



# Northumberland

## County Council

### **CABINET**

**Date: 20 July 2023**

## **Outcomes of Statutory Consultation on Proposals for the Berwick Partnership**

Report of Councillor Guy Renner-Thompson Cabinet Member for Children's Services:

Lead Officer: Audrey Kingham, Executive Director of Children, Young People and Education

### **Purpose of Report**

This report sets out an analysis of the representations and responses received from interested parties and stakeholders during the four-week statutory consultation, which commenced on 11 May and closed on 8 June 2023, in relation to proposals for schools in the Berwick Partnership.

Cabinet is asked to make a final decision on whether or not to approve the proposals, including school closures, set out in the statutory proposal. At the same time, Cabinet is requested to make a final decision on whether or not to approve the non-statutory proposals relating to the voluntary schools within the Berwick Partnership as set out in the Report of the Executive Director of Children, Young People and Education, Berwick Partnership Organisation, 9<sup>th</sup> May 2023.

In making its final decision, Cabinet should note the decision of the DfE's Advisory Board acting on behalf of the Regional DfE Director North East arising from its meeting of 13 July 2023 with respect to the proposed changes to St Cuthbert's Catholic First School and Berwick Academy which form an integral part of the overall proposed reorganisation of the Berwick Partnership.

### **Recommendations**

It is recommended that Cabinet:

- 1) In the light of the prescribed changes set out in the statutory proposal published on 11 May 2023 for schools in the Berwick Partnership and all the information provided in this report (taking into account the Statutory Guidance from the Department for Education's (DfE) '*Opening and closing maintained schools Statutory guidance for proposers and decision makers January 2023*' attached at Appendix 2 and '*Making significant changes ('prescribed alterations') to maintained schools Statutory*

*guidance for proposers and decision makers January 2023*' attached at Appendix 3, agree to:

- Approve for implementation the Council's statutory proposal to close
  - Berwick Middle School with effect from 31 August 2026;
  - Glendale Middle School with effect from 31 August 2026, noting that the school is classed as a rural secondary and in light of the presumption against the closure of rural schools set out in the DfE guidance 'Opening and closing maintained schools Statutory guidance for proposers and decision makers January 2023' at page 24 of the guidance, consider and take into account the factors set out in the guidance as referenced at para. 43 of this report;
  - Tweedmouth Community Middle School with effect from 31 August 2026.
  
- Approve for implementation the Council's statutory proposal to extend the age ranges of the following schools;
  - Scremerston First School from an age 4 to 9 first school to an age 4 to 11 primary school in a phased way with effect from 1 September 2025.
  - Spittal First School from an age 4 to 9 first school to an age 4 to 11 primary school in a phased way with effect from 1 September 2025.
  - Tweedmouth Prior Park First School from an age 3 to 9 first school to an age 3 to 11 primary school in a phased way with effect from 1 September 2025.
  - Tweedmouth West First School from an age 4 to 9 first school to an age 4 to 11 primary school in a phased way with effect from 1 September 2025.
  - Wooler First School from an age 2 to 9 first school to an age 2 to 11 primary school in a phased way with effect from 1 September 2025.
  
- Approve for implementation the Council's statutory proposal to establish a SEN Unit at the site of Berwick St Mary's Church of England First School with 30 places for children diagnosed with special educational needs, primarily those with Autistic Spectrum Disorder (ASD), Social, Emotional and Mental Health (SEMH), Speech Language and Communication (SLCN) and Moderate Learning Difficulties (MLD) with effect from 1 September 2025.

All of the above approvals conditional upon the granting of planning permission under Part 3 of the Town and Country Planning Act 1990 by 31 August 2025 in relation to the proposed building works at the above First Schools, as detailed in para 42. Table 2.

- Linked to the above statutory proposals for Scremerston and Spittal, approve the reduction of the planned admission numbers (PAN) of those schools as follows;
  - Scremerston First School to reduce its PAN from 18 to 10 with effect from 1 September 2025.
  - Spittal Community First School to reduce its PAN from 40 to 30 with effect from 1 September 2025.

- 2) In the light of the non-statutory changes consulted on at Phase 2 pre-statutory consultation and referenced in the above statutory proposal for information, approve for implementation the Council's non-statutory proposals to extend the age ranges of the following schools;
- Berwick St Mary's Church of England First School from an age 3 to 9 first school to an age 3 to 11 primary school with effect from 1 September 2025.
  - Holy Trinity Church of England First School from an age 3 to 9 first school to an age 3 to 11 primary school with effect from 1 September 2025.
  - Holy Island Church of England First School from an age 3 to 9 first school to an age 3-11 primary school with effect from 1 September 2025.
  - Hugh Joicey Church of England First School from an age 4 to 9 first school to an age 4 to 11 primary school with effect from 1 September 2025.
  - Lowick Church of England Voluntary Controlled First School from an age 2 to 9 first school to an age 2 to 11 primary school with effect from 1 September 2025.
  - Norham St Ceolwulf's C of E Controlled First School from an age 3 to 9 first school to an age 3 to 11 primary school with effect from 1 September 2025.
- 3) When formulating its decision, Cabinet is recommended to take into account:
- In relation to Glendale Middle School, the guidance in relation to the presumption against the closure of a rural school as set out at Recommendation 1 above and referenced at para. 43.
  - The responses received to the Statutory Proposal and the commentary contained within this report at paras. 26-35.
  - The implications of the proposals on schools and the local community as set out in the Statutory Proposals contained within Appendix 1.
  - The implications for Home to School Transport of the statutory proposals as set out in this report.
  - The decision of the DfE's North East Advisory Board on 13 July 2023 to approve the change of age range of St Cuthbert's Catholic First School from an age 3-9 to an age 3-11 primary academy with effect from 1 September 2025 and to approve the change of age range of Berwick Academy from an age 13 to 18 to an age 11 to 18 secondary academy and to establish an SEN unit for students with primary needs in SEMH, ASD, SLCN and MLD both with effect from 1 September 2026. Cabinet should also take into consideration that these approvals are conditional upon Cabinet's approval for implementation of Recommendations 1 and 2. A copy of the decision of the Advisory Board will be provided to Cabinet on the day of its meeting.
- 4) Approve the allocation of £41.177m from the funding sources set out at para. 42, Table 2 towards the capital costs required to support the implementation of the prescribed changes set out in Recommendation 1 and 2 above. Full details of the capital costs required for implementation are set out at para. 42.
- 5) Authorise the Cabinet Member for Children's Services and the Executive Director of Children, Young People and Education to approve the award of contract to the preferred contractor following the procurement process for the works required to support the changes for the first schools to become primary currently estimated to be £5.777m capital expenditure from the overall project budget of £41.177m.

- 6) Approve the allocation of £250k in order to develop an Outline Business Case for investment in Berwick Academy noting that the outcomes will be reported back to cabinet at a later date. Cabinet should note that the decision to invest in the refurbishment/rebuilding of Berwick Academy is not predicated on these reorganisation proposals. Cabinet should also note that officers are in discussions with DfE with regard to a contribution from the department towards the capital costs of refurbishment/rebuilding of Berwick Academy.

### **Link to Corporate Plan**

These proposals are most closely linked to the Council's priority for Learning (achieving and realising potential), but it is also strongly linked with the priority for Connecting (having access to the things you need).

### **Key Issues**

1. At its meeting 9 May 2023, Cabinet approved the publication of statutory proposals setting out its intention to close Berwick, Glendale, and Tweedmouth Community Middle Schools with effect from 31 August 2026, change the age ranges of Scremerston, Spittal, Tweedmouth West, Tweedmouth Prior Park and Wooler First Schools to become primary schools with effect from 1 September 2025. Included in the statutory proposal was the intention to establish a SEN unit at Berwick St Mary's Church of England First School for up to 30 places for pupils with primary needs in SEMH, ASD, MLD and SLCN to take effect from 1 September 2025. This decision was made following Phase 2 informal consultation which took place between 31 October 2022 and 3 March 2023 (18 week consultation).
2. Cabinet was also informed that in conjunction with making a final decision on the proposals in relation to the schools set out in para. 1, it would also be requested to make a final decision in relation to the non-statutory proposals to change the age ranges of Berwick St Mary's, Holy Trinity, Holy Island and Hugh Joicey Church of England First Schools, Lowick Church of England Voluntary Controlled First School, and Norham St Ceolwulf's C of E Controlled First School.
3. As the above proposals relate to the reorganisation of the whole of the Berwick Partnership of schools from the current 3-tier system to a primary/secondary system, the Trustees of the Bishop Bewick Catholic Education Trust have approved the change of St Cuthbert's Catholic First School from an age 3-9 first school (academy) to an age 3-11 primary school with effect from 1 September 2025. The Trustees of Berwick Academy have approved the change of age range of the academy from an age 13-18 academy to 11-18 and to establish a SEN of up to 40 places for students with SEMH, ASD, MLD and SLCN, both changes to be effective from 1 September 2026. These changes require the approval of the Advisory Board acting on behalf of the Regional Director North East and Cabinet is advised to note the decision of the board arising from its meeting on 13 July 2023.
4. The rationale for the proposals and the outcomes of the informal consultation are set out in the report of the Joint Interim Director of Children's Services (Outcomes of Consultation on Berwick Partnership Organisation) 22 October 2022 and the report of the Cabinet Member for Children's Services (Outcomes of the Consultation on Proposals for the Berwick Partnership) 9 May 2023 and included in the Background

Papers to this report. A summary of the informal consultations carried out is provided in paras. 12 to 25 of this report.

5. The statutory proposal was published on the Council's website and a brief notice placed in the Northumberland Gazette on 11 May 2023 in line with the statutory guidance set out in the *DfE's 'Opening and closing maintained schools Statutory guidance for proposers and decision makers January 2023'* and *'Statutory Guidance for Proposers and Decision-Makers: 'Making significant changes ('prescribed alterations') to maintained schools January 2023'* which are attached as Appendix 2 and Appendix 3. In addition, copies of the statutory proposal were sent to the required interested parties set out in the above DfE guidance within one week of the publication as follows:
  - a. The Secretary of State via [schoolorganisation.notifications@education.gov.uk](mailto:schoolorganisation.notifications@education.gov.uk) (in relation to proposed school closures)
  - b. The Governing Bodies of the schools proposed for closure and those named in the statutory proposal in relation to prescribed alterations. In addition, the Governing Bodies of all other schools and academies in the Berwick Partnership received a copy.
  - c. The Newcastle Diocesan Education Board (NDEB)
  - d. The Roman Catholic Diocese of Hexham and Newcastle
6. The publication of the statutory proposal opened a four-week period of formal statutory consultation that closed at midnight on 8 June 2023 in line with the statutory requirements. During that time all interested parties were invited to submit comments, in the form of written representations, including support for or objections to the proposals by the required deadline. No meetings or public consultation on the formally published proposals takes place during the statutory period.
7. 63 representations were received, in response to the Statutory Proposal by the deadline, and fell into the following groups:
  - 14 From Governing Bodies or Trustees of schools and academies in the Berwick Partnership
  - 17 From parents of pupils on roll in schools or academies in the Berwick Partnership
  - 14 From individual staff members at schools or academies in the Berwick Partnership
  - 3 From staffing bodies of schools or academies in the Berwick Partnership
  - 2 From the Diocesan Boards (Newcastle Diocesan Education Board and Diocese of Hexham and Newcastle)
  - 1 From the Bishop Bewick Trust
  - 12 From other interested parties

For context, Cabinet should note that as at the January 2023 census, there were 2,290 pupils on roll in mainstream Berwick Partnership schools (not including nursery children).

8. The representations received have been taking into account by officers when forming the recommendations set out in this report. The main comments and themes submitted in the representations during the statutory period are set out at paras. 26 to 35 of this report with commentary, while the full representations are included in the background papers to this report.
9. In making (determining) their decision, Cabinet are able to:
- Reject the proposals;
  - Approve the proposal without modification;
  - Approve the proposal with modifications, having consulted the local authority and/or governing bodies (as appropriate); or
  - Approve the proposal (with or without modification) conditional upon the granting of planning permission by 31 August 2024 in relation to the proposed building works.
10. As part of Cabinet's determination, it must take into consideration the factors set out in the DfE's guidance '*Opening and closing maintained schools Statutory guidance for proposers and decision makers January 2023*' and '*Statutory Guidance for Proposers and Decision-Makers: 'Making significant changes ('prescribed alterations') to maintained schools January 2023*'. These factors are set out at paras. 36 to 45.
11. Cabinet should note that within the statutory guidance, the decision-maker is recommended to "*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 the proposal – especially parents of children at the affected school(s).*" Cabinet should also note that the purpose of the statutory consultation was to seek the views of interested parties on a qualitative basis in relation to the robustness of the proposals educationally in order to inform the decision-making process of the Council's Cabinet. Therefore, it is not the intention that these results are used as a referendum on the proposal. In the light of the rationale for the proposal and in consideration of feedback received during the informal consultation and the statutory period, Cabinet are recommended to approve the proposals.
12. Cabinet should note that the decision on the statutory proposals set out in this report must be made by no later than 8 August 2023 or else must be referred to the Schools Adjudicator for a decision. Furthermore, whether or not Cabinet approves the proposals set out in this report, the following bodies have the right to appeal the decision to the Schools Adjudicator within 4 weeks of the decision being made:
- The Church of England Diocese of Newcastle;
  - The Roman Catholic Diocese of Hexham and Newcastle;
  - The Governing Bodies of the **voluntary** schools that are the subject of the proposals set out at Recommendation 1 and 2.

Should an appeal be submitted, the Schools Adjudicator would make a decision in relation to the relevant school(s) for which the appeal is submitted.

The Governing Bodies of the community schools that are the subject of the statutory proposal do not have the right of appeal to the Schools Adjudicator.

## Background

### **Summary of Rationale, and Informal and Pre-statutory Consultation in relation to school structure in the Berwick Partnership**

#### Informal Consultation

13. The rationale for the proposals for reorganisation of the Berwick Partnership and the outcomes of the informal and pre-statutory Phase 1 and Phase 2 consultations are well documented and set out in the report of the Joint Interim Director of Children's Services (Outcomes of Consultation on Berwick Partnership Organisation) 22 October 2022 and the report of the Cabinet Member for Children's Services (Outcomes of the Consultation on Proposals for the Berwick Partnership) 9 May 2023, included in the Background Papers to this report.
14. Having approved the allocation of £39.9m of Council capital funding towards investment in buildings within the Berwick Partnership of schools in the Medium-Term Financial Plan, Cabinet required assurance that this investment would be made in a school structure that would be viable and sustainable in the medium to long-term for its community. As such, schools would need to attract and retain the majority of children and young people of statutory school age living in the Berwick area and the structure would need to be the most likely to deliver improved educational outcomes now and in future years.
15. As a result, informal discussions, and meetings with school leaders on the structure of Berwick Partnership began in April 2021 and continued to March 2022 with the purpose of identifying a structure that would address the specific issues facing the Berwick Partnership. A high-level community survey was also carried out during this period in Autumn 2021. Full details of this initial period of informal consultation and detailed feedback is set out in the Report of the Executive Director of Adult Social Care and Children's Services, Berwick Partnership Organisation, 12 April 2022, and a summary is provided in the Report of the Cabinet Member for Children's Services, Outcomes of the Consultation on Proposals for the Berwick Partnership, 9 May 2023. One of the early achievements arising from these initial discussions with school leaders was agreement on a Vision for Berwick, which would assist in shaping their views on what school structure would be best placed to secure viable and sustainable schools and deliver improved educational outcomes:
  - **Improving Education Outcomes** at each phase to ensure every child meets their potential;
  - **Sustainability of Education** across the whole of the Berwick Partnership for the long term;
  - **Improving and extending the SEND offer** for children and young people in the Berwick Partnership area so that their needs are met locally, and travel times are reduced significantly;
  - **Engaging the Berwick Community** in the review process to build an understanding of all the issues and to grow support for any proposed changes within schools in order that the community engages, supports and thrives;
  - **Ensure schools work together** to further develop the partnership and create a sustainable model for the future;

- **Underpinning best value for NCC capital investment** as well as any wider investment opportunities that may arise.

16. With this vision in mind, school leaders started discussions based on 6 potential models of organisation. From these discussions and the feedback received from the high-level community survey, it was concluded that the two preferred models of organisation most likely to achieve long-term viability and sustainability for education in the partnership were the current 3-tier structure or the 2-tier (primary/secondary) structure. This conclusion was reached as a result of the views of schools on the potential positives and challenges of a 2-tier system in the partnership where there was a mixed response, with nine Governing Bodies in support of 2-tier, four against and three unsure or undecided.

#### Phase 1 Consultation (pre-statutory)

17. Cabinet approved the commencement of Phase 1 pre-consultation on the high-level question of whether the current 3-tier system of school organisation or a 2-tier (primary/secondary) system would be better placed to address the issues facing the Berwick Partnership. Consultation began on 23 May and concluded 12 August 2022. Full details of Phase 1 Consultation are provided in the Report of the Joint Interim Director of Children's Services (Outcomes of Consultation on Berwick Partnership Organisation) 22 October 2022.
18. The outcome of Phase 1 consultation concluded that 8 Governing Bodies (representing 10 schools) were in favour of a 2-tier (primary/secondary) structure, 5 Governing Bodies were strongly in favour of retaining the 3-tier structure (Berwick town's 2 middle schools and 3 first schools), 1 first school Governing Body was non-committal, while Belford Primary and the Governing Body of The Grove Special School felt unable to comment on the organisation of the mainstream school system. Therefore, at this stage the Governing Bodies of a small majority of schools favoured a move to a 2-tier structure. A further 349 responses were received from parents, staff and the wider community during Phase 1 consultation; overall these responses indicated a split in preference between the 3-tier system and the 2-tier (primary/secondary) system of almost equal proportions. In relation to how specific groups of consultees responded, first school parents and staff were split in relation to preference, high school staff were entirely in favour of 2-tier, while middle school staff and parents were mostly in favour of 3-tier.
19. Phase 1 consultation also established the need to create additional provision for children and young people with SEND within the Berwick area, specifically for those with primary needs in SEMH and ASD.

#### Phase 2 Consultation (pre-statutory)

20. Given the split in preference for either system, it was recommended and agreed by Cabinet that Phase 2 consultation should set out proposed models of school organisation within both the 3-tier system and the 2-tier system. However, the proposed 3-tier model consulted on at Phase 2 did not set out the status-quo as it had been made clear during the early discussions with school leaders and during Phase 1 consultation that changes would need to be made to the organisation of schools in the Berwick Partnership, including some school closures, in order to address the issues of viability and sustainability as a result of consistently falling pupil numbers.



21. Phase 2 Consultation began on 31 October until 3 March 2023 (18 weeks) and presented the following models for consultation with interested parties including parents, staff, governors and the wider public:

- **Model A** – Revised 3-tier structure including potential closure of Scremerston First School, Norham CE First School, and Glendale Middle School, with potential amalgamation of Tweedmouth West and Tweedmouth Prior Park; a number of schools reduce PAN; Belford Primary to be reallocated to Alnwick Partnership. Proposed SEN units at St Mary's CE First, Berwick Middle and Berwick Academy and consideration of how peripatetic SEND support could operate across partnership.
- **Model B** – Reorganisation to 2-tier(primary/secondary) model; potential closure of all 3 middle schools and Scremerston First School; first schools remaining open becoming primary; Berwick Academy extends age range; a number of schools reduce PAN; Proposed The Grove Special School relocates to former middle school site and extends offer and number of places; consideration of how peripatetic SEND support could operate across partnership.

22. The purpose of Phase 2 consultation was to present potential models of school organisation to stakeholders, including models under both a 3-tier system (with proposed changes) and under a 2-tier (primary/secondary) structure in order to seek their views. In particular, the views of stakeholders most impacted by the proposals were sought e.g., educational professionals and staff working in schools and parents of pupils on roll in Berwick partnership of schools. Throughout informal consultation, it was communicated that the quality of views in relation to the educational merits, including educational experience, of the proposals was the overriding factor and not the number of 'votes' for a particular model as this was not a referendum.

23. 724 responses were received to Phase 2 consultation. Feedback indicated that the Governing Bodies of 12 of the 17 mainstream schools now supported a reorganisation of Berwick Partnership to a 2-tier system, while four schools (two of them the town middles) were in favour of retaining the 3-tier system, albeit in revised form. This indicated a clear majority of school leaders in the partnership in favour of reorganisation to a primary/secondary structure. Furthermore, reorganisation to a 2-tier system was supported by the following bodies and organisations:

- Newcastle Diocesan Education Board (6 of the 12 first schools are CE)
- RC Diocese of Hexham and Newcastle
- Bishop Bewick Academy Trust (of which St Cuthbert's forms part)
- North Northumberland Branch of the National Autistic Society
- Ancroft, Duddo, Lowick and Norham Parish Councils (i.e., those pcs that responded)
- 2 local councillors representing wards that include Berwick Partnership schools.

24. Views from the wider community received at Phase 2 consultation indicated that support for both the 3-tier and the 2-tier structures remained in equal measure. Therefore, consensus agreement across all stakeholders was not able to be gained during the two phases of informal consultation.

25. While cogent and often emotional arguments were put forward by consultees both in support and against the proposed structures, in light of the Council's responsibility to provide system leadership and its duty to support schools to improve standards, support continuity of education and support schools to be financially viable, Cabinet supported the educationalists rationale that a 2-tier (primary/secondary) structure would be better placed to support viable and sustainable schools, and would positively impact educational outcomes, most importantly outcomes at Key Stage 4.
26. Cabinet approved the publication of the statutory proposals to reorganise the community schools within the partnership on 9 May 2023, including the closure of the 3 middle schools in the partnership. Having been persuaded by arguments put forward by the Governing Bodies of Scremerston and Norham CE First Schools that these schools could be viable and provide a broad and balanced curriculum within a 2-tier structure, no proposals to close first schools were recommended. The statutory proposal was published on 11 May, opening a four-week statutory consultation period and with the understanding that the final decision on these schools would be made in conjunction with the non-statutory proposals to extend the age ranges of the voluntary schools in the partnership.

### **Representations submitted during the statutory period and commentary**

27. The Statutory Proposal (attached at Appendix 1) set out the intention of the Council in relation to the community schools in the Berwick Partnership, as set out at Recommendations 1 and 2, including the proposal to create a SEN unit at Berwick St Mary's Church of England First School were drafted in accordance with The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 and published on the Council's website on 11 May 2023.
28. The publication of the Statutory Proposals opened a four-week statutory period during which time interested parties were invited to submit written comments in the form of representations, either in support of or objecting to the proposals by midnight on 8 June 2023.
29. Following the publication of the statutory proposal, 63 representations were received as follows:
- 14 From Governing Bodies or Trustees of schools and academies in the Berwick Partnership
  - 17 From parents of pupils on roll in schools or academies in the Berwick Partnership
  - 14 From individual staff members at schools or academies in the Berwick Partnership
  - 3 From staffing bodies of schools or academies in the Berwick Partnership
  - 2 From the Diocesan Boards (Newcastle Diocesan Education Board and Diocese of Hexham and Newcastle)
  - 1 From the Bishop Bewick Trust
  - 12 From other interested parties

30. Summaries of the representations received in response to the statutory proposal are set out in paras. 30 to 34.

### **Summary of representations, themes arising and commentary**

#### **31. Summary of Responses from Governing Bodies of schools that are the subject of the Statutory Proposal**

##### Governing Bodies of Berwick Middle and Tweedmouth Middle Schools

The Governing Bodies of Berwick and Tweedmouth Middle Schools submitted a joint response to the statutory proposal and both Governing Bodies do not support the proposal to close Berwick Middle School and Tweedmouth Middle Schools with effect from 31 August 2026 as set out in the statutory proposal.

The Governing Bodies continue to unanimously support *Model A – Revised 3-tier system of schools in Berwick* and were disappointed that *Option C – An Inclusive Model* has not been given further consideration.

