker for a removal proposal and must determine the proposal within 3 months of the date of its publication. Decisions must be taken in accordance with the [Decision-makers Guidance](#).

If a proposal was brought forward by a majority of governors, then it may be determined by a majority vote of those governors present¹⁶.

If a proposal was brought forward by a minority of governors, then the governing body may not reject the proposal unless two thirds or more of the governors indicate that they are in favour of its rejection¹⁷.

The governing body must notify the relevant LA and Trustees of their decision.

Within one week of the decision being made the proposer (i.e. governing body or LA) should make the necessary changes to the school's record in the department's [EduBase](#) system and must make the change by the date of implementation.

Implementation

The governing body is under a statutory duty to implement any approved proposal, as published, by the approved implementation date, taking into account any modifications made.

Removal of a Trust must be implemented in accordance with regulations 14-18, and reconstitution of the governing body must be implemented as per regulation 14-16 of the Removal Regulations.

In changing category, an implementation period begins when the proposal is decided and ends on the date the proposal is implemented. During this period the LA and governing body are required to make a new instrument of government for the school, so enough time must be built into the timeframe for this to happen. The governing body must then be reconstituted in a form appropriate to the school's new category and also in accordance with the appropriate instrument of government taking into account the [School Governance \(Constitution\) \(England\) Regulations 2012](#).

¹⁶ As per the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013

¹⁷ As per regulation 11(2) of the Removal Regulations

When removing a Trust or a Trust majority, a governor may continue as a governor in the corresponding category (e.g. staff governor, parent governor) if that category remains under the new instrument of government. A member of a current governing body who continues as a governor on these grounds holds office for the remainder of the term for which he or she was originally appointed or elected. Where a school with a religious character has no foundation, the governing body must appoint partnership governors with a view to ensuring that the religious character of the school is preserved and developed in accordance with the School Governance (Constitution) (England) Regulations 2012. There is nothing to prevent the appointment of a former foundation governor being reappointed by the governing body as a partnership governor.

The Trust of a voluntary or foundation school often makes very specific provisions regarding the conduct of the school and the use of any fund held by the Trust for the use of the school and premises. When making a proposal to change category, proposers will need to consider whether the school's current Trust allows for the change in category proposed. If in doubt, or if a variation in the Trust is clearly necessary, promoters and the relevant site trustees are advised to make early contact with the Charity Commission to apply for the trust to be varied under the relevant trust law.

Modification of proposals

Modifications can only be made to the implementation date and the proposed constitution of the governing body.

Annex A: Information to be included in a prescribed alteration statutory proposal

A statutory proposal for making a prescribed alteration to a school must contain sufficient information for interested parties to make a decision on whether to support the proposed change. A proposal should be accessible to all interested parties and therefore use 'plain English'.

Proposers will need to be mindful of the factors that will inform the decision-makers assessment when determining the proposal.

As a minimum, the department would expect a proposal to include:

- School and LA details;
- Description of alteration and evidence of demand;
- Objectives (including how the proposal would increase educational standards and parental choice);
- The effect on other schools, academies and educational institutions within the area;
- Project costs and indication of how these will be met, including how long term value for money will be achieved;
- Implementation and any proposed stages for implementation; and
- A statement explaining the procedure for responses: support; objections and comments.

Annex B: Information that must be included in foundation proposals

- a) name, address and category of the school for which the proposals are being published;
- b) implementation date;
- c) a statement of which one of, or combinations of, the prescribed alterations in regulation 3 comprise the proposals.

Where the prescribed alteration is a change of category to foundation, the proposals must contain the following information:

- a) a statement whether the school will have a foundation and if so, the name or proposed name of the foundation;
- b) where it is a change of category to foundation from a VA or VC school, a statement that, in accordance with section 20, the consent of the trustees and the persons by whom the foundation governors are appointed has been obtained; and
- c) the rationale for the change and the particular ethos that the foundation will bring to the school.

Where the prescribed alteration is the acquisition of a foundation or a relevant change at a school for which a foundation already acts, the proposals must contain the following information:

- a) name or proposed name of the foundation;
- b) details of membership of the foundation, including members names;
- c) proposed constitution of the school's governing body;
- d) foundation's charitable objects; and
- e) rationale for the alteration and the particular ethos that the foundation will bring to the school.

