



Northumberland

County Council

CABINET

Date: 10 September 2019

Expansion of Whytrig Middle School, Horton Grange First School and New Delaval First School

Report of the Executive Director of Adult Social Care and Children's Services - Cath McEvoy-Carr

Cabinet Member for Children's Services: Councillor Wayne Daley

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

Purpose of Report

This report sets out the outcomes of the formal statutory proposals to make permanent the expansions at Whytrig Middle, Horton Grange Primary and New Delaval Primary Schools and requests Cabinet approval for implementation with effect from 1 October 2019 or as soon as possible thereafter.

Recommendations

It is recommended that Cabinet:

- 1) Consider the responses (where applicable) to the statutory proposals for Horton Grange Primary School, New Delaval Primary School and Whytrig Community Middle School published on 11 July 2019 and approve the making permanent of the enlargements to these schools' premises with effect from 1 October 2019 or as soon as possible thereafter.
- 2) Note the implications of the proposals on pupils, parents, staff and the local community as set out in the Statutory Proposals and included with the Background Papers to this report;
- 3) Note that **Cabinet must take into account** the Department for Education's (DfE) school organisation guidance 'Making significant changes ('prescribed alterations') to maintained schools; statutory guidance for proposers and decision makers, October 2018' attached to this report at Appendix 3 (via

electronic link), before deciding on how to proceed with the proposals summarised in the Key Issues of this report in the light of the four following options available:

- reject the proposals;
- approve the proposals without modification;
- approve the proposals with such modifications as Cabinet think desirable after consultation with the Governing Body
- approve the proposals (with or without modification) subject to certain conditions being met.

Link to Corporate Plan

This report entirely supports the Council's vision of 'One Council that works for everyone' and the Council's values 'Residents first, excellence and quality, respect and keeping our communities safe and well.'

Key Issues

1. The rationale for the proposals to make permanent the enlargement of the premises of Whytrig Community Middle School, Horton Grange Primary School and New Delaval Primary School was outlined in the reports of the Executive Director of Adult Social Care and Children's Services of 12 February 2019 and 9 July 2019 (Item 04), which are included in the Background Papers. Cabinet approved the publication of the statutory proposals for the three schools on 9 July 2019, and they were published on 11 July in accordance with the The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013. A four week statutory consultation period to 8 August 2019 was opened and any person with an interest was able to write to the Council during this time expressing their comments, objections or support of the proposal.
2. An informal (pre-publication) consultation period on the proposal took place between 25 February and 11 March 2019. The details and outcomes of this informal consultation are summarised in this report at paras. 9-10 of this report.
3. One representation from a local resident was submitted in response to the statutory proposal for Whytrig Community Middle School during the statutory period. No responses were received in relation to the statutory proposals for Horton Grange and New Delaval Primary Schools. The representation received has been taken into account by officers when forming the recommendations set out in this report and is included in full in the Background Papers to this report. The representation and commentary on it is included in para. 11.
4. In making their decision, Cabinet should note that a decision on the statutory proposals for Whytrig Community Middle School, Horton Grange Primary School and New Delaval First School must be made by no later than 3 October 2019, otherwise the papers must be passed to the Schools Adjudicator to make

a decision. The Cabinet should note that, whether or not the proposals are approved, each of the following bodies has the right to appeal against the decision of the Cabinet to the Adjudicator should they disagree with the decision:

- the Diocesan Board of Education for the CE Diocese of Newcastle
- the Bishop of the RC Diocese of Hexham and Newcastle

in which case the Schools Adjudicator would then make a decision in relation to the above proposal.

5. Cabinet are now asked to approve the statutory proposals to make permanent the enlargements at Whytrig Community Middle School, Horton Grange First School and New Delaval First School with effect from 1 October 2019 or as soon as possible thereafter.

Background Information

6. Local authorities have a statutory duty under Section 14 of the Education Act 1996 to provide sufficient school places for all pupils of a statutory age. In February 2019, Cabinet approved the commencement of informal consultation to make permanent the expansion of the capacity of the buildings at Horton Grange Primary, New Delaval Primary and Whytrig Community Middle Schools. The PANs at these schools had been increased in September 2018 to reflect the growing number of children in the catchment areas of these schools. The latest GP Birth data indicates that these growing pupil numbers will remain consistent for the foreseeable future and therefore there is a need under legislation to formally make permanent the current temporary arrangements with the permanent expansion of the capacity at these schools.
7. Four additional classrooms have now been added to the accommodation at Horton Grange Primary and three additional classrooms will be added to New Delaval Primary to accommodate the predicted increase in pupil numbers over the coming years. Two modular classrooms have already been added to the accommodation at Whytrig Middle, with another two classroom modular buildings to be added at some point in the future should it be required. The additional accommodation required at these sites was resourced through the Council's Basic Need funding grant from the DfE which is specifically allocated to local authorities to assist with pupil growth. Costs are set out in the following table:

School	Description	Costs (£m)
Horton Grange Primary	4 standard classrooms	2.058
New Delaval Primary	3 standard classrooms	1.049
Whytrig Community Middle	Up to 4 classrooms in modular form	(upto) 0.672

8. The proposals for Whytrig Community Middle School, Horton Grange Primary School and New Delaval Primary School have had to be brought forward for informal and formal consultation in order to comply with the statutory requirement to consult when specific thresholds are reached in relation to the extent of the expansion of a school building that will increase its capacity and will be in place for more than three years. Feedback to informal consultation was low, but this was expected given the non-contentious nature of the proposals. Of the three responses received in relation to Horton Grange Primary School, all were in support; of the nine responses received in relation to Whytrig Community Middle School, eight were supportive of the proposal with one against; there were no responses received in relation to New Delaval Primary School. In addition, some stakeholders did attend the public events at each of the schools. Further details are set out in the report of the Executive Director of Adult Social Care and Children's Services, 9 July (Item 04), 2019.

The Statutory Proposal Stage

9. At its meeting on 9 July 2019, Cabinet approved the publication of the statutory proposals for Whytrig Community Middle School, Horton Grange Primary School and New Delaval Primary School respectively in relation to the making permanent of the expansion at each school. The notifications on the proposals were published on 11 July in the News Post Leader and the full proposals were published on the Council's website in accordance with The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.
10. The publication of the Statutory Proposal opened a four week statutory period during which time interested parties were invited to submit written representations either in support of, objecting to or commenting on the proposals by midnight on 8 August 2019.

Representations submitted in response to the Statutory Proposal and commentary

11. Only one representation was submitted in relation to Whytrig Community Middle School from a resident living close to the site of the school, which is shared with Astley Community High School:
 - i. Response from resident in relation to Whytrig Community Middle School:
 - *I have viewed the proposals and I do not believe the residents of the area have been considered at all. By bringing the school to Elsdon Avenue there was an increase of traffic including parents parking on paths around the estate and reducing the traffic flow of Elsdon Avenue to one direction at a time as they also park on both sides of the road, including at the bus stops. By increasing the number of pupils, the traffic will also increase as no measures are in place to deal with it... There used to be a car park on Elsdon Ave... However this was sold off many years ago to build houses... There was no plan B.*

Commentary on response:

Since this consultation has closed, a further pedestrian crossing has been added to Elsdon Avenue on which the school is located, close to the new mobile classrooms. Furthermore, the concerns raised by local residents relating to the impact of school traffic will be included in the development of plans for the planned new school buildings for Astley High School and Whytrig Middle School. Highways officers will also be asked to investigate whether further measures are necessary at the school to ensure the safe flow of traffic around the school site in the interim period before the new buildings are ready.

12. No representations were received in relation to the proposals for Horton Grange or New Delaval Primary Schools; again it is conjectured that this is as a result of being non-contentious proposals.