As this is a once-in-a-lifetime change for Berwick it is crucial that any process should be driven by what is best for the pupils. Governors had a number of questions and queries which are responded to under the ‘Commentary’ below.

*“It had been stated that the partnership had excellent teaching and support staff and that those staff should be protected to support a smooth transition of children through the system. As governors we would like to reinforce our concern that the skills and staff/pupil/family/pastoral familiarity is retained and continued so that the middle school ethos and pastoral support lives on, not just in the current middle school set up and that the process is unified marrying up staff to needs”.*

##### *Commentary*

It is expected that the Governing Bodies of Berwick and Tweedmouth Community Middle Schools continue to support the continuation of the 3-tier system and that they would have concerns about the proposed reorganisation of the partnership to a 2-tier system, particularly in relation to the need to retain staff working in these schools should reorganisation be approved.

The reasons why their proposed Option C put forward during Phase 2 Consultation was not recommended to be taken forward were set out in the Report of Cabinet Member for Children’s Services, Outcomes of the Consultation on Proposals for the Berwick Partnership, 9 May 2023 as follows, and these reasons remain valid:

- The Governing Body of Wooler First and Glendale Middle School has clearly set out their desire for Wooler to become a primary school and for Glendale to close due to the consistent loss of pupils at the end of Year 6. Governors do not believe pupil numbers at Glendale will enable it to have the capacity to sustain an effective and high-quality curriculum at Key Stage 3 in Wooler in the medium to long-term;

- The Option C proposal sets out the middle school's intention to support first schools with specialist teaching, management of budgets and leadership capacity. However, there is no specific plan or strategy included as to how the middle school would work more effectively with Berwick Academy to provide support to achieve the significant improvement in outcomes at Key Stage 4 and beyond.
- The merged middle school would mean that there would no longer be educational provision for pupils at Years 5 and 6 in the north of Berwick, necessitating their travel at age 9 to a middle school only slightly smaller in numbers than the high school. This may be an issue for parents of those pupils.
- Without knowing construction and maintenance costs, it is unclear how the construction of three new buildings, two of them requiring secondary facilities can be put forward as cost-effective or sustainable in the long term in the face of falling pupil numbers. In fact, a conservative estimate of the costs for a new high school, middle school and building for The Grove with 70 places would be circa £53m. There is currently £39.9m in the Council's medium-term plan for capital investment to support organisational changes across the whole partnership.
- The possibility of a 3-tier campus model was one of the original six potential models of organisation discussed with school leaders, which were then reduced to four potential models. This model was eventually discounted to be taken into Phase 1 consultation to the wider public as overall, while headteachers felt it had some merit, they felt it could operate under either a 2 or 3 tier structure they also did not believe it addressed the issues facing the partnership across all phases. Similarly, the majority of Governing Bodies did not support the model as they believed the benefits would be limited to those schools sited on the campus. The full analysis and feedback on these models are set out in the Report of the Executive Director of Adult Social Care and Children's Services, Berwick Partnership Organisation, 12 April 2022 in the Background Papers to this report.

In relation to the specific questions that the Governors require responses to, these are as follows:

- We believe that the very best outcomes are from children that feel both safe and content. There is no mention in the proposals for personal and pastoral support of pupils. As KS3 pupils go through times of personal change, this is of even more importance.

Comment: Appropriate pastoral support would be taken into account when planning for the reorganisation, especially in relation to more vulnerable pupils such as those with SEN. Safeguarding arrangements for pupils at all schools and academies in Berwick are good, including those currently with RI Ofsted judgements. Feedback from educationalists during consultation has highlighted that one of the key benefits of a phase change at age 11 means that most students are settled in their secondary school before undergoing personal changes.

- No detail on support packages to support schools through the transition. There is real concern the figures quoted on the proposal are not realistic now all First schools are to remain open and be converted to Primary schools.

Comment: There would be a commitment to support training and development of staff through transition, the detail of which would be worked up in the proposed Staffing Protocol and will be based on the training needs of those staff at risk. Furthermore, a contingency is included in the Devolved Schools Grant to support the financial implications arising from closing schools, although approval for its use would be required by the Schools Forum. In support of first schools becoming primary on 1 September 2025, schools would be funded for the number of Year 4 pupils on roll at their schools in Autumn 2024, whether or not all those Year 4 pupils join their Year 5 cohort.

- Affordability for new teachers in Primary schools with more, smaller classes.

Comment: Pupil numbers at the proposed primary schools would dictate the staffing levels required. The rural first schools in particular are already used to managing small numbers of pupils and would be able to apply similar strategies with regard to class sizes, staffing and curriculum planning. Having a primary curriculum to the end of Year 6 also means that the schools would have flexibility in staff planning and allocation. Financially supporting the right level of staffing with the appropriate skills is not always as flexible in some smaller middle schools where subject specialists are required for Years 7 and 8, as has been identified by the Governing Body of Wooler First and Glendale Middle School. With falling pupil numbers in the partnership, it is highly likely that this would also become a potential issue for one or both of the town middle schools, a reason why their rationale for amalgamation would make sense.

- Importance of minimum group numbers to help with pupil engagement

Comment: It is unclear how this statement relates to the proposed reorganisation to a 2-tier(primary/secondary) structure in the Berwick Partnership. The education professionals in schools across the partnership are aware of the legislation in relation to class sizes i.e., infant class sizes (up to Year 2) can be no more than 30 pupils, while practical subjects in secondary schools must be taught in groups of 20 students or fewer. For example, in addition to the legislative requirements, Berwick Academy also builds in additional teaching hours to enable groups in core subjects to be split, so where appropriate and according to learning needs a class could be between 8 and 15 students. For reading intervention and tutoring, smaller groups or one-to-one sessions are used.

- Pupil drift to schools in neighbouring Partnerships. We have been told that a change to two tier will help stem this, as they are two tier we still cannot see the logic in this. We have also been told a new school will encourage parents in that decision, with no associated detail on what this new school will look like or when it will be delivered.

Comment: While there is no guarantee that a change of organisation will stem the flow of pupils out of the partnership, it is clear that the current system does not prevent this. Feedback from informal consultation from some schools indicated that parents were making choices in the earlier phases of their children's education about whether or not to send them to Berwick schools, thus impacting on all phases. With corresponding systems and phase changes on either side of the partnership's borders, it is possible that with 7 years in primary phase, parents will delay decisions about secondary pathways for their children and this will benefit the

first schools as they become primary. If as expected Berwick Academy continues to make progress and Key Stage 4 results improve over time, with effective transition between the proposed primaries and the academy and aligned curriculums, there is an expectation that more parents will decide to retain their children within the Berwick pathway, and in their turn attract more parents to remain in the partnership. In support of this, it is expected that the enhanced facilities and buildings to be built for Berwick Academy would place it on a level with schools over the Scottish border and with Alnwick The Duchess's High School.

### Governing Body of Glendale Middle School and Wooler First School

The Federated Governing Body supports the proposal to close Glendale Middle School with effect from 31 August 2026 and to extend the age range of Wooler First School with effect from 1 September 2026 as out in the statutory proposal.

The Governing Body would like to know the rationale for keeping the school aligned with the Berwick Partnership given the governors' submission to move to the Alnwick partnership. Governors did want to ensure that the staff were protected and supported and did have concerns that the funding, which had been allocated to repurpose the building into a primary school and community hub, was too low. They hoped that any building, if the recommendations were approved, provided their children with a positive learning environment, but had low running costs and was sustainable.

Although governors supported the overall move from a 3-tier to a 2-tier structure, they hoped that the final decision is made with as little further delay as possible.

### *Commentary*

The Federated Governing Body maintains its support of the proposal to close Glendale Middle School and extend the age range of Wooler First School and the reorganisation of the Berwick Partnership generally. However, the Governing Body submitted the following questions and comments:

- We would like to know the rationale for keeping our schools aligned with the Berwick partnership given the case made for Alnwick in the earlier Governing Board submission.

Comment: During the early informal discussions within the partnership school leaders and in response to Phase 1 Consultation, neither the headteacher of Wooler and Glendale nor the federated Governing Body stated or submitted a preference that schools in Wooler should become part of the Alnwick Partnership. This preference was only put forward by the Governing Body during Phase 2 consultation. Feedback from the community of Wooler had demonstrated just under 50% expressed a preference for either staying with Berwick Partnership or no preference, while just over 50% expressing a specific preference for joining Alnwick Partnership. Therefore, as stated in the Report of Cabinet Member for Children's Services of 9 May 2023, it was considered that in light of the recommendation to reorganise to a 2-tier structure, it would be in the best interests of pupils living in the Wooler catchment area to reduce the impact of reorganisation by maintaining the current catchment arrangements and would support the wider Berwick Partnership in relation to its viability as it transitions to a different structure. The current rights of eligible pupils to home to school transport would not be impacted and it would not

impact the rights of any pupils living further north in the catchment from gaining home to school transport to Berwick Academy should they wish to do so. Those pupils living in the Wooler catchment area who live closer to DCHS than to Berwick Academy would continue to be eligible for home to school transport to that school.

- Ensuring that our staff are as protected and supported as possible.

Comment: Should Cabinet approve the recommendation to reorganise to 2-tier, staff in Glendale would have an advantage over staff in the two Berwick middle schools to gain any posts created in Wooler Primary School by virtue of the two schools having one federated Governing Body, which is obliged to look to fill positions from its own staff body in the first instance. Furthermore, work is currently taking place with the schools and academies in the partnership to agree a Staffing Protocol which all Governing Bodies and Trustees are able to develop and shape, with the view to schools signing up to it.

- We have concerns that the sum allocated for repurposing the buildings for primary and “community hub” use appears to be low.

Comment: Building costs presented to Cabinet in the Report of the Cabinet Member for Children’s Services of 9 May 2023 were stated to be indicative. The budget for works to the school buildings would be subject to a full scoping exercise including input from the school and community groups.

- Should the recommendations be implemented ensuring that we end up with a building that has low running costs and is sustainable as well as providing our children with a positive learning environment in which to thrive.

Comment: The proposal to include a community hub in the school building forms part of the plan to support sustainability. However, in the current climate it is not appropriate to commit the Council to reducing the running costs of the school when it has no control over fuel costs.

- That the final decisions are made with as little further delay as possible.

Comment: The final decision will be made by Cabinet on 20 July following consideration of this report and its associated documentation.

### Governing Body of Scremerston First School

The Governing Body supports the proposal to change the age range of Scremerston First School to become a 4 to 11 years primary school from 1 September 2025 as set out in the statutory proposal.

Although sorry for the loss of middle schools, that provide an excellent quality of education, governors recognise that structural change in Berwick is necessary to bring it in line with the rest of the country. They believe that a 2-tier model will provide the best learning outcomes for the children of Berwick and were delighted to see Scremerston First remain open under the proposal and renewed its commitment to working with other rural schools in the area to offer SEND and Early Years provision to the rural community of Berwick.

Governors also welcomed the extension of SEND provision to include support for SEMH and hoped in the future that funding and accommodation be found to enable more places to be made available at The Grove School for children with Severe Learning Difficulties, Profound and Multiple Learning Difficulties, Multi-Sensory Impairment and Autistic Spectrum Conditions thereby enabling children with these levels of needs to have their education met within the community.

#### *Commentary*

The Governing Body's continuing support of the extension of the age range of Scremerston First School and rationale is noted. However, the Council's data does not indicate that there is any growth in the number of children being born within the Berwick area, nor indeed across the whole of the county, with primary needs in SLD, PMLD or MSI. There is considerable growth in the number of children and young people being diagnosed with primary needs in ASD and SEMH hence the statutory proposal to create a SEN unit at St Mary's Church of England Primary School (as it would be) and the proposal of the Trustees of Berwick Academy to create a SEN unit on site for students with these needs.

#### Governing Body of Spittal First School

The Governing Body neither supported nor objected to the proposals to change the age range of Spittal First School to become a 4 to 11 years primary school from 1 September 2025 as set out in the statutory proposal but agreed to work hard to implement whichever structure was decided.

Governors did feel that a further thorough review of the building requirements was required to ensure the capacity and suitability of the school environment for all children, including the additional years groups, and those with SEND. They are concerned that without a carefully thought-out and funded re-organisation the standards of education within the primary sector will be put at risk with buildings not fit for purpose.

Governors also expressed disappointment that the re-modelling of The Grove School, which in schools' views was needed, had been overlooked.

#### *Commentary*

The Governing Body's neutral position to the extension of the age range of Spittal Community First School is noted. This position has changed from their response to Phase 2 consultation where they supported the continuation of the 3-tier system. Refer to the commentary of Scremerston First School in relation to re-modelling of The Grove School.

#### Governor Body of Tweedmouth Prior Park First School

The Governing Body supports the proposal to change the age range of Tweedmouth Prior Park First School to become a 4 to 11 years primary school from 1 September 2025 as set out in the statutory proposal.

#### *Commentary*



The Governing Body's continuing support of the statutory proposal to extend the age range of Tweedmouth Prior Park First School and rationale is noted.

#### Governing Body of Tweedmouth West First School

The Governing Body neither supported nor objected to the proposals to change the age range of Tweedmouth West First School to become a 4 to 11 years primary school from 1 September 2025 as set out in the statutory proposal.

Governors are however, completely committed to supporting Tweedmouth West and will do all they can to ensure that any changes made will be with the full commitment of the governors and will do their best for the children, staff, and families of the school.

#### *Commentary*

The Governing Body's neutral position to the extension of the age range of Tweedmouth West First School is noted. This position has changed from their response to Phase 2 consultation where they supported the continuation of the 3-tier system.

#### Governing Body of Belford Primary School

The Governing Body of Belford Primary School neither supported nor objected to the proposals set out in the statutory proposals.

Governors have maintained throughout the process that the organisation of schools in and around Berwick is for those schools and their communities to comment on.

#### *Commentary*

The Governing Body's neutral position to the statutory proposal is noted. Cabinet is reminded that it approved the reallocation of the catchment area of Belford Primary to the Alnwick Partnership (noting that a small area of its catchment would be reallocated to Lowick CE First School); the Schools Adjudicator has now been requested to alter the admissions arrangements of the school so that this change can come into effect from 1 September 2024.

### 32. Summary of Responses from Governing Bodies of voluntary schools proposed to change age-range

#### The Governing Body of St Mary's Church of England VC First School

The Governing Body supports the proposal to change the age range of Berwick St Mary's Church of England First School to become a 3 to 11 years primary school and the establishment of a SEN unit from 1 September 2025 as set out in the statutory proposal.

In respect of the expansion of SEND provision, although Governors are not aware of the specific proposals being put forward regarding the development of the provision within the school, they look forward to discussions with officers to ensure the offer developed fully meets the needs of the partnership. The governing body are resolute in their commitment to meeting the needs of SEND learners but added that funding would

be needed to create an appropriate SEMH base that meets needs now and, in the future.

The proposal for a hard federation between St Mary's and Norham Church of England First Schools is also supported by the governing body which they believe it will bring additional benefits for both schools.

Governors however would like to formally request that the timetable for implementation is brought forward to September 2024. Their reasons with comments are set out in the Commentary below.

### *Commentary*

The Governing Body's continuing support of the proposal to extend the age range of St Mary's Church of England First School and rationale is noted. Governors have also set out reasons why they believe the reorganisation of schools to the 2-tier (primary/secondary) structure should be brought forward to September 2024 as follows:

- Implementation in September 2025 simply extends the transition period which impacts all stakeholders and could lead to further issues in retention of families and staffing, as well as exasperating the anxiety related to change.
- The partnership has substantial overcapacity within its school infra-structure. Although all the building work would not be completed it would enable children, staff, and families to begin to form productive relationships and understand expectations for the new education offer.
- A quicker change will enable schools to keep the excellent staff that there is in the partnership and reduce problems that could be faced in retention and recruitment, particularly given the pay disparities which exists north of the border.
- A lengthy period of transition will be of no benefit to the most vulnerable children who are a significant and growing part of the school population and need resources to support their needs locally. A quicker transition would have a significant impact on the outcomes for those children and their families.

In response to the above statements, Officers continue to believe that the proposed extended transition period of two years would allow for an effective transition of schools and families to the new system in a structured and managed way for the following reasons:

- Staff and the Staffing Protocol: The proposals include the closure of 3 middle schools and staff in those schools would be placed at risk of redundancy should they be approved by Cabinet. Work is being undertaken to achieve the sign-up of all Governing Bodies and Trustees to the proposed Berwick Staffing Protocol in order to enable staff working in at-risk schools to have first consideration for posts created in the extended schools and academies. The roll-out of the processes within the protocol, e.g., development of new staffing structures, staff consultation, staff interview and appointment, need to be carried out effectively. It is believed that this will enable at-risk staff to secure new posts well-ahead of the closure of their schools, providing them with the security and stability they need to enable them to remain within schools in the partnership as it transitions; therefore, this would reduce the need for staff to seek employment elsewhere. A shorter timeframe for implementation runs the risk that these processes could be rushed or mismanaged, leading to inequity and loss of confidence in the protocol.

- Buildings: Officers responsible for carrying out capital projects in Northumberland have many years of experience in managing schools through reorganisation in relation to associated building works. To facilitate reorganisation, a considerable number of capital works would be required to school buildings, including the creation of 2 proposed SEN units. Key factors in successfully rolling out these capital projects will be developing appropriate schemes and budgets, securing contractors, achieving planning permission and having sufficient time to build the scheme on time. To reduce the timescale allowable for these projects would place tremendous strain on the overall reorganisation in terms of capacity and achievability. While there is physical capacity in some schools, it would not necessarily always be appropriate space in which to teach and learn and could be disruptive.
- Transition of pupils: The effective transition of all pupils who would be in schools in the Berwick Partnership should reorganisation be approved would be at the heart of the changes. Support for schools to manage the transition whether through finance, HR, or school improvement would be available throughout the period to ensure that they can in turn support their staff and families through the change.

### The Governing Body of Holy Trinity C of E VA First School

The Governing Body reluctantly withhold support for the proposal to change the age range of Holy Trinity Church of England First to become a 3 to 11 primary school from 1 September 2025 as set out in the statutory proposal until the issues the governors raised, which are summarised below, are given further consideration and there is a clear commitment to fund the conversion of all the first schools.

- Disappointed that Holy Trinity, and a number of other first schools, had not been allocated funding to convert to primary. Governors were of the understanding that all costs would be met by the Council and that the £40m was a “starting point”.
- Advised that as a church school, Holy Trinity CE First, is not “technically” eligible but the same could apply to an academy.
- Not consulted on how the school’s conversion to primary might be achieved, particularly in relation to classrooms and assembly hall. Governors believe that even minimal adjustments to the school, e.g., removing/erecting internal wall, would require capital funding which is not available in the schools’ budget. Governors believe that all schools affected should be finished to a standard, in line with current guidelines for new builds. Buildings need to be fit for purpose, future-proof and reflect the demands of the curriculum.
- The re-building/re-siting of The Grove Schools has dropped off the agenda, despite a consensus that this was required alongside improvements in mainstream SEND provision.
- Recommendations in the May 2023 report largely ignored the suggested enhancements to the post-16 offer. The “expectation” is that the new facilities at Berwick Academy will be shared with the community, but as the academy is not under the Council’s control the academy has no obligation to open-up or run clubs/activities out of hours.

### *Commentary*

The Governing Body’s response to Phase 2 pre-consultation was that they supported the reorganisation of schools in the Berwick Partnership to a 2-tier (primary/secondary)

structure. In light of the initial assessment that no capital funding would be required to enable the school to offer provision for Years 5 and 6 as set out in the Report of the Member for Children's Services 9 May 2023, the Governing Body has responded to the statutory consultation that it has withheld support for the school to extend its age range to become a primary school. Cabinet should note that Council Officers have revisited the school site and have confirmed that in fact the school would require some capital investment to deliver the full age range of primary education to the end of Year 6. In light of the CE Diocese being unable to make a contribution towards the capital costs of supporting the CE schools to become primary schools (as stated in the CE Diocese response ref. Para 34), should these proposals be approved Cabinet is asked to consider what would be required to enable the CE schools to become primaries, despite the school buildings not being Council asset. Details of the funding proposals are set out in para. 42

The Council does not have data to support the need to grow capacity for students with MSI - Multi-Sensory Impairment, SLD - Severe Learning Difficulty and PMLD - Profound and Multiple Learning Difficulty anywhere in the county, including the Berwick area. However, there is data to support the need to grow capacity for students with primary needs in ASD and SEMH. That is why Phase 2 consultation included 2 possible models to increase SEN capacity for students with these needs; under the 3-tier model the proposal was for SEN units to be established at each school phase (St Mary's, Berwick Middle and Berwick Academy) while under the 2-tier model it was proposed that The Grove School could relocate to the current site of Tweedmouth Middle School and expand its offer to include the needed provision for students with SEMH. In fact, either of these 2 models of provision would have been able to work under either the 3-tier or 2-tier system. The Governing Body and staff of The Grove Special School made it clear in their consultation meetings at the school and in their written feedback that they did not believe that expansion to include provision for SEMH students was compatible with the needs of the current students and would potentially have a negative impact on the provision for those students. It was therefore considered that this option was no longer viable and therefore the proposal to create SEN units at St Mary's and Berwick Academy under a 2-tier structure was agreed to be brought forward for statutory consultation.

As set out at Phase 2 consultation, discussions have already taken place between Berwick Academy and the Council on plans linked to the capital investment in the academy buildings on how the right vocational and academic mix would be able to be offered to suit all students to enable them to be equipped for the working world or further study. Discussions have also included proposals on how this offer could be broadened and extended to the wider community in relation to a post-18 offer in skills, learning or qualifications in order to create a community learning hub.

#### The Governing Body of Holy Island C of E First and Lowick C of E First Schools

The Federated Governing Body supports the proposal to change the age range of Holy Island C of E First to become a 3 to 11 years primary school and for Lowick C of E First School to become a 2 to 11 years primary school from 1 September 2025 as set out in the statutory proposal.

The governors stated in their response to the informal consultation that they can deliver, as a primary school, an excellent curriculum and nurturing pastoral care to the children. However, the governors noted that first schools would need appropriate

support, including financial, to become excellent primary schools. Lowick would also require necessary building work to ensure it has suitable working spaces to accommodate the changes i.e., additional classroom.

Governors hope that this will be part of the final agreement as the aim of the re-organisation is to improve the educational offer within the Berwick partnership and to make it sustainable for the long term.

#### *Commentary*

The Governing Body's continuing support of the proposal to extend the age ranges of Lowick CE and Holy Island CE First Schools and rationale is noted. Refer to 'Commentary' in relation to Holy Trinity CE First School regarding building work for CE schools.

#### The Governing Body of Hugh Joicey Church of England First School

The Governing Body supports the proposal to change the age range of Hugh Joicey Church of England First School to become a 4 to 11 years primary school from 1 September 2025 as set out in the statutory proposal.

#### *Commentary*

The Governing Body's continuing support of the proposal to extend the age range of Hugh Joicey Church of England First School and rationale is noted.

#### The Governing Body of Norham St Ceolwulf's C of E Controlled First School

The Governing Body supports the proposal to change the age range of Norham St Ceolwulf's Church of England First School to become a 3 to 11 years primary school from 1 September 2025 as set out in the statutory proposal.

Governors were pleased that NCC recognised the importance of Norham to the future communities of North Northumberland and believe that this commitment will encourage our communities to continue to flourish and grow. The Governing Body also supported the proposed hard federation of Norham with St Mary's Church of England First School acknowledging the additional benefits this brings to both schools.

The Governing Body requested that the timeline for implementation is changed from September 2025 to September 2024 for the same reasons as those highlighted by the Governors at St Mary's Church of England First School, which are outlined above.

