



# Northumberland County Council

## CABINET

Date: 14 June 2018

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### Northumberland Draft School Organisation Plan

Report of Cath McEvoy, Executive Director of Children's Services

Cabinet Member: Councillor Wayne Daley, Children's Services

Report prepared by Sue Aviston, Head of School Organisation and Resources

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#### **Purpose of report**

This report requests Cabinet to review the draft School Organisation Plan for Northumberland and approve the publication of the plan in July 2018, subject to seeking comments from schools and other partners.

The report also outlines the results of the statutory consultation processes for the expansion of The Dales School in Blyth (through the creation of a satellite school in Ashington) and of Hexham Priory School on proposals to increase the number of places available for children and young people with Special Educational Needs in the county. Cabinet are asked to formally approve the proposed increases in places at these schools.

#### **Recommendations**

##### **It is recommended that Cabinet:**

##### **1) Note:**

- the content of the draft School Organisation Plan and its purpose;
- that the School Organisation Plan would be effective from 2018 to 2021, but would be refreshed on an annual basis to reflect changed data and school circumstances.
- that the School Organisation Plan will be circulated to schools and other partners for comment before publication in July 2018 if approved;
- the feedback from the formal consultations on the proposals to;
  - Expand The Dales School in Blyth by creating an additional 50 places on a satellite site in Ashington to be called Ashdale;
  - Expand Hexham Priory School to accommodate a further 32 places at its site in Hexham.

**2) Approve:**

- the publication of the School Organisation Plan in July 2018 (subject to comment as noted in Recommendation 1);
- the proposal to expand The Dales School in Blyth by 50 places for children and young people with Special Educational Needs via the creation of the satellite Ashdale site in Ashington, but with a modification of the implementation date to 1 December 2018 in the light of necessary adjustments to the project timeline. The Governing Body of The Dales School would be consulted with regard to this proposed modification.
- the proposal to expand the building of Hexham Priory School to provide suitable accommodation for another 32 places children and young people with Special Educational Needs but with a modification of the implementation date to 1 November 2018 in the light of necessary adjustments to the project timeline. The Governing Body of Hexham Priory School would be consulted with regard to this proposed modification.

**3) When deciding whether or not to approve the Statutory Proposals for The Dales School and Hexham Priory School in Recommendation 2), take into account:**

- The Department for Education's (DfE) 'Guidance for decision-makers: Statutory guidance for decision-makers deciding prescribed alteration and establishment and discontinuance proposals, April 2016' and the 'Making 'prescribed alterations' to maintained schools; Statutory guidance for proposers and decision makers April 2016' attached to this report at Appendix 5a and Appendix 5b respectively.

**4) Note:**

The impact of the proposals to expand The Dales and Hexham Priory Schools is set out in the relevant Statutory Proposals attached at Appendices 2 and 3 of this report.

**Key issues**

Draft School Organisation Plan

1. The publication of a School Organisation Plan has not been a statutory requirement for local authorities since circa 2009. However, many other local authorities continue to provide a School Organisation Plan in order to bring together key school place planning data and information in one document.
2. It is believed the provision of a School Organisation Plan for Northumberland, covering a 3-year planning period, would assist schools, parents and partners to understand how the availability of school places in the county are monitored, how the need for additional school places is identified and, where necessary, how additional places may be delivered and funded within relevant school partnerships.
3. Furthermore, much of the information set out in the draft School Organisation Plan is required in any event by the DfE on an annual basis through their school place

data collection process (SCAP), and is used to inform the need for places across the country and the allocation of Basic Need capital funding.

4. The draft School Organisation Plan 2018-2021 forms Appendix 1 of this report and may be accessed separately via the link provided in the Appendices list . It sets out the context of Northumberland with regard to its size, demographics and issues related to rurality. It also provides information regarding schools included within each partnership and where additional school places will be required within the pupil forecast period, currently up to 2026.
5. The School Organisation Plan will be refreshed annually in the light of new data or changes in school circumstances, e.g. school reorganisations, conversions to academy status, mergers or closures.
6. Cabinet is requested to approve the publication of the School Organisation Plan 2018-21 in July 2018, subject to any comments from schools and partners.

#### Statutory Proposals for the expansion of The Dales School, Blyth and Hexham Priory School

7. In the Executive Director of Children's Services Report to Cabinet of 10 April 2018, 'Outcomes of the Special Educational Needs & Disability Strategy and Capacity Consultation', Cabinet were informed of the increase in numbers of children and young people who have autism and social, emotional and mental health needs in Northumberland over the last four years i.e. 32% rise in numbers at the county's special schools between 2013 and 2017.
8. Cabinet were also informed that a key objective arising from the outcomes the consultation on the draft SEND Strategy for the county was to reverse the trend of sending more children and young people with special educational needs out of the county by increasing capacity within Northumberland.
9. Part of the strategy to increase capacity is the proposal to expand The Dales School in Blyth (through the addition of 50 places to be created at a satellite site at the former Ashington High School Annex in Ashington) and to expand Hexham Priory School to accommodate an additional 32 places at its site in Hexham. Cabinet gave their approval to publish statutory proposals in relation to these proposals at their meeting on 10 April 2018.
10. The Statutory Proposal for the expansion The Dales School was published on 26 April and opened up a 4 week statutory consultation period until midnight on 24 May 2018. No representations were received by the Executive Director for Children's Services relating to this proposal during the statutory period.
11. The implementation date for the creation of the additional places at The Dales School and Hexham Priory School proposed within the statutory proposals was 1 September 2018 respectively. However, due to unforeseen circumstances, it has been necessary to amend the project timeline for completion of the works required to be undertaken at the proposed satellite site at the former Ashington High School Annex (to be called 'Ashdale') and at the Hexham Priory site. Cabinet is therefore requested to approve the implementation of the proposals to expand The Dales

School and Hexham Priory School, but to modify the proposal with respect to The Dales to an amended implementation date of 1 December 2018 and to modify the proposal with respect to the expansion of Hexham Priory to an amended implementation date of 1 November 2018.