Conclusions and recommendations

13. Given the positive feedback from the majority of consultees who responded to the informal consultation and in recognition of the necessity to have expanded the schools in the light of growing pupil numbers in any event, Cabinet are recommended to approve the implementation of the proposals to make permanent the expansion of the buildings at Whytrig Community Middle School, Horton Grange Primary School and New Delaval Primary School with effect from 1 October or at the earliest opportunity thereafter.

Standards

14. Horton Grange Primary School and New Delaval Primary School are both rated 'Good' by Ofsted; the making permanent of the expansion of these schools will enable all children living in their catchment areas to continue to benefit from the high standards of provision at these schools. While Whytrig Community Middle School is currently graded 'Requires Improvement' by Ofsted, the school is now in a federation with Astley Community High School and Seaton Sluice Middle School with one Executive Headteacher and one governing body and it is expected that the schools across the federation will continue to benefit from the additional leadership capacity from this arrangement.

Transport

15. These proposals make permanent the expansions at Horton Grange Primary School, New Delaval Primary School and Whytrig Community Middle School will have a positive impact on the Council's Home to School Transport arrangements and on the Council's duty to promote the use of sustainable travel and transport to school as pupils living in the school catchment areas will be able to attend their local school and will not have to be transported to other schools.

Admissions

16. These proposals support the increases to the Planned Admission Numbers implemented at Horton Grange Primary School, New Delaval Primary School and Whytrig Community Middle School in September 2018. There would be no other impact on the admissions arrangements as a result of these proposals.

Funding

17. Cabinet approved the capital costs for the building works to provide additional capacity at Whytrig Middle, Horton Grange First and New Delaval First to be allocated from basic need funding at their meeting on 12 December 2017.

Sport and Recreation

18. There would be no impact on the current sport and recreation provision at Whytrig Middle, Horton Grange First and New Delaval First as a result of these proposals.

Community Cohesion

19. It is not envisaged that the proposals to make permanent the expansion of the buildings of Horton Grange Primary, New Delaval Primary and Whytrig Community Middle School will have any impact either positively or negatively on community cohesion.

IMPLICATIONS ARISING OUT OF THE REPORT

Policy	The consultations outlined in this report have been consistent with the Council's policy to review changes to schools in accordance with local wishes and needs.
Finance and value for money	Cabinet approved the capital costs for the building works to provide additional capacity at Whytrig Middle, Horton Grange First and New Delaval First to be allocated from basic need funding at their meeting on 12 December 2017.
Legal	The consultations noted in this report complied with School Organisation legislation.
Procurement	No implications
Human Resources	Whytrig Community Middle, Horton Grange Primary and New Delaval Primary Schools may need to recruit additional staff as pupil numbers increase at their schools.
Property	Refer to 'Finance and value for money' above
Equalities (Impact Assessment attached) Yes <input checked="" type="checkbox"/>	An EIA is included at Appendix 3.

Risk Assessment	A full risk assessment has been carried out on these projects.
Crime & Disorder	This report has considered Section 17 (CDA) and the duty it imposes and there are no implications arising from it.
Customer Considerations	The proposals for Whytrig Community Middle School, Horton Grange Primary School and New Delaval Primary School have been brought forward for formal consultation in order to comply with a statutory requirement to formally consult when specific thresholds are reached in relation to the extent of an expansion that will increase the capacity of school buildings and will be in place for more than 3 years.
Carbon reduction	It is not envisaged that these proposals would have a significant positive or negative impact on carbon reduction.
Wards	Seghill with Seaton Delaval, Holywell, (in relation to Whytrig Community Middle School) Kitty Brewster (in relation to Horton Grange Primary School) Newsham (in relation to New Delaval Primary School)

CONSULTATION

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

BACKGROUND PAPERS

- Report of the Executive Director of Adult Social Care and Children's Services, 12 February 2019
- Report of the Executive Director of Adult Social Care and Children's Services, 9 July 2019
- Full Statutory proposals for:
 - Whytrig Community Middle School;
 - Horton Grange Primary School;
 - New Delaval Primary School.

Report sign off

Monitoring Officer/Legal	Liam Henry
Service Director of Finance & Interim S151 Officer	Alison Elsdon
Relevant Executive Director	Cath McEvoy-Carr
Chief Executive	Daljit Lally
Portfolio Holder(s)	Wayne Daley

Data Protection Implications

In carrying out the informal (pre-publication) and formal consultations referenced in this report, the Council has acted in compliance with the GDPR regulations 2018 via the Council's Data Protection and Confidentiality Policy

Specifically,

- Data gathered during this consultation process has been dealt with fairly - e.g. the responses from members of the public have been anonymised, whilst those responding within a public role have been identified e.g. Chairs of Governors, Dioceses and so on.
- The data and information gathered during informal and formal consultation has been used to assist in informing the recommendations set out in this report and will not be used for any other purpose, i.e. it will not be shared with another service area or any third party.
- The data and information gathered has been limited to that which would assist in informing the recommendations set out in this report.

The Council has set out how it deals with information received as part of consultation in the Council's Privacy Notice, at

<http://www.northumberland.gov.uk/About/Contact/Information.aspx#privacynotices> .

Report Author: Sue Aviston Sue.Aviston@northumberland.gov.uk
Tel: 01670 622281
Email: Sue.Aviston@northumberland.gov.uk

Appendices

- Appendix 1 Notifications of Statutory Proposals published in the News Post Leader, 11 July 2019 for:
a) Whytrig Community Middle School;
b) Horton Grange Primary School;
c) New Delaval Primary School.
- Appendix 2 DfE Guidance, Making significant changes ('prescribed alterations') to maintained schools, October 2018
- Appendix 3 Equalities Impact Assessment



Northumberland County Council

NOTIFICATION OF PROPOSAL FOR WHYTRIG COMMUNITY MIDDLE SCHOOL, NORTHUMBERLAND

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 alterations to the school:

Enlargement of Premises

- **Whytrig Community Middle School**, Elsdon Avenue, Seaton Delaval, Whitley Bay, Northumberland, NE25 0BP by making permanent the enlargement of the premises with effect from 1 October 2019 or as soon as possible thereafter.

The number of pupils on roll in Year 5 to Year 9 at the school in January 2019 was 231. The current published capacity of the school is 216. The proposed capacity of the school is to be 360 following expansion of the school building on its current site. The current maximum number of pupils admitted at age 9 is 90 as a result of an increase to the PAN in September 2018 as a result of growing numbers of pupils in the school catchment. Nursery admission numbers would remain unchanged.

Contact Details

Full copies of this proposal may be obtained from:

The School Organisation and Resources Team
Northumberland County Council
County Hall
Morpeth
Northumberland
NE61 2EF

and from the Council's website at www.northumberland.gov.uk/schoolconsultations

Submission of Objections and Comments on Proposals

Within four weeks after the date of publication of the above proposals (i.e. by midnight on Thursday 8 August 2019), any person may object to or make comments on this proposal by sending their written representations to: the Executive Director of Adult Social Care and Children's Services, County Hall, Morpeth, Northumberland NE61 2EF, or by email to Lorraine.Fife@northumberland.gov.uk.

Signature

Publication Date: 11 July 2019

A handwritten signature in black ink that reads "Cath McEvoy-Carr".

Cath McEvoy-Carr
Executive Director of Adult Social Care and Children's Services
Northumberland County Council



Northumberland County Council

NOTIFICATION OF PROPOSAL FOR HORTON GRANGE PRIMARY SCHOOL, NORTHUMBERLAND

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 alterations to the school:

Enlargement of Premises

- **Horton Grange Primary School**, Cowpen Road, Blyth, Northumberland, NE24 4RE by making permanent the enlargement of the premises with effect from 1 October 2019 or as soon as possible thereafter.