In addition where the relevant change relates to:

- a) a foundation school which, immediately before 25th May 2007, was a foundation school having a foundation; or
- b) a foundation school which, having been a voluntary school immediately before 25th May 2007, changed category to a foundation school on or after that date,

the proposal must include a statement that in accordance with section 20 the consent of the trustees and the persons by whom the foundation governors are appointed has been obtained.

Annex C: Information to be included in proposals to remove a Trust

All proposals must include the following information—

- The name, address and category of the school for which the governing body are publishing the proposals,
- The proposed implementation date,
- A statement explaining that any person may object to, or comment on, the proposals and the procedure for making such representations, including—
 - (i) the date pursuant to regulation 10 by which objections or comments should be sent to the governing body, and
 - (ii) the address to which objections or comments should be sent.
- Whether proposals are to be published as required by regulation 4 or under regulation 5(2).
- Information on why it is proposed to remove the school's foundation.
- Where proposals are to be published pursuant to a decision of the governing body under regulation 4, a summary of any responses to the consultation on removing the school's foundation.
- Information about the transfer of land held on trust for the purposes of the school should the proposals be approved (with or without modification), including—
 - (a) the proposed terms of any transfer agreement to be entered into in relation to the land, and
 - (b) details of any payments which will fall to be made in relation to the land—
 - (i) by the governing body or the local education authority to the trustees, or
 - (ii) by the trustees to the governing body or the local education authority.
- Confirmation that after any land transfer, the requirements of the School Premises Regulations 1999 will continue to be satisfied.
- The proposed constitution of the governing body after the foundation is removed (as will be set out in a revised draft instrument of government for the school), including an outline of the expected size and composition of the governing body after the removal of the foundation, and, where the school has a religious character, the body who it is proposed will nominate the partnership governors.

Annex D: Information to be included in proposal to reconstitute the governing body

- All proposals must include the following information—
- The name, address and category of the school for which the governing body are publishing the proposals,
- The proposed implementation date,
- A statement explaining that any person may object to, or comment on, the proposals and the procedure for making such representations, including—
 - (i) the date pursuant to regulation 10 by which objections or comments should be sent to the governing body, and
 - (ii) the address to which objections or comments should be sent.
- Whether proposals are to be published as required by regulation 4 or under regulation 5(2).
- Information on why it is proposed to alter the instrument of government so that the foundation governors cease to constitute the majority of governors.
- Where proposals are to be published pursuant to a decision of the governing body under regulation 4, a summary of any responses to the consultation on altering the instrument of government so that the foundation governors will cease to constitute the majority.
- The proposed constitution of the governing body following the reduction of the foundation governor majority, (as will be set out in a revised draft instrument of government for the school), including an outline of the expected size and composition of the governing body.

Annex E: Further Information

This guidance primarily relates to:

- [The School Organisation \(Prescribed Alterations to Maintained Schools\) \(England\) Regulations 2013](#)
- [The School Organisation \(Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations 2007](#)
- [The School Organisation \(Requirements as to Foundations\) \(England\) Regulations 2007](#)
- [The Education and Inspections Act 2006](#), as amended by the [Education Act 2011](#)
- [The School Standards and Framework Act 1998](#), as amended by the [Education Act 2002](#)

It also relates to:

- [The School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013](#) .
- [School Governance \(Constitution\) \(England\) Regulations 2012](#)
- [The School Governance \(Constitution and Federations \(England\) \(Amendment\) Regulations 2014](#)
- [The School Governance \(Miscellaneous Amendments\) \(England\) Regulations 2015](#)
- [The School Governance \(New Schools\) England Regulations 2007](#)
- [School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013](#)
- [Childcare Act 2006](#)
- [School Premises \(England\) Regulations 2012](#) .
- [Making Significant Changes to an Existing Academy \(2014\)](#);
- [Academy/Free School Presumption – departmental advice \(2013\)](#); and
- [Establishing New Maintained Schools – departmental advice for local authorities and new school proposers \(2013\)](#).
- [The Schools Admissions Code](#)

Annex F: Contact details for RSC offices

- East and North East London - RSC.EASTNELONDON@education.gsi.gov.uk
- North - RSC.NORTH@education.gsi.gov.uk
- East Midlands and Humber - EMH.RSC@education.gsi.gov.uk
- Lancashire and West Yorkshire - LWY.RSC@education.gsi.gov.uk
- South Central England and North West London - RSC.SCNWLON@education.gsi.gov.uk
- South East and South London - RSC.SESL@education.gsi.gov.uk
- South West - RSC.SW@education.gsi.gov.uk
- West Midlands - RSC.WM@education.gsi.gov.uk

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NORTHUMBERLAND

Northumberland County Council

Equality Impact Assessment

To be completed for all key changes, decisions and proposals. Cite specific data and consultation evidence wherever possible.