12. The Statutory Proposal for the expansion of Hexham Priory was published on 27 April 2018 and opened up a 4 week statutory consultation period until midnight on 25 May 2018. One representation was received from a parent of a child on roll at Hexham Priory, simply stating that he supported the proposal during the statutory period. This is provided at Appendix 4.
13. In light of the results of the statutory period, Cabinet is requested to approve the implementation of the statutory proposal to expand Hexham Priory School to accommodate an additional 32 places with effect from 1 November 2018 and to approve the implementation of the statutory proposal to expand The Dales School, Blyth via the addition of a satellite site at the Former Ashington High School Annex in Ashington with effect from 1 December 2018.
14. The implications of the implementation of the statutory proposals to expand The Dales School and Hexham Priory School are set out in the Background to this report.

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# Proposed expansion of The Dales School and Hexham Priory School

## **Background**

### Admission Arrangements and pupil transition

15. Following completion of the necessary works to expand The Dales School and Hexham Priory School, pupils will be allocated to the newly created places in a phased way over time. There will be no change to the current admissions arrangements at the school. There may be some movement of pupils between The Dales site in Blyth and the satellite site at Ashdale, but this will be based on need and not a regular occurrence. The leadership team and staff employed by The Dales will work across both sites, allowing for the possibility of whole school activities where appropriate. The Governing Body will take on governance responsibility for the Ashdale site.

### Early Years Provision

16. There will be no impact on the current level of early years provision at either The Dales School or Hexham Priory School as a result of the expansion of the schools.

### Timeline for implementation

17. It is proposed that the date of the implementation of the expansion of The Dales School be modified to 1 December 2018 and the date of the implementation of the expansion of Hexham Priory School be modified to 1 November 2018 for the reasons stated at para. 10.

### Implications for Staff

18. As a result of the increase in numbers of children and young people at The Dales School and Hexham Priory School should expansion be approved, there will be a need for the Governing Body to consider whether additional staff will be required.

### Impact on the Community

19. There is no anticipated negative impact on the community as a result of the proposal to expand The Dales School, as the site of the proposed Ashdale site is The Former Ashington High School Annex and has existed as an educational institution for many years.
20. There is no anticipated negative impact on the community as a result of the proposal to expand Hexham Priory School.

21. No responses have been received from members of the community in Ashington, Blyth or Hexham in relation to these proposals.

### Transport

22. If approved, the additional places created at The Dales School and Hexham Priory School would enable more children and young people to be educated if not within, then closer to their own communities. An added benefit of this would be a saving to the Council's Home to School Transport budget.

### Implications for school buildings

23. The capital works to be carried out at the Former Ashington High School Annex to accommodate up to 50 children and young people with special educational needs would necessitate total funding of £1.917m, to be sourced from the Council's MTP (£1.286m) and the Council's Schools Capital Improvement Programme (£631k).
24. The capital works to be carried out at Hexham Priory School to accommodate a further 32 children and young people would require total funding of £ 1.173m to be sourced from the Council's MTP.

### Sport and Recreation

25. There are no implications for Sport and Recreation arising from the proposed expansions of The Dales School and Hexham Priory School as provision is being increased, not reduced.

## **BACKGROUND PAPERS**

Report of the Executive Director of Children's Services, 10 April 2018

## **IMPLICATIONS ARISING OUT OF THE REPORT**

<b>Policy:</b>	The publication of a School Organisation Plan and the proposals to expand the number of places at The Dales School and Hexham Priory School are consistent with the Council's corporate policy "We want you to achieve and realise your potential".
<b>Finance and value for money</b>	Refer to para. 23 Transport and para. 24 Implications for School Buildings.

<b>Human Resources:</b>	There may be a need for the respective Governing Bodies of The Dales School and Hexham Priory School to employ additional staff as a result of the increased intake of the schools.
<b>Property</b>	Refer to 'Finance and value for money' above.
<b>Equalities</b>	Should Cabinet approve the publication of the draft School Organisation Plan, an Equalities Impact Assessment will be carried out concurrently with the circulation of the plan to schools and partnership. An Equalities Impact Assessment for the proposals to increase places at The Dales School and Hexham Priory School are included at Appendix 6a and 6b of this report.
<b>Risk Assessment</b>	A full risk assessment will be carried out in relation to the capital projects for The Dales and Hexham Priory.
<b>Carbon Reduction</b>	It is not envisaged that this proposal will have a significant positive or negative impact on carbon reduction.
<b>Crime &amp; Disorder</b>	This report has considered Section 17 (CDA) and the duty it imposes and there are no implications arising from it.
<b>Customer Considerations:</b>	The proposals set out in this report are based on the best educational interests of children and young people in Northumberland.
<b>Consultation</b>	This report has been considered by the Cabinet Member for Children's Services and the Chief Legal Officer.
<b>Wards</b>	All

## **Report sign off**

Finance Officer	SD
Monitoring Officer/Legal	LH
Human Resources	n/a
Procurement	n/a
I.T.	n/a
Executive Direct of Children's Service	CM
Portfolio Holder	WD

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## **Appendices**

Appendix 1 - [Draft School Organisation Plan](#)

Appendix 2 - Statutory Proposal for The Dales School, Blyth

Appendix 3 - Statutory Proposal for Hexham Priory School

Appendix 4 - Representation received in relation to the statutory proposal for Hexham Priory School during the 4 week statutory period

Appendix 5a - DfE 'Guidance for decision-makers Statutory guidance for decision-makers deciding prescribed alteration and establishment and discontinuance proposals, April 2016'

Appendix 5b DfE - 'Opening and closing maintained schools; Statutory guidance for proposers and decision makers April 2016'

Appendix 6a - Equalities Impact Assessment of the proposal to expand The Dales School, Blyth

Appendix 6b - Equalities Impact Assessment of the proposal to expand Hexham Priory School



**NORTHUMBERLAND COUNTY COUNCIL****STATUTORY PROPOSAL FOR THE DALES SCHOOL, BLYTH**

In accordance with Section 19(1) of the Education and Inspections Act 2006, Northumberland County Council, County Hall, Morpeth, Northumberland NE61 2EF intends to make the following prescribed alteration to the school below:

**Increase in number of pupils**

- **The Dales School, Cowpen Road, Blyth, Northumberland, NE24 4RE**

by increasing the number of funded places on the school roll from 89 to 139. This increase would be achieved through the expansion of the school onto a satellite site at the following location with effect from 1 September 2018;

The Former Ashington High School Annex  
Darnley Road  
Ashington  
Northumberland  
NE63 8DY

- The number of funded places at the school is 89. The number of funded places proposed for the school is to be 139 across the two sites named above.
- There would be no change to the type of need catered for at The Dales School as a result of the above proposal.