The number of pupils on roll in Reception to Year 6 at the school in January 2019 was 386. The current published capacity of the school is 420. The proposed capacity of the school is to be 630 following expansion of the school building on its current site. The current maximum number of pupils admitted at age 4 is 90 as a result of an increase to the PAN in September 2018 as a result of growing numbers of pupils in the school catchment. Nursery admission numbers would remain unchanged.

Contact Details

Full copies of this proposal may be obtained from:

The School Organisation and Resources Team
Northumberland County Council
County Hall
Morpeth
Northumberland
NE61 2EF

and from the Council's website at www.northumberland.gov.uk/schoolconsultations

Submission of Objections and Comments on Proposals

Within four weeks after the date of publication of the above proposals (i.e. by midnight on Thursday 8 August 2019), any person may object to or make comments on this proposal to by sending their written representations to: the Executive Director of Adult Social Care and Children's Services, County Hall, Morpeth, Northumberland NE61 2EF, or by email to Lorraine.Fife@northumberland.gov.uk.

Signature

Publication Date: 11 July 2019

A handwritten signature in black ink that reads "Cath McEvoy-Carr".

Cath McEvoy-Carr
Executive Director of Adult Social Care and Children's Services
Northumberland County Council



Northumberland County Council

NOTIFICATION OF PROPOSAL FOR NEW DELAVAL PRIMARY SCHOOL, NORTHUMBERLAND

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 alterations to the school:

Enlargement of Premises

- **New Delaval Primary School**, Delaval Gardens, New Delaval, Blyth, Northumberland, NE24 4DA by making permanent the enlargement of the premises with effect from 1 October 2019 or as soon as possible thereafter.

The number of pupils on roll in Reception to Year 6 at the school in January 2019 was 199. The current published capacity of the school is 210. The proposed capacity of the school is to be 315 following expansion of the school building on its current site. The current maximum number of pupils admitted at age 4 is 45 as a result of an increase to the PAN in September 2018 as a result of growing numbers of pupils in the school catchment. Nursery admission numbers would remain unchanged.

Contact Details

Full copies of this proposal may be obtained from:

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

and from the Council's website at www.northumberland.gov.uk/schoolconsultations

Submission of Objections and Comments on Proposals

Within four weeks after the date of publication of the above proposals (i.e. by midnight on Thursday 8 August 2019), any person may object to or make comments on this proposal by sending their written representations to: the Executive Director of Adult Social Care and Children's Services, County Hall, Morpeth, Northumberland NE61 2EF, or by email to Lorraine.Fife@northumberland.gov.uk.

Signature

Publication Date: 11 July 2019

A handwritten signature in black ink that reads "Cath McEvoy-Carr".

Cath McEvoy-Carr
Executive Director of Adult Social Care and Children's Services
Northumberland County Council



Making significant changes ('prescribed alterations') to maintained schools

Statutory guidance for proposers and decision-makers

October 2018

About this guidance	4
Review date	4
Who is this guidance for?	4
Terminology	5
Main points	5
2: Prescribed alteration changes	7
Enlargement of premises (expansion)	7
Examples of when mainstream schools do/do not need to publish 'enlargement' proposals	8
The quality of new places created through expansion	8
Expansion onto an additional site (or 'satellite sites')	9
Expansion of existing grammar schools	10
Changes to the published admissions number (PAN) where an enlargement of premises has not taken place	10
Change in number of pupils in a special school	11
Change of age range	12
Adding a sixth form	14
Closing an additional site	15
Transfer to a new site	16
Changes of category	17
Single sex school becoming co-educational (or vice versa)	18
Mainstream school: establish/remove/alter special educational needs (SEN) provision	19
Change the types of need catered for by a special school	20
Boarding provision	20
Remove selective admission arrangements at a grammar school	22
Amalgamations	22
3: Contentious proposals	23
4: Changes that can be made outside of the statutory process	24

5: Statutory process: prescribed alterations	26
Publication	27
Representation (formal consultation)	28
Decision	29
Related proposals	30
Conditional approval	30
Education standards and diversity of provision	31
Equal opportunities issues	31
Community cohesion	31
Travel and accessibility	31
Funding	32
Rights of appeal against a decision	32
Implementation	32
Modification post determination	33
Revocation of proposals	33
Land and buildings	33
6: Statutory process: foundation proposals	35
Changing category to foundation, acquiring a foundation trust and/or acquiring a foundation majority	35
Foundation schools acquiring a foundation trust	38
Removing a foundation trust and/or removing a foundation majority	41
Annex A: Information to be included in a prescribed alteration statutory proposal	47
Annex B: Further Information	48
Annex C: Contact details for RSC offices	50

1: Summary

About this guidance

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

The purpose of this guidance is to ensure that good quality school places can be provided quickly where they are needed; that local authorities (LAs) and governing bodies (GBs) 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'. Schools which do not fall within the above categories should only be expanded where there are no other viable options.

A GB, 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'). It should be read in conjunction with Parts 2 and 3 and Schedule 3 of the [Education and Inspections Act \(EIA\) 2006](#) 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 \(2007\)](#) ('the Removal Regulations').

It is the responsibility of LAs and GBs 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 October 2019.

Who is this guidance for?

Those proposing to make changes and making decisions on changes to maintained schools (e.g. GBs, LAs and the Schools Adjudicator), and for information purposes for those affected by a proposal (trustees of the school, diocese or relevant diocesan board, any other relevant faith body, 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](#) and [opening and closing a maintained school](#) is available.

Please refer to the '[Further Information](#)' section for the full website address should you be unable to access documents via the hyperlinks provided.

Terminology

Definitions of common terms used in this guidance:

Schools with a religious character - All schools designated as having a religious character in accordance with the [SSFA](#).

Foundation Trust - For the purpose of this guidance the term 'foundation trust' refers to a foundation complying with the requirements set out in section 23A of the SSFA.

Parent(s) - The Education Act 1996 defines 'parent' as including someone who has care of, or legal responsibility for, the child. Therefore, a parent can include, for example, a grandparent, other family member or foster carer if they have care of or responsibility for the child.

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 as set out in Section 59 of the [Education and Inspections Act 2006](#), they should copy the proposal to the relevant [Regional Schools Commissioner \(RSC\)](#) at the point of publication.
- To enable the department to monitor potentially contentious proposals, the proposer should copy any proposal, which falls within the definitions set out in [part 3](#), to the School Organisation mailbox as soon as it is published schoolorganisation.notifications@education.gov.uk.
- LAs and GBs proposing to make a significant change to a school which has been designated as having a religious character should engage the trustees of the school, and in the case of Church schools the diocese or relevant

diocesan board, or any other relevant faith body, where appropriate at the earliest opportunity.

- 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. Where a decision is not made within this time frame, the LA must refer the proposal 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 schools guidance](#).
- Once a decision has been made the proposer (GB or LA) must make the necessary changes to the school's record in the department's system [Get Information About Schools](#) (GIAS) by the date the change is implemented.
- Where a school wishes to change their name, the GB will need to amend the Instrument of Government in line with regulation 30 of [The School Governance \(Constitution\) \(England\) Regulations 2012](#). Once that is done, either the school or the LA will need to update the school record in the department's GIAS system.

2: Prescribed alteration changes

Enlargement of premises (expansion)

Under section 14 of the [Education Act 1996](#), LAs have a statutory duty to ensure that there are sufficient schools for primary and secondary education in their areas. The department expects LAs to manage the school estate efficiently and to reduce or find alternative uses for surplus capacity (for example, increasing the provision of early education and childcare) to avoid detriment to schools' educational offer or financial position. LAs are encouraged to consider the use of modular construction solutions for any physical building expansion and to consider all options for the reutilisation of space including via remodelling, amalgamations, or closure where this would be the best course of action.