#### *Commentary*

The Governing Body's continuing support of the proposal to extend the age range of Norham St Ceolwulf's CE First School and rationale is noted, as is its commitment to federate with St Mary's Church of England First School whatever decision is made in relation to organisational structure and that the latter would be able to take place ahead of reorganisation should it be approved. Refer to the 'Commentary' relating to St Mary's regarding the request to bring forward the timeline for implementation.

### 33. Summary of Responses from Trustees of academies within the Berwick Partnership

#### Berwick Academy Trustees

The Trustees of Berwick Academy supports the proposal to change the age range of Berwick Academy to become an 11 to 18 years secondary school and the establishment of a SEN unit for pupils with a primary need of SEMH, ASD, MLD and SLCN from 1 September 2025 as set out in the statutory proposal.

Trustees believe a 2-tier structure will provide the necessary improvements in outcomes for young people which will enable the locality to be educationally sustainable and prosperous as:

- Students will be taught the national curriculum in complete key stages in line with the majority of schools across the country.
- Moving between schools less often builds positive relations with a clear understanding of expectations and helps students develop familiarity with subjects, which is important when choosing their GCSE options during Year 9.
- The 2-tier model is aligned to teacher training and allows specialist secondary teachers to teach their subjects from Year 7 which leads to positive outcomes for students.
- Schools take responsibility and accountability for whole key stages which enables the delivery of a truly cohesive and progressive curriculum.

As Trustees we fully support the development, in conjunction with St Mary's Church of England First School, of additional provision for existing and emerging young people with SEMH and other complex needs within the locality.

#### *Commentary*

The Trustees of Berwick Academy's continuing support of the proposal to reorganise schools in the Berwick Partnership and rationale is noted. Cabinet is advised to note the outcome of the academy's request to the Regional Director North East to extend its age range from the meeting of the Advisory Board on 13 July 2023.

#### The Governing Body of St Cuthbert's Catholic First School (part of Bishop Bewick Catholic Trust)

The Governing Body supports the proposal to change the age range of St Cuthbert's Catholic First School to become a 3 to 11 years primary school from 1 September 2025 as set out in the statutory proposal.

Governors noted that as the education system is organised around key stages it is logical that school organisation should be too. The 2-tier system would allow pupils to complete each entire key stage in one school, have only one transition, ensure that pupils are taught by subject specialists from Year 7 and provides a challenging curriculum in preparation for GCSE and beyond.

St Cuthbert's becoming a primary school would provide two more years of education in a Catholic school, developing children's spiritual lives and understanding about the Catholic culture and heritage.

## *Commentary*

The Governing Body's continuing support of the proposal to reorganise schools in the Berwick Partnership and rationale is noted. In light of St Cuthbert's being an academy within the Bishop Bewick Catholic Education Trust, Cabinet are advised to note the outcome of the academy's request to the Regional Director North East to extend its age range from the meeting of the Advisory Board on 13 July 2023.

### Trustees of Bishop Bewick Catholic Trust

The Bishop Bewick Catholic Education Trust fully supports proposals to reorganise schools in the Berwick partnership into a 2-tier system of education and is fully committed to supporting St Cuthbert's Catholic First School in its desire to offer full primary provision to the families in Berwick.

Under a 2-tier system the Trust believes that:

- There is expert curriculum delivery from Year 7 where subject specialist teachers are able to ensure children have access to a challenging and exciting curriculum and where the expert subject knowledge of the teachers prepares children more readily for GCSE and Post 16 qualifications. Within the 3-tier system there is more chance of lost learning where there is less access to subject expertise or experience of delivering GCSE qualifications.
- Only one transition provides students with a more seamless transition where in our experience, across our five high schools, the Year 7 pupils have benefitted from the examples set by Years 11 to 13 in relation to maturity, aspirations and what can be achieved by working hard. The use of prefect and mentor systems supports younger learners and helps them to navigate common aspects of teenage years and early adolescences. We know that transition can be difficult for children with SEND or additional vulnerabilities and by reducing these moves it will lessen the issues faced by these children and allow more time to forge relationships with adults and peers in their primary school and as a result the process of transition to secondary will be more effective.
- The extra years within a Catholic school will help children to develop their own sense of spirituality, uniqueness, and importance to the world around them. As a Trust we will work with the Academy to ensure there are opportunities for further development in this area.

## *Commentary*

The Bishop Bewick Catholic Education Trust's continuing support of the proposal to reorganise schools in the Berwick Partnership to a 2-tier (primary/secondary) structure and rationale is noted.

### The Grove Special School

The Grove Special School chose not to respond to the statutory proposal as there are no specific proposals within it for the school.

### 34. Summary of parent or carer responses

Cabinet should note the DfE guidance set out in ‘Opening and closing maintained schools Statutory guidance for proposers and decision makers January 2023’ and ‘Making significant changes (‘prescribed alterations’) to maintained schools Statutory guidance for proposers and decision makers January 2023’ as follows:

*“The decision maker should not simply take account of the number of people expressing a particular view. Instead, they should give the greatest weight to responses from those stakeholders likely to be most directly affected by a proposal – especially parents of children at the affected school(s).”*

It is right that the views, comments, and concerns of those parents who have submitted a representation to the statutory proposal should be considered by Cabinet as requested in guidance. However, Cabinet should also note the contextual data and information in relation to the number of parental responses received during the statutory period. 17 responses were received from parents of pupils with children currently on roll in Berwick Partnership schools and academies, and there are 2,291 pupils on roll. With the assumption that each child has at least 1 parent/carers, the number of parents who responded represent 0.9% of the whole parental body. Furthermore, Cabinet should consider the nature of the parental responses and whether the views and concerns of parents have been addressed by other information set out in this report.

The following is a summary of the reasons put forward by those parents who submitted a representation during the statutory period.

#### Reasons why ‘in support’ of the statutory proposal

- In full support of the 2-tier system.
- The 2-tier model gives students longer time to be taught by subject specialists before choosing GCSE options; under the 3-tier model there is inadequate time.
- Overdue change that will make schools better able to improve overall results across all ranges.
- Pupils attending the only Catholic School will have the opportunity to continue their education for an extra two years.

#### *Commentary*

3 parents submitted a representation in support of the statutory proposal. The reasons expressed by parents in support of reorganisation to a 2-tier (primary/secondary) structure in the Berwick Partnership are very similar to those set out by schools supporting restructure (refer to paras. 30-32).

#### Reasons why ‘not in support’ of the statutory proposal

- The proposal will be to the detriment of our children’s education as good middle schools would be lost and parents would be asked to send their children to a “requires improvement” academy which will only result in parents opting to send their children out of the area sooner.



- The 3-tier system has worked great for many years, so why change something that works? The middle schools provide an excellent standard of education and are seen as a natural stepping-stone from first to high school where pupils learn to flourish in a safe environment. Under 2-tier there would be bigger class sizes and bullying as there is a wider age range.
- The proposal put forward was not in line with what was originally consulted on – it's not either Model A or Model B and why wasn't Option C – An Inclusive Model, put forward by the middle schools given further consideration.
- Children have already had disruption and suffered educationally due to Covid.

### *Commentary*

14 parents submitted a representation objecting to the statutory proposal. More than half of these parents had a direct link to the middle schools in the partnership, either as a parent with a child in middle school or as a member of staff.

Taken as a whole educational pathway, the current 3-tier system in the Berwick Partnership in fact does not work for pupils as outcomes for pupils at Key Stage 4 have been consistently below Northumberland and national averages for many years, pre-dating the establishment of Berwick Academy as an academy school. Employers and higher education establishments require and request information on educational outcomes from KS4 onwards and do not take outcomes at the end of KS2 into account. The majority of the schools and educationalists in the partnership who have responded to Phase 2 and to the statutory consultations agree that a restructure to a 2-tier (primary/secondary) structure would provide the opportunity to effect the change needed to improve outcomes at KS4. It is expected that with children able to stay in their local primary school (as it would be) for an additional 2 years and with standards expected to rise over time at Berwick Academy that parents would be more inclined to retain their children within the Berwick school system.

The National Curriculum requires that up to the end of Year 6, pupils are taught the primary curriculum which does not require specialist teaching. Teaching staff in the current first schools are primary trained, and many have experience of teaching in schools with Year 5 and 6 classes.

Phase 2 consultation put forward 2 possible models for the organisation of Berwick Partnership to gauge views and to provide the opportunity for ideas to be discussed and refined in order to develop the final preferred model for statutory consultation. It was made clear to consultees during Phase 2 consultation that it was unlikely that either model would be brought forward for statutory consultation in exactly the same form. The reasons why Option C proposed by the two town middle schools was not progressed are set out at para.30.

Officers responsible for capital works have considerable experience in implementing building projects in open schools across Northumberland. Most building work takes place outside of school hours and during school holidays in order to minimise the impact on teaching and learning.

### 35. Summary of Responses from other parties

#### Diocese of Hexham and Newcastle

The Diocese of Hexham and Newcastle fully supports the proposals to move to a 2-tier model of education in the Berwick partnership. It believes 2-tier will better support transition, SEND provision, staff development, partnership working and, from a Catholic context, would enable parents to access a Catholic education for an additional two years.

The Diocese has one school in the area, St Cuthbert's Catholic First School, and has previously invested capital money to build a new kitchen which resulted in the previous kitchen being converted into a classroom. However, the Diocese requests that the Council considers other facilities that may be needed to accommodate the additional children, e.g., toilets and that the Councils works with the Bishop Bewick Catholic Education Trust to fund any necessary alterations.

#### *Commentary*

The RC Diocese of Hexham and Newcastle's continuing support of the proposal to reorganise schools in the Berwick Partnership and rationale in relation to additional years of Catholic education for pupils of St Cuthbert's Catholic First School is noted.

In relation to facilities at the school, para. 42 sets out the standard approach of the Council to funding in relation to supporting voluntary schools to reorganise.

#### Newcastle Diocesan Education Board (NDEB)

The Newcastle Diocesan Education Board continues to support the proposals for the Berwick partnership in principle however this support is expressly subject to the issues outlined below:

- The proposals do not include any contribution to costs of Church of England schools in respect of reorganisation except in the specific case of St Mary's Church of England First School to establish the SEN unit.
- This is of concern to the other five Church of England Schools as all buildings will require capital works to be fit for purpose successful primary schools.
- The schools concerned do not have access to capital funding for building changes to accommodate a partnership wide reorganisation.
- Although the Diocese receives a limited allocation of capital funding (LCVAP funding) this is for planned or urgent capital projects across all its VA schools and not intended or sufficient for partnership wide restructures and is committed for the next three years.

The Diocese is disappointed that there is no reference to project costs for Church of England schools in the proposal and can only support the proposal if there is fair funding for the reorganisation and that it is allocated to church schools in the same way as community schools and academies. We hope the Diocese can work with the Council going forward to establish fair funding to facilitate the reorganisation as previously assured.

### *Commentary*

NDEB's continuing support of the proposal to reorganise schools in the Berwick Partnership and rationale is noted.

NDEB's comments in relation to capital support are noted and in light of the CE Diocese being unable to make a contribution towards the capital costs of supporting the CE schools to become primary schools (as stated in the CE response ref. Para 34), details of the funding proposals are set out in para. 42. Cabinet should also note that officers have held informal discussions with the Director of Education for the CE Diocese and the headteachers of the individual schools during the statutory period of consultation. It was clearly explained that the associated reorganisation capital budget has been allocated to support the changes required for first schools to become primaries and not to address any existing suitability and maintenance costs. It would be for each of the responsible bodies (NCC for Community and VC schools and the diocese for VA schools) to fund works in this category.

### The Staff Body of Tweedmouth Prior Park First School

The staff body of Tweedmouth Prior Park First School submitted a response which supported the school becoming a 3 to 11 primary school for the reasons outlined below:

- 2-tier structure matches the National Curriculum, is in line with the majority of schools nationally and would provide better continuity and accountability if full key stages remained in one school.
- The falling birth-rate will make the 3-tier model unsustainable.
- Reducing transitions would mean less disruption to education, better outcomes, reduced anxiety, and ability to build on the progress children had made over the previous six years.
- Our teachers are trained to teach the full primary age range.
- Pupils are disadvantaged by only having one term at Berwick Academy prior to making GCSE choices.

The staff body did feel that the current Grove School is no longer big enough and this together with a new building for Berwick Academy should be looked at as part of the reorganisation.

### *Commentary*

The staff of Tweedmouth Prior Park First School's continuing support of the proposal to extend the age range of the school and to reorganise schools in the Berwick Partnership and rationale is noted.

Para. 33 sets out the reasons why there are no plans to expand provision at The Grove Special School as part of these proposals.

### The Staff Body of St Cuthbert's Catholic First School

A response from the staff body of St Cuthbert's Catholic First School was submitted which supported the proposals to reorganise the partnership into 2-tier system of education for the reasons outlined below:

- Would allow them to provide Catholic education for longer, currently there is no provision after Year 4.
- Would align nationally with how education is set out
- Children should complete fully key stages in the same school, with minimum transitions and less disruption to progress during a key stage.
- From Year 7 children would have an extra two years of GCSE preparation with trained secondary teachers in the same school they sit exams in.
- Teachers are trained in either the primary or secondary phase.

As a school St Cuthbert's has the space and capacity to accommodate a Year 5/6 class and with a dedicated team would ensure that the move is carried out carefully working closely with Berwick Academy.

#### *Commentary*

The staff of St Cuthbert's Catholic First School's continuing support of the proposal to extend the age range of the academy and to reorganise schools in the Berwick Partnership and rationale is noted.

### The Staff Body of Berwick Academy

A response was received from Berwick Academy's Leadership and Staff and a separate response from the Headteacher of Berwick Academy were submitted in response to the statutory proposals. A move to a primary/secondary structure was supported by the headteacher, senior leadership team and staff body and is based on the following rationale:

#### Educational Outcomes:

- Children taught the National Curriculum in complete key stages, as they are in the majority of schools across the country.
- National picture is heavily in favour of 2-tier.
- Teacher training is either primary or secondary.
- Subject teaching from Year 7 is by specialist secondary teachers with GCSE/A Level teaching experience.
- Schools take responsibility and accountability for the whole key stage which enables delivery of a cohesive and progress curriculum.
- Reduces the need for testing and assessment within key stages.

#### Relationships:

- Longer-term relationship with the school and familiarity with subjects before choosing GCSE options.
- Children move schools less so children, families and schools can build positive relationships and there is a clear understanding of expectations.

### Sustainability:

- Fewer schools within the partnership will lead to a more sustainable model for the future.
- Schools are keen to maintain their sense of rural identity and feel 2-tier is the best way to secure this.

### *Commentary*

The staff of Berwick Academy's continuing support of the proposal to extend the age range of the academy and to reorganise schools in the Berwick Partnership and rationale is noted.

### Summary of responses from Individual Staff working in a number of schools and academies in the Berwick Partnership responses

Received 14 responses from staff working in schools and academies in the Berwick Partnership to the statutory proposals, 13 in support and one objecting. The following is a summary of the reasons that were put forward by these staff in response to the statutory proposal.

### Reasons why 'in support' of the statutory proposal

- Staff fully supported structural changes to bring Berwick in line with most of the school in the country which are organised in the 2-tier system as it reflects how the national curriculum and key stages are delivered and how teacher training is taught.
- By changing the age range of schools it would allow younger children to access their local education for longer, allow children to complete full key stages in one school rather than split across two schools, allow pupils in Years 7 and 8 to be taught by specialist subject teachers who have recent GCSE/A Level teaching experience and help build relationships with teachers and subject familiarity for pupils before they have to choose GCSE options in Year 9.
- Fewer transitions so children, families and schools can build positive relationships and there is a clear understanding of expectations.
- Fewer schools will lead to a more sustainable model for the future as resources can be used more effectively.
- Fully supportive to the opening of specialist provision for SEMH, MLD, SLCN and ASD pupils.
- Belford Primary should remain within the Berwick Partnership.

However, in one response there was an objection to an aspect of the proposal with so many first schools converting into primaries, with continued funding, there wasn't the benefit that consolidation into one or two larger primary schools within the town would bring (e.g., support for use of specialist teachers for music, PE, and language).

### *Commentary*

It is noted that the majority of individual staff who responded to the statutory consultation are in support of the proposal to move to a 2-tier (primary/secondary) structure across the Berwick Partnership.

In relation to the comment regarding consolidation of schools located within Berwick town, two of the town schools and one of the rural schools very close to town are proposed to reduce their PANs as part of reorganisation to reflect the falling pupil numbers in their catchment; it is expected that this would improve stability in relation to pupil numbers across all primary schools (as they would be) within the town by reducing the number of surplus places available and therefore curbing parental choice. In relation to the objection in relation to Belford, Cabinet made its decision at its meeting in May to approve the reallocation of the school to the Alnwick Partnership and this process is in train and expected to be in place for September 2024.

#### Reasons why 'not in support' of the statutory proposal

- Why is the local authority bailing out an Academy school and closing two good schools.
- Children are leaving the education system in the town to avoid being educated in the Academy. More children will leave the system if they have to attend the Academy at an earlier age.

#### *Commentary*

The statutory proposal linked with the proposals of the Academy schools in the partnership have been put forward with the current and future wellbeing of the whole partnership in mind. While the local authority does not have local responsibility for the Academy schools, the latter educate Northumberland pupils for whom the Council has duties, responsibilities, and ambitions for their educational outcomes and ultimately life chances. In this context, local management becomes irrelevant. The closure of any school is highly emotive and is never proposed lightly. It is hoped that should Cabinet approve the statutory proposal, that all educationalists across the partnership would work together for the benefit of the current pupils living in the Berwick area to improve their outcomes and provide parents with the confidence to retain their children in schools across the partnership.

#### Summary of Other Responses

Received 12 responses from individuals, not identified as a parent or staff member, to the statutory proposals with two in support and 10 objecting. The following is a summary of the reasons put forward in response to the statutory proposal.

#### Reasons why 'in support' of the statutory proposal

- In support of the 2-tier system.

#### Reasons why 'not in support' of the statutory proposal

- Why is it necessary to change a system that is succeeding. There has been no evidence produced to show that 2-tier is better or how giving the Academy, a "requires improvement school" additional pupils improve their outcomes. Children are too young to attend the Academy. The changes are not what children need, especially following Covid, and will have a negative and detrimental effect.
- By keeping all the small first schools open and converting them into primaries will simply mean more mixed year group classes and less specialist teaching.

- The amalgamation of the two Middle Schools is both educationally and financially sound and there was not enough consideration given to the Middle Schools joint proposal.
- Any change, if done to a high standard, will cost millions, why not invest in Berwick Academy as it is rather than destroying excellent first and middle schools.

### *Commentary*

At its last Ofsted inspection, Berwick Academy was judged to be an improving school - refer to para. 32 and 33 as to why the Trustees and staff of the academy believe outcomes for students would be able to be improved through reorganisation to a 2-tier structure.

The National Curriculum requires that up to the end of Year 6, pupils are taught the primary curriculum which does not require specialist teaching. Cabinet had already made the decision to allocate capital funding to the replacement/refurbishment of the buildings of Berwick Academy but had requested that this investment would be made in a sustainable and viable education structure for current and future generations.

The current system in the Berwick Partnership has consistently not gained the outcomes that pupils living in the area would be expected to achieve for a very long time, pre-dating the establishment of Berwick Academy as an academy school. This points to a need to make a significant change to the organisation of schools in the partnership.

The majority of pupils in Northumberland are now educated in schools organised in the 2-tier (primary/secondary) structure, and it is the standard structure across the country. In secondary schools, arrangements such as separate entrances, break times, social areas and staggered lunches are employed by schools to ensure safeguarding of all students.

Phase 1 and Phase 2 consultation were 'pre-consultation' to provide the opportunity for potential models of organisation to be discussed and debated before a final preferred model was put forward during this statutory consultation.

### 36. Overall summary of responses received to the Statutory Consultation

During this statutory consultation period, 9 Governing Bodies representing 11 of the 18 schools and academies in the Berwick Partnership have stated their support for reorganisation to a 2-tier (primary/secondary) structure.

Four schools have expressed a neutral position in relation to the structure of the partnership in response to statutory consultation. Throughout pre- and statutory consultation, Belford Primary School has consistently maintained a neutral position in light of it already being a primary school and its desire for its catchment to be reallocated to the Alnwick Partnership. However, Tweedmouth West, Spittal and Holy Trinity Church of England First Schools have changed their position compared to their response at Phase 2 consultation. Tweedmouth West and Spittal First School Governing Bodies had supported the 3-tier structure at Phase 2, whereas Holy Trinity had supported the 2-tier structure. For context, Cabinet should note that although the Holy Trinity Governing Body has moved to a neutral position by withholding support of reorganisation of the school to primary on the basis that no capital investment in its

buildings was identified, it has not stated that it supports the continuance of the 3-tier system (refer to para. 31, 34 and 42 in relation to the current proposed position on capital investment in relation to CE voluntary schools).

The Governing Bodies of Berwick Middle School and Tweedmouth Middle School have been consistent in the opposition to reorganisation and their reasons have been well-documented in feedback received at Phase 1, Phase 2 and this statutory consultation.

As stated previously at paras. 10 and 33, Cabinet are advised by DfE guidance to give the views of parents the highest weighting when making a final decision in relation to the statutory proposal and the proposals for voluntary schools. However, Cabinet are also advised to consider the contextual information provided at para. 33 in relation to the extent of the parental reviews received to statutory consultation.

Overall, overt support for the 3-tier system expressed in the representations received from Governing Bodies of schools and academies has now declined to just Berwick Middle and Tweedmouth Community Middle Schools compared to 4 at Phase 2 consultation. There has also been a decline in the number of Governing Bodies supporting the 2-tier system, with Holy Trinity withholding its support – however, this is in relation to its concern at not being allocated capital investment to support a change to primary, rather than a reversal to supporting the 3-tier system.

Support among the other organisations relating to schools in the partnership, i.e., dioceses and academy trusts, remains in favour of the 2-tier system.

## **Factors set out in DfE guidance to be considered**

### **37. Education Standards and Diversity of Provision**

Under the proposal to reorganise the Berwick Partnership to a 2-tier (primary/secondary) structure, while there would no longer be middle schools, at primary phase parents would be able to continue to choose whether to educate their children within a local authority community school, a faith school or an academy school. This is equivalent to the choice of parents in most areas of the country. While Berwick Academy is the only secondary provision in the partnership, this is the same for the majority of partnerships in Northumberland; it would not preclude parents from applying to any other secondary school of their choice within or outside of the county, although their children's eligibility for home to school transport would be impacted if the school of choice was not based on eligible transport area, nearest school or faith-based choice.

Regarding the quality of schools in the Berwick Partnership in relation to Ofsted gradings, 11 first schools are currently graded Outstanding or Good by Ofsted. Two first schools are currently graded 'Requires Improvement'; at its last monitoring visit in September 2023, Tweedmouth Prior Park was taking effective action towards become a good school, while the judgement in relation to Norham St Ceolwulf's Church of England First School is relatively new – however, the Governing Body appointed the headteacher of St Mary's Church of England First School as Executive Head over the school several months ago which has provided capacity and stability in teaching and learning at the school, and it is planned that the two schools will federate, ensuring continuing leadership and governance support. The three middle schools in Berwick Partnership were all graded 'Good' by Ofsted at their last inspections. Berwick



Academy was inspected by Ofsted in November 2021 and judged to be an ‘improving school’, moving from Inadequate to Requires Improvement and therefore on an upward trajectory.

In relation to performance outcomes for pupils, schools’ current performance data is presented below for information - it should be noted that the DfE have stated that due to the uneven impact of the Covid pandemic on results in 2021/22 for schools and academies, direct comparisons with performance from previous years or between schools is not reliable and therefore not recommended.

#### *Key Stage 1 performance*

- KS1 assessments are not published. 11 first schools are graded Outstanding or Good by Ofsted. While two first schools are currently graded ‘Requires Improvement’, one is making good progress towards ‘Good’ or better while the other is a relatively new judgement.