The Dales School is a local authority maintained special school.

**Contact Details**

Copies of this proposal may be obtained from:

School Organisation Team  
Northumberland County Council  
County Hall  
Morpeth  
Northumberland  
NE61 2EF

and from the Council's website at [www.northumberland.gov.uk/schoolconsultations](http://www.northumberland.gov.uk/schoolconsultations)

**Implementation**

The Dales School is proposed to increase its pupil numbers with effect from 1 September 2018. The school would admit additional pupils onto the school roll at the new site at the Former Ashington High School Annex in a phased way with effect from 1 September 2018.

## Objectives

The objectives of this proposal are to:

Increase the number of pupils:-

- It is proposed to increase the number of funded places on the school roll of The Dales School from 89 to 139. This increase would be achieved through the expansion of the school onto a satellite site located at the Former Ashington High School Annex, Darnley Road, Ashington, Northumberland, NE63 8DY with effect from 1 September 2018.

## Reasons for proposal

There has been an increase in the number of children and young people in Northumberland who have Autism, social emotional and mental health needs and this has resulted in the number of pupils on roll at the county's 8 maintained special schools rising by 32% between 2013 and 2017. The additional 50 places at The Dales School would assist in addressing the pressure on places for children and young people these needs. This would also assist in achieving the Council's objective of creating additional specialist education places to enable more children and young people to be educated within their communities.

The Dales is a very popular and successful school with an outstanding Ofsted rating. There would be no change to the current admissions arrangements at the school. There may be some movement of pupils between The Dales site in Blyth and the satellite site at the Former Ashington High School Annex (to be called Ashdale), but this would be based on need and not a regular occurrence. The leadership team and staff employed by The Dales would work across both sites, allowing for the possibility of whole school activities where appropriate. The Governing Body would take on governance responsibility for the Ashdale site.

## Effect on other schools, academies and educational institutions in the area

It is not envisaged that there would be an impact on any other schools, special schools or educational institutions in Northumberland or neighbouring authorities as a result of this proposal.

## Project Costs and Proposed Stages for Implementation

Should this Statutory Proposal be approved for implementation, there would be a need to carry out building works to facilitate the changes. The total cost of funding the capital work The Former Ashington High School Annex site is £1,917m from the following funding source.

Funding Source	Contribution
Council's Medium Term Plan	£1.286m
Council's School Capital Improvement Programme	£631k

### **Pupil Numbers and Admissions**

There are currently 95 pupils on roll at the Dales School; 6 of these places are as a result of top up funding above the 89 funded places. The age range of the school is 2 to 11 and it provides education to both girls and boys.

### **Timeline for Implementation**

To facilitate the above proposal, it is proposed that The Dales School would admit additional pupils onto the roll of the school in a phased way from 1 September 2018 subject to finalisation of the buildings programme at The Former Ashington High School Annex.

### **Impact on the Community**

There is no anticipated impact on the community as a result of this Statutory Proposal. The Former Ashington High School Annex has been in existence as an educational institution for many years.

### **Balance of denominational provision**

There would be no impact on the balance of denominational provision as a result of the implementation of this proposal.

### **Rural Primary Schools**

The Dales School is not a designated rural school as stated on the Department for Education's '[List of designated rural primary schools 2016](#)' and in any event is not proposed for closure under this proposal.

### **Maintained nursery schools**

The Dales School is an age 2 to 11 Special School and nursery provision would not be impacted as result of this proposal.

### **Provision for 16-19 year olds**

N/A - The Dales School is an age 2 to 11 Special School and does not provide secondary education.

### **Special educational provision**

The Dales School is a special school providing education to children aged 2 to 11 with Speech, language and Communication, Autistic Spectrum Disorder and Social, Emotional and Mental Health needs. There would be no change to the type of need catered for at The Dales School as a result of this proposal.

### **Travel**

The creation of additional places at The Dales School at the proposed satellite site in Ashington will increase specialist education places in the local area, reducing the need for children and young people to travel longer distances to provision outside of their local communities in Northumberland. This could also result in a reduction on the Special Educational Needs Transport budget.

### **Consultation**

Northumberland County Council undertook an informal consultation on the current Vision and Strategy for meeting the needs of children and young people with SEND (Special Educational Needs and Disabilities). A further aim of the consultation was to seek views on options to increase the capacity of schools and educational provision to meet the needs of the growing number of children and young people with SEND across Northumberland. The outcomes of this consultation are set out in Report of the Executive Director of Children's Services 10 April 2018 available on the Council's website at

<http://committee.northumberland.gov.uk/Meeting.aspx?MeetID=7796>

### **Submission of Objections and Comments on Proposals**

Within four weeks after the date of publication of these proposals (**i.e. by midnight on Thursday 24 May 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](mailto:Lorraine.Fife@northumberland.gov.uk).**

Signature

Publication Date: 26 April 2018

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

**NORTHUMBERLAND COUNTY COUNCIL****STATUTORY PROPOSAL FOR HEXHAM PRIORY SCHOOL, HEXHAM**

In accordance with Section 19(1) of the Education and Inspections Act 2006, Northumberland County Council, County Hall, Morpeth, Northumberland NE61 2EF intends to make the following prescribed alteration to the school below:

**Increase in number of pupils through enlargement of the premises**

- **Hexham Priory School, Corbridge Road, Hexham, Northumberland, NE46 1UY** by increasing the number of places available on the school roll from 80 to 112 with effect from 1 September 2018. This increase would be achieved through the enlargement of the current premises of the school.
- There would be no change to the type of need catered for at Hexham Priory School as a result of the above proposal.