Where additional places are needed, including where there is a local demand for a particular category of places (for example in schools designated as having a religious character), the LA can propose an enlargement of the capacity¹ of premises.

The statutory process should be followed to enlarge premises as set out in the [Prescribed Alterations Regulations](#) (see [part 5](#)) if:

- the proposed enlargement 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 making permanent any temporary enlargement (which was intended to be in place for no more than three years) that meets the above threshold.

GBs of all categories of mainstream schools and LAs can propose small scale 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 number² (PAN); please see the [School Admissions Code](#). The thresholds do not, however, apply to special schools. Details of how special schools can increase their intake³ are covered below.

¹ Net capacity as calculated using the DfE Guidance *Assessing the Net Capacity of Schools* (2002).

² All admission authorities must set a published admission number (PAN) for each 'relevant age group' when they determine their admission arrangements. So, if a school has an admissions number of 120 pupils for Year 7, that is its PAN.

³ The number of pupils admitted into the school at a particular time

Examples of when mainstream schools would/would not need to publish 'enlargement' proposals

A secondary school with a capacity of 750 (5 form of entry - 30 pupils per class, 5 year groups) could enlarge its premises to add 1 form of entry (30 extra pupils x 5 year groups = increase of 150 pupils) bringing the capacity to 900 pupils, without having to publish statutory proposals. Although the increase would be by 'more than 30' pupils, it is less than '200', and also less than '25%' of the current capacity (i.e. by less than 187).

A small primary school with a capacity of 50 could enlarge its premises to increase its capacity by up to 29 pupils without having to publish statutory proposals, because although it would be more than '25%', it is less than 30.

A school of any size enlarging its premises to enable it to add 300 places would need to follow the statutory process as the increase would be both 'more than 30' and '200' (it may or may not be more than '25%' but that is irrelevant if the 200 threshold would be met).

A primary school with a capacity of 210 enlarging its premises to enable it to add 105 places (1.5 forms of entry 45 x 7 = 315), would need to follow the statutory process as the increase would be 'more than 30' and more than '25%' (it would be less than 200 but this is irrelevant as the 25% threshold would be met).

The quality of new places created through expansion

We expect LAs to consider a range of performance indicators and financial data, before deciding whether a school should be expanded. Where schools are underperforming, we would not expect them to expand, unless there is a strong case that this would help to raise standards. We expect LAs to create new places in schools that have an overall Ofsted rating of 'good' or 'outstanding'. If, however, there are no other feasible ways to create new places in the area, the LA should notify their Pupil Places Planning adviser⁴. In cases where there is a proposal to expand a school that is rated inadequate, the LA should also send a copy of the proposal to the [relevant RSC](#), so that they can ensure appropriate intervention strategies are in place.

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

⁴ Advisers.PPP@education.gov.uk

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for community	Enlargement of premises that meets the threshold	Statutory process	LA	CofE Diocese RC Diocese
LA for voluntary or foundation	Enlargement of premises that meets the threshold	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees
LA for voluntary and foundation	Enlargement of premises (below the threshold)	Non statutory process	LA	N/A
GB of all categories mainstream	Enlargement of premises (below the threshold)	Non statutory process	GB	N/A

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, they should refer to the [guidance for opening new schools](#).

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 which are intended to expose the extent to which the new site is integrated with the existing site, and the extent to which 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 GB 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.

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

Expansion of existing grammar schools

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

Changes to the published admissions number (PAN) where an enlargement of premises has not taken place

Admission authorities⁶ must set a PAN for each 'relevant age group' when determining their admission arrangements. If an admission authority of a mainstream school wishes to increase or decrease PAN, without increasing the overall physical

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

⁶ The LA in the case of community and voluntary controlled (VC) schools or the GB in the case of voluntary aided (VA) and foundation schools

capacity of the buildings, this would be classed as an admissions change, not a prescribed alteration. The statutory process described in this guidance would not need to be followed (please see the [School Admissions Code](#) for further details of the processes admission authorities must follow).

Change in number of pupils in a special school

The School Admissions Code does not apply to special schools. GBs 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 (or 5 pupils if the school is a boarding-only school),

(whichever is the smaller number).

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

GBs 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 and foundation special	Increase by 10% or 20 pupils (5 for boarding special)	Statutory process	LA	CofE Diocese RC Diocese

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

Change of age range

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

LAs 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](#).

GBs of foundation and voluntary schools can propose:

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

Before making such a proposal, the GB should consult with LAs, and where the school is designated as having a religious character the trustees of the school, dioceses or relevant diocesan boards, or any other relevant faith body, to understand the place management needs of the area.

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

GBs 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 GB must also ensure that they act in accordance with the requirements for proposals for the [enlargement of premises](#).

In cases where the age-range of the school has changed, this should be altered on GIAS. For example if the age-range is changed so that the school no longer caters for pupils below compulsory school age, the lower age range of the school would need to be increased so as not to include that age group.

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

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for voluntary and foundation	Alteration of upper or lower age range of up to 2 years (excluding adding or removing a sixth form)	Non statutory process	LA	NA
GB of voluntary and foundation	Alteration of upper or lower age range by up to 2 years (excluding adding or removing a sixth form)	Non statutory process	GB	N/A
GB of voluntary and foundation	Alteration of upper or lower age range by 3 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 schools 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
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	Statutory process	LA	CofE Diocese RC Diocese

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

Adding a sixth form

The department wants to ensure that all temporary (which is anticipated will be in place for no more than 2 years) and permanent 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 additional provision.

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

- **Quality:** The quality of pre-16 education must be good or outstanding (as rated by Ofsted) and the school must have a history of positive Progress 8 scores (above 0);
- **Size:** The proposed sixth form will provide at least 200 places and there should be sufficient demand for those places;
- **Subject Breadth:** The proposed sixth form should - either directly or through partnership - offer a minimum of 15 A level subjects. LAs may wish to consider the benefits of delivering a broader A level curriculum through

partnership arrangements with other school sixth forms. Working with others can offer opportunities to:

- o Improve choice and attainment for pupils
- o Deliver new, improved or more integrated services
- o Make efficiency savings through sharing costs
- o Develop a stronger, more united voice
- o Share knowledge and information.

Schools proposing a partnership arrangement must include evidence of how this will operate on a day-to-day basis, including timetabling and the deployment of staff;

- **Demand:** There should be a clear demand for additional post-16 places in the local area (including evidence of a shortage of post-16 places and a consideration of the quality of Level 3 provision in the area). The proposed sixth form should not create excessive surplus places or have a detrimental effect on other high quality post-16 provision in the local area;
- **Financial viability:** The proposed sixth form should be financially viable (there must be evidence of financial resilience should student numbers fall). The average class size should be at least 15, unless there is a clear educational argument to run smaller classes – for example to build the initial credibility of courses with a view to increasing class size in future.

Not all changes in age range to add a sixth form will necessitate a change to the school's admissions arrangements, for example a school may set up sixth form provision solely for its own pupils. However, if the intention is to also admit external applicants to the sixth form the school will need to adopt a sixth form PAN and may also wish to add academic entry requirements on changing its age-range.

The addition of post-16 provision requires a change of age-range, therefore, where a decision-maker is considering a proposal to add post-16 provision, they should refer to the section on changing an age range.