#### *Key Stage 2 performance*

- The DfE has stated that Year 6 pupils in Summer 2022 who undertook KS2 assessments experienced disruption to their learning during the pandemic, particularly at the end of Year 4 and in Year 5.
- With that caveat in mind, the DfE has reported that attainment in England at KS2 in 2022 fell below that in 2019 (the last year that 2022 results are able to be compared against) in all assessed areas except reading. There was a performance drop for all pupils in 2022, but disadvantaged pupil’s performance fell more sharply.

**Table 1 - %Pupils who met the standard in Reading, Writing and Maths at KS2**

| <b>School</b>     | <b>KS2 2019</b> | <b>Eng. Avg. 2019</b> | <b>KS2 2022</b> | <b>Eng. Avg. 2022</b> |
|-------------------|-----------------|-----------------------|-----------------|-----------------------|
| Berwick Middle    | 72%             | 65%                   | 48.5%           | 59%                   |
| Belford Primary*  | 88%*            | 65%                   | 25%*            | 59%                   |
| Glendale Middle   | 63%             | 65%                   | 48.3%           | 59%                   |
| Tweedmouth Middle | 75%             | 65%                   | 62%             | 59%                   |

*\*Note: Belford Primary Year 6 cohorts can be very small - very small cohorts under 10 pupils means individual pupil results have greater impact on overall average.*

#### *GCSE (KS4) performance*

- The DfE has stated that, given the unprecedented change in the way GCSE results were awarded in the summers of 2020 and 2021, as well as the changes to grade boundaries and methods of assessment for 2021/22, caution should be taken when considering comparisons over time, as they may not reflect changes in pupil performance alone.

- Berwick Academy's GCSE results in 2019
  - Grade 5 in English and Maths (strong pass) - 21% compared to Northumberland and England average of 43%.
  - Progress 8 and Attainment 8 scores were below the Northumberland and England average.
  - The school reported improved outcomes in these measures in 2020 and 2021, although these are not able to be compared to 2019 due to differences in assessment.
- Berwick Academy's GCSE results in 2022
  - Grade 5 in English and Maths (strong pass) - 28% compared to Northumberland average 46% and England average of 50%.
  - Progress 8 and Attainment 8 scores were below the Northumberland and England average.

#### *'A'-level (KS5) performance*

- DfE have stated that, given the unprecedented change in the way 'A' level and vocational and VTQ grades were awarded in 2020 and 2021, as well as changes to the grade boundaries and methods of assessment for 2021/22, caution should be exercised when considering comparisons over time, as they may not reflect changes in student performance alone.
- Berwick Academy's 'A' level results in 2019
  - Progress score was the same as the average for England.
  - The average grade was a D+, compared to the Northumberland and England average grades of C+.
- Berwick Academy's 'A' level results in 2022
  - Progress score was below the national average for England.
  - The average grade was a D+, compared to the Northumberland average grade of B- and England average grade of B.

The whole premise of the proposed reorganisation to a 2-tier structure is to achieve the objectives set out in the Vision for Berwick (refer to para.14) including the raising of educational achievement across all phases and abilities of the children and young people in the area, in particular at KS4. It is also expected that the reduction to 1 phase change would be of particular benefit to more vulnerable pupils e.g., with SEN needs. With improving standards, it is expected that parents would have more confidence to retain their children within the whole Berwick pathway and this would be achieved for the reasons set out in the Report of the Cabinet Member for Children's Services 9 May which led to Cabinet approval for the publication of the statutory proposal as follows:

- There would be only one transition point between primary and secondary education at the end of Key Stage 2 for pupils to cope with and schools to manage. Furthermore, having just one transition would be of particular benefit to pupils with special educational needs and this was supported by the North Northumberland Autistic Society in Phase 2 consultation;
- Schools would have responsibility for whole key stages (primary schools for EYFS, KS1 and KS2 and Berwick Academy for KS3, KS4 and KS5) allowing for

- consistency of curriculum and planning and this matches the National Curriculum and is the predominant structure across the country;
- Teachers are trained in either the primary or secondary system; there is no longer specific middle school teacher training;
  - First school teachers are primary trained, with many having worked in primary schools, and already teach the first half of KS2. Therefore, the expertise and knowledge to deliver good outcomes at KS2 already exists in these schools (noting that currently in the 3-tier system when pupils are assessed at KS2 at the end of Year 6, they have been educated in first schools for five of their seven years in statutory education at that point);
  - Schools would have longer relationships with pupils and their families;
  - Students joining Berwick Academy in Year 7 would have two years to settle and become familiar with specialist subjects while teachers would have the opportunity to learn about their students in order to advise them before making critical subject choices for GCSE in Year 9. It is expected that this will be a key factor in delivering steady and significant improvement in outcomes at KS4 over time;
  - It is expected that a 2-tier organisation of schools would support recruitment and retention of teaching staff, with wider opportunities for within individual schools;
  - Pupils on roll in first schools becoming primary, especially the rural village schools would be able to be educated within their local communities for an additional two years;
  - Education in Years 5 and 6 would continue to be provided in the North of Berwick.

### 38. Demand and need

The recommendations to reorganise the Berwick Partnership to a 2-tier (primary/secondary) structure have been made following more than 2 years of informal, pre-statutory and statutory consultation. There is now a critical mass of support for the reorganisation among school leaders who are of the view that it will provide the best opportunity for schools to maintain viability and sustainability in the light of falling pupil numbers across the partnership and to make a step-change towards improving outcomes at Key Stage 4, which is key to improving the life chances of young people living in the Berwick area.

While it is unfortunate that reorganisation would result in the closure of the middle schools in the partnership, the extension of the age ranges of the first schools to primary and the extension of the age range of Berwick Academy from 13-18 to 11-18 would provide sufficient capacity for displaced pupils who would be in the middle schools at the time of reorganisation and for those pupils who would otherwise have attended middle schools.

Current Ofsted gradings and quality of current provision of schools in Berwick Partnership are provided at para. 36. The extension of the age ranges of the first schools to primaries would enable children to remain in their schools and local communities for an additional 2 years; this would be especially positive for children attending rural village schools who would no longer have to travel into Berwick at age 9 to 11.

Under the proposals to implement a 2-tier system in the Berwick Partnership, pupils in Year 6 and 7 on 31 August 2026 who would be displaced by the closure of the middle schools in the partnership would transfer to Berwick Academy (or another school according to parental preference) as Years 7 and 8 on 1 September 2026. Transfer into

Berwick Academy from the primary schools would be into Year 7 only from 1 September 2027. Pupils in Year 4 in first school on 31 August 2025 who would otherwise have transferred to a middle school in the Berwick Partnership on 1 September 2025 would remain at their first schools as they become primary and become the new Year 5 at those schools. Those pupils would be retained into Year 6 in the primary schools from 1 September 2026.

In relation to falling pupil numbers and surplus places Berwick Partnership, in January 2023 there were 2,290 pupils on roll across all phases of the Berwick Partnership, with the capacity for 3,442 places in schools and academies; this equates to 33% surplus places. Should the preferred model for reorganisation be approved for implementation there would be 2,710 places available in schools and academies in the partnership, therefore 732 places would be removed. This would be as a result of the closure of the 3 middle schools and the reduction in the PANs of 3 first schools (as they became primary schools) and of Berwick Academy. The reduction in the PANs of the relevant first schools would improve stability in relation to pupil numbers across all primary schools (as they would be) within the town by reducing the number of surplus places available and therefore curbing parental choice. Para. 65 and Table 9 provides further information on the proposed model for reorganisation.

#### 39. Equal Opportunity issues

The Equality Impact Assessment carried out in conjunction with the non-statutory consultation has been reviewed and updated in the light of the publication of the statutory consultation. It is available at Appendix 4 of this report.

In summary, the equality analysis did not identify any potential for discrimination or adverse impact and all opportunities to promote equality have been taken. Furthermore, the equality analysis did identify a number of positive impacts of the proposals.

#### 40. Impact on communities, integrated communities and community cohesion

As well as the envisaged improvement on educational outcomes as a result of this proposal, it is also envisaged that there would be a positive impact on the communities served by the first schools in the Berwick Partnership as they would retain their primary age children for an additional two years in Years 5 and 6 within their communities. This would be especially advantageous to families living in the rural villages within the partnership as pupils would remain in their communities for longer, siblings would be in the same schools for longer (depending on age gap) and pupils would not have to undertake longer journeys to school until the age of 11 rather than 9. There would also be a positive environmental impact as it is likely there would be fewer car journeys, thus supporting the Council's Climate Action Plan 2021-23. The closure of Berwick Middle School would result in there no longer being provision in Years 7 and 8 in the north of Berwick town; however, Berwick Academy site is 2 miles from the Berwick Middle site.

As a result of the rebuilding and refurbishment of Berwick Academy, it is envisaged that there would be opportunities for increased community use of the enhanced facilities at the site; as in previous rebuilding projects for secondary schools, local sporting clubs and associations would be invited to take part in the development of plans for the buildings. In relation to post-16 & post-18 opportunities for the local community, Berwick

Academy and Northumberland County Council have had discussions and are starting to develop the vision working with businesses to expand the skills offer available so more Young people do not have to travel long distances for their studies.

Berwick Academy Sixth form offer is expected to expand and will be sufficiently dynamic to meet changing environmental needs. Discussions continue as to what a post 18 offer could look like for Berwick, particularly with the investments of the new hospital and leisure centre as well as developing industry such as the Port of Berwick. The aim overall will be to incorporate a post 18 space within the new developments that could be an immersive environment able to adapt to a range of specialist curriculum needs. There are ongoing discussions with Higher Education Institutions that will continue throughout the build and contribute to partnership work to establish any curriculum offer and the required models of delivery type of post-18 could be brought forward and again this will included in the development of the rebuilding project.

There would be no negative impact on the current sport and recreation facilities at the first schools proposed to become primaries under the proposed reorganisation to the 2-tier structure.

The proposals for investment at Wooler First school site, would also include enhancement for the community with the development of a community hub.

In relation to the proposed closure of Berwick Middle and Tweedmouth Community Middle Schools, should Cabinet approve the implementation of the recommended statutory proposal, under legislation the Council would need to have regard to The School Premises (England) Regulations 2012 and Section 77 of the School Standards and Framework Act 1998 in relation to any potential loss of playing fields. However, as stated above sporting facilities at Berwick Academy would be enhanced through the replacement/refurbishment of its current buildings and site, while there would be no impact on the playing fields at the first schools proposed to become primary.

It is not envisaged that these proposals would have an impact on any specific communities in relation to the Government's Integrated Communities Action Plan 2019. In any event, it is envisaged that children and young people living in the Berwick Partnership area would continue to learn about other cultures, faiths, and communities through implementation of a broad and balanced curriculum in the schools proposed to remain open.

The establishment of additional specialist provision within the Berwick Partnership would provide an opportunity for children and young people in mainstream schools in the area to gain a broader understanding of students who have additional needs which would benefit them all.

#### 41. Travel and Transport

Transport for all pupils affected by the proposed reorganisation should it be approved would be arranged in accordance with the Council's Home to School Transport Policy.

Pupils transferring from Year 4 to Year 5 in September 2025 would remain in their first schools as the schools reorganise to primary status. It is envisaged that many pupils in Years 5 and 6 in the new primary schools who would otherwise have travelled to Berwick and Tweedmouth Community Middle Schools would have shorter journeys to

schools as they would be educated for an additional two years in the primary schools within their local communities - this would be especially relevant to pupils in the new primary schools in the outlying rural villages of the partnership. This is likely to result in a saving of circa £14,000 per annum to the Council's Home to School Transport budget in relation to those pupils that would normally have been eligible for transport to the middle schools in those year groups. Pupils who would be on roll in Years 5 and 6 at Wooler Primary (as it would become) who would have otherwise attended Glendale Middle School would not be impacted in relation to transport as both schools currently share the same building.

There would be no anticipated significant increase in car use as a result of these proposals, indeed there may be a reduction in car use as the Year 5 and 6 pupils would remain in their village schools. Pupils on roll in Years 7 and 8 who would have attended Glendale Middle School would have longer journeys to Berwick Academy while in those year groups should the middle school close. However, the journey of a student who lived at the settlement in-catchment that is furthest away from Berwick Academy would have a journey time of between 50 and 60 minutes, which is under the maximum journey time of 75 minutes for secondary age pupils suggested by the DfE. In reality, most students living in the Wooler/Glendale catchment would have much shorter journey times to Berwick Academy. Pupils in Years 7 and 8 who would have attended Berwick Middle School may have slightly longer journeys to Berwick Academy as there is a distance of 2 miles between the two settings, but this would depend on where the pupil resided. Tweedmouth Community Middle and Berwick Academy share a site, therefore there would be no impact on distance travelled by pupils who would otherwise have attended the middle school should it close.

Pupils allocated places at the SEN unit at Berwick St Mary's Church of England Primary School (as it would be) and the SEN unit at Berwick Academy would be eligible for Home to School Transport in line with the Council's policy subject to them meeting the relevant criteria.

#### 42. Funding and Buildings

In relation to revenue funding for first schools becoming primary on 1 September 2025, schools will be funded for the number of Year 4 pupils that were on the roll of their schools in Autumn 2024, whether or not all those Year 4 pupils join the Year 5 cohort.

Following the publication of the report on the outcomes of informal consultation a number of schools and the Diocese have expressed concerns that a contribution to capital costs hadn't been included for their schools. This matter was also raised during the FACS meeting prior to the publication of the statutory proposal. Assurances were given by the lead Member for Children's Services during the FACS meeting prior to publication of the statutory proposal, that funding required to increase capacity of school buildings to support the changes would form part of the final capital costs.

Informal discussions have taken place with the Director of Education for the Diocese and the headteachers of the individual schools which also included some community schools. It has been clearly explained that the reorganisation capital budget would support the changes required for first schools to become primary including relevant suitability changes, but that the budget would not address any existing suitability and maintenance costs. It would be for each of the responsible bodies (NCC for Community and VC schools and the diocese for VA schools) to fund these works.

With this as a guiding principle the increase to the overall capital budget is set out below, together with the table on funding breakdown which includes the increase in the budget estimate of £1.1m, to take into account the 4 additional projects.

Building costs set out in Table 2 below are indicative and would be subject to further detailed work should the recommendations to reorganise schools to a 2-tier structure be approved:

**Table 2 – Estimate of costs and scope of works to achieve the following changes as part of implementation of reorganisation**

| <b>School</b>                               | <b>Description</b>   | <b>Indicative cost</b> |
|---|--|------------------------|
| St Mary's First School                      | Internal reconfiguration to create dedicated SEN unit for ASD and SEMH primary pupils.         | £0.500m                |
| Norham First School                         | A small extension to increase capacity within early years/foundation stage classroom           | £0.119m                |
| Scremerston First School                    | Potential small extension  | £0.220m                |
| Tweedmouth West First School                | One classroom, one group room, a Medical Inspection room and additional WC provision           | £1.038m                |
| Wooler First School                         | Remodel existing building to create primary facilities, a community hub.                       | £2.800m                |
| Holy Trinity Church of England First School | Extend main hall to ensure whole school assembly and remodel existing accommodation            | £1.000m                |
| Lowick Church of England First School       | Replace infant toilets with height appropriate toilets for Years 5&6. Install a partition wall | £20k                   |
| Spittal First School                        | Remodel existing staff accommodation to create intervention space                              | £50k                   |
| Tweedmouth Prior Park First School          | Add additional toilets to meet the increase in pupils  | £30k                   |
| Berwick Academy                             | New build Secondary school, with specialist SEN unit for pupils with ASD and SEMH              | £35.400m               |
| <b>Total</b>                                |  | <b>£41.177m</b>        |



Table 3 below sets out how the proposed building changes in Table 2 to achieve reorganisation would be funded if Cabinet approves the implementation of the recommendations of this report.

**Table 3 – Funding breakdown to deliver Capital improvements above.**

| <b>Funding Source</b>                   | <b>Value</b>    |
|---|-----------------|
| NCC Capital (MTFP)                      | £39.750m        |
| School Condition Allocation (SCIP)      | £1.246m         |
| High Needs Provision Capital Allocation | £0.181m         |
| <b>Total</b>                            | <b>£41.177m</b> |

Cabinet is asked to approve the allocation of £41.177m of which £5.777m is required to support the changes for the first schools to become primary schools. Individual projects at each first/primary school would be subject to detailed design and will be managed as a programme of works and not ring-fenced budgets to individual school projects, to provide flexibility for officers to vary the works. In order to progress these works in a timely manner delegated authority is being requested for the Cabinet Member for Children’s Services and the Executive Director of Children, Young People and Education to approve the award of contract to the preferred contractor following a procurement process.

Cabinet are also asked to approve £250k in order to develop an Outline Business Case for investment in Berwick Academy noting that the outcomes will be reported back to cabinet at a later date. Cabinet should note that the decision to invest in the refurbishment/rebuilding (extent of combination of either to be clarified as part of OBC) of Berwick Academy is not predicated on these reorganisation proposals; Cabinet had already approved investment in the Medium Term Plan and consultation on reorganisation was undertaken in order to provide comfort that such investment was being made in a sustainable and viable school system for the long-term.

Cabinet should also note that officers are in discussions with DfE with regard to a contribution from the department towards the capital costs of refurbishment/rebuilding of Berwick Academy. These discussions/negotiations will for part of the development of the OBC and therefore it is unlikely to be confirmed within the current financial year.

#### 43. Schools Causing Concern

No schools or academies within the Berwick Partnership are defined as ‘Schools Causing Concern’ within the meaning of Section 44 of the Education Act 2005.

While two first schools are currently graded Requires Improvement, one is making good progress towards ‘Good’ or better while the other is a relatively new judgement. Berwick Academy was inspected by Ofsted in November 2021 and judged to be an improving school, moving from Inadequate to Requires Improvement. These schools would need to extend their age ranges as part of the overall proposed reorganisation of the Berwick Partnership to a 2-tier (primary/secondary) structure should it be approved.

#### 44. Rural Schools and the presumption against closure

Under the DfE's 'Get Information About Schools' website, Glendale Middle School is defined as a 'Rural town and fringe in a sparse setting' and must be considered under the 'presumption against the closure of rural schools' set out in the DfE guidance 'Opening and closing maintained schools Statutory guidance for proposers and decision makers January 2023'. This presumption does not preclude the closure of rural schools, but the guidance suggests that Cabinet should provide evidence that they have considered the following alternatives to closure specifically in relation to Glendale Middle School as follows:

- Could the school be converted to an academy and join a multi-academy trust;
- Could the school be federated with another local school;
- Is there scope for an extended school to provide local community services and facilities (e.g., childcare facilities, family and adult learning, healthcare, community internet access);

Glendale Middle School and Wooler First School share the same school building and playing fields located in Wooler village. The proposed closure of Glendale Middle School is not a stand-alone proposal but forms part of the proposed partnership-wide reorganisation of Berwick Partnership to a 2-tier (primary/secondary) structure; therefore, the conversion of the school to an academy or federation with another school would not be relevant within this context, as middle schools generally do not exist within a primary/secondary structure. Plans to expand local community services as part of the overall proposal for the continuation of Wooler First School as a primary school form part of these proposals. Furthermore, the proposal to close Glendale Middle School and extend the age range of Wooler First School is supported by the federated Governing Body of Wooler First and Glendale Middle Schools.

DfE Guidance also suggests that Cabinet should consider the following impacts of the proposed closure of Glendale Middle School – a reference is provided against each of the impacts below indicating where they have been addressed in this report;

- the availability, and likely cost to parents, of transport to other schools (refer to para. 41);
- whether the proposal will result in unreasonably long journey times (refer to para. 41);
- the size of the school and whether it puts the children at an educational disadvantage e.g., in terms of breadth of curriculum or resources available; (refer to earlier part of this para. re proposed reorganisation to 2-tier structure);
- the proportion of pupils attending the school from within the local community i.e., whether the school is being used by the local community (refer to earlier part of this para. re: proposed reorganisation to 2-tier structure);
- the overall and long-term impact on local people and the community of the closure of the school and of the loss of the building as a community facility (refer to para. earlier part of this para. re: proposed reorganisation to 2-tier structure);
- educational standards at the school and the likely effect on standards at neighbouring schools (refer to para. 36 noting this is a whole partnership reorganisation);

- whether the school is now surplus to requirements e.g., because there are surplus places elsewhere in the local area which can accommodate displaced pupils, and there is no predicted demand for the school in the medium or long term (refer to earlier part of this para. re: proposed reorganisation to 2-tier structure);
- wider school organisation and capacity of good schools in the area to accommodate displaced pupils (refer to earlier part of this para. re: proposed reorganisation to 2-tier structure).

#### 45. Balance of Denominational Provision

There would be no impact on the balance of denominational provision because of this statutory proposal. None of the middle schools proposed to close have a religious character, while there are no proposed changes to the religious character of any of the first schools proposed to become primaries.

The proposal to establish a SEN unit at Berwick St Mary's Church of England Primary School (as it would be) and at Berwick Academy would increase diversity of provision in the partnership by increasing specialist places for children and young people with primary SEN needs in SEMH, ASD, MLD and SLCN and enabling them to be educated close to their home communities.

#### 46. Community Services

As stated in para. 30, plans to develop community services at the site of Wooler Primary School (as it would be) should the proposal to close Glendale Middle School are in train. While Berwick Middle and Tweedmouth Community Middle School may currently provide opportunities for local groups or clubs to use the facilities at the schools, it is envisaged that Berwick Academy will continue and expand its community provision as part of its community and post-18 offer and local sports clubs and associations would be included in the development of plans for the refurbishing/rebuilding project (see para.39).

As previously stated, discussions have already taken place between Berwick Academy and the Council relating to how plans for the capital investment in the academy buildings could be linked to the right vocational and academic mix offer to students to enable them to be equipped for the working world or further study. Discussions have also included proposals on how this offer could be broadened and extended to the wider community in relation to a post-18 offer in skills, learning or qualifications in order to create a community learning hub.

### **Other factors to be considered**

#### 47. Falling Pupil Numbers and Viability and Sustainability of Schools

The issue of continuing falling pupil numbers on the sustainability and viability of schools has been well documented in the 'Report of the Joint Interim Director of Children's Services (Outcomes of Consultation on Berwick Partnership Organisation) 22 October 2022' and the 'Report of the Cabinet Member for Children's Services (Outcomes of the Consultation on Proposals for the Berwick Partnership) 9 May 2023' but is repeated below for ease of reference.