Further guidance is available at:

<http://www.northumberland.gov.uk/default.aspx?page=3281>

Duties which need to be considered:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- Advance equality of opportunity between people who share a protected characteristic and those who do not
- Foster good relations between people who share a protected characteristic and those who do not

PART 1 – Overview of the change, decision or proposal

Title of the change, decision or proposal:

- Proposals presented under informal consultation 13 September to 1 November 2017: The closure of St Mary's CE First School with effect from 31 August 2018 and the extension of the age range of Belford First School with effect from 1 September 2018.
- Statutory Proposals published on 14 December 2017 opening statutory consultation to midnight on 11 January 2018
- This equalities impact assessment was carried out in relation to the above proposal.

Date of equality impact assessment:

This EIA will be refreshed and updated should approval for the implementation of the Statutory Proposals be approved by Cabinet on 8 February 2018.

Brief description of the change, decision or proposal:

As provided in 1.

Name(s) and role(s) of officer(s) completing the assessment:

Lorraine Fife, School Organisation Manager

Overall, what are the outcomes of the change, decision or proposal expected to be? (E.g. will it reduce/terminate a low-priority service, maintain service outcomes at reduced cost, or change the balance of funding responsibility for a service which will remain the same?)

The request to consult on these proposals was brought forward by the Council at the request of the Governing Bodies of St Mary's CE Middle School, Belford and Belford First School. The Governing Body of St Mary's have themselves consulted on the proposed closure of the school earlier in 2017 but decided to go no further with the process after feedback from consultation suggested that a proposal which included the extension of the age range of Belford First School should be consulted on. St Mary's has had falling pupil numbers for a number of years, but in September 2017, a significant number of pupils joined the Year 7 and 8 intake of The Duchess's High School in Alnwick and only 14 pupils joined the school in Year 5, in relation to a Planned Admission Number of 30. The fall in pupil numbers is forecast to continue. St Mary's also received a letter from Ofsted in the early part of 2017 identifying them as a coasting school. With the consequential fall in budget that will result from falling pupil numbers, the school will find it difficult to address the issues that have identified them as a coasting school.

On 12 December 2017, Cabinet approved the publication of the statutory proposal to close St Mary's with effect from 31 August 2018 and to extend the age range of Belford First School from 1 September 2018.

It is envisaged that the implementation of the proposals would lead to improved outcomes for pupils in the Belford area.

If you judge that this proposal is not relevant to some protected characteristics, tick these below (and explain underneath how you have reached this judgement.

Disability Sex - **X** Race **X** Religion **X**

Sexual Orientation **X**

People who have changed gender **X** Women who are pregnant or have babies

Employees who are married/in civil partnerships **X**

The characteristics checked above are not relevant because:

Should the proposal to close St Mary's Middle be approved, all pupils who would have remained on roll at the school on 1 September 2018 had it remained open would be affected equally by the proposal. Pupils in Years 7 and 8 at this time would be offered a place at Berwick Middle School or another school according

to parental preference. Pupils in Year 6 at this time will be offered a place in Belford First School or another school according to parental preference.

Parents are also able to exercise their parental preference for another school subject to places being available in the selected alternative schools.

In the medium to long-term, there is no reason to believe that the proposed school closure would affect more positively or negatively than their peers any group of children, parents or staff defined by their gender, age, race, sexual orientation or gender-reassignment status. During the immediate process of transition, we would invite families to let us know if they are concerned about the impact that the change may have on the support networks for any individual children who may be at particular risk of harassment or discrimination.

Existing HR policies covering organisational change and redundancy would apply to staff employed at St Mary's. These are designed to ensure that the equalities duties of the Council and the schools are fully met.

PART 2 – Relevance to different Protected Characteristics

Answer these questions both in relation to people who use services and employees

Disability

Note: *“disabled people” includes people with physical, learning and sensory disabilities, people with a long-term illness, and people with mental health problems. You should consider potential impacts on all of these groups.*

What do you know about usage of the services affected by this change, decision or proposal by disabled people, about disabled people's experiences of it, and about any current barriers to access?