Closing an additional site

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

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

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

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 LA:

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

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

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

Changes of category

GBs of all categories of maintained schools, apart from GBs of foundation special schools, may propose to change category by following the statutory process. The [addition or removal of a foundation](#) is described in [part 6](#). Where GBs are proposing a change of category covering a change in provision (e.g. from mainstream to special school) they are encouraged to seek advice by emailing schoolorganisation.notifications@education.gov.uk.

For a proposal to change the category of a school to voluntary-aided, the decision-maker should be satisfied that the GB 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 GB 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.

Guidance on adding or changing a designated religious character can be found in the [Opening and closing maintained schools](#) guidance.

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

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

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
GB of foundation	Acquire foundation Acquire a majority of foundation governors on the GB Removal of foundation and/or reduction in majority of foundation governors on GB	Statutory process	GB	N/A
GB of community	Community to VC or VA	Statutory process	LA	CofE Diocese RC Diocese
GB of community	Community to foundation school Community to foundation school and acquire foundation Community to foundation school 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	Statutory process	GB	N/A

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

Proposers can seek to change their school from single sex to co-educational (or vice versa) when they can show that this would better serve their local community. A co-educational school cannot change its nursery or post-16 provision to single sex. When making a decision, LAs will need to consider the demand for and balance of school places for boys and girls in line with the [Equality Act 2010](#).

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

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

Mainstream school: establish/remove/alter special educational needs (SEN) provision

When considering any reorganisation of provision that the LA recognises as 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.

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

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

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
and voluntary				

Change the types of need catered for by a special school

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

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

Boarding provision

The introduction of boarding provision can require the statutory process to be followed (depending on the type of school in question – see table below). LAs and GBs will need to consider how the Prescribed Alterations Regulations apply in conjunction with this guidance and, where there is any doubt, seek independent legal advice, as the department cannot advise on individual cases.

LAs 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](#).

GBs of voluntary and foundation schools can propose the establishment or increase of boarding provision following the non-statutory process in [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 in [part 5](#).

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

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

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for community	Add, remove or change (decrease by 50 pupils or 50% whichever is greater) boarding provision	Statutory process	LA	CofE Diocese RC Diocese
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

In making a decision on a proposal to remove boarding provision from a school, the decision-maker should consider whether there is a state funded boarding school within reasonable distance from the school and 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.

Remove selective admission arrangements at a grammar school

The table below sets out who can propose the removal of selective admission arrangements⁷ and what process must be followed:

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

Amalgamations

The LA and/or GB (depending on school category) can publish a proposal to close one school (or more) and enlarge/change the age range/transfer site (following the statutory process as/when necessary) of an existing school, to accommodate the displaced pupils. The remaining school would retain its original school number, as it is not a new school, even if its phase has changed.

Alternatively, LAs may propose to close all the schools involved and replace them with a new school. For more information, please consult the separate guidance on [opening and closing a maintained school](#).

⁷ In accordance with s.109 (1) of the School Standards and Frameworks Act 1998

3: Contentious proposals

When proposing changes, LA's and GBs should act reasonably, and 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.

To enable the department to monitor potentially controversial proposals, LAs and GBs should notify schoolorganisation.notifications@education.gov.uk of the publication of any proposals which would:

- involve [expansion onto a separate 'satellite' site](#); or
- where objections have been raised that the proposed change could potentially undermine the quality of education in the local area by creating additional places where there is surplus capacity.

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

LAs and GBs of mainstream maintained schools can make limited changes (see [part 2](#) for the exact detail) to their schools without following a statutory process, including some temporary changes; 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, LAs and GBs will work together and will:

- liaise with the trustees of the school, and in the case of schools designated as having a religious character the diocese or relevant diocesan board, or any other relevant faith body, 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;
- not create additional places in a local planning area where there is already surplus capacity in schools, taking the quality and diversity of the provision into account as well as cross boundary impacts; and
- ensure open and fair consultation with parents, any affected educational institutions in the area (e.g. primary, secondary, special schools, sixth form and FE colleges as required) and other interested parties. The [consultation principles guidance](#) can be referenced for examples of good practice.

Before making any changes GBs 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 necessary⁸. The proposal can be approved subject to planning permission being granted;
- they have the consent of the site trustees or other land owner where the land is not owned by the GB;
- where a school is designated as having a religious character, they have the consent of the trustees of the school, the diocese or relevant diocesan board, or any other relevant faith body, where appropriate; 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 GB) is responsible for making arrangements for the necessary changes to be made to the school's record in the department's [GIAS](#) system. These changes must be made no later than the date of implementation for the change and can be input in advance, once a decision is made.

⁸ including, where necessary, approval from the Secretary of State for change to the use of playing field land under Section 77(1) of the SSFA 1998

5: Statutory process: prescribed alterations

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

Stage	Description	Timescale	Comments
Stage 1	Publication (statutory proposal/notice)		
Stage 2	Representation (formal consultation)	Must be 4 weeks	As set out in the 'Prescribed Alterations' 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	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, to take into account all relevant considerations. Schools should have the consent of the site trustees and where a school is designated as having a religious character the trustees of the school, the diocese or relevant diocesan board, or any other relevant faith body.

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 and, where appropriate, extend the consultation period if it overlaps school holidays etc;
- plan where any public and stakeholder meetings are held to maximise response;
- take into account the admissions cycle for changes that will impact on the school's admission arrangements.

A number of changes can impact 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 GB 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 GB/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 been designated as having a religious character:
 - the local Church of England diocese;
 - the local Roman Catholic diocese; or
 - the relevant faith group in relation to the school;
- proposals affecting a special school should go to any LA that has commissioned a place at the school (i.e. all relevant authorities who have made an out of county/borough placement there); and
- any other body or person that the proposer thinks is appropriate e.g. any affected educational institutions in the area.

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 must last for four weeks from the date of the publication. 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](#)⁹.

Decision-makers 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. Decision-makers 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 affected by a proposal – especially parents of children at the affected school(s).

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.

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 GB (as appropriate); or
- approve the proposal, with or without modification – subject to certain conditions¹⁰ (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 GB (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);

⁹ For example where a change is conditional on the establishment of a new school under section 10 or 11 of EIA 2005 (where the Schools Adjudicator may be the default decision maker).

¹⁰ The prescribed events are those listed in paragraph 8 of Schedule 3 to the Prescribed Alterations Regulations

- the GB/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 diocese or diocesan board, faith organisation and any affected educational institutions in the area).

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.

Related proposals

Where proposals appear to be related to other proposals, the decision-maker must consider the related proposals together. A proposal should be regarded as related if its implementation (or non-implementation) would prevent or undermine the effective implementation of another proposal.

Conditional approval

For many types of proposal, decision-makers may make their approval conditional on certain prescribed kinds of events¹¹. 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 when a condition is met. If a condition is not met by the date specified, the proposal should be referred back to the decision-maker for fresh consideration.

¹¹ Under paragraph 8 of Schedule 3 to the Prescribed Alterations Regulations

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.

Equal opportunities issues

The decision-maker must comply with the Public Sector Equality Duty (PSED), which requires them to have 'due regard' to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it; and
- foster good relations between people who share a relevant protected characteristic and people who do not share it.

Further information on the considerations can be found on the [Equality and Human Rights Commission](#) website.

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 should 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 groups 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 necessary funding required to implement the proposal will be available and that all relevant local parties (e.g. trustees of the school, diocese or relevant diocesan board) 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.

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, a 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

Proposers can seek modifications 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 no longer wants to implement an approved proposal, they must publish a revocation proposal to be relieved of the duty to implement, as set out in the Prescribed Alterations Regulations.

Land and buildings

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 must¹²:

- 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 GB, 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.

Voluntary aided schools

Where a LA is required to provide a site for a voluntary aided school, they must transfer their interest in the land to the trustees of the school, and must pay the reasonable costs to the GB in connection with the transfer.