Table 4 demonstrates the impact of falling pupil numbers on average yearly cohort sizes, with a current cohort in high school averaging 218 pupils, with future classes only having an average of 163 as demonstrated by the current average Reception classes:

**Table 4**

| <b>Phase</b>   | <b>Current average cohort size based on number living in Berwick area</b> |
|--|---|
| Average size of High School cohort based on current Year 9 to 11                           | 218   |
| Average size of Middle School cohort based on current Year 5 to 8                          | 226   |
| Average size of First School cohort based on current First School (Reception to Year 4)    | 193   |
| Average size of future cohorts based on predicted Reception 2023 to Reception 2025 classes | 163   |

In Reception 2025, the cohort size will be 150 noting that not all parents may select to educate their children within the partnership. There are already significant surplus places in first schools in the partnership, with 166 pupils on roll in Reception in March 2023 with capacity for 293 pupils in schools (note in January 2022 there were 182 pupils on roll in Reception). Without taking into account any potential additional late applications, at this stage the reception cohort across the partnership in September 2023 is predicted to be 141. As cohorts move through the school phases, the middle and high schools will also feel the impact of falling pupil numbers on their budgets. Currently there are three schools forecast to be in deficit budget by 2024/25, with four forecasted to be in deficit by 2025/26 - eight schools currently have an in-year deficit. Compounding the fall in pupil numbers is the continuing drift of pupils into neighbouring partnerships, into Scotland and into private education (see Table 5 data from 2021/22):

**Table 5 (2021/22 data)**

| <b>Phase</b>  | <b>Attending Alnwick Schools</b> | <b>Attending Scottish Schools</b> | <b>Attending Private Schools</b> | <b>Total</b> |
|---------------|----------------------------------|-----------------------------------|----------------------------------|--------------|
| High (Yr9-11) | 103                              | 48                                | 32                               | 183          |
| Middle        | 27 (5 in primary)                | 32 (14 in primary)                | 35                               | 94           |
| First         | 28                               | 3                                 | 9                                | 40           |

The above data equates to 28% of high school (Year 9 to Year 11) students living in the Berwick area choosing to attend other schools. Of students in the Berwick area of middle school age, 10% choose to attend the schools noted in Table 5; at first school phase, just 4% of pupils living in the Berwick area attend these schools. In economic terms, at high school phase the combined current standard funding per student equates to around £915k which would otherwise have been received by Berwick Academy had those students attended there, while at middle school phase the

combined current standard funding per student equates to £470k which would otherwise have been received by the middle schools had the students attended there. There will be a variety of reasons why students attend certain schools, for example distance from home being a factor, while some parents would send their children to private schools in any event. However, some feedback received during the various consultations carried out in the Berwick Partnership at high school phase indicated that some parents are choosing an alternative pathway even earlier in their children's educational journey.

#### 48. Implications for Staff

Should Cabinet approve the proposals set out in the statutory proposal and the change of age ranges of the voluntary schools as set out in Recommendation 1 and 2, there would be implications for staff in all schools in the Berwick Partnership. In particular, those staff working in middle schools would be at risk of redundancy should approval to implement the statutory proposal be given. Staffing structures in those schools and academies proposed to continue would need to be amended to reflect the additional year groups and to identify new posts.

In the light of the publication of the statutory proposal, officers have continued to work with headteachers in the Berwick Partnership to develop the draft Staffing Protocol and good progress has been made, with the expectation that all Governing Bodies involved in reorganisation will have signed up to the agreement before the end of the summer term. The purpose of the protocol is to ensure where new posts are identified in the continuing schools, a fair and equitable selection process is in place that provides a job interview guarantee for such posts for staff at risk of redundancy and that these staff are supported to find alternative suitable posts throughout the period of transition to the new structure i.e., to 1 September 2026.

The allocation of new posts within the reorganised structure ahead of implementation to as many at risk staff as possible would not only provide stability to them on a personal level but will assist in providing educational stability across schools in the partnership as well as aiding with successful pupil transition. Trades Unions would also be consulted on the terms of the protocol agreed with the schools and academies.

Wooler First School and Glendale Middle School are federated under one Governing Body, therefore should the middle school be approved to close, there would be an element of protection for the Glendale middle school staff, as those applying for jobs in the new staffing structure in Wooler Primary School (as it would be) would be considered for those posts ahead of staff in other middle schools.

#### 49. Catchment areas

A number of amendments to catchment areas are proposed arising from the preferred 2-tier model. At its meeting of 9 May 2023, Cabinet agreed the removal of Belford Primary School from the Berwick Partnership with effect from 31 August 2024, which would be subject to the approval of the School's Adjudicator. As part of this proposal, a small area of the northern-most part of the Belford catchment will be re-allocated to Lowick Church of England Voluntary Controlled Primary School (as it would become). First schools would retain their current catchment areas as they become primaries, noting that as for all Roman Catholic schools in the county, St Cuthbert's Catholic First School (academy) does not have a catchment area but allocates places in accordance

with the oversubscription criteria set out in its Admissions Policy (when oversubscribed).

Berwick Middle, Tweedmouth Community Middle and Glendale catchment areas would apply to students in Years 6, 7 and 8 only from 1 September 2025 and would become invalid after 31 August 2026. The first school catchment areas would apply up to Year 5 from 1 September 2025 as they become primary schools and would then apply until the end of Year 6 from 1 September 2026. Similarly, the catchment area of Berwick Academy would apply from Year 7 from 1 September 2026.

#### 50. Special Educational Needs Provision within mainstream schools and academies

The specific proposal to increase SEND provision in the Berwick Partnership in relation to the growth in the number of children and young people diagnosed with a primary special educational need in SEMH or ASD is set out at para. 53.

Current SEN provision at those schools proposed to remain open would continue to be provided should reorganisation be approved. Reorganisation may benefit some pupils with SEN who would be able to remain at their primary school for an additional 2 years. During consultation, some first schools stated that they would benefit from specialist peripatetic SEND support accessed from a specialist provision hub at St Mary's and Berwick Academy as well as The Grove Special School. It is hoped that this type of support provision can be developed within the partnership going forward.

#### 51. Early Years Provision

While the extent and the quality of early years provision in the Berwick Partnership was considered as part of this consultation, officers in the Council's Early Years team confirmed that there is enough provision of sufficient quality currently in the partnership area, including provision for two-year-olds. As any changes to current early years provision in first schools as they became primaries could have a destabilising effect, no proposals to change or increase Early Years provision in those schools remaining open are included within the preferred 2-tier model proposed for statutory publication. However, with the introduction of the Government's new scheme to introduce free childcare to all children from the age of nine months from September 2024, this may bring additional opportunities to extend provision in some settings and this would be supported and monitored by the Council's Early Years Team.

#### 52. Post-16 and Post-18 Provision

Views on how provision for post-16 and post-18 could be improved and expanded for pupils and the wider community in the Berwick area were sought during Phase 2 consultation. While the published statutory proposals related to proposed closures and age-range changes as required by legislation, the feedback received in relation to post-16 and post-18 provision during Phase 2 consultation will be taken into account when developing the Outline Business Case for the refurbishment/rebuilding of Berwick Academy.

In summary, the relevant feedback in light of the statutory proposals included:

- Improve the academy and post-16 offer including collaboration with Northumberland College.
- Greater links with local businesses to offer apprenticeships for those pupils who are skilled in manual tasks but are not academic.

- More vocational courses.

As stated earlier in the report, discussions have already taken place between Berwick Academy and the Council that would address these objectives by linking plans for the capital investment in the academy buildings to the right vocational and academic mix would be able to be offered to suit all students in order to prepare them effectively for for the working world or for further study. Discussions have also included proposals on how this offer could be broadened and extended to the wider community in relation to a post-18 offer in skills, learning or qualifications in order to create a community learning hub.

### 53. Sport and Recreation

There would be no negative impact on the current sport and recreation facilities at the first schools proposed to become primaries under the proposed reorganisation to the 2-tier structure. All schools would continue to have suitable outdoor in order to enable physical education to be provided to pupils in line with the requirements of the National Curriculum and line with safety and safeguarding requirements.

It is expected that the sport and recreation facilities at Berwick Academy will be enhanced through the provision of the new buildings, including enhanced provision for the local community.

In relation to the proposed closure of Berwick Middle and Tweedmouth Community Middle Schools, should Cabinet approve the implementation of the statutory proposal, under legislation the Council would need to have regard to The School Premises (England) Regulations 2012 and Section 77 of the School Standards and Framework Act 1998 in relation to any potential loss of playing fields.

## **The Proposal to increase specialist SEND Provision in the Berwick Partnership**

### 54. The Need for additional specialist provision in the Berwick area

Arising from the need identified in pre-statutory consultation to create additional provision within the Berwick Partnership for pupils with primary needs specifically in SEMH and ASD to enable them to be educated within and/closer to their home communities, the statutory proposal included a proposal to create a 30 place SEN unit at St Mary's Church of England First School for primary-age pupils with primary needs in SEMH, ASD, SLCN and MLD with effect from 1 September 2025. This proposal is related to the proposal of Berwick Academy to create a 40 place SEN unit at its site for secondary-age pupils with primary needs in SEMH, ASD, SLCN and MLD with effect from 1 September 2026.

There have been no objections to this element of the statutory proposal raised during statutory consultation.

Full details of the background and rationale of the need to create additional SEN provision in the Berwick area is provided in the Report of the Joint Interim Director of Children's Services (Outcomes of Consultation on Berwick Partnership Organisation) 22 October 2022 and the Report of the Cabinet Member for Children's Services (Outcomes of the Consultation on Proposals for the Berwick Partnership) 9 May 2023, which are in the Background Papers of this report.

In summary, as of January 2022, there were 58 students residing in the Berwick Partnership area who were on roll in special schools in Northumberland or an out of county specialist provision. Of these, 36 were on roll at The Grove Special School. This means 22 students were attending special schools outside of the Berwick area, mainly in the South-East of the county, and of these students' half had either ASD, SEMH or Speech, Language and Communication Needs (SLCN) as a primary need – note that SLCN often leads to a later diagnosis of ASD.

Table 6 shows the projected growth in the number of students expected to have an EHCP primary need in ASD living in the Berwick area, with data based on current Berwick-resident students with an EHCP in schools and special schools.

**Table 6 – Projected number of students living in Berwick area with ASD as a primary need**

| Final Forecasts<br>Year Group | R | 1 | 2 | 3 | 4 | 5 | 6  | 7 | 8  | 9  | 10 | 11 | 12 | 13 | NOR<br>Totals |
|-------------------------------|---|---|---|---|---|---|----|---|----|----|----|----|----|----|---------------|
| 2022                          | 1 | 1 | 4 | 1 | 6 | 6 | 8  | 4 | 16 | 5  | 9  | 3  | 6  | 2  | 72            |
| 2023                          | 3 | 2 | 1 | 6 | 2 | 7 | 8  | 7 | 8  | 15 | 7  | 8  | 2  | 6  | 82            |
| 2024                          | 3 | 4 | 2 | 2 | 7 | 2 | 9  | 7 | 15 | 8  | 22 | 6  | 6  | 2  | 95            |
| 2025                          | 3 | 4 | 4 | 2 | 2 | 8 | 2  | 8 | 15 | 15 | 11 | 20 | 5  | 6  | 105           |
| 2026                          | 2 | 4 | 4 | 5 | 3 | 2 | 10 | 2 | 18 | 15 | 22 | 10 | 15 | 5  | 117           |

Table 7 shows the projected number of students expected to have an EHCP primary need in SEMH living in the Berwick area, with data based on current Berwick-resident students with an EHCP in schools and special schools. There is currently no provision at all for students with SEMH as a primary need in the Berwick area and therefore students with this type of need must travel to other partnerships or out of county.

**Table 7 - Projected number of students living in Berwick area with SEMH as a primary need**

| Final Forecasts<br>Year Group | R | 1 | 2 | 3 | 4  | 5  | 6  | 7  | 8  | 9  | 10 | 11 | 12 | 13 | NOR<br>Totals |
|-------------------------------|---|---|---|---|----|----|----|----|----|----|----|----|----|----|---------------|
| 2022                          | 0 | 3 | 2 | 9 | 16 | 18 | 8  | 13 | 8  | 9  | 13 | 7  | 4  | 2  | 112           |
| 2023                          | 0 | 0 | 5 | 3 | 11 | 20 | 15 | 10 | 12 | 9  | 9  | 10 | 3  | 3  | 110           |
| 2024                          | 0 | 0 | 0 | 8 | 4  | 14 | 16 | 17 | 9  | 13 | 9  | 6  | 4  | 2  | 102           |
| 2025                          | 0 | 0 | 0 | 1 | 9  | 4  | 11 | 19 | 16 | 10 | 13 | 7  | 3  | 3  | 96            |
| 2026                          | 1 | 0 | 0 | 0 | 1  | 11 | 4  | 13 | 18 | 17 | 10 | 10 | 3  | 2  | 90            |

While not all projected students with a primary need in SEMH and ASD in the tables above would necessarily need to attend a special school, nonetheless it is clear that the overall trend is for increasing numbers of students with these primary needs in the Berwick area. Therefore, additional specialist provision for these students is required in the Berwick Partnership area in order to reduce the need for so many of this vulnerable group of students to travel a considerable distance to school and to be educated closer to their home communities.

## 55. Proposed model

The following model of additional SEN provision was set out in the statutory proposal:

- Berwick St Mary's Church of England First, in addition to the proposed age range change to also add an SEN unit with specialist provision for up to 30 places reserved for pupils aged 4 to 11 with primary needs in SEMH, ASD, MLD and SLCN.



Related to the above model Berwick Academy proposed the following model in their Business Case to the Regional Director North East:

- Berwick Academy in addition to the proposed age range change to also add an SEN unit with specialist provision for up to 40 places reserved for students aged 11 to 16 with primary needs in SEMH, ASD, MLD and SLCN.

Cabinet should note the outcome of the meeting of the North East Advisory Board held on 13 July 2023 in relation to the above proposal.

#### 56. Timeline for Implementation

It is proposed that the establishment of the SEN units at St Mary's and at Berwick Academy would follow the same timeline as the proposed change in age ranges i.e., the SEN unit at St Mary's would be effective from 1 September 2025 and the SEN unit at Berwick Academy would be effective from 1 September 2026.

#### 57. Implications for staff

It is envisaged that both St Mary's and Berwick Academy would need to develop a staffing structure for their respective SEN units suitable to meet the needs and number of pupils with SEMH, ASD, MLD and SLCN.

#### 58. Transport

Students attending special schools in Northumberland are subject to the same eligibility criteria for Home to School Transport as mainstream students, with the addition that reasonable adjustments may be made in relation to a child's disability (where applicable) even where they live within the statutory walking distance.

It is anticipated that the provision of local specialist provision within the Berwick Partnership area would reduce the need for many students with the relevant SEND primary needs to travel outside of their local area, and therefore this would have a positive impact on the Council's Home to School Transport budget.

#### 59. Building Implications

The indicative costs for provision of SEN units at St Mary's and at Berwick Academy are included in Table 2 at para. 42.

#### 60. Sport and Recreation

Pupils on roll in the SEN units at St Mary's and Berwick Academy would be able to have timetabled access to the playing fields and recreational facilities on the respective school sites as part of their curriculum.

### **Conclusions and Recommendations to the Statutory Consultation**

61. Feedback from statutory consultation has confirmed that the majority of the educationalists in the Berwick Partnership continue to support the proposed reorganisation to a 2-tier (primary/secondary) structure. While the majority of parents who responded to statutory consultation objected to the proposal and it is right that their views should be acknowledged and taken into consideration, their responses

should be viewed in the context of the total number of parents with children in the current Berwick Schools system i.e. more than 99% of parents have not expressed a view either in support or against the proposals. While it cannot be assumed that their silence implies support of the statutory proposal, it appears that they do not hold such strong views in relation to the organisation of schools that they felt compelled to respond and are perhaps content to leave the decision to educationalists and the Council's Cabinet.

62. Whilst there have been ongoing discussions within the Berwick partnership for many years over the organisation of schools, this consultation process has provided the structure for all interested parties to express their views and explore ideas on how to address the challenges faced to ensure the long-term sustainability and viability of the education system in Berwick. There has been a concerted effort to engage the Berwick community over the last two and half years in the consultation process. There has been one community survey and two stages of informal consultation, with over 12,000 people being contacted directly to provide a response to the consultation. 1,525 responses have been received and there have been six face-to-face public events have also been held with 111 people attending. 63 responses were received to the statutory proposals, with the majority now supporting the proposal. There is full cross party, political support for the proposal from local elected members. Feedback from all phases of consultation has been used in developing the final recommendations to implement reorganisation across the Berwick partnership.
63. The Council has a duty to support schools to improve standards and continuity of education, to support schools to be financially viable and sustainable and to provide best value to the residents of Northumberland in relation to Capital investment of public monies in school buildings.
64. Cabinet is therefore requested to approve the Recommendations set out in this report and as published in the statutory proposal of 11 May to 8 June 2023 without modification to reorganise the community and voluntary schools in the Berwick Partnership to a 2-tier (primary/secondary) structure with effect from 1 September 2025 (refer to Appendix 1 for the full proposal), noting that Recommendation 1 is conditional on planning permission being achieved by 31 August 2025. The reasons for this recommendation remain consistent with those set out in the Report of the Member for Children's Services, 9 May 2023, which are:
- There would be only one transition point between primary and secondary education at the end of Key Stage 2 for pupils to cope with and schools to manage. Furthermore, having just one transition would be of particular benefit to pupils with special educational needs and this was supported by the North Northumberland Autistic Society in Phase 2 consultation;
  - Schools would have responsibility for whole key stages (primary schools for EYFS, KS1 and KS2 and Berwick Academy for KS3, KS4 and KS5) allowing for consistency of curriculum and planning and this matches the National Curriculum and is the predominant structure across the country;
  - Teachers are trained in either the primary or secondary system; there is no longer specific middle school teacher training;
  - First school teachers are primary trained, with many having worked in primary schools, and already teach the first half of KS2. Therefore, the expertise and knowledge to deliver good outcomes at KS2 already exists in these schools (noting that currently in the 3-tier system when pupils are assessed at KS2 at the end of

Year 6, they have been educated in first schools for five of their seven years in statutory education at that point);

- Schools would have longer relationships with pupils and their families;
- Students joining Berwick Academy in Year 7 would have two years to settle and become familiar with specialist subjects while teachers would have the opportunity to learn about their students in order to advise them before making critical subject choices for GCSE in Year 9. It is expected that this will be a key factor in delivering steady and significant improvement in outcomes at KS4 over time;
- It is expected that a 2-tier organisation of schools would support recruitment and retention of teaching staff, with wider opportunities within individual schools;
- Pupils on roll in first schools becoming primary, especially the rural village schools would be able to be educated within their local communities for an additional two years;
- Education in Years 5 and 6 would continue to be provided in the North of Berwick.

## **Proposed Model for school reorganisation in the Berwick Partnership**

### 65. Current structure of school organisation in the Berwick Partnership

Berwick Partnership is currently organised within the 3-tier structure as follows:

**Table 8 – Current Structure of schools in Berwick Partnership**

| <b>School</b>               | <b>Number on roll in statutory education Jan 2023</b> | <b>Capacity</b><br>(net no. Pupils able to be educated in the building) | <b>Forms of Entry in each year group</b><br>(1FE = average class of 30 pupils) | <b>Planned Admission Number</b> (PAN – the number of children admitted to the school at usual transition point in September) |
|-----------------------------|---|---|--|--|
| Belford Primary             | 84  | 187   | 1  | 30   |
| Berwick St Mary's CE First  | 68  | 114   | 1  | 30   |
| Holy Trinity CE First       | 140   | 150   | 1  | 30   |
| Holy Island CE First        | 3   | 25  | 0.2  | 5  |
| Hugh Joicey CE First        | 47  | 73  | 0.5  | 15   |
| Lowick CE First             | 16  | 50  | 0.3  | 10   |
| Norham CE First             | 26  | 50  | 0.3  | 10   |
| Scremerston First           | 54  | 90  | 0.6  | 18   |
| Spittal First               | 121   | 171   | 1.3  | 40   |
| Tweedmouth Prior Park First | 111   | 150   | 1  | 30   |
| Tweedmouth West First       | 114   | 150   | 1  | 30   |
| Wooler First                | 93  | 150   | 1  | 30   |
| St Cuthbert's               | 71  | 75  | 0.5  | 15   |
| Berwick Middle              | 335   | 456   | 3.8  | 114  |

|                   |                                    |     |     |     |
|-------------------|------------------------------------|-----|-----|-----|
| Glendale Middle   | 103                                | 169 | 1.4 | 42  |
| Tweedmouth Middle | 359                                | 440 | 3.1 | 93  |
| Berwick Academy   | 545<br>(inc. 6 <sup>th</sup> Form) | 916 | 7.5 | 225 |

#### 66. Proposed Model of school organisation for implementation in the Berwick Partnership

The structure of schools and academies in Berwick Partnership is proposed to be as set out in Table 9 in light of the closures and changes set out in the statutory proposal, the proposal to change the age ranges of the voluntary schools, and the proposals of the Trustees of Berwick Academy and the Governing Body of St Cuthbert's Catholic First School and Trustees of the Bishop Bewick Catholic Educations Trust:

**Table 9 – Proposed 2-tier (primary/secondary) structure of schools in Berwick Partnership**

| School                      | Number on roll Jan 2023  | Proposed Capacity<br>(net no. Pupils able to be educated in the building) | Proposed Forms of Entry in each year group<br>(1FE = average class of 30 pupils) | Proposed Planned Admission Number (PAN – the number of children admitted to the school at usual transition point in September) |
|-----------------------------|--|---|--|--|
| Belford Primary             | Approved to move into Alnwick Partnership with effect from 1 September 2024 and small area of current catchment allocated to Lowick. |   |  |  |
|                             | 84   | 187   | 1  | 30   |
| Berwick St Mary's CE First  | Becomes primary, reduces PAN, no change to catchment<br>Opens on-site primary specialist SEN provision                               |   |  |  |
|                             | 68   | 105   | 0.5  | 15   |
| Holy Trinity CE First       | Becomes primary, no change to catchment  |   |  |  |
|                             | 140  | 210   | 1  | 30   |
| Holy Island CE First        | Becomes primary, no change to catchment  |   |  |  |
|                             | 3  | 35  | 0.2  | 5  |
| Hugh Joicey CE First        | Becomes primary, no change to catchment  |   |  |  |
|                             | 47   | 105   | 0.5  | 15   |
| Lowick CE First             | Becomes primary, small extension to catchment area as a result of reduction of Belford catchment.                                    |   |  |  |
|                             | 16   | 70  | 0.3  | 10   |
| Norham CE First             | Becomes primary, no change to catchment  |   |  |  |
|                             | 26   | 70  | 0.3  | 10   |
| Scremerston First           | Becomes primary, no change to catchment  |   |  |  |
|                             | 54   | 70  | 0.3  | 10   |
| Spittal First               | Becomes Primary and reduces PAN to 30, no change to catchment  |   |  |  |
|                             | 130  | 210   | 1  | 30   |
| Tweedmouth Prior Park First | Becomes primary, no change to catchment  |   |  |  |
|                             | 124  | 210   | 1  | 30   |

|   |   |      |     |     |
|---|---|------|-----|-----|
| Tweedmouth West First                         | Becomes primary, no change to catchment   |      |     |     |
|   | 118   | 210  | 1   | 30  |
| Wooler First                                  | Converts to become a primary and remains in Berwick Partnership, no change to catchment                                   |      |     |     |
|   | 103   | 210  | 1   | 30  |
| St Cuthbert's*                                | Becomes Primary (RC schools do not have catchments)   |      |     |     |
|   | 71  | 105  | 0.5 | 15  |
| Total forms of entry in primary phase – 7.6FE |   |      |     |     |
| Berwick Middle                                | Closes  |      |     |     |
| Glendale Middle                               | Closes  |      |     |     |
| Tweedmouth Middle                             | Closes  |      |     |     |
| Berwick Academy*                              | Catchment area reduced as Belford Primary moves to Alnwick Partnership, transition into Year 7 (age 11) from 2026 onwards |      |     |     |
|   | 523<br>(inc. 6 <sup>th</sup><br>Form)   | 1100 | 6   | 180 |

In this structure,

- Berwick Academy would become an age 11-18 academy, with admissions into Year 7, 8 and 9 in September 2026, and then admissions into Year 7 only from September 2027
- 12 first schools (including an academy) would change their age range to become primary schools.
- Three middle schools would close.
- There would be significant capital investment in schools as appropriate to facilitate this, including a rebuild/refurbishment for Berwick Academy.
- In January 2023, there were 2,290 pupils on roll across all phases of the Berwick Partnership, with the capacity for 3,442 places in schools and academies; this equates to 33% surplus places.
- As stated, the partnership currently has the capacity for 3,442 places. Should the preferred model be implemented there would be 2,710 places available in schools and academies in the partnership, therefore 732 places would be removed. Based on current number of pupils on roll in schools, this would equate to approximately 12% surplus places to allow for parental choice and there would be sufficient capacity in schools and academies to accommodate all students living in the Berwick area in the future.
- There are currently 7.5 FE into high school phase, 8.3 FE into middle school phase and 9.7 FE into first school phase. Under the preferred recommended model, if every pupil living in the Berwick Partnership attended a school in the partnership, there would be 5.3 FE required at both secondary and primary phases. Under the preferred model, it is proposed that there would be 6 FE available into secondary phase and 7.6 FE available into primary phase.