There is currently no evidence to suggest that any member of the community with a disability would be disproportionately impacted positively or negatively should the proposals set out in Part 1 be approved.

Any pupil, parent or member of staff in St Mary's who has a disability would not be affected by these proposals as any arrangements already in place to ameliorate such disability would be replicated at the alternative schools as required. No evidence has come to light during the consultation processes of any individual who would be categorised within this protected group, but appropriate arrangements would be made where this is necessary to avoid potential adverse impacts should the need arise.

Could disabled people be disproportionately advantaged or disadvantaged by the change, decision or proposal?

In the medium to long term, there is no reason to believe that the proposals in Part 1 would affect disabled children, staff or parents more positively or negatively than their peers. In particular, the support identified through the special educational needs system would continue to be provided to all pupils who need it.

During the immediate process of transition, we would consult families about any specific potential impacts on individuals; for instance, because of loss of support networks or the need to replicate reasonable adjustments made to accommodate disabled children, and we would ensure that appropriate individual arrangements are made where this is necessary to avoid potential adverse impacts.

Could the change, decision or proposal affect the ability of disabled people to participate in public life? (e.g. by affecting their ability to go to meetings, take up public appointments etc.)

The proposed changes would not affect any current arrangements for disabled people to participate in public life as adjustments would be made to enable access to alternative schools, should such access not already be in place.

Could the change, decision or proposal affect public attitudes towards disabled people? (e.g. by increasing or reducing their presence in the community)

There is no evidence to suggest that the proposals in Part 1 would affect public attitudes towards disabled people.

Could the change, decision or proposal make it more or less likely that disabled people will be at risk of harassment or victimisation?

There is currently no evidence to suggest that the proposed closure of the school would increase or decrease any risk of harassment or victimisation above that which may already exist to any pupil, member of staff or member of the community with a disability.

In line with current special educational needs systems, families would be consulted about any potential issues for individual children arising from the disruption of support networks during the process of transition.

If there are risks that disabled people could be disproportionately disadvantaged by the change, decision or proposal, are there reasonable steps or adjustments that could be taken to reduce these risks?

There is no evidence to suggest that there are any risks of disproportionately disadvantaging any pupils or members of staff at St Mary's or Belford First who have a disability.

Are there opportunities to create *positive* impacts for disabled people linked to this change, decision or proposal?

See para. 8 above.

Age

What do you know about usage of the services affected by this change, decision or proposal by people of different age groups, about their experiences of it, and about any current barriers to access?

St Mary's CE Middle School provides education to pupils between the age of 9 and 13. Belford First School currently provides education to pupils between the age of 2 to 9. Only pupils within these age ranges would be affected by the proposal.

Staff at St Mary's are employed equitably in accordance with the school's and council's employment policies. Should approval for closure of the school be given, suitable alternative employment for staff would be sought in accordance with the schools' and council's redeployment policies deal on an equitable basis, regardless of age.

Could people of different age groups be disproportionately advantaged or disadvantaged by the change, decision or proposal?

See para. 14. Above.

Could the change, decision or proposal affect the ability of people of different age groups to participate in public life? (e.g. by affecting their ability to go to meetings, take up public appointments etc.)

There is no evidence to suggest that the proposals would have any effect on the ability of different age groups to participate in public life more or less than already occurs. No evidence has arisen during consultation to would suggest that anyone within this protected group would be prevented from participating in public life.

Could the change, decision or proposal affect public attitudes towards people of different age groups? (e.g. by increasing or reducing their presence in the community)

There is no evidence to suggest that the proposal in Part 1 would affect public attitudes towards these pupils.

Could the change, decision or proposal make it more or less likely that people of different age groups will be at risk of harassment or victimisation?

There is no evidence to suggest that this would increase or reduce the risk of harassment or victimisation of this group of pupils when they transfer to alternative schools. The receiving schools will have anti-bullying policies in place to ensure that any harassment or victimisation of the new pupils is dealt with effectively.

If there are risks that people of different age groups could be disproportionately disadvantaged by the change, decision or proposal, are there reasonable steps or adjustments that could be taken to reduce these risks?

Refer to para. 14.

Are there opportunities to create *positive* impacts for people of different age groups linked to this change, decision or proposal?

It is believed that the learning experience of the pupils currently on roll at St Mary's would be improved by transferring them to alternative schools, as due to financial constraints caused by predicted continuing falling pupil numbers, the school would not be able to maintain its current teaching capacity in the future.