¹² Under paragraph 17 of schedule 3 of the Prescribed Alterations Regulations

School premises and playing fields

Under the School Premises (England) Regulations 2012, all schools maintained by local authorities 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.

6: Statutory process: foundation proposals

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

A 'foundation trust school' is a foundation school with a charitable foundation complying with the requirements set out in SSFA 1998¹³. These include that the foundation 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 foundation trust has the power to appoint a majority of governors on the GB.

Where a school's GB considers changing category to foundation or acquiring a foundation trust and/or acquiring a foundation majority on the school's GB, the following five-stage statutory process must be followed:

Stage	Description	Timescale	Comments
Stage 1	Initiation		The GB considers a change of category to foundation/acquisition of a foundation 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 foundation trust proposal to the Schools Adjudicator during this period if it considers the proposal to have a negative effect on standards at the school
Stage 4	Decision	The GB 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

¹³ Section 23A

Initiation

For a proposal to change the category of a school to a foundation school, the GB 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 GB 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. Part 1 of [Schedule 1 to the Prescribed Alterations Regulations](#) specifies the information that the statutory proposal must contain. Further details on the publication stage can be found in [Part 5](#).

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 GB, 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 foundation trust/foundation majority to the [Schools Adjudicator](#) for decision, if they consider it will have a negative impact on standards at the school.

The LA does not have this power in respect of a proposal solely to change the category to foundation¹⁴.

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

¹⁴ 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

Decision

Unless a proposal has been referred to the Schools Adjudicator (as set out above), the GB 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 foundation trust or a foundation majority is linked to a proposal to change category to a foundation school, they will be decided together.

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;
- approve the proposal with or without modifications but conditional upon:
 - o the making of any scheme relating to any charity connected with the school; and
 - o the establishment of a foundation¹⁵.

Where the LA has referred a proposal to acquire a foundation 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.

Decision-makers should consider the impact of changing category to foundation school, and acquiring or removing a foundation trust on educational standards at the school. In assessing standards at the school, the decision-maker should take account of recent reports from Ofsted 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. Foundation trusts have a duty¹⁶ to promote community cohesion, and decision-makers should carefully consider the foundation trust's plans for partnership working with other schools, agencies or voluntary bodies.

¹⁵ As defined in section 23A of the SSFA 1998

¹⁶ Under section 23A(5) of the SSFA 1998

Foundation schools acquiring a foundation trust

For foundation trust schools the decision-maker should 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 foundation trust;
- the necessary work is underway to establish the foundation trust as a charity and as a corporate body; and
- that none of the foundation trustees are disqualified from exercising the function of foundation trustee, either by virtue of:
 - o disqualifications from working with children or young people;
 - o not having obtained a criminal record check certificate¹⁷;
 - o [Charities Act 2011](#)¹⁸ which disqualify certain persons from acting as charity trustees.

Suitability of partners

Decision-makers will need to be satisfied of the suitability of foundation trust partners and members. They should use their own discretion and judgement in determining on a case-by-case basis whether the reputation of a foundation trust partner is in keeping with the charitable objectives of a foundation trust, or could bring the school into disrepute. However, the decision-maker should make a balanced judgement, considering the suitability and reputation of the current/potential foundation trust.

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

- [The Health and Safety Executive Public Register of Convictions](#)¹⁹
- [The Charity Commission's Register of Charities](#); and
- [The Companies House web check service](#).

¹⁷ Under section 113A of the Police Act 1997

¹⁸ section 178 onwards

¹⁹ Appearance on this database should not automatically disqualify a potential trust member, decision-makers will wish to consider each case on its merits

Within one week of making a decision the GB 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.

Where a proposal has been decided by the GB and is to change the category of a VA school to foundation (with or without the acquisition of a foundation trust/foundation majority), the following bodies have the right of appeal to the [Schools Adjudicator](#)²⁰:

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

Conditional approval

For many types of proposal, decision-makers may make their approval conditional on certain prescribed kinds of events²¹. 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 when a condition is met. If a condition is not met by the date specified, the proposal should be referred back to the decision-maker for fresh consideration.

Implementation

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

Within one week of implementation, the GB must provide information to the Secretary of State²² about foundation proposals that have been implemented. Copies of the statutory proposals and decision record should be submitted to

²⁰ The specific circumstances in which a referral can be made are prescribed under paragraph 15 of Schedule 1 to the Prescribed Alterations Regulations

²¹ under paragraph 16 of Schedule 1 to the Prescribed Alterations Regulations

²² Paragraph 18 of Schedule 1 of the Prescribed Alterations Regulations

schoolorganisation.notifications@education.gov.uk in order for the school record to be updated on GIAS.

Modification post determination

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

Revocation

If the proposer no longer wants to implement an approved proposal they must publish a revocation proposal to be relieved of the duty to implement, as set out in Paragraph 19 of Schedule 1 of the Prescribed Alterations Regulations.

Governance and staffing issues

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

- the revision or replacement of the school's instrument of government;
- reconstitution or replacement of the GB;
- 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 foundation trust, are prescribed in Schedule 5 of the Prescribed Alterations Regulations.

Removing a foundation trust and/or removing a foundation majority

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

Stage	Description	Timescale	Comments
Stage 1	Initiation		<p>Majority A majority of governors considers publishing a proposal to remove a foundation trust/reduce the number of governors appointed by the foundation.</p> <p>or</p> <p>Minority A minority (of not less than a third of the governors) notify the clerk of the GB of their wish to publish a proposal to remove a foundation trust/reduce the number of governors appointed by the foundation</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 foundation trusts, the GB, trustees and the LA must resolve issues related to land and assets before a proposal is published
Stage 3	Consultation	<p>Majority A minimum of 4 weeks is recommended.</p> <p>or</p> <p>Minority No consultation required</p>	Majority It is for the GB to determine the length of consultation
Stage 4	Publication and representation	<p>Majority 6 week representation period.</p> <p>or</p> <p>Minority</p>	

Stage	Description	Timescale	Comments
		Where there are no land or asset issues – publish within 3 months of receipt of notice by GB clerk – followed by a 6-week representation period. Where there are land issues, publish within 1 month of receipt of School Adjudicator's determination – followed by a 6-week representation period	
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 GB 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 foundation trust and/or removing a foundation majority can be triggered by:

- a) a majority²³ of the GB or a committee deciding to publish a proposal. The decision to publish must be confirmed by the whole GB at a meeting held at least 28 days after the meeting at which the initial decision was made; or
- b) at least one-third²⁴ of the governors requesting in writing to the clerk of the GB, that a proposal be published. No vote of the GB is required as they are obliged to publish a proposal. To prevent on-going challenges

²³ Regulation 4 of the Removal Regulations
²⁴ Regulation 5 of the Removal Regulations

there are a number of prescribed circumstances²⁵ in which there is no obligation to follow the wishes of the minority of governors.

Land and assets (when removing a foundation trust)

Before publishing proposals to remove a foundation trust, the GB 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 foundation trust, all publicly provided land held by the foundation trust for the purposes of the school will transfer to the GB²⁶. Where the land originated from private sources (for example, where land was gifted on trust), the land will transfer to the GB in accordance with a transfer agreement, providing for consideration to be paid by the GB to the foundation 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 GB 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;

²⁵ See regulation 5(4) of the Removal Regulations

²⁶ By virtue of regulation 17(1) of the Removal Regulations

- the GBs 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 been designated as having a religious character, the appropriate diocesan authority or other relevant faith group in relation to the school;
- any other person the GB consider appropriate.