## Implementation Plan and Timeline

### 67. Reorganisation of schools in the Berwick Partnership and timeline

Berwick, Glendale, and Tweedmouth Community Middle Schools would not receive Year 5 classes in September 2025 and would operate with Years 6 to 8 only. The schools would close with effect from 31 August 2026. Pupils on roll in Years 6, 7 and 8 in the middle schools on 31 August 2026 would transfer to Berwick Middle School as Years 7, 8 and 9 on 1 September 2026 or to another school according to parental preference.

Schools remaining open would extend their age ranges and reorganise to become primary schools with effect from 1 September 2025 in a phased way. The schools would retain Year 5 in September 2025 and would then retain Year 6 in September 2026. Berwick St Mary's Church of England Primary (as it would be) would establish a SEN unit for pupils with primary needs in SEMH, ASD, MLD and SLCN from 1 September 2025.

Berwick Academy would increase its age range to 11 to 18 years with effect from 1 September 2026. However, parents would be able to apply for a place at any other appropriate school according to parental preference, subject to a place being available.

The following timeline relates to the above implementation plan:

*First Schools in the Berwick Partnership proposed to become Primary schools*

**Autumn Term 2024**

- Parents apply for places in Reception classes for September 2025 as usual.

**1 September 2025**

- Pupils in Year 4 on 31 August 2025 in first schools would be retained by their new primary schools as Year 5 as the schools extend their age ranges.
- New Reception classes join school as usual but Berwick St Mary's CE, Scremerston and Spittal Primary Schools would have reduced PANs in that year group (see model).

**1 September 2026**

- Pupils in Year 5 on 31 August 2026 in first schools would be retained by their new primary schools as Year 6 as the schools extend their age ranges.
- Parents of Year 6 pupils would apply in Autumn for places in Year 7 classes for September 2027 at Berwick Academy (which would have a reduced PAN of 180) or another school according to parental preference.

*Middle Schools in the Berwick Partnership proposed for closure*

**Autumn Term 2024**

- Parents of pupils in Year 8 in Berwick, Tweedmouth and Glendale Middle Schools apply as usual for a place in Year 9 at Berwick Academy or another school according to parental preference for 1 September 2025.

### **1 September 2025**

- Pupils on roll in Year 8 at Berwick Middle, Tweedmouth Middle and Glendale Middle Schools on 31 August 2025 transfer as usual into Year 9 at Berwick Academy or another school according to parental preference.
- Middle schools would not receive a Year 5 and would operate with Years 6, 7 and 8 only.
- Parents of pupils on roll in Year 8 at Berwick Middle, Tweedmouth Middle and Glendale Middle Schools apply as usual for places in Year 9 at Berwick Academy or another school according to parental preference.
- Pupils on roll in Years 6 and 7 at Berwick Middle, Tweedmouth Middle and Glendale Middle Schools would be guaranteed a place in Years 7 and 8 in Berwick Academy in September 2026 should they wish to take it up or would apply for places in other schools according to parental preference.

### **31 August 2026**

- Glendale, Berwick, and Tweedmouth Middle Schools close.

### **1 September 2026**

- Pupils on roll in Year 8 at Berwick Middle, Tweedmouth Middle and Glendale Middle Schools on 31 August 2026 would transfer as usual into Year 9 at Berwick Academy or another school according to parental preference.
- Pupils on roll in middle schools in Years 6 and 7 on 31 August 2026 would take up guaranteed places as the new Years 7 and 8 to Berwick Academy or join another school according to parental preference.

#### *Berwick Academy*

### **1 September 2026**

- Berwick Academy would change its age range from an age 13 to 18 academy to an age 11 to 18 secondary school.
- Pupils on roll in Year 8 at Berwick Middle, Tweedmouth Middle and Glendale Middle Schools on 31 August 2026 would transfer as usual into Year 9 at Berwick Academy or another school according to parental preference.
- Pupils on roll in middle schools in Years 6 and 7 on 31 August 2026 would take up guaranteed places as the new Years 7 and 8 to Berwick Academy or join another school according to parental preference.

### **1 September 2027**

- Berwick Academy reduces its PAN from 225 to 180 for students joining in year 7.
- Pupils in Year 6 in the primary schools on 31 August 2027 would transfer as the new Year 7 to Berwick Academy or another school according to parental preference.
- From this point forward transition is into Year 7 only, with entry into other year groups treated as in-year transfers.

## Implications

|  |  |
|--|--|
| <b>Policy</b>  | This report directly links to the Council's Corporate aim 'Living, Learning – We will ensure the best education standards for our children and young people.   |
| <b>Finance and value for money</b>   | Capital investment of £39.9m had already been allocated by the Council in the Medium-Term Plan. £41.177m is now requested for approval in light of the works required at CE first schools to enable them to become primary and the inability of the CE Diocese to allocate funds to these works. Part of the rationale for informal consultation is to provide assurance to Cabinet that investment would be made within a sustainable and viable school structure for the medium to long-term. Due to the level of investment in the Berwick Academy buildings and site an Outline Business Case (OBC) for investment would be required (ref. Procurement below) with the aim of having buildings completed for September 2027. The £250k to develop the OBC is already included in the MTFP. |
| <b>Legal</b>   | Consultation carried out on proposals has complied with School Organisation guidance and regulations.  |
| <b>Procurement</b>   | An outline business case (OBC) would be developed for the project to replace/refurbish the Berwick Academy buildings, and this would be brought for Cabinet approval at a later date. The OBC would set out the procurement options and recommendations to deliver best value for the Council's investment.  |
| <b>Human Resources</b>   | There would be a need to support staff placed at risk of redundancy as result of the proposed reorganisation with redeployment opportunities. A draft staffing protocol has been developed in conjunction with all the headteachers within the Berwick partnership to manage this process within the partnership of schools.   |
| <b>Property</b>  | Refer to 'Finance and Value for Money' above.  |
| <b>Equalities</b><br>(Impact Assessment attached)<br>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/><br>N/A <input type="checkbox"/> | An EIA has been completed in relation to the proposals set out in the statutory proposal and the wider reorganisation including all schools and academies in the Berwick Partnership and is attached as Appendix 4 of this report.   |
| <b>Risk Assessment</b>   | A Risk Assessment and risk register would be carried out on the construction works if approved in order to develop the budget and programme of the project.<br><br>A full project risk assessment would be included in the OBC.  |
| <b>Crime &amp; Disorder</b>  | This report has considered Section 17 (CDA) and the duty it imposes and there are no implications arising from it.   |
| <b>Customer Consideration</b>  | The proposal set out in this report is based upon a desire to improve outcomes for children, young people, and their families in Northumberland.   |
| <b>Carbon reduction</b>  | It is expected that the investment in new buildings will have a positive impact on carbon reduction.   |



|                             |  |
|-----------------------------|--|
| <b>Health and Wellbeing</b> | It is envisaged that a sustainable and resilient school system in the Berwick Partnership would have a positive impact on pupils, their families, and the wider community. |
| <b>Wards</b>                | Berwick East; Berwick North; Berwick West with Ord; Norham and Islandshire   |

### **Background Papers**

- Report of the Joint Interim Director of Children’s Services (Outcomes of Consultation on Berwick Partnership Organisation) 22 October 2022.
- Report of the Cabinet Member for Children’s Services (Outcomes of the Consultation on Proposals for the Berwick Partnership) 9 May 2023.

- **Report Sign Off**

|   |                     |
|---|---------------------|
| Executive Director of Resources and Transformation (S151 Officer) | Jan Willis          |
| Director of Law and Corporate Governance and Monitoring Officer   | Stephen Gerrard     |
| Chief Executive   | Helen Paterson      |
| Executive Director  | Audrey Kingham      |
| Portfolio Holder  | Guy Renner-Thompson |

## **Appendices**

Appendix 1 - Statutory Proposal for the Reorganisation of local authority-maintained schools in the Berwick Partnership

Appendix 2 - Opening and closing maintained schools – DfE Statutory guidance for proposers and decision makers, January 2023

Appendix 3 – Making significant changes ('prescribed alterations') to maintained schools; DfE Statutory guidance for proposers and decision makers January 2023

Appendix 4 - Equality Impact Assessment of statutory proposals for Reorganisation of schools in the Berwick Partnership

**NORTHUMBERLAND COUNTY COUNCIL**

**NOTIFICATION OF PROPOSALS FOR THE REORGANISATION OF LOCAL  
AUTHORITY MAINTAINED SCHOOLS IN THE BERWICK PARTNERSHIP**

**The following proposal pertains to schools within the Berwick Partnership and falls into 3 categories**

**CLOSURE**

Notice is hereby given in accordance with Section 15(1) of the Education and Inspections Act 2006, that it is the intention of Northumberland County Council, County Hall, Morpeth, Northumberland NE61 2EF to discontinue (close) the following schools;

- a) **Berwick Middle School**, Lovaine Terrace, Berwick-upon-Tweed, Northumberland, TD15 1LA with effect from 31 August 2026.

Berwick Middle School is a local authority maintained community school.

- b) **Glendale Middle School**, 15 Brewery Lane, Wooler, Northumberland, NE71 6QF with effect from 31 August 2026.

Glendale Middle School is a local authority maintained community school.

- c) **Tweedmouth Community Middle School**, Billendean Terrace, Spittal, Berwick-upon-Tweed, Northumberland, TD15 2DJ with effect from 31 August 2026.

Tweedmouth Community Middle School is a local authority maintained community school.

In order to facilitate the above proposal, Northumberland County Council intends to make prescribed alterations to the following schools:

**CHANGE OF AGE RANGE**

Notice is hereby given in accordance with Section 19(1) of the Education and Inspections Act 2006, that Northumberland County Council, County Hall, Morpeth, Northumberland NE61 2EF, intends to make the following prescribed alterations to the local authority maintained schools below:

d) **Scremerston First School**, Scremerston, Berwick-upon-Tweed, Northumberland, TD15 2RB by changing the age range of the school.

- The current age range of Scremerston First School is 4 years to 9 years. The proposed age range for the school is 4 years to 11 years and become a primary school to take effect from 1 September 2025.
- Although not a prescribed alteration, the planned admission number of the school would be reduced from 18 to 10 with effect from 1 September 2025.

e) **Spittal Community First School**, Main Street, Spittal, Berwick-upon-Tweed, Northumberland, TD15 1RD by changing the age range of the school.

- The current age range of Spittal Community First School is 4 years to 9 years. The proposed age range for the school is 4 years to 11 years and become a primary school to take effect from 1 September 2025.
- Although not a prescribed alteration, the planned admission number of the school would be reduced from 40 to 30 with effect from 1 September 2025.

f) **Tweedmouth Prior Park First School**, Dean Drive, Tweedmouth, Berwick-upon-Tweed, Northumberland, TD15 2DB by changing the age range of the school.

- The current age range of Tweedmouth Prior Park First School is 3 years to 9 years. The proposed age range for the school is 3 years to 11 years and become a primary school to take effect from 1 September 2025.

g) **Tweedmouth West First School**, Osborne Road, Berwick-upon-Tweed, Northumberland, TD15 2HS by changing the age range of the school.

- The current age range of Tweedmouth West First School is 4 years to 9 years. The proposed age range for the school is 4 years to 11 years and become a primary school to take effect from 1 September 2025.

h) **Wooler First School**, Brewery Road, Wooler, Northumberland, NE71 6QF by changing the age range of the school.

- The current age range of Wooler First School is 2 years to 9 years. The proposed age range for the school is 2 years to 11 years and become a primary school to take effect from 1 September 2025.

### **ESTABLISHMENT OF SPECIAL EDUCATIONAL NEEDS (SEN) PROVISION**

Notice is hereby given in accordance with Section 19(1) of the Education and Inspections Act 2006, that Northumberland County Council, County Hall, Morpeth, Northumberland NE61 2EF, intends to make the following prescribed alteration to the following voluntary school:

- i) **Berwick St Mary's Church of England First School**, Newfields, Berwick-upon-Tweed, Northumberland, TD15 1SP by the establishment of a SEN unit of up to 30 places reserved for pupils aged 3 to 11 with primary needs in Social, Emotional and Mental Health (SEMH), Autism (ASD), Moderate Learning Difficulties (MLD) and Speech, Language and Communication (SLCN) on site and managed by the school with effect from 1 September 2025.

For the purposes of providing further information, should Northumberland County Council decide to implement the above proposals, this decision would be made in conjunction with a decision by the Council to implement the following non-statutory proposals in relation to the voluntary schools below:

- j) **Berwick St Mary's Church of England First School**, Newfields, Berwick-upon-Tweed, Northumberland, TD15 1SP by changing the age range of the school from an age 3 to 9 first school to an age 3 to 11 primary school with effect from 1 September 2025. The planned admission number of the school would be reduced from 30 to 15 with effect from 1 September 2025.

- k) **Holy Trinity Church of England First School**, Bell Tower Place, Berwick-upon-Tweed, Northumberland, TD15 1NB by changing the age range of the school from an age 3 to 9 first school to an age 3 to 11 primary school with effect from 1 September 2025.

- l) **Holy Island Church of England First School**, Lewins Lane, Holy Island, Berwick-upon-Tweed, Northumberland, TD15 2SQ by changing the age range of the school from an age 3 to 9 first school to an age 3-11 primary school with effect from 1 September 2025.

- m) **Hugh Joicey Church of England First School**, Ford Village, Berwick-upon-Tweed, Northumberland, TD15 2QA by changing the age range of the school from

an age 4 to 9 first school to an age 4 to 11 primary school with effect from 1 September 2025.

- n) **Lowick Church of England Voluntary Controlled First School**, 30 Main Street, Lowick C of E First School, Lowick, Northumberland, TD15 2UA by changing the age range of the school from an age 2 to 9 first school to an age 2 to 11 primary school with effect from 1 September 2025.
  
- o) **Norham St Ceolwulf's C of E Controlled First School**, West Street, Norham-on-Tweed, Berwick-upon-Tweed, Northumberland, TD15 2JZ by changing the age range of the school from an age 3 to 9 first school to an age 3 to 11 primary school with effect from 1 September 2025.

In the interests of providing further information, the following proposal is being considered concurrently with this statutory proposal for approval by the Bishop Bewick Trust:

- p) To extend the age range of **St Cuthbert's Catholic First School**, Prince Edward Road, Tweedmouth, Berwick-upon-Tweed, Northumberland, TD15 2EX from an age 3-9 to an age 3-11 primary school with effect from 1 September 2025.

In the interests of providing further information, the following proposals are being considered concurrently with this statutory proposal for approval by the Trustees of Berwick Academy:

- q) To extend the age range of **Berwick Academy**, Adams Drive, Spittal, Berwick-upon-Tweed, Northumberland, TD15 2JF from an age 13 to 18 academy to an age 11 to 18 academy with effect from 1 September 2026.
- r) To establish a SEN unit for up to 40 places reserved for pupils aged 11 to 16 with primary needs in SEMH, ASD, MLD and SLCN on the site and managed by Berwick Academy with effect from 1 September 2026.
- s) To reduce the Planned Admission Number of Berwick Academy from 225 to 180 with effect from 1 September 2027.

Approval for the implementation of the above proposals by the relevant academy trusts, and the necessary subsequent approval required from the DfE Regional Director of Education for the North East in relation to making significant changes to academies, would be contingent on the final approval of Northumberland County Council for the implementation of the statutory and non-statutory proposals set out at a) to o) above. It should also be noted that Northumberland County Council intends to replace/refurbish the current Berwick Academy buildings.

**Copies of the full Statutory Proposal may be obtained from:**

The School Organisation and Resources Team

Education and Skills

Wellbeing and Community Health Services

Northumberland County Council

County Hall

Morpeth

Northumberland

NE61 2EF

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

All schools and academies named above form part of the Berwick Partnership of schools.

## **Objectives of proposal**

The objectives of this proposal are to implement the statutory proposals as set out at paragraphs a) to i) above concurrently with the related proposals set out at j) to s) noting that any decision to implement the proposals relating to academies would need to be approved firstly by the relevant Trustees and subsequently finally approved by the DfE Regional Director of Education for the North East the Region.

## **Reasons for proposed school reorganisation:**

It is proposed that a 2-tier (primary/secondary) structure should be implemented across the mainstream schools within the Berwick Partnership for the following educational reasons:

- There would be only one transition point between primary and secondary education at the end of Key Stage 2 for pupils to cope with and schools to manage. Furthermore, having just one transition would be of particular benefit to pupils with special educational needs and this was supported by the North Northumberland Autistic Society in Phase 2 consultation;
- Schools would have responsibility for whole key stages (primary schools for EYFS, KS1 and KS2 and Berwick Academy for KS3, KS4 and KS5) allowing for consistency of curriculum and planning and this matches the National Curriculum and is the predominant structure across the country;
- Teachers are trained in either the primary or secondary system; there is no longer specific middle school teacher training;
- First school teachers are primary trained, with many having worked in primary schools, and already teach the first half of KS2. Therefore, the expertise and knowledge to deliver good outcomes at KS2 already exists in these schools (noting that currently in the 3-tier system when pupils are assessed at KS2 at the end of Year 6, they have been educated in first schools for five of their seven years in statutory education at that point);
- Schools would have longer relationships with pupils and their families;
- Students joining Berwick Academy in Year 7 would have two years to settle and become familiar with specialist subjects while teachers would have the opportunity to learn about their students in order to advise them before making critical subject choices for GCSE in Year 9. It is expected that this will be a key factor in delivering steady and significant improvement in outcomes at KS4 over time;
- It is expected that a 2-tier organisation of schools would support recruitment and retention of teaching staff, with wider opportunities for staff within individual schools;
- Pupils on roll in first schools becoming primary, especially the rural village schools would be able to be educated within their local communities for an additional two years;
- Education in Years 5 and 6 would continue to be provided in the North of Berwick.

(1) The implementation of a 2-tier system in Berwick Partnership would therefore necessitate the closure of Berwick Middle, Glendale Middle and Tweedmouth Community Middle Schools as additional places would be provided in Years 5 and 6 at the first schools that would become primary and in Years 7 and 8 at Berwick academy, should the Trustees of the

academy and the DfE Regional Director of Schools approve the extension of its age range. However, there would be no loss to education in any of the communities that make up the Berwick Partnership as a result of this proposal, save that there would no longer be provision in Years 7 and 8 in the north of Berwick town – however, the Berwick Academy site is 2 miles from the Berwick Middle School site.

- (2) It is also proposed that the implementation of a 2-tier system would remove 732 surplus places across schools and academies in the Berwick Partnership and this would support a viable and sustainable system in relation to the continuing falling pupil numbers in the Berwick Partnership. While 2 first schools in the partnership and Berwick Academy are currently judged to be 'Requires Improvement' by Ofsted, it would be necessary to extend the age range of these schools and the academy in order to effect partnership-wide reorganisation.
- (3) The Council is not required to publish a statutory proposal in relation to the extension of the age ranges of the schools set out at paras. j) to o) as they are voluntary schools and are proposed to add no more than 2 year groups. The Council will make a decision in relation to the Voluntary First Schools in conjunction with the proposals for schools that fall under this statutory proposal.

#### (4) Reasons for Establishment of SEN Units

In Northumberland, the number of children and young people who have been diagnosed as having Autism (ASD) or Social Emotional and Mental Health (SEMH) as a primary need has been increasing, with significant additional capacity in the county's nine special schools being required year on year for the past 10 years. Overall, this steady upward trend in demand for special school places equates to an average increase over this period to date of 7% each year (actual variation from year to year has been between 2% and 12%). There continues to be an increasing demand from parents for their children to be educated within special school provision both in and out of the county. It is also widely acknowledged nationally that there are significant financial pressures on mainstream schools in supporting SEND provision, not least due to school budget pressures and expectations on schools to fund the first £6k of support for each SEND learner with an EHCP. Data as at January 2022 indicated that 22 of the 58 pupils residing in Berwick Partnership who were on roll in specialist provision had to travel to other parts of the county or out of county to receive their education.

The following tables shows the projected number of students expected to have an EHCP primary need in ASD and SEMH living in the Berwick area, with data based on current Berwick-resident students with an EHCP in schools and special schools.

**Projected number of students living in Berwick area with ASD as a primary need**

| Final Forecasts<br>Year Group | R | 1 | 2 | 3 | 4 | 5 | 6  | 7 | 8  | 9  | 10 | 11 | 12 | 13 | NOR<br>Totals |
|-------------------------------|---|---|---|---|---|---|----|---|----|----|----|----|----|----|---------------|
| 2022                          | 1 | 1 | 4 | 1 | 6 | 6 | 8  | 4 | 16 | 5  | 9  | 3  | 6  | 2  | 72            |
| 2023                          | 3 | 2 | 1 | 6 | 2 | 7 | 8  | 7 | 8  | 15 | 7  | 8  | 2  | 6  | 82            |
| 2024                          | 3 | 4 | 2 | 2 | 7 | 2 | 9  | 7 | 15 | 8  | 22 | 6  | 6  | 2  | 95            |
| 2025                          | 3 | 4 | 4 | 2 | 2 | 8 | 2  | 8 | 15 | 15 | 11 | 20 | 5  | 6  | 105           |
| 2026                          | 2 | 4 | 4 | 5 | 3 | 2 | 10 | 2 | 18 | 15 | 22 | 10 | 15 | 5  | 117           |



**Projected number of students living in Berwick area with ASD as a primary need**

| Final Forecasts |   |   |   |   |    |    |    |    |    |    |    |    |    |    | NOR    |
|-----------------|---|---|---|---|----|----|----|----|----|----|----|----|----|----|--------|
| Year Group      | R | 1 | 2 | 3 | 4  | 5  | 6  | 7  | 8  | 9  | 10 | 11 | 12 | 13 | Totals |
| 2022            | 0 | 3 | 2 | 9 | 16 | 18 | 8  | 13 | 8  | 9  | 13 | 7  | 4  | 2  | 112    |
| 2023            | 0 | 0 | 5 | 3 | 11 | 20 | 15 | 10 | 12 | 9  | 9  | 10 | 3  | 3  | 110    |
| 2024            | 0 | 0 | 0 | 8 | 4  | 14 | 16 | 17 | 9  | 13 | 9  | 6  | 4  | 2  | 102    |
| 2025            | 0 | 0 | 0 | 1 | 9  | 4  | 11 | 19 | 16 | 10 | 13 | 7  | 3  | 3  | 96     |
| 2026            | 1 | 0 | 0 | 0 | 1  | 11 | 4  | 13 | 18 | 17 | 10 | 10 | 3  | 2  | 90     |

While not all projected students with a primary need in SEMH and ASD in the tables above would necessarily need to attend a special school, nonetheless it is clear that the overall trend is for increasing numbers of students with these primary needs in the Berwick area. Therefore, the following model of provision for additional specialist provision within the proposed overall 2-tier (primary/secondary) structure is as follows:

- Berwick St Mary’s Church of England First to add a SEN unit with specialist provision for up to 30 places reserved for pupils aged 4 to 11 with primary needs in SEMH, ASD, MLD and SLCN.

In the interests of providing further information, the above proposal would be implemented as part of an overall proposal for additional specialist provision in the Berwick area in conjunction with the following proposal to be considered by the Trustees of Berwick Academy and the DfE Regional Director for the North East:

- Berwick Academy to add a SEN unit with specialist provision for up to 40 places reserved for students aged 11 to 16 with primary needs in SEMH, ASD, MLD and SLCN. This element of the proposal would require the approval of the Trustees of Berwick Academy and final approval from the Regional DfE Director North East.