Hexham Priory School is a local authority maintained community special school.

**Contact Details**

Copies of this proposal may be obtained from:

School Organisation Team  
Northumberland County Council  
County Hall  
Morpeth  
Northumberland  
NE61 2EF

and from the Council's website at [www.northumberland.gov.uk/schoolconsultations](http://www.northumberland.gov.uk/schoolconsultations)

**Implementation**

Hexham Priory School is proposed to increase its capacity with effect from 1 November 2018. The school would admit additional pupils onto the school roll in a phased way with effect from 1 November 2018.

**Objectives**

The objectives of this proposal are to:

Increase the number of pupils through enlargement of the school premises:-

- It is proposed to increase the capacity of the Hexham Priory School from 80 to 112. This increase would be achieved through the enlargement of the school on its current site with effect from 1 November 2018.

### Reasons for proposal

Hexham Priory School in the west of Northumberland currently has 90 pupils on roll aged between 2 and 19 with Autistic Spectrum Disorder, Multi-Sensory Impairment, Severe Learning Difficulties and Profound and Multiple Learning Difficulties. The school is currently operating at above its physical capacity of 80 places in order to accommodate local children who require specialist education facilities. This has resulted in the loss of amenity of some rooms including the loss of the Young Enterprise scheme, the Arts Award programme and the loss of 'messy play' provision within the 'Discovery Room'. Current pupil number projection data indicates that the population of school aged children with profound and multiple needs in the west of the county is forecast to continue to rise: Historical Number on Roll (NOR) at Hexham Priory School: January 2013: 61 January 2014: 65 January 2015: 77 January 2016: 78 January 2017: 89 June 2017: 92 7. This indicates a 50.8 per cent increase in the NOR within the last 5 years. Although precise forecasts are difficult, within Hexham Priory School's catchment area, there are approximately 5 pre-school learners and 5 school aged admissions per year and as a consequence the school is forecast to grow at an average of 5 pupils/year until it peaks at 150. It should be noted that the increased need for provision is driven by a more complex generation of learners. The projected pupil numbers for Hexham Priory School are as follows;

2017-18: 95  
2018-19: 100  
2019-20: 105

Hexham Priory School is a very popular and successful school with an outstanding Ofsted rating. There would be no change to the current admissions arrangements at the school.

### Effect on other schools, academies and educational institutions in the area

It is not envisaged that there would be an impact on any other schools, special schools or educational institutions in Northumberland or neighbouring authorities as a result of this proposal.

### Project Costs and Proposed Stages for Implementation

Should this Statutory Proposal be approved for implementation, there would be a need to carry out building works resulting in enlargement of Hexham Priory School to facilitate the changes. The total cost of funding the capital works at the school site is £1,173,717 from the following funding source.

Funding Source	Contribution
Council's Medium Term Plan	£ 1,173,717

### **Pupil Numbers and Admissions**

There are currently 90 pupils on roll at Hexham Priory School. The age range of the school is 2 to 19 and it provides education to both girls and boys.

### **Timeline for Implementation**

To facilitate the above proposal, it is proposed that Hexham Priory School would admit additional pupils onto the roll of the school in a phased way from 1 November 2018 subject to finalisation of the buildings programme.

### **Impact on the Community**

There is no anticipated impact on the community as a result of this Statutory Proposal and no response was received from members of the community during consultation stating that there would be an adverse impact on the community.

### **Balance of denominational provision**

There would be no impact on the balance of denominational provision as a result of the implementation of this proposal.

### **Rural Primary Schools**

Hexham Priory School is not a designated rural school as stated on the Department for Education's '[List of designated rural primary schools 2017](#)' and in any event is not proposed for closure under this proposal.

### **Maintained nursery schools**

Hexham Priory School is an age 2 to 19 Special School and nursery provision would not be impacted as result of this proposal.

### **Provision for 16-19 year olds**

N/A – Hexham Priory School is an age 2 to 19 Special School and does not provide secondary education.

### **Special educational provision**

Hexham Priory School is a special school providing education to children aged 2 to 19 with Autistic Spectrum Disorder, Multi-Sensory Impairment, Severe Learning Difficulties and Profound and Multiple Learning Difficulties. There would be no change to the type of need catered for at Hexham Priory School as a result of this proposal.

### **Travel**

The creation of additional places at Hexham Priory School through enlargement of the premises would increase specialist education places in the local area, reducing the need for children and young people to travel longer distances to provision outside of their local communities in Northumberland. This could also result in a reduction on the Special Educational Needs Transport budget.

### **Consultation**

Northumberland County Council undertook an informal consultation on the current Vision and Strategy for meeting the needs of children and young people with SEND (Special Educational Needs and Disabilities). A further aim of the consultation was to seek views on options to increase the capacity of schools and educational provision to meet the needs of the growing number of children and young people with SEND across Northumberland. The outcomes of this consultation are set out in Report of the Executive Director of Children's Services 10 April 2018 available on the Council's website at

<http://committee.northumberland.gov.uk/Meeting.aspx?MeetID=7796>

Furthermore, on 25 January 2018 a consultation event was held at Hexham Priory School on the proposal to increase the capacity at the school by 32 places by enlargement of the school's building took place on January 25 2018 at the school and 25 consultees attended, including parents and staff.

### **Submission of Objections and Comments on Proposals**

Within four weeks after the date of publication of these proposals (**i.e. by midnight on Friday 25 May 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](mailto:Lorraine.Fife@northumberland.gov.uk).