Publication

Where the decision to publish a proposal was made by a majority of governors, the GB 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 GB 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 foundation trust or to alter the instrument of government so that foundation governors cease to be the majority of governors must contain the information set out in [The School Organisation \(Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations 2007](#). Further details on the publication stage can be found in [Part 5](#).

At the same time as publishing the proposals, the GB must send copies of the proposals to the LA, trustees, and the Secretary of State via schoolorganisation.notifications@education.gov.uk.

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 GB to be taken into account when the decision is made.

Unlike the foundation trust acquisition process, there is no power for the LA to refer a proposal to the Schools Adjudicator to remove a school's foundation trust or to reduce the number of governors appointed by the foundation trust. However, GBs

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 GB is the decision-maker for a removal proposal and must determine the proposal within 3 months of the date of its publication.

If a proposal was brought forward by a majority of governors, then it may be determined by a majority vote of those governors present²⁷.

If a proposal was brought forward by a minority of governors, then the GB may not reject the proposal unless two thirds or more of the governors indicate that they are in favour of its rejection²⁸.

When deciding a proposal for the removal of a foundation trust, the GB should consider the proposal in the context of the original proposal to acquire the foundation trust, and consider whether the foundation trust has fulfilled its expectations. Where new information has come to light regarding the suitability of foundation trust partners, this should be considered.

All decisions must be taken in accordance with the processes prescribed in [The School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013](#)²⁹.

The GB must notify the relevant LA, trustees and the Secretary of State via schoolorganisation.notifications@education.gov.uk of their decision.

Implementation

The GB is under a statutory duty to implement any approved proposal, as published, by the approved implementation date, taking into account any modifications made. 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 GB 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 GB 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](#).

²⁷ As per the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013

²⁸ As per regulation 11(2) of the Removal Regulations

²⁹ Except as otherwise provided by the Removal Regulations.

When removing a foundation trust or a foundation 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 GB 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 trust, the GB 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 GB as a partnership governor.

The terms of the trust on which land is held for a voluntary or foundation school often include very specific provisions regarding the conduct of the school and the use of any fund held by the foundation trust for the use of the school and premises. When making a proposal to change category, proposers will need to consider whether the current terms on which the school's land is held on trust allows for the change in category proposed. If in doubt, or if a variation in the foundation trust is clearly necessary, promoters and the relevant site trustees are advised to make early contact with the Charity Commission to apply for the terms of 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 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 plan; and
- a statement explaining the procedure for responses: support, objections and comments.

Annex B: Further Information

This guidance primarily relates to:

- [The School Organisation \(Prescribed Alterations to Maintained Schools\) \(England\) Regulations 2013](http://www.legislation.gov.uk/uksi/2013/3110/contents/made)
www.legislation.gov.uk/uksi/2013/3110/contents/made
- [The School Organisation \(Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations 2007](http://www.legislation.gov.uk/uksi/2007/3475/contents/made) www.legislation.gov.uk/uksi/2007/3475/contents/made
- [The School Organisation \(Requirements as to Foundations\) \(England\) Regulations 2007](http://www.legislation.gov.uk/uksi/2007/1287/contents/made) www.legislation.gov.uk/uksi/2007/1287/contents/made
- [The Education and Inspections Act 2006](http://www.legislation.gov.uk/ukpga/2006/40)
www.legislation.gov.uk/ukpga/2006/40
- [The School Standards and Framework Act 1998](http://www.legislation.gov.uk/ukpga/1998/31/contents)
www.legislation.gov.uk/ukpga/1998/31/contents

It also relates to:

- [The School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013](http://www.legislation.gov.uk/uksi/2013/3109/contents/made) www.legislation.gov.uk/uksi/2013/3109/contents/made
- [The School Governance \(Constitution\) \(England\) Regulations 2012](http://www.legislation.gov.uk/uksi/2012/1034/contents/made)
www.legislation.gov.uk/uksi/2012/1034/contents/made
- [The School Governance \(Constitution and Federations\) \(England\) \(Amendment\) Regulations 2014](http://www.legislation.gov.uk/uksi/2014/1257/pdfs/uksi_20141257_en.pdf)
www.legislation.gov.uk/uksi/2014/1257/pdfs/uksi_20141257_en.pdf
- [The School Governance \(Miscellaneous Amendments\) \(England\) Regulations 2015](http://www.legislation.gov.uk/uksi/2015/883/pdfs/uksi_20150883_en.pdf) www.legislation.gov.uk/uksi/2015/883/pdfs/uksi_20150883_en.pdf
- [The School Governance \(New Schools\) \(England\) Regulations 2007](http://www.legislation.gov.uk/uksi/2007/958/pdfs/uksi_20070958_en.pdf)
www.legislation.gov.uk/uksi/2007/958/pdfs/uksi_20070958_en.pdf
- [The School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013](http://www.legislation.gov.uk/uksi/2013/1624/contents/made) www.legislation.gov.uk/uksi/2013/1624/contents/made
- [The Childcare Act 2006](http://www.legislation.gov.uk/ukpga/2006/21/contents) www.legislation.gov.uk/ukpga/2006/21/contents
- [The School Premises \(England\) Regulations 2012](http://www.legislation.gov.uk/uksi/2012/1943/contents/made)
www.legislation.gov.uk/uksi/2012/1943/contents/made

- [Making Significant Changes to an Existing Academy](http://www.gov.uk/government/publications/making-significant-changes-to-an-existing-academy)
www.gov.uk/government/publications/making-significant-changes-to-an-existing-academy
- [Academy/Free School Presumption – departmental advice](http://www.gov.uk/government/publications/establishing-a-new-school-free-school-presumption)
www.gov.uk/government/publications/establishing-a-new-school-free-school-presumption
- [Establishing New Maintained Schools – departmental advice for local authorities and new school proposers](http://www.gov.uk/government/publications/establishing-new-maintained-schools)
www.gov.uk/government/publications/establishing-new-maintained-schools
- [The School Admissions Code](http://www.gov.uk/government/publications/school-admissions-code--2) www.gov.uk/government/publications/school-admissions-code--2
- [Education Act 1996](http://www.legislation.gov.uk/ukpga/1996/56/contents) www.legislation.gov.uk/ukpga/1996/56/contents
- [Equality Act 2010](http://www.legislation.gov.uk/ukpga/2010/15/contents) www.legislation.gov.uk/ukpga/2010/15/contents
- [Police Act 1997](http://www.legislation.gov.uk/ukpga/1997/50/contents) www.legislation.gov.uk/ukpga/1997/50/contents
- [Charities Act 2011](http://www.legislation.gov.uk/ukpga/2011/25/contents) www.legislation.gov.uk/ukpga/2011/25/contents
- [Public Sector Equality Duty](http://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty) www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty
- [Home-to-school travel and transport - GOV.UK](http://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance)
www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance
- [Get information about schools - GOV.UK](http://www.get-information-schools.service.gov.uk/) www.get-information-schools.service.gov.uk/
- [Consultation principles: guidance - GOV.UK](http://www.gov.uk/government/publications/consultation-principles-guidance)
www.gov.uk/government/publications/consultation-principles-guidance
- [School land and property: protection, transfer and disposal - GOV.UK](http://www.gov.uk/guidance/school-land-and-property-protection-transfer-and-disposal)
www.gov.uk/guidance/school-land-and-property-protection-transfer-and-disposal

Annex C: Contact details for RSC offices

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

© Crown copyright 2018

This publication (not including logos) is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/version/3
email psi@nationalarchives.gsi.gov.uk
write to Information Policy Team, The National Archives, Kew, London, TW9 4DU

About this publication:

enquiries www.education.gov.uk/contactus
download www.gov.uk/government/publications

Reference: DFE-00314-2018



Follow us on Twitter:
[@educationgovuk](https://twitter.com/educationgovuk)



Like us on Facebook:
facebook.com/educationgovuk

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:

- Proposal presented under informal consultation - 25 February to 11 March 2019 to make permanent the expansion of the buildings of Horton Grange Primary, New Delaval Primary and Whytrig Community Middle School with effect from 1 October 2019 or as near as practicable. These proposals were subsequently under formal consultation between 11 July and 8 August 2019. This equalities impact assessment has been updated in the light of the publication of the statutory proposal for these schools

2) Date of equality impact assessment: August 2019

Assessment following formal statutory consultation process.