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

The proposal to implement a 2-tier (primary/secondary) system unfortunately requires the closure of Berwick Middle, Glendale Middle and Tweedmouth Community Middle Schools as they would be surplus to requires through the extension of the age ranges at the relevant primary schools and Berwick Academy.

In the interests of providing further information, it is proposed that the catchment area of Belford Primary School would be slightly reduced in size and would be reallocated to the partnership area of Alnwick Partnership to match the flow of the majority of students who leave the primary school after Year 6. This would reduce the overall size of Berwick Partnership and would require the permission of the Schools Adjudicator to amend the Council’s admissions arrangements. It is proposed that this change would be effective from 1 September 2024.

As well as Alnwick Partnership, Berwick Partnership has a border with Scottish Borders Council to the north. While not a factor in this proposal, both of these areas operate a 2-tier (primary/secondary) system. As school phase changes in Berwick Partnership would therefore match the phase changes in these areas, it is envisaged that this would provide more stable cohorts of pupils in Berwick Schools.

In relation to the proposal to establish a SEN unit at the site of Berwick St Mary’s Church of England First School (and the related proposal to establish a SEN unit at the site of Berwick Academy), currently there is no provision in the Berwick Partnership for pupils

with primary needs of SEMH. The additional provision for pupils with SEMH, ASD, SLCN and MLD will enable more pupils living in the Berwick area to be educated within their own communities. These additional SEN units would not impact on the provision at The Grove Special School in Berwick.

### Project Costs

The Council has allocated £39.9m towards school buildings in the Berwick Partnership, including for the replacement/refurbishment of the Berwick Academy buildings, within its Medium Term Plan. Should this Statutory Proposal be approved for implementation, there would be a need to carry out building works to facilitate the changes. Building costs set out in Table 1 below are indicative and would be subject to further detailed work should the proposal to reorganise schools to a 2-tier structure be approved.

Whilst the plan includes a replacement/refurbishment of the Berwick Academy buildings, the final building solution would be the subject of a separate business case for approval by Cabinet, this process wouldn't begin until after Cabinet's final decision in relation to this statutory proposal. The extent of the building solution for Berwick Academy therefore would depend on whether Cabinet approves the proposed reorganisation to the 2-tier structure, in which case the replacement buildings at Berwick Academy would need to accommodate Years 7 to 13.

**Table 1 – Indicative cost estimate to deliver proposed reorganisation**

| School                                      | Description  | Indicative cost |
|---|--|-----------------|
| St Mary's First School                      | Internal reconfiguration to create dedicated SEN unit for ASD and SEMH primary pupils. | £0.500m         |
| Norham First School<br><u>Capital costs</u> | A small extension to increase capacity within early years/foundation stage classroom   | £0.119m         |
| Scremerston Capital costs                   | Potential small extension  | £0.220m         |
| Tweedmouth West First School                | One classroom, one group room, a Medical Inspection room and additional WC provision   | £1.038m         |
| Wooler First School                         | Remodel existing building to create primary facilities, a community hub.               | £2.800m         |
| Berwick Academy                             | New build Secondary school, with specialist SEN unit for pupils with ASD and SEMH      | £35.400m        |
| Total                                       |  | £40.077m        |

Table 2 sets out how the overall reorganisation would be funded if approval is given to implement the changes following the statutory process and Cabinet's final decision later in the year.

**Table 2 – Funding breakdown to deliver Capital improvements set out in Table 1**

| Funding Source                          | Value           |
|---|-----------------|
| NCC Capital (MTFP)                      | £39.750m        |
| School Condition Allocation (SCIP)      | £0.146m         |
| High Needs Provision Capital Allocation | £0.181m         |
| <b>Total</b>                            | <b>£40.077m</b> |

It is envisaged that long-term value for money would be achieved by the above investment in school buildings across the Berwick Partnership as part of school reorganisation through the improvement of educational standards and the retention of increased numbers of students living in the partnership area in local schools over time, thus increasing the sustainability and viability of all schools.

## **Pupil Numbers and Admissions**

### Berwick Middle School

The current capacity of the school is 456 and the Planned Admission Number (PAN) is 114.

As at January 2023, there were 335 pupils on roll at the school in Year 5 to Year 8.

The current age range of Berwick Middle School is 9 years to 13 years and the school provides education to both boys and girls.

As at January 2023, the school had 3 pupils on roll with an Education and Healthcare plan (EHCP).

### Glendale Middle School

The current capacity of the school is 169 and the PAN is 42.

As at January 2023, there were 103 pupils on roll at the school in Year 5 to Year 8.

The current age range of Glendale Middle School is 9 years to 13 years and the school provides education to both boys and girls.

As at January 2023, the school had 1 pupil on roll with an EHCP.

### Tweedmouth Community Middle School

The current capacity of the school is 440 and the PAN is 93.

As at January 2023, there were 359 pupils on roll at the school in Year 5 to Year 8.

The current age range of Tweedmouth Middle School is 9 years to 13 years and the school provides education to both boys and girls.

As at January 2023, the school had 8 pupils on roll with an EHCP.

### Scrermerston First School

The current capacity of the school is 90 and the PAN is 18.

As at January 2023, there were 54 pupils on roll at the school in Reception to Year 4.

The current age range of Scrermerston First School is 4 years to 9 years and the school provides education to both boys and girls.

As at January 2023, there was 1 pupil on roll at the school with an Education and Healthcare plan.

### Spittal Community First School

The current capacity of the school is 171 and the PAN is 40.

As at January 2023, there were 121 pupils on roll at the school in Reception to Year 4.

The current age range of Spittal Community First School is 4 years to 9 years and the school provides education to both boys and girls.

As at January 2023, there were 6 pupils on roll at the school with an Education and Healthcare plan.

### Tweedmouth Prior Park First School

The current capacity of the school is 150 and the PAN is 30.

As at January 2023, there were 111 pupils on roll at the school in Reception to Year 4.

The current age range of Tweedmouth Prior Park First School is 3 years to 9 years and the school provides education to both boys and girls.

As at January 2023, the school had 1 pupil on roll with an Education and Healthcare plan.

### Tweedmouth West First School

The current capacity of the school is 150 and the PAN is 30.

As at January 2023, there were 114 pupils on roll at the school in Reception to Year 4.

The current age range of Tweedmouth West First School is 4 years to 9 years and the school provides education to both boys and girls.

As at January 2023, the school had 7 pupils on roll with an Education and Healthcare plan.

#### Wooler First School

The current capacity of the school is 150 and the PAN is 30.

As at January 2023, there were 93 pupils on roll at the school in Reception to Year 4.

The current age range of Wooler First School is 2 years to 9 years and the school provides education to both boys and girls.

As at January 2023, the school had 1 pupil on roll with an Education and Healthcare plan.

#### Berwick St Mary's Church of England First School (in relation to SEN unit)

The current capacity of the school is 114 and the PAN is 30.

As at January 2023, there were 68 pupils on roll at the school in Reception to Year 4.

The current age range of St Mary's First School is 3 years to 9 years and the school provides education to both boys and girls.

As at January 2023, the school had 5 pupils on roll with an Education and Healthcare plan.

Under the proposal to establish an SEN unit at the school, 30 places for pupils aged 3 to 11 years with SEMH, SLCN, ASD and MLD would be provided in a phased way from 1 September 2025.

In the interests of providing further information, the following pupil information is provided in relation to the proposals for the voluntary schools in the Berwick Partnership that will be considered by the Council's Cabinet in conjunction with the proposals for the schools set out in this statutory proposal when it makes its final decision:

#### Berwick St Mary's Church of England First School

The current capacity of the school is 114 and the PAN is 30.

As at January 2023, there were 68 pupils on roll at the school in Reception to Year 4.

The current age range of St Mary's First School is 3 years to 9 years and the school provides education to both boys and girls.

As at January 2023, the school had 5 pupils on roll with an Education and Healthcare plan.

#### Holy Trinity Church of England First School

The current capacity of the school is 150 and the PAN is 30.

As at January 2023, there were 140 pupils on roll at the school in Reception to Year 4.

The current age range of Holy Trinity First School is 3 years to 9 years and the school provides education to both boys and girls.

As at January 2023, the school had 2 pupils on roll with an Education and Healthcare plan.

#### Holy Island Church of England First School

The current capacity of the school is 25 and the PAN is 5.

As at January 2023, there were 3 pupils on roll at the school in Reception to Year 4.

The current age range of Holy Island First School is 3 years to 9 years and the school provides education to both boys and girls.

As at January 2023, the school had no pupils on roll with an Education and Healthcare plan.

#### Hugh Joicey Church of England First School

The current capacity of the school is 73 and the PAN is 15.

As at January 2023, there were 47 pupils on roll at the school in Reception to Year 4.

The current age range of Hugh Joicey First School is 4 years to 9 years and the school provides education to both boys and girls.

As at January 2023, the school had 1 pupil on roll with an Education and Healthcare plan.

#### Lowick Church of England Voluntary Controlled First School

The current capacity of the school is 50 and the PAN is 10.

As at January 2023, there were 18 pupils on roll at the school in Reception to Year 4.

The current age range of Lowick First School is 2 years to 9 years and the school provides education to both boys and girls.

As at January 2023, the school had 1 pupil on roll with an Education and Healthcare plan.

#### Norham St Ceolwulf's C of E Controlled First School

The current capacity of the school is 50 and the PAN is 10.

As at January 2023, there were 26 pupils on roll at the school in Reception to Year 4.

The current age range of Norham St Ceolwulf's C of E Controlled First School is 3 years to 9 years and the school provides education to both boys and girls.

As at January 2023, the school had no pupils on roll with an Education and Healthcare plan.

In relation to the proposals being concurrently considered by the Bishop Bewick Catholic Trust and the Trustees of Berwick Academy with this statutory proposal, the following information is provided:

#### St Cuthbert's Catholic First School

The current capacity of the school is 101 and the PAN is 15.

As at January 2023, there were 71 pupils on roll at the school in Reception to Year 4.

The current age range of St Cuthbert's Catholic First School is 3 years to 9 years and the academy provides education to both boys and girls.

As at January 2023, the school had 1 pupil on roll with an Education and Healthcare plan.

#### Berwick Academy

The current capacity of the school is 916 and the PAN is 225.

As at January 2023, there were 545 pupils on roll at the school in Year 9 to Year 13.

The current age range of Berwick Academy is 13 years to 18 years and the academy provides education to both boys and girls.

As at January 2023, the school had 13 pupils on roll with an Education and Healthcare plan.

Under the related academy proposal to establish a SEN unit at Berwick Academy, 40 places for pupils aged 11 to 18 with needs in SEMH, ASD, SLCN and MLD would be provided in a phased way from 1 September 2026.

#### **Displaced Pupils**

Under the proposals to implement a 2-tier system in the Berwick Partnership, pupils in Year 6 and 7 on 31 August 2026 who would be displaced by the closure of the middle schools in the partnership would transfer to Berwick Academy (or another school according to parental preference) as Years 7 and 8 on 1 September 2026. Transfer into Berwick Academy from the primary schools would be into Year 7 only from 1 September 2027.

Pupils in Year 4 in first school on 31 August 2025 who would otherwise have transferred to a middle school in the Berwick Partnership on 1 September 2025 would remain at their first schools as they become primary and become the new Year 5 at those schools. Those pupils would be retained into Year 6 in the primary schools from 1 September 2026.

#### **Implementation.**

- Berwick Middle, Glendale Middle and Tweedmouth Community Middle Schools are proposed to close on 31 August 2026.
- Under statutory, non-statutory and academy proposals, the following first schools are proposed to extend their age ranges and to reorganise to become primary schools with effect from 1 September 2025 in a phased way. The schools would retain Year 5 in September 2025 and would then retain Year 6 in September 2026:
  - Scremerston First School
  - Spittal Community First School

- Tweedmouth Prior Park First School
  - Tweedmouth West First School
  - Wooler First School
  - Berwick St Mary's Church of England First School
  - Holy Trinity Church of England First School
  - Holy Island Church of England First School
  - Hugh Joicey Church of England First School
  - Lowick Church of England Voluntary Controlled First School
  - Norham St Ceolwulf's C of E Controlled First School
  - St Cuthbert's Catholic First School
- Berwick Academy is proposed to extend its age range with effect from September 2026. From September 2027 and subsequent years the school would have a final age range of 11 to 18 years, with transition into Year 7 only from that point.
  - However, parents would be able to apply for a place at any other appropriate school according to parental preference, subject to a place being available.
  - Berwick St Mary's Church of England First School would establish an age 4-11 specialist provision for up to 30 places for pupils with primary needs in SEMH, ASD, MLD and SLCN with effect from 1 September 2025.
  - Berwick Academy would establish an age 11-18 specialist provision for up to 40 places for pupils with primary needs in SEMH, ASD, MLD and SLCN with effect from 1 September 2026.
  - If this statutory proposal is approved in conjunction with the non-statutory and academy proposals, the further detailed work on building costs outlined previously would begin immediately in order to work towards proposed works to first schools being completed in time for the first phase of reorganisation in September 2025. Capital funding for the replacement/refurbishment of the Berwick Academy buildings is neither dependent on nor would it preclude the implementation of this statutory proposal and would be the subject of a separate business case for approval by Cabinet. Should this statutory proposal be approved, reorganisation to a 2-tier (primary/secondary) system would be implemented as set out below and the replacement of the buildings of Berwick Academy would be as set out in the business case previously noted.

#### **Timeline for implementation**

It is proposed that the following model be implemented in accordance with the following arrangements and timeline subject to finalisation of the associated buildings programme. In the interests of coherence, all statutory, non-statutory and academy proposals are included below:

##### *First Schools in the Berwick Partnership proposed to become Primary schools*

#### **Autumn Term 2024**

- Parents apply for places in Reception classes for September 2025 as usual.

#### **1 September 2025**

- Pupils in Year 4 on 31 August 2025 in first schools would be retained by their new primary schools as Year 5 as the schools extend their age ranges.
- New Reception classes join school as usual but Berwick St Mary's Church of England, Scremerston and Spittal Primary Schools would have reduced PANs in that year group.

#### **1 September 2026**

- Pupils in Year 5 on 31 August 2026 in first schools would be retained by their new primary schools as Year 6 as the schools extend their age ranges.
- Parents of Year 6 pupils would apply in Autumn for places in Year 7 classes for September 2027 at Berwick Academy (which would have a reduced PAN of 180) or another school according to parental preference.

*Middle Schools in the Berwick Partnership proposed for closure*

**Autumn Term 2024**

- Parents of pupils in Year 8 in Berwick, Tweedmouth and Glendale Middle Schools apply as usual for a place in Year 9 at Berwick Academy or another school according to parental preference for 1 September 2025.

**1 September 2025**

- Pupils on roll in Year 8 at Berwick Middle, Tweedmouth Middle and Glendale Middle Schools on 31 August 2025 transfer as usual into Year 9 at Berwick Academy or another school according to parental preference.
- Middle schools would not receive a Year 5 intake and would operate with Years 6, 7 and 8 only.
- Pupils on roll in Years 6 and 7 at Berwick Middle, Tweedmouth Middle and Glendale Middle Schools would be guaranteed a place in Years 7 and 8 in Berwick Academy in September 2026 should they wish to take it up or would apply for places in other schools according to parental preference.

**31 August 2026**

- Glendale, Berwick and Tweedmouth Middle Schools close.

**1 September 2026**

- Pupils on roll in Year 8 at Berwick Middle, Tweedmouth Middle and Glendale Middle Schools on 31 August 2026 would transfer as usual into Year 9 at Berwick Academy or another school according to parental preference.
- Pupils on roll in middle schools in Years 6 and 7 on 31 August 2026 would take up guaranteed places as the new Years 7 and 8 in Berwick Academy or join another school according to parental preference.

*Berwick Academy*

**1 September 2026**

- Berwick Academy would change its age range from an age 13 to 18 academy to an age 11 to 18 secondary school.
- Pupils on roll in Year 8 at Berwick Middle, Tweedmouth Middle and Glendale Middle Schools on 31 August 2026 would transfer as usual into Year 9 at Berwick Academy or another school according to parental preference.
- Pupils on roll in middle schools in Years 6 and 7 on 31 August 2026 would take up guaranteed places as the new Years 7 and 8 in Berwick Academy or join another school according to parental preference.

**1 September 2027**

- Berwick Academy reduces its PAN from 225 to 180 for students joining in year 7.
- Pupils in Year 6 in the primary schools on 31 August 2027 would transfer as the new Year 7 to Berwick Academy or another school according to parental preference.
- From this point forward transition is into Year 7 only, with entry into other year groups treated as in-year transfers.

**Timeline for implementation of SEN proposals**

In the interests of coherence, all statutory and academy proposals in relation to the establishment of SEN units are included below:

**1 September 2025**

- Berwick St Mary's Church of England First School would establish an age 3-11 specialist provision for up to 30 places for pupils with primary needs in SEMH, ASD, MLD and SLCN.

**1 September 2026**

- Berwick Academy would establish an age 11-18 specialist provision for up to 40 places at its current site for pupils with primary needs in SEMH, ASD, MLD and SLCN.

**Impact on the Community**

As well as the envisaged improvement on educational outcomes as a result of this proposal, it is also envisaged that there would be a positive impact on the communities served by the first schools in the Berwick Partnership as they would retain their primary age children for an additional two years in Years 5 and 6 within their communities. This would be especially advantageous to the rural villages within the partnership. The closure of Berwick Middle School would result in there no longer being provision in Years 7 and 8 in the north of Berwick town; however, Berwick Academy site is 2 miles from the Berwick Middle site.

As a result of the rebuilding and refurbishment of Berwick Academy, it is envisaged that there would be opportunities for increased community use of the enhanced facilities at the site, including for sport and recreation and post-18 opportunities.

There would be no negative impact on the current sport and recreation facilities at the first schools proposed to become primaries under the proposed reorganisation to the 2-tier structure.

In relation to the proposed closure of Berwick Middle and Tweedmouth Community Middle Schools, should Cabinet approve the publication of the recommended statutory proposal and subsequently decide to implement it, under legislation the Council would need to have regard to The School Premises (England) Regulations 2012 and Section 77 of the School Standards and Framework Act 1998 in relation to any potential loss of playing fields.

**Balance of denominational provision**

There would be no impact on the balance of denominational provision as a result of this statutory proposal. None of the middle schools proposed to close have a religious character, while there are not proposed changes to the religious character of any of the first schools proposed to become primaries.

**Rural Schools**

Scremerston, Hugh Joicey CE, Holy Island CE, Lowick CE, Norham CE and Wooler First Schools are listed on the DfE's List of Designated Rural Primary Schools 2022. However, as the proposals for these schools is to extend their age ranges, this policy area would not be impacted.

Glendale Middle School is described as being in a Rural town and fringe in a sparse setting.

**Maintained nursery schools**

The nursery provision currently provided at the first schools proposed to extend their age ranges as a result of this statutory proposal would not be affected by its implementation. In the interests of providing further information, the nursery provision currently provided at those first schools and academies that do not form part of this statutory proposal would also be unaffected by the proposed change or age range to those schools.



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

None of the schools that are the subject of this statutory proposal have provision for 16-19 year olds.

In the interests of providing further information, the proposal to change the age range of Berwick Academy would not impact on the academy's current provision for 16-18 year olds at the school.

### **Special educational provision**

The statutory proposal to establish an SEN unit at Berwick St Mary's Church of England First School in conjunction with a proposal to establish an SEN unit at Berwick Academy and timescales are set out earlier in this document.

Special Educational Provision currently provided within the mainstream schools and academies within Berwick Partnership proposed to remain open would not be impacted by the statutory and non-statutory proposals set out previously.

Provision for pupils with SEN is already provided at the schools that are the subject of this Statutory Proposal and will continue to be provided into Years 5 and 6 as the schools become primaries. Pupils with SEN who would transfer as Years 7 and 8 to Berwick Academy following the discontinuance of the middle schools and in subsequent years who would otherwise have been in the middle schools in Years 7 and 8 would have their SEN met through the current provision at the academy.

Continuity for current and future pupils with SEN at the above first schools proposed to become primaries under the statutory, non-statutory and academy proposals set out in this document would be achieved as a result of the implementation of the extension of their age ranges, as pupils would stay longer in their primary schools and would have only one transfer to the next school phase at the end of Year 6.

### **Travel**

- Transport for all pupils affected by the proposed reorganisation should it be approved would be arranged in accordance with the Council's Home to School Transport Policy.
- Pupils transferring from Year 4 to Year 5 in September 2025 would remain in their first schools as the schools reorganise to primary status. It is envisaged that many pupils in Years 5 and 6 in the new primary schools who would otherwise have travelled to Berwick and Tweedmouth Community Schools would have shorter journeys to schools as they would be educated for an additional two years in the primary schools within their local communities - this would be especially relevant to pupils in the new primary schools in the outlying rural villages of the partnership. This is likely to result in a saving of circa £14,000 per annum to the Council's Home to School Transport budget in relation to those pupils that would normally have been eligible for transport to the middle schools in those year groups. Pupils who would be on roll in Years 5 and 6 at Wooler Primary (as it would become) who would have otherwise attended Glendale Middle School would not be impacted in relation to transport as both schools currently share the same building.
- There would be no anticipated significant increase in car use as a result of these proposals, indeed there may be a reduction in car use as the Year 5 and 6 pupils would remain in their village schools.

- Pupils on roll in Years 7 and 8 who would have attended Glendale Middle School would have longer journeys to Berwick Academy while in those year groups should the middle school close. Pupils in Years 7 and 8 who would have attended Berwick Middle School may have slightly longer journeys to Berwick Academy as there is a distance of 2 miles between the two settings, but this would depend on where the pupil resided. Tweedmouth Community Middle and Berwick Academy share a site, therefore there would be no impact on distance travelled by pupils who would otherwise have attended the middle school should it close.
- Pupils allocated places at the SEN unit at Berwick St Mary's Church of England Primary School (as it would be) and the SEN unit at Berwick Academy would be eligible for Home to School Transport in line with the Council's policy subject to them meeting the relevant criteria.

### **Consultation**

All of the applicable statutory requirements to consult on this proposal in accordance with Section 19 (1) of the Education and Inspections Act 2006 were complied with during the pre-publication consultation period that took place during the following dates:

- 23 May to 22 August 2022
- 31 October 2022 to 3 March 2023

Consultees recommended in the relevant statutory guidance were consulted via a Consultation Document that was made widely available on the Council's website. Consultees included parents, staff, pupils, Governors of the impacted schools in the Berwick Partnership, local parish councils, the Church of England and Roman Catholic dioceses, early-years providers, the local MP, staff representatives (unions), relevant neighbouring schools in other Northumberland Partnerships and relevant neighbouring authorities. Public consultation events were held during term-time in Phase 1 and Phase 2 consultations as follows:

#### **Phase 1 Consultation**

- 13 July - Public event Belford
- 14 July – Staff only event Berwick
- 16 July - Public event Berwick

#### **Phase 2 Consultation**

- 12 January 2023, Public event Wooler First School
- 18 January 2023, Public event Belford Primary School
- 21 January 2023, Public event Berwick Academy
- 9 February 2023, Public event Berwick Middle School

Individual meetings with staff and the Governing Bodies of schools and academies that were proposed for change also took place during Phase 2 consultation period. The meetings organised during the consultation event allowed consultees attending the opportunity to make known their views on the proposals and to suggest alternatives, which were noted and considered within the analysis of feedback. During the consultation exercise, it was made clear that the outcome of the process would not be determined by the equivalent to a simple referendum but would involve a detailed analysis of evidence put forward. A total of 724 responses were received from consultees during the informal consultation process, including alternative proposals.