Signature

Publication Date: 27 April 2018

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



**Representation received in relation to the statutory proposal for Hexham Priory  
School during the 4 week statutory period**

Representation - Parent of child attending Hexham Priory School

*Dear Lorraine*

*I am fully supportive of this proposal.*

XX

# **Guidance for decisionmakers**

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

**April 2016**

# Contents

1: Summary	4
About this guidance	4
Review date	4
Who is this guidance for?	4
Main points	4
2: Factors relevant to all types of proposals	6
Related proposals	6
Conditional approval	6
Publishing decisions	6
Consideration of consultation and representation period	7
Education standards and diversity of provision	7
A school-led system with every school an academy,	7
Demand v need	7
School size	8
Proposed admission arrangements	8
National Curriculum	8
Equal opportunity issues	8
Community cohesion	9
Travel and accessibility	9
Funding	9
School premises and playing fields	10
3: Factors relevant to prescribed alteration proposals:	11
Enlargement of premises	11
Expansion of existing grammar schools	12
Changes to boarding provision	12
Addition of post-16 provision	12
Changes of category to voluntary-aided	13
Changes to special educational need provision	13
4: Factors relevant to establishment proposals	15
Suitability	15
The free school presumption	15
New schools through a competition	15
New schools outside competition	16
Independent faith schools joining the maintained sector	16
5: Factors relevant to discontinuance (closure) proposals	17
Closure proposals (under s15 EIA 2006)	17
Schools to be replaced by a more successful/popular school	17
Schools causing concern	17
Rural schools and the presumption against closure	17
Early years provision	18
Nursery schools and the presumption against closure	18

Balance of denominational provision	18
Community Services	19
6: Factors relevant to proposals to change category to foundation	20
Standards	20
Community Cohesion	21
New Trust schools Acquiring a Trust	21
Adding or removing a Trust	21
Suitability of partners	22
Removing a Trust / foundation majority	22
Annex A: Further Information	24

# 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](mailto: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 events<sup>[1]</sup>. 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](mailto: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 decisionmaker 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 reasons<sup>2</sup>:

- the LA (where the [Schools Adjudicator](#) or governing body 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;
- any other organisation that they think is appropriate; and
- the Secretary of State via [schoolorganisation.notifications@education.gsi.gov.uk](mailto: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 decisionmaker 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 community<sup>[2]</sup>.

## **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:

- 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 area<sup>[3]</sup>).

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?

## Expansion of existing grammar schools

Legislation prohibits the establishment of new grammar schools<sup>[4]</sup>. 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:

- 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. Decisionmakers 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 balance 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 decisionmaker 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 area<sup>6</sup>. 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.

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 decisionmaker should have regard to the department's register of schools – EduBase<sup>[5]</sup> 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 preschool 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.

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](mailto: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 duty<sup>[6]</sup> 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 decisionmaker 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 certificate<sup>[7]</sup>; 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?
- 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](#)<sup>10</sup>;
- [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

<sup>10</sup> Appearance on this database should not automatically disqualify a potential Trust member; decisionmakers 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.](#)

Notes:

[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).<sup>2</sup> 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).

[2] Under sections: 90, 91,92 and 93 of the of the Education Act 2002.

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

[4] Except where a grammar school is replacing one of more existing grammar schools.

[5] 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.

[6] Under section 23(A)6 of the EIA 2006

[7] Under section 113A of the Police Act 1997

# **Making ‘prescribed alterations’ to maintained schools**

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

**April 2016**

# Contents

1: Summary	
About this guidance	5
Review date	5
Who is this guidance for?	5
Main points	6
2: Prescribed alteration changes	7
Enlargement of premises	7
Expansion onto an additional site ('or satellite sites')	8
Reducing pupil numbers in mainstream schools	10
Change of age range	11
Adding or removing a sixth-form	13
Closing an additional site	14
Transfer to a new site	15
Changes of category	16
Single sex school becoming co-educational (or vice versa)	17
Mainstream school: establish/remove/alter SEN provision	18
Change the types of need catered for by a special school	18
Boarding provision	19
Remove selective admission arrangements at a grammar school	21
3: Contentious / controversial proposals	22
4: Changes that can be made outside of the statutory process	23
5: Statutory process: prescribed alterations	25
Publication	26
Representation (formal consultation)	27
Decision	28
Rights of appeal against a decision	29
Implementation	29
Modification post determination	29
Revocation of proposals	30
Land and buildings for foundation, foundation special or voluntary controlled schools	31
6: Statutory process: foundation proposals	32
Changing category to foundation, acquiring a Trust and/or acquiring a foundation majority	32
Initiation	33
Publication	33
Representation (formal consultation)	34
Decision	35
Implementation	36
Modification post determination	36
Revocation of proposals	36
Governance and staffing issues	36
Land transfer issues	37
Removing a Trust and/or removing a foundation majority	38
Initiation	39
Land and assets (when removing a Trust)	40
Consultation	40
Publication	41
Representation	41
Decision	42

Implementation	42
Modification of proposals	43
Annex A: Information to be included in a prescribed alteration statutory proposal	44
Annex B: Information that must be included in foundation proposals	45
Annex C: Information to be included in proposals to remove a Trust	46
Annex D: Information to be included in proposal to reconstitute the governing body	47
Annex E: Further Information	48
Annex F: Contact details for RSC offices	49

# 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.notrifications@education.gsi.gov.uk](mailto:schoolorganisation.notrifications@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](mailto: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](mailto: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 needed 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 must<sup>[1]</sup> 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](mailto: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:

- 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 sixthform) 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](mailto: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	Decisionmaker	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	Decisionmaker	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 sixthform 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	Decisionmaker	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	Decisionmaker	Right of appeal to the adjudicator
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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](mailto: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 6](#).

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

Proposer	Type of proposal	Process	Decisionmaker	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	Decisionmaker	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
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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 coeducational 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	Decisionmaker	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	Decisionmaker	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	Decisionmaker	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	Decisionmaker	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	Decisionmaker	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	Decisionmaker	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	Decisionmaker	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 arrangements<sup>[2]</sup> and what process must be followed:

Proposer	Type of proposal	Process	Decisionmaker	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.

### 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.

LAs 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](mailto: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 necessary<sup>[3]</sup>;
- 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.

## 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 authorities<sup>[4]</sup> (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
- 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](#)<sup>[5]</sup>.

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 conditions<sup>[6]</sup> (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;  
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](mailto: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 1998<sup>[7]</sup>. 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

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 foundation<sup>[8]</sup>.

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 foundation<sup>[9]</sup>

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
- 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](#)<sup>10</sup>:

- 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 decisionmaker.