Pregnancy and Maternity

Note: the law covers pregnant women or those who have given birth within the last 26 weeks, and those who are breast feeding.

What do you know about usage of the services affected by this change, decision or proposal by pregnant women and those who have children under 26 weeks, about their experiences of it, and about any current barriers to access?

Staff at St Mary's are employed equitably in accordance with the school's and council's employment policies. Should approval for closure of the school be given under the proposals, suitable alternative employment for staff would be sought in accordance with the schools' and council's redeployment policies on

an equitable basis, including for those staff who may currently be pregnant or on maternity leave.

There is no evidence to suggest that the proposals would create any barriers to pupils accessing any of the schools impacted by the proposals who have a parent who may be pregnant or who has other children under 26 weeks old. No evidence has arisen during consultation that anyone within this protected group would be impacted by this proposal. However, appropriate individual arrangements to the extent possible would be made where this is necessary to avoid potential adverse impacts.

Could pregnant women and those with children under 26 weeks be disproportionately advantaged or disadvantaged by the change, decision or proposal?

Pupils in Years 7 and 8 residing within the St Mary's catchment would be eligible for transport to the proposed catchment school for that age group (Berwick Middle School) and to the nearest and/or nearest CE school offering education in those years. It is expected that the proposal to extend the age range of Belford First School to include years 5 and 6 would be beneficial for parents as children will be retained longer in their own community and will remain longer with younger siblings where applicable.

No evidence has been provided that the proposals in Part 1 would cause disproportionate disadvantage to a member of this protected group. However, should evidence arise, the council would use its best endeavours to the extent possible in accordance with the Admissions Policy to seek a solution that would ameliorate such disadvantage.

Could the change, decision or proposal affect the ability of pregnant women or those with children under 26 weeks participate in public life? (e.g. by affecting their ability to go to meetings, take up public appointments etc.)

There is no evidence to suggest that the proposals would affect the ability of this protected group to participate in public life under the proposals.

Could the change, decision or proposal affect public attitudes towards pregnant women or those with children under 26 weeks? (e.g. by increasing or reducing their presence in the community)

There is no evidence to suggest that the proposals would have any effect on public attitudes to this protected group under the proposals.

Could the change, decision or proposal make it more or less likely that pregnant women or those with children under 26 weeks will be at risk of harassment or victimisation?

There is no evidence to suggest that the proposal would make it more or less likely that this protected group would be at risk of harassment or victimisation under the proposals.

If there are risks that pregnant women or those with children under 26 weeks could be disproportionately disadvantaged by the change, decision or proposal, are there reasonable steps or adjustments that could be taken to reduce these risks?

There is no evidence to suggest that the protected group would be disproportionately disadvantaged by the proposals under the proposals.

Are there opportunities to create *positive* impacts for pregnant women or those with children under 26 weeks linked to this change, decision or proposal?

See para. 22.

Human Rights

Could the change, decision or proposal impact on human rights? (e.g. the right to respect for private and family life, the right to a fair hearing and the right to education)

There is no evidence to suggest that the proposals would impact positively or negatively on the human rights of any of the protected groups identified within this EIA.

PART 3 – Course of Action

28. Based on a consideration of all the potential impacts, tick one of the following as a summary of the outcome of this assessment:

X	The equality analysis has not identified any potential for discrimination or adverse impact and all opportunities to promote equality have been taken.
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29. Explain how you have reached the judgement ticked above, and summarise any steps which will be taken to reduce negative or enhance positive impacts on equality.

From the initial analysis of the possible negative or positive impact of the proposal on groups with protected characteristics, there is no evidence to suggest that any of these groups would be disproportionately disadvantaged or advantaged by the proposal. Should a Statutory Proposal be approved for publication, the EIA would be reviewed to ensure that if any evidence arises that there could be possible negative impacts, those risks would be analysed to establish whether or not there were certain risks to any or all of those groups. Steps to reduce negative impacts or enhance positive impacts would then be defined.

PART 4 - Ongoing Monitoring

What are your plans to monitor the actual impact of the implementation of the change, decision or proposal on equality of opportunity? (include action points and timescales)

This EIA has produce following the informal consultation period. Should Cabinet approve the implementation of these proposals, an action plan with timescales will be developed.

PART 5 - Authorisation

Name of Head of Service and Date Approved

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Once completed, send your full EIA to: Irene.Fisher@northumberland.gov.uk. A summary will then be generated corporately and published to the Council's website.