3) Brief description of the change, decision or proposal:

As provided in 1.

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

Lorraine Fife, School Organisation Manager

5) 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?)

These proposals have been brought forward to make permanent the building expansions carried out at the 3 schools named above following the increase in pupil

numbers in their catchment areas and the increase of their Planned Admission Numbers in September 2018.

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 c Sex - **X** Race **X** Religion **X**

Sexual Orientation **X**

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

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

6) The characteristics checked above are not relevant because:

Should the proposals to permanently expand the buildings at the 3 schools be approved, this would come into effect from 1 October 2019 or as near to that date as practicable. There is no change to the provision at any of these 3 schools as a result of these proposals and no feedback was received during informal consultation to suggest that any of the protected groups were negatively or positively impacted by these proposals. Therefore, there is no reason to believe that the proposals would affect more positively or negatively than their peers any group of children, parents or staff defined by their gender, age, race, sexual orientation or gender-reassignment status. Should these proposals be approved, we would invite families to let us know if they are concerned about the impact that the change may have on the support networks for any individual children within these protected groups who may be at particular risk of harassment or discrimination.

Existing HR policies covering organisational change would apply to staff employed at the 3 schools named above. These are designed to ensure that the equalities duties of the Council and the schools are fully met.

PART 2 – Relevance to different Protected Characteristics

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

Disability

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

7) 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?

Neither informal nor statutory consultation has shown any evidence to suggest that any member of the community with a disability would be disproportionately impacted positively or negatively should the proposal to expand permanently the buildings at the Horton Grange Primary, New Delaval Primary or Whytrig Community Middle School.

Any pupil, parent or member of staff of the two schools who has a disability would not be affected by these proposals as any arrangements already in place to ameliorate such disability as the proposals advocate that the school would remain unchanged. No evidence has come to light during the statutory consultation process of any individual who would be categorised within this protected group, but appropriate arrangements would be made where this is necessary to avoid potential adverse impacts should the need arise.

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

No evidence has arisen during the informal or statutory consultation periods to suggest that any pupil, member of staff, parent or member of the community with a disability would be disproportionately advantaged or disadvantaged by the proposals. All expansion works to the school buildings have been carried out in line with the requirements of the DDA and meet accessibility requirements.

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

The proposed changes would not affect any current arrangements for disabled people to participate in public life as adjustments as all currently arrangements at the schools would remain in place.

10) 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 permanent expansion of the schools would affect public attitudes towards disabled people.

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

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

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

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

There is no evidence to suggest that there are any risks of disproportionately disadvantaging any pupils or members of staff at either school.

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

See para. 8 above.

Age

14) 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?

Horton Grange and New Delaval Primary Schools provides education to pupils between the ages of 4 and 11, while Whytrig Middle School provides education to pupils between the ages of 9 and 13. Only pupils within this age range would be affected by the proposal.

Staff at the two schools are employed equitably in accordance with the schools' and council's employment policies. Should approval for the proposals be given by Cabinet at some point in the future, it is not expected that any staff would be at risk of redundancy. Any changes to a member of staff's working arrangements would be made in accordance with the schools' and council's employment policies deal on an equitable basis, regardless of age.

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

See para. 14. Above.

16) 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.)

Statutory consultation has not shown any evidence to suggest that the proposals would have any effect on the ability of different age groups to participate in public life more or less than already occurs. No evidence has arisen during statutory consultation to suggest that anyone within this protected group would be prevented from participating in public life.

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

community)

There is no evidence to suggest that this proposal would affect public attitudes towards pupils in the protected groups or any pupils on roll at the schools.

18) 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?

Statutory consultation has not shown any evidence to suggest that this proposals would increase or reduce the risk of harassment or victimisation of pupils on roll at these schools as a result of the expansion of the schools. All schools have anti-bullying policies and arrangements in place e.g. split-time lunches and playtimes etc, to ensure that any harassment or victimisation of pupils is dealt with effectively.

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

Refer to para. 14.

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

The expansion of the school buildings will increase the changes of all children living in the catchment area of these schools the opportunity to be educated at their catchment school.

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.

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

Staff at Horton Grange Primary, New Delaval Primary and Whytrig Community Middle School are employed equitably in accordance with the school's and council's employment policies. Should approval be given to expand permanently the buildings of these schools, any changes to staff organisation would be carried out in line with the council's employment policies on an equitable basis, including for those staff who may currently be pregnant or on maternity leave.

Statutory consultation has not shown any evidence to suggest that the proposals would create any barriers to pupils accessing any of the schools impacted by the proposals who have a parent who may be pregnant or who has other children under 26 weeks old. The proposals could have a positive impact for some families where a parent who may be pregnant or who has other children under 26 weeks old may

benefit from the child on roll at Horton Grange Primary, New Delaval Primary and Whytrig Community Middle Schools as the chances of catchment children being offered a place will increase. Should approval be given for the implementation of the proposals and subsequent evidence arise that anyone within this protected group would be impacted negatively by this proposal, appropriate individual arrangements to the extent possible would be put in place to ameliorate any avoid potential adverse impacts.

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

See para. 23.

23) 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.)

Statutory consultation has not shown any evidence to suggest that the proposals would affect the ability of this protected group to participate in public life under the proposals.

24) 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)

Statutory consultation has not shown any evidence to suggest that the proposals would have any effect on public attitudes to this protected group under the proposals.

25) 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?

Statutory consultation has not shown any evidence to suggest that the proposal would make it more or less likely that this protected group would be at risk of harassment or victimisation under the proposals.

26) 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?

Statutory consultation has not shown any evidence to suggest that the protected group would be disproportionately disadvantaged by the proposals.

27) 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. 23.

Human Rights

28) 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)

Statutory consultation has not shown any evidence to suggest that the proposals would impact positively or negatively on the human rights of any of the protected groups identified within this EIA.

PART 3 – Course of Action

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

X	The equality analysis has not identified any potential for discrimination or adverse impact and all opportunities to promote equality have been taken.
---	--

30) Explain how you have reached the judgement ticked above, and summarise any steps which will be taken to reduce negative or enhance positive impacts on equality.

From the initial analysis of the possible negative or positive impact of the proposal on groups with protected characteristics, there is no evidence to suggest that any of these groups would be disproportionately disadvantaged by the proposal. However, as the proposals involves making permanent the expansion of the buildings at Horton Grange Primary, New Delaval Primary and Whytrig Community Middle Schools, there is an advantage in that there is an increased possibility that any children living in the catchment area of one of the above named schools would be offered a place there if a preference is expressed. Should the proposals be approved for implementation, this EIA would be reviewed to ensure that if any evidence arises that there could be possible negative impacts, those risks would be analysed to establish whether or not there were certain risks to any or all of those groups. Steps to reduce negative impacts or enhance positive impacts would then be defined.

PART 4 - Ongoing Monitoring

31) 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 been updated following the statutory consultation period. Should

Cabinet approve the implementation of the statutory proposal in relation to Horton Grange Primary, New Delaval Primary and Whytrig Community Middle Schools, the EIA would be further updated at that time. Appropriate action would be identified in the light of the consultation 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. A summary will then be generated corporately and published