## 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;

<sup>10</sup> The 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><b>Majority</b></p> <p>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><b>Minority</b></p> <p>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><b>Majority</b></p> <p>A minimum of 4 weeks is recommended.</p> <p>or</p> <p><b>Minority</b></p> <p>No consultation required.</p>	<p><b>Majority</b></p> <p>It is for the governing body to determine the length of consultation.</p>
Stage 4	Publication and representation	<p><b>Majority</b></p> <p>6 week representation</p>	
Stage	Description	Timescale	Comments
		<p>period. or</p> <p><b>Minority</b></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 majority<sup>[10]</sup> 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
- b) at least one-third<sup>[11]</sup> 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 circumstances<sup>[12]</sup> 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 Regulations<sup>[13]</sup>.

## 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 body<sup>[14]</sup>. 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:

- 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 present<sup>[15]</sup>.

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 rejection<sup>[16]</sup>.

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](#).

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

[1] Under section 6A of Education and Inspections Act 2006

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

[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

[4] Including under the CofE Diocesan Board of Education (DBE) Measure 1991

[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

[7] Section 23A

[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

[10] Regulation 4 of the Removal Regulations

[11] See regulation 5 of the Removal Regulations

[12] See regulation 5(4) of the Removal Regulations

[13] Except as otherwise provided by the Removal Regulations.

[14] By virtue of regulation 17(1) of the Removal Regulations

[15] As per the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013

[16] As per regulation 11(2) of the Removal Regulations

## Equalities Impact Assessment of the proposal to expand The Dales School, Blyth

### 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**

##### 1) Title of the change, decision or proposal:

The Council has published a statutory proposal to expand The Dales School, a special school in Blyth, by creating a satellite school at the Former Ashington High School Annex in Ashington (to be called Ashdale) in order to accommodate an additional 50 children and young people with special educational needs. This EIA would be updated should Cabinet approve the implementation of the proposals.

##### 2) Brief description of the change, decision or proposal:

As for 1) above.

All interested parties were consulted in line with statutory requirements.

##### 3) Name(s) and role(s) of officer(s) completing/reviewing the assessment:

Lorraine Fife, School Organisation Manager

- ##### 4) 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 rationale for the proposal is that additional places will be created for children and young people with special educational needs to assist with the growing need in this

area and to enable them to be educated within Northumberland closer to their home communities.

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   Age   Race   Religion   Sexual orientation

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

Employees who are married/in civil partnerships

The characteristics checked above are not relevant because:

In the medium to long-term, there is no reason to believe that the proposed statutory proposal would affect more positively or negatively than their peers any group of children, parents or staff defined by their gender, religion, race or gender-reassignment status. Should the Council decide to implement the proposed statutory proposal at a future date, during the immediate process of transition, we will 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. Reasonable adjustments would be made to support individual disabled pupils who move to an alternative school or are affected by reorganisation.

In the event of the implementation of the proposed statutory proposal, existing HR policies covering organisational change and redundancy would apply to staff employed at any of the maintained schools affected. These are designed to ensure that the equalities duties of the Council and the schools are fully met. Reasonable adjustments would be made for disabled members of staff. The Council operates a guaranteed interview scheme for disabled members of staff.

## **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.

5) 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?

This proposal would increase local provision for children and young people in Northumberland with Special Educational Needs to enable them to be educated within or closer to their home communities. It would therefore have a positive impact.

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

Children and young people in Northumberland with a special educational need would be positively advantaged by the implementation of this proposal.

7) 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 implementation of the proposed statutory proposal would not affect any current arrangements for disabled people to participate in public life as the proposed adjustments would make school buildings more accessible.

8) 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 implementation of the proposed statutory proposal would affect public attitudes either positively or negatively towards disabled people.

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

No evidence has arisen through consultation to suggest that the implementation of the statutory proposal 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. Should the statutory proposal be implemented, 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. Disabled children, parents and staff would be given the opportunity to discuss any support or particular issues throughout the process

10) 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?

See 6)

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

See para. 6)

## Age

12) 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?

The Dales School currently educates children between the ages of 2 and 11 and there would be no changes to this arrangement as a result of this proposal.

Staff at the above schools are employed equitably in accordance with the relevant school and council's employment policies.

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

See para. 6. Above.

14) 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 proposed statutory proposal would have any effect on the ability of different age groups to participate in public life.

15) 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)

In relation to the proposed statutory proposal, no actual evidence has been presented during consultation to suggest that public attitudes to pupils at the schools impacted by the proposal would be affected should the relevant changes be implemented.

16) 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?

No evidence has arisen to suggest that the statutory proposal would increase or reduce the risk of harassment or victimisation of people of other pupils within the schools.

17) 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?

See para. 6)

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

Refer to paras. 6

## **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.*

19) 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?

There is no evidence to suggest that the statutory proposal 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 as pupils who attend The Dales School re generally taken by Home to School Transport and this would not be affected as a result of the implementation of this proposal.

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

No evidence has arisen at this stage to suggest that pregnant women and those with children under 26 weeks could be disproportionately advantaged or disadvantaged by the statutory proposals for the reasons set out above.

21) 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 statutory proposal would affect the ability of this protected group to participate in public life under the proposals.

22) 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 statutory proposal would have any effect on public attitudes to this protected group under the proposals.

23) 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?

No evidence has arisen during consultation to suggest that the statutory proposal would make it more or less likely that this protected group would be at risk of harassment or victimisation under the proposals.

24) 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?

No evidence has been identified during the consultation period that would suggest that the protected group could be disproportionately disadvantaged by the implementation of the statutory proposal for the reasons set out above.

However, if a decision is made to take the next steps towards implementation of the statutory proposal, and any disproportionate disadvantages are identified during the subsequent phases of consultation and implementation, these would be reviewed and solutions to remove such disadvantages would be sought.

25) 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. 6.

## **Sexual Orientation**

*Note: The Act protects bisexual, gay, heterosexual and lesbian people.*

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

There is currently no evidence to suggest that any member of the community who identifies as LGBT would be disproportionately impacted positively or negatively should the approval be given to implement the statutory proposal.

However, should any pupil who identifies with this group be identified as requiring support, the authority will encourage schools to use the Stonewall Education champion's resources and to increase awareness of any potential issues such as increased risk of bullying.

Should a member of staff identifying as LGBT in the community schools impacted directly by the implementation of the statutory proposal feel that their support networks have been disrupted, staff will be made aware of the support available through the Council's LGBT staff group and managers will be made aware of the guide to supporting LGBT staff on the Council Equality and Diversity webpage. HR policies aim to promote equality and inclusion.

27) Could people with different sexual orientations be disproportionately advantaged or disadvantaged by the change, decision or proposal?

There is currently no evidence from consultation to suggest that different sexual orientations would be disproportionately advantaged or disadvantaged by the implementation of the statutory proposal. However, ameliorating actions stated in para. 26 would be implemented in the event that issues were identified.

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

There is currently no evidence from consultation to suggest that the ability of people with different sexual orientations to participate in public life would be affected by the implementation of the statutory proposal. However, ameliorating actions stated in para. 26 would be implemented in the event that issues were identified.

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

To date, there has been no evidence to suggest that public attitudes to people with different sexual orientations. However, ameliorating actions stated in para. 26 would be implemented in the event that issues were identified.

30) Could the change, decision or proposal make it more or less likely that people with different sexual orientations will be at risk of harassment or victimisation?

Should the statutory proposal be implemented, the risk of harassment of victimisation of people with different sexual orientations would be monitored. Should evidence be identified that risk of harassment had increased, the relevant actions stated in para. 26 would be implemented.

31) If there are risks that people with different sexual orientations could be disproportionately disadvantaged by the change, decision or proposal, are there reasonable steps or adjustments that could be taken to reduce these risks?

No evidence has so far been identified to suggest that people with different sexual orientations could be disproportionately disadvantaged through the implementation of

the statutory proposal . However, ameliorating actions stated in para. 26 would be implemented in the event that issues were identified.

32) Are there opportunities to create *positive* impacts for people with different sexual orientations linked to this change, decision or proposal?

While none have been so far identified, any opportunities to create positive impacts for people with different sexual orientations would be implemented, possibly through the implementation of the actions set out in para. 26.

## Human Rights

33) 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)

While there is no specific evidence to suggest that the implementation of the statutory proposal would impact positively on human rights, the proponents of these proposals have reasons to believe that pupil’s achievement can be enhanced through the implementation of the changes proposed and therefore this would improve the life chances of the pupils within those schools that would undergo reorganisation.

## PART 3 - Course of Action

Based on a consideration of all the potential impacts, indicate one of the following as an overall summary of the outcome of this assessment:

<b>X</b>	The equality analysis has not identified any potential for discrimination or adverse impact and all opportunities to promote equality have been taken.
	The equality analysis has identified risks or opportunities to promote better equality; the change, decision or proposal will be adjusted to avoid risks and ensure that opportunities are taken.
	The equality analysis has identified risks to equality which will not be eliminated, and/or opportunities to promote better equality which will not be taken. Acceptance of these is reasonable and proportionate, given the objectives of the change, decision or proposal, and its overall financial and policy context.
	The equality analysis shows that the change, decision or proposal would lead to actual or potential unlawful discrimination, or would conflict with the Council’s positive duties to an extent which is disproportionate to its objectives. It should not be adopted in its current form.

34) 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 impacts of the statutory proposal recommended for statutory consultation 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 decision be made by the Council's Cabinet to take the next steps in the statutory process in relation to these proposals, any evidence arising from the statutory consultation or implementation phases that suggests 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**

35) 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 assessed in the light of feedback from the formal consultation period which was positive. Should the proposal be approved for implementation, the EIA would be further updated. Appropriate action would be identified and where necessary, an action plan with timescales developed.

#### **PART 5 - Authorisation**

Name of Head of Service and Date Approved

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

## Equalities Impact Assessment of the proposal to expand Hexham Priory School

### 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**

##### 1) Title of the change, decision or proposal:

The Council has published a statutory proposal to expand Hexham Priory School, a special school in Hexham providing specialist provision for children aged 2 to 19. The school is proposed to be able to provide an additional 32 places for children with special educational needs in the local area as a result of this expansion. This EIA would be updated should Cabinet approve the implementation of the proposal.

##### 2) Brief description of the change, decision or proposal:

As for 1) above.

All interested parties were consulted in line with statutory requirements.

##### 3) Name(s) and role(s) of officer(s) completing/reviewing the assessment:

Lorraine Fife, School Organisation Manager

- ##### 4) 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 rationale for the proposal is that additional places will be created for children and young people with special educational needs to assist with the growing need in this

area and to enable them to be educated within Northumberland closer to their home communities.

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   Age   Race   Religion   Sexual orientation

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

Employees who are married/in civil partnerships

The characteristics checked above are not relevant because:

In the medium to long-term, there is no reason to believe that the proposed statutory proposal would affect more positively or negatively than their peers any group of children, parents or staff defined by their gender, religion, race or gender-reassignment status. Should the Council decide to implement the proposed statutory proposal at a future date, during the immediate process of transition, we will 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. Reasonable adjustments would be made to support individual disabled pupils who move to an alternative school or are affected by reorganisation.

In the event of the implementation of the proposed statutory proposal, existing HR policies covering organisational change and redundancy would apply to staff employed at any of the maintained schools affected. These are designed to ensure that the equalities duties of the Council and the schools are fully met. Reasonable adjustments would be made for disabled members of staff. The Council operates a guaranteed interview scheme for disabled members of staff.

## **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.

5) 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?

This proposal would increase local provision for children and young people in Northumberland with Special Educational Needs to enable them to be educated within or closer to their home communities. It would therefore have a positive impact.

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

Children and young people in Northumberland with a special educational need would be positively advantaged by the implementation of this proposal.

7) 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 implementation of the proposed statutory proposal would not affect any current arrangements for disabled people to participate in public life as the proposed adjustments would make school buildings more accessible.

8) 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 implementation of the proposed statutory proposal would affect public attitudes either positively or negatively towards disabled people.

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

No evidence has arisen through consultation to suggest that the implementation of the statutory proposal 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. Should the statutory proposal be implemented, 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. Disabled children, parents and staff would be given the opportunity to discuss any support or particular issues throughout the process

10) 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?

See 6)

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

See para. 6)

## Age

12) 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?

Hexham Priory School currently educates children between the ages of 2 and 19 and there would be no changes to this arrangement as a result of this proposal.

Staff at the above schools are employed equitably in accordance with the relevant school and council's employment policies.

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

See para. 6. Above.

14) 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 proposed statutory proposal would have any effect on the ability of different age groups to participate in public life.

15) 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)

In relation to the proposed statutory proposal, no actual evidence has been presented during consultation to suggest that public attitudes to pupils at the schools impacted by the proposal would be affected should the relevant changes be implemented.

16) 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?

No evidence has arisen to suggest that the statutory proposal would increase or reduce the risk of harassment or victimisation of people of other pupils within the schools.



17) 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?

See para. 6)

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

Refer to para. 6

## **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.*

19) 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?

There is no evidence to suggest that the statutory proposal 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 as pupils who attend Hexham Priory School re generally taken by Home to School Transport and this would not be affected as a result of the implementation of this proposal.

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

No evidence has arisen at this stage to suggest that pregnant women and those with children under 26 weeks could be disproportionately advantaged or disadvantaged by the statutory proposals for the reasons set out above.

21) 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 statutory proposal would affect the ability of this protected group to participate in public life under the proposals.

22) 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 statutory proposal would have any effect on public attitudes to this protected group under the proposals.

23) 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?

No evidence has arisen during consultation to suggest that the statutory proposal would make it more or less likely that this protected group would be at risk of harassment or victimisation under the proposals.

24) 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?

No evidence has been identified during the consultation period that would suggest that the protected group could be disproportionately disadvantaged by the implementation of the statutory proposal for the reasons set out above.

However, if a decision is made to take the next steps towards implementation of the statutory proposal, and any disproportionate disadvantages are identified during the subsequent phases of consultation and implementation, these would be reviewed and solutions to remove such disadvantages would be sought.

25) 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. 6.

## **Sexual Orientation**

*Note: The Act protects bisexual, gay, heterosexual and lesbian people.*

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

There is currently no evidence to suggest that any member of the community who identifies as LGBT would be disproportionately impacted positively or negatively should the approval be given to implement the statutory proposal.

However, should any pupil who identifies with this group be identified as requiring support, the authority will encourage schools to use the Stonewall Education champion's resources and to increase awareness of any potential issues such as increased risk of bullying.

Should a member of staff identifying as LGBT in the community schools impacted directly by the implementation of the statutory proposal feel that their support networks have been disrupted, staff will be made aware of the support available through the Council's LGBT staff group and managers will be made aware of the guide to supporting LGBT staff on the Council Equality and Diversity webpage. HR policies aim to promote equality and inclusion.

27) Could people with different sexual orientations be disproportionately advantaged or disadvantaged by the change, decision or proposal?

There is currently no evidence from consultation to suggest that different sexual orientations would be disproportionately advantaged or disadvantaged by the implementation of the statutory proposal. However, ameliorating actions stated in para. 26 would be implemented in the event that issues were identified.

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

There is currently no evidence from consultation to suggest that the ability of people with different sexual orientations to participate in public life would be affected by the implementation of the statutory proposal. However, ameliorating actions stated in para. 26 would be implemented in the event that issues were identified.

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

To date, there has been no evidence to suggest that public attitudes to people with different sexual orientations. However, ameliorating actions stated in para. 26 would be implemented in the event that issues were identified.

30) Could the change, decision or proposal make it more or less likely that people with different sexual orientations will be at risk of harassment or victimisation?

Should the statutory proposal be implemented, the risk of harassment of victimisation of people with different sexual orientations would be monitored. Should evidence be identified that risk of harassment had increased, the relevant actions stated in para. 26 would be implemented.

31) If there are risks that people with different sexual orientations could be disproportionately disadvantaged by the change, decision or proposal, are there reasonable steps or adjustments that could be taken to reduce these risks?

No evidence has so far been identified to suggest that people with different sexual orientations could be disproportionately disadvantaged through the implementation of

the statutory proposal . However, ameliorating actions stated in para. 26 would be implemented in the event that issues were identified.

32) Are there opportunities to create *positive* impacts for people with different sexual orientations linked to this change, decision or proposal?

While none have been so far identified, any opportunities to create positive impacts for people with different sexual orientations would be implemented, possibly through the implementation of the actions set out in para. 26.

## Human Rights

33) 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)

While there is no specific evidence to suggest that the implementation of the statutory proposal would impact positively on human rights, the proponents of these proposals have reasons to believe that pupil's achievement can be enhanced through the implementation of the changes proposed and therefore this would improve the life chances of the pupils within those schools that would undergo reorganisation.

## PART 3 - Course of Action

Based on a consideration of all the potential impacts, indicate one of the following as an overall summary of the outcome of this assessment:

<b>X</b>	The equality analysis has not identified any potential for discrimination or adverse impact and all opportunities to promote equality have been taken.
	The equality analysis has identified risks or opportunities to promote better equality; the change, decision or proposal will be adjusted to avoid risks and ensure that opportunities are taken.
	The equality analysis has identified risks to equality which will not be eliminated, and/or opportunities to promote better equality which will not be taken. Acceptance of these is reasonable and proportionate, given the objectives of the change, decision or proposal, and its overall financial and policy context.
	The equality analysis shows that the change, decision or proposal would lead to actual or potential unlawful discrimination, or would conflict with the Council's positive duties to an extent which is disproportionate to its objectives. It should not be adopted in its current form.

34) 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 impacts of the statutory proposal recommended for statutory consultation 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 decision be made by the Council's Cabinet to take the next steps in the statutory process in relation to these proposals, any evidence arising from the statutory consultation or implementation phases that suggests 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**

35) 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 assessed in the light of feedback from the formal consultation period which was positive. Should the proposal be approved for implementation, the EIA would be further updated. Appropriate action would be identified and where necessary, an action plan with timescales developed.

#### **PART 5 - Authorisation**

Name of Head of Service and Date Approved

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