Details of the persons and parties consulted, the notes of the Governing Body and staff consultation meetings, and all views and responses received are summarised in The Executive Director of Children, Young People & Education [Outcomes of the Consultation on Proposals for the Berwick Partnership 9 May 2023.](#)

### **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 June 2023**), any person may submit comments, including support or objections to the proposals by sending their written representations to: The Executive Director of Children, Young People & Education, **County Hall, Morpeth, Northumberland NE61 2EF**, or by email to [educationconsultation@northumberland.gov.uk](mailto:educationconsultation@northumberland.gov.uk)

Signature

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Department  
for Education

# Opening and closing maintained schools

**Statutory guidance for proposers  
and decision makers**

**January 2023**

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## Summary

### About this guidance

This is statutory guidance from the Department for Education. Proposers and decision makers must have regard to it when establishing (opening) a new maintained school and/or discontinuing (closing) an existing maintained school.

The purpose of this guidance is to ensure that good quality school places are provided where they are needed, and that surplus capacity is removed where necessary. It should be read in conjunction with [part 2](#)<sup>1</sup> of and [schedule 2](#)<sup>2</sup> to the Education and Inspections Act 2006 (EIA 2006) as amended by the Education Act (EA) 2011 and [The School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013](#)<sup>3</sup> (the Establishment and Discontinuance Regulations).

This guidance only relates to schools in England.

### Expiry or review date

This guidance supersedes all previous versions. It will be kept under review and updated versions will be published if necessary.

### What legislation does this guidance refer to?

- [The School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013 \(legislation.gov.uk\)](#)
- [Education and Inspections Act 2006 \(legislation.gov.uk\)](#)
- See also: [Annex D](#)

### Who is this guidance for?

This guidance is relevant to all categories of maintained school<sup>4</sup>, unless explicitly stated otherwise, and is for those proposing to open and/or close such a school (e.g. local authorities, governing bodies, diocese or other relevant religious authority), decision

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/2006/40/part/2>

<sup>2</sup> <https://www.legislation.gov.uk/ukpga/2006/40/schedule/2>

<sup>3</sup> <https://www.legislation.gov.uk/uksi/2013/3109/contents/made>

<sup>4</sup> Community, foundation, voluntary aided, voluntary controlled, community special and foundation special



makers (local authorities and the [Schools Adjudicator](#)<sup>5</sup>), and for those affected by a proposal (e.g. dioceses, trustees, parents etc.).

Separate advice is available on making prescribed alterations to [maintained schools](#)<sup>6</sup>, [making significant changes to academies](#)<sup>7</sup>, and [academy closure by mutual agreement](#)<sup>8</sup>.

It is the responsibility of local authorities, proposers and school governing bodies to ensure that they act in accordance with the relevant legislation and have regard to statutory guidance when seeking to open or close a maintained school and they are advised to seek independent legal advice where appropriate. Similarly, local authorities and Schools Adjudicators when making decisions on such proposals, must act in accordance with the law and must have regard to statutory guidance.

## Main points

- Where a local authority identifies the need for a new school, section 6A of EIA 2006 places the local authority under a duty to seek proposals to establish an academy (free school) via the '[free school presumption](#)'<sup>9</sup> process. The local authority is responsible for providing the site for the new school and meeting all associated capital and pre-/post-opening revenue costs. The final decision on all new free school presumption proposals lies with the Department for Education's [Regional Directors](#)<sup>10</sup> (RDs) on behalf of the Secretary of State.
- Proposers wishing to establish a new school may also wish to consider [opening a free school](#)<sup>11</sup> via the Department for Education's centrally delivered route<sup>12</sup>.
- It is possible for local authorities or other proposers, in certain circumstances, to publish a proposal for a new maintained school outside of the competitions processes. This is done under section 11 of EIA 2006. It is also possible to apply to the Secretary of State for consent to publish proposals to establish a new maintained school under section 10 of EIA 2006. The differences between these 2 processes are explained in table 1 and in the section on [proposing a new school](#).
- In this guidance we use 'other proposers' to indicate proposers that do not include the local authority (e.g. a governing body, diocese or other relevant religious

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<sup>5</sup> <https://www.gov.uk/government/organisations/office-of-the-schools-adjudicator>

<sup>6</sup> <https://www.gov.uk/government/publications/school-organisation-maintained-schools>

<sup>7</sup> <https://www.gov.uk/government/publications/making-significant-changes-to-an-existing-academy>

<sup>8</sup> <https://www.gov.uk/government/publications/making-significant-changes-to-an-existing-academy>

<sup>9</sup> <https://www.gov.uk/government/publications/establishing-a-new-school-free-school-presumption>

<sup>10</sup> <https://www.gov.uk/government/organisations/regional-department-for-education-dfe-directors>

<sup>11</sup> <https://www.gov.uk/government/collections/opening-a-free-school>

<sup>12</sup> Information on the latest central free school application waves can be found on GOV.UK at:

<https://www.gov.uk/government/publications/free-school-application-guide>

authority). References in this guidance to ‘proposers’ includes both local authorities and other proposers<sup>13</sup>.

- All decisions on proposals to open or close a maintained school must be made with regard to the factors outlined in this guidance and follow the relevant statutory process.
- Both the consultation period and the representation period should be largely carried out in term time to allow the maximum numbers of people to see and respond to what is proposed.
- The decision maker will need to be satisfied that the consultation and representation period were appropriate, fair and open, and that the proposer has given full consideration to all the responses to the consultation.
- Proposers should be aware of the [guidance for decision makers](#) set out in this guidance and ensure that their proposals address the considerations that the decision maker must take into account. The decision maker must consider the expressed views of all those affected by a proposal or who have an interest in it, including cross-local authority border interests. The decision maker should not simply take account of the number of people expressing a particular view. Instead, they should give the greatest weight to responses from those stakeholders likely to be most directly affected by a proposal – especially parents<sup>14</sup> of children at the affected school(s).
- In determining proposals decision makers must ensure that the guidance on [schools causing concern](#)<sup>15</sup> (intervening in failing, underperforming and coasting schools) has been considered where necessary.
- The School Organisation Team can make the necessary updates to the [Get Information About Schools](#)<sup>16</sup> (GIAS) system.

This guidance provides information on the following:

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<sup>13</sup> This is slightly different to how “proposers” is defined in EIA 2006, where the local authority is name-checked separately and “proposers” refers to anyone else other than the local authority

<sup>14</sup> A ‘parent’ should be considered to be anyone who has parental responsibility, including parents, carers and legal guardians

<sup>15</sup> <https://www.gov.uk/government/publications/schools-causing-concern--2>

<sup>16</sup> <https://www.get-information-schools.service.gov.uk>

| Legislation | Proposer  | Proposal <sup>17</sup>  |
|-------------|---|---|
| Section 7   | Academy trusts or other proposers (local authorities must initiate the competition but cannot make proposals under section 7) | Where the free school presumption process does not yield a suitable proposal, the Secretary of State can provide consent for the local authority to run a statutory competition, inviting proposals for a voluntary, foundation, foundation special school or an academy (free) school. Academy proposals will be considered first. |
| Section 10  | Other proposers   | To open a brand new <sup>18</sup> foundation, foundation special or voluntary controlled school.  |
| Section 10  | Local authorities   | To open a community, community special, foundation or foundation special school to replace one or more existing maintained schools <sup>19</sup> .  |

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<sup>17</sup> Schools established under section 7, 10(1) or (2), or 11(A2) must not provide education suitable only to the requirements of persons above compulsory school age

<sup>18</sup> Where the proposal is to replace an existing foundation or voluntary controlled school with a religious character, independent school or non-maintained special school, proposals should be published under section 11

<sup>19</sup> But where a) the local authority proposes for a primary school to replace a maintained infant school and a maintained junior school; or b) section 11(A1) is satisfied, section 10 does not apply and the proposals must be published under the relevant subsection of section 11 instead

| Legislation | Proposer          | Proposal <sup>17</sup>   |
|-------------|-------------------|--|
| Section 11  | Other proposers   | To open:<br>(1A) a new voluntary aided school<br>(2) a new foundation, voluntary controlled or foundation special school which: replaces one or more foundation or voluntary schools with a religious character <sup>20</sup> ; replaces an independent school that is not an academy <sup>21</sup> , a city technology college or a city college for the technology of the arts; in the case of a new foundation special school, replaces a non-maintained special school <sup>22</sup> . |
| Section 11  | Local authorities | To open:<br>(A2) a new community, community special, foundation or foundation special school, where a section 7 competition has been held but did not identify a suitable provider <sup>23</sup><br>(A3) a new community, community special, foundation or foundation special primary school to replace a maintained infant and a maintained junior school<br>(1) a new maintained nursery school.   |
| Section 15  | Local authorities | To close a community, foundation, voluntary, community special, foundation special, or maintained nursery school.  |
| Section 15  | Governing body    | To close a voluntary, foundation, or foundation special school.  |

<sup>20</sup> The new school may have the same, different or no religious character

<sup>21</sup> The independent school should continue in existence but should then close as an independent school immediately before the proposals are implemented. It should also have been registered under Chapter 1 of Part 4 of the Education and Skills Act 2008 (regulation of independent educational institutions in England) for a continuous period of at least 2 years ending with the date of the publication of the proposals under section 11

<sup>22</sup> The non-maintained special school should continue in existence but should then close as a non-maintained special school immediately before the proposals are implemented. It should also have been approved under section 342 of EA 1996 (approval of non-maintained special schools) for a continuous period of at least 2 years ending with the date of the publication of the proposals

<sup>23</sup> Because no proposal was made or none of the proposals is approved under schedule 2 to EIA or result in academy arrangements being entered into

| Legislation   | Proposer           | Proposal <sup>17</sup>   |
|---|--------------------|--|
| Section 17  | Secretary of State | To close a community special or foundation special in the interests of the health, safety or welfare of the pupils.  |
| Section 30(1) School Standards and Framework Act 1998 (SSFA) 1998 | Governing body     | May give at least 2 years' notice of its intention to close a foundation or voluntary school to the Secretary of State and the local authority.            |
| Section 30(10) SSFA 1998  | Site trustees      | May give at least 2 years' notice in accordance with section 30(11) to terminate a foundation or voluntary school's occupation of its land <sup>24</sup> . |

**Table 1: summary of opening and closing proposals**

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<sup>24</sup> This might not necessarily lead to the closure of the school. The school might instead just move sites. Section 30(10) also specifies that the notice requirements at section 30(11) only need to be followed if the land is held for the purposes of the school and the termination of the school's occupation of that land would have the result that it was not reasonably practicable for the school to continue to be conducted at its existing site

## Proposing a new school

This section sets out how to propose the establishment of a new school:

| Type of proposal   | Proposer                | Decision maker  | Right of referral to the Adjudicator <sup>25</sup> |
|--|-------------------------|---|--|
| Free School Presumption <sup>26</sup>  | Academy trusts/sponsors | RD (on behalf of the Secretary of State <sup>27</sup> ) | No   |
| Section 7 (Stage 1): Any academy (free school) proposals will be considered first. If a proposal is received and considered suitable, the competition ends and the proposer/local authority/department take forward the academy (free school) proposal | Other proposers         | RD (on behalf of the Secretary of State <sup>28</sup> ) | No   |

<sup>25</sup> Where the local authority is the decision maker. Where the Schools Adjudicator is the decision maker, there is no right of appeal

<sup>26</sup> Section 6A of EIA 2006

<sup>27</sup> Paragraph 7A of schedule 2 to EIA 2006

<sup>28</sup> Paragraph 7A of schedule 2 to EIA 2006

| Type of proposal   | Proposer          | Decision maker  | Right of referral to the Adjudicator <sup>25</sup> |
|--|-------------------|---|--|
| Section 7 (Stage 2):<br>Where no suitable academy (free school) bid is received, proposals submitted for a new foundation, foundation special or voluntary school will be considered | Other proposers   | Local authority <sup>29</sup><br>(but Schools Adjudicator where the local authority is involved in the foundation of a proposed foundation school with a foundation (established otherwise than under the SSFA 1998) in one of the ways set out at paragraph 10(2) of schedule 2 to EIA 2006) | No <sup>30</sup>                                   |
| Section 10   | Local authorities | Schools Adjudicator <sup>31</sup>   | No   |

<sup>29</sup> Paragraphs 5A(2) and 8 of schedule 2 to EIA 2006. Where the local authority does not make a decision within the prescribed 2 month period, they must refer the proposal to the Schools Adjudicator

<sup>30</sup> The Secretary of State can direct the local authority to refer the non-academy proposals to the Adjudicator: paragraph 12 of schedule 2 to EIA 2006

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<sup>31</sup> Paragraph 10(1)b of schedule 2 to EIA 2006



| Type of proposal | Proposer        | Decision maker  | Right of referral to the Adjudicator <sup>25</sup>   |
|------------------|-----------------|---|--|
| Section 10       | Other proposers | Local authority (Schools Adjudicator where the local authority is involved in the foundation of a foundation school with a foundation (established otherwise than under the SSFA 1998) in one of the ways set out at paragraph 10(2) of schedule 2 to EIA 2006) | Proposers.<br>The Diocesan Board of Education of any Church of England (CofE) diocese any part of which is comprised in the area of the local authority.<br>The bishop of any Roman Catholic diocese any part of which is comprised in the area of the local authority |
| Section 11       | Local authority | Schools Adjudicator <sup>32</sup>   | No   |

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<sup>32</sup> Paragraph 10(1)b of schedule 2 to EIA 2006

| Type of proposal | Proposer        | Decision maker  | Right of referral to the Adjudicator <sup>25</sup>   |
|------------------|-----------------|---|--|
| Section 11       | Other proposers | Local authority <sup>33</sup><br>(Schools Adjudicator where the local authority is involved in the foundation of a foundation school with a foundation (established otherwise than under the SSFA 1998) in one of the ways set out at paragraph 10(2) of schedule 2 to EIA 2006)) | Proposers.<br>The Diocesan Board of Education of any CofE diocese any part of which is comprised in the area of the local authority.<br><br>The bishop of any Roman Catholic diocese any part of which is comprised in the area of the local authority |

Table 2: proposals to open a new school

## The free school presumption

Where a local authority identifies the need for a new school, section 6A of EIA 2006 places the local authority under a duty to seek proposals to establish an academy (free school) via the [‘free school presumption’](#)<sup>34</sup>.

In considering the need for a new school, the local authority should take account of any existing proposals they are aware of that will meet that need.

For more information on the free school presumption process see separate guidance [here](#)<sup>35</sup>.

<sup>33</sup> Where the local authority does not make a decision within the prescribed 2 month period, they must refer the proposal to the Schools Adjudicator

<sup>34</sup> <https://www.gov.uk/government/publications/establishing-a-new-school-free-school-presumption>

<sup>35</sup> <https://www.gov.uk/government/publications/establishing-a-new-school-free-school-presumption>

## Section 7

### School competitions

If the free school presumption competition does not yield a suitable proposal, the Secretary of State may choose a different sponsor. In exceptional circumstances the Secretary of State may provide consent for a statutory competition to be held under section 7 of EIA 2006.

Where a local authority holds a section 7 competition, the local authority must follow the statutory process set out in schedule 2 to EIA 2006 and the Establishment and Discontinuance Regulations.

The local authority should publish a specification for the new school. The specification is only the minimum requirement and proposals may go beyond this.

Proposers (academy trusts or other proposers; local authorities cannot make proposals under section 7) may submit proposals for an academy (free) school, foundation, foundation special or voluntary school into the competition. Where one or more academy (free) school proposals are received, the RD (on behalf of the Secretary of State) will consider these first. Where no, or no suitable, academy proposals are submitted, the local authority will consider non-academy proposals (as per stage 4 onwards of the [statutory process](#)). The local authority is expected to provide premises and meet the capital costs of implementing the winning proposal.

### Process

Ahead of publishing a section 7 notice (thus commencing the competition), the local authority must consult any persons/organisations they think appropriate. The local authority must then publish a notice inviting proposals. The notice must include:

- an explanation of the competition procedure (including that academy proposals will be considered first);
- a possible site for the school;
- whether or not the proposed school is to be a special school; and
- the date by which proposals must be submitted (the competition must run for a minimum of 4 weeks).

The local authority must publish the notice on their website and place a notification of the competition (including the address of the website where the notice is published) in a national newspaper covering education issues and in a local newspaper. Both the notice

and notification must include details of how copies of the competition notice may be obtained.

Within one week of the date of its publication on the website, the local authority MUST send a copy of the notice to:

- the Secretary of State ([schoolorganisation.notifications@education.gov.uk](mailto:schoolorganisation.notifications@education.gov.uk));
- the Diocesan Board of Education of any CofE diocese any part of which is comprised in the area of the relevant local authority;
- the bishop of any diocese of the Roman Catholic Church any part of which is comprised in the area of the relevant local authority; and
- any other body or person that the local authority thinks is appropriate.

Within one week of receiving a request for a copy of the competition notice, the local authority must send a copy to the person requesting it. Proposers must set out the type, character (including any religious character), ethos and admission arrangements of the proposed school. Proposers should set out the estimated premises requirements and/or capital costs of a proposal submitted in response to a competition and, where these exceed the initial cost estimate made by the local authority, the proposer should set out the reasons for the additional requirements and/or costs.

The local authority must publish all proposals on their website. Where non-academy proposals are to be considered, the local authority must publish a statement inviting any person to object to or comment on the proposals – this representation period MUST last for 4 weeks. Within one week of publishing this statement, the local authority must send a copy of any non-academy proposals, together with the statement inviting comment, to any person or body that the local authority thinks appropriate. Within one week of receiving a request for a copy of the proposals the local authority must send a copy to the person requesting it.

## **Proposing a maintained school outside competitive arrangements**

It is possible to publish proposals for a new maintained school outside of the competitive arrangements at any time. Sections 10 and 11 of EIA 2006 permit proposals to establish new schools under certain conditions either with the Secretary of State's consent (section 10 cases) or without (section 11 cases).

In all cases, proposers must follow the required [statutory process](#).

## Section 10 proposals

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

With Secretary of State consent, local authorities may publish proposals under section 10 for a community, community special, foundation or foundation special school to replace one or more existing maintained schools. The exception to this is where the proposal is for a primary school to replace a maintained infant school and a maintained junior school – in this case proposals must be published under section 11.

With the Secretary of State's consent, other proposers<sup>36</sup> may publish proposals under section 10 for a brand new<sup>37</sup> foundation, foundation special or voluntary controlled school.

Proposers wishing to apply for consent should email [schoolorganisation.notifications@education.gov.uk](mailto:schoolorganisation.notifications@education.gov.uk) and request an application form. Each request for consent will be considered on its merits and the particular circumstances of the case.

Proposers should wait to receive confirmation of consent before following the [statutory process](#) to establish the new school.

The Schools Adjudicator will decide local authority proposals and section 7 cases where proposals include one (or more) in which the local authority is involved in the trust of a proposed foundation school. The local authority will decide proposals from other proposers<sup>38</sup>.

## Section 11 proposals

Under section 11 of EIA 2006 certain proposals for a new maintained school can be made outside of competitive process and without requiring the Secretary of State's consent.

Other proposers<sup>39</sup> e.g. a diocese or other relevant religious authority or charitable trust, may publish proposals for:

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<sup>36</sup> As per paragraph 3 of schedule 2 to EIA 2006, this does not include local authorities

<sup>37</sup> Where the proposal is to replace an existing foundation or voluntary school with a religious character, independent school or non-maintained special school, proposals should be published under section 11

<sup>38</sup> Where the local authority does not make a decision within the prescribed 2 month period, they must refer the proposal to the Schools Adjudicator

<sup>39</sup> As per paragraph 3 of schedule 2 to EIA 2006, this does not include local authorities

- a new voluntary aided school (e.g. in order to meet demand for a specific type of place such as demand from those of a particular faith); or
- a new foundation, voluntary controlled or foundation special school which:
  - replaces one or more foundation or voluntary schools with a religious character<sup>40</sup>;
  - replaces an independent school<sup>41</sup>; or
  - in the case of a foundation special school, replaces a non-maintained special school<sup>42</sup>.

Local authorities may publish proposals for:

- a new community, community special, foundation or foundation special school, where a section 7 competition has been held but did not identify a suitable provider;
- a new community, community special, foundation or foundation special primary school to replace a maintained infant and a maintained junior school; or
- a new maintained nursery school.

The [statutory process](#) must be followed to establish the new school.

## Factors to consider when proposing a new school

Proposals can be made to establish a school in an area other than that which published a competition notice (section 7) or is proposed should maintain the school (section 10 or 11). Relevant parties should read schedule 4 to the Establishment and Discontinuance Regulations.

Proposers should consider the following factors when making proposals to establish a new school.

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<sup>40</sup> The new school may have the same, different or no religious character

<sup>41</sup> The independent school should continue in existence but should then close as an independent school immediately before the proposals are implemented

<sup>42</sup> The non-maintained special school should continue in existence but should then close as a non-maintained special school immediately before the proposals are implemented

## Demand vs need

Excessive surplus capacity should be managed appropriately. Proposers may wish to discuss their plans with their local authority to understand levels of need for their proposed school.

Proposers should also demonstrate parental demand for the new school places and the type of provision being proposed, the quality and diversity of provision available in the local area, and the impact of the new places on existing educational provision in the local area.

## Proposed admission arrangements

Proposers should set out their intentions for the admission arrangements of the proposed school. Where the proposal is for a voluntary or foundation school, these should include whether the school will be designated as having a religious character and apply faith-based admissions criteria.

Proposers should ensure that they consider all expected admission applications when considering demand for the school, including those from outside the local authority area in which the school is situated.

## National Curriculum

All maintained schools must follow the National Curriculum unless they have secured an exemption for groups of pupils or the school community<sup>43</sup>.

## Integration and 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.

Proposers should have regard to the [Integrated Communities Action Plan](#)<sup>44</sup> as well as any local integration and community cohesion strategies.

When making a proposal, the proposers should take account of the community to be served by the school and set out:

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<sup>43</sup> Under sections 90, 91, 92 and 93 of the Education Act 2002

<sup>44</sup> <https://www.gov.uk/government/publications/integrated-communities-action-plan>

- how the school will be welcoming to pupils of all faiths and none;
- how the school will address the needs of all pupils and parents;
- how the school will provide a broad and balanced curriculum and prepare children for life in modern Britain including through the teaching of spiritual, moral, social and cultural (SMSC) education;
- how the school will promote fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs or none; and
- how the school will encourage pupils from different communities, faiths and backgrounds to work together, learn about each other's customs, beliefs and ideas and respect each other's views.

## Travel

Proposers should consider how children will travel to the school and be satisfied that the proposals will not adversely impact any particular group, including those with protected characteristics or who are disadvantaged (for example, those who are eligible for free school meals or pupil premium). They should consider journey times and travel costs for families.

Local authorities have a duty to promote the use of sustainable travel and transport to school. Proposers should be satisfied that the children they expect to apply for the school will be able to travel there sustainably, where possible, e.g. by walking, cycling or using public transport.

## Funding

Proposers must include a statement setting out that any land, premises or necessary funding required to implement the proposal will be available and that all relevant local parties (e.g. trustees or religious authority) have given their agreement to the funding arrangements.

Proposers relying on the department as a source of capital funding should not assume that approval of the 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.

## School premises and playing fields

Under the School Premises (England) Regulations 2012, all maintained schools are required to provide suitable outdoor space in order to enable physical education to be



provided to pupils in accordance with the school curriculum; and for pupils to play outside safely.

Under the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013, where proposals for a new voluntary aided school provide for the provision of playing fields, the duty to implement that part of the proposal (i.e. to provide the playing field) rests with the local authority.

For foundation, foundation special, and voluntary controlled schools, the duty to implement any proposals falls to either the governing body, or local authority, as the proposal provides for them to do so (i.e. the proposal for the new school will specify who will be providing the playing fields, which they then have a duty to actually provide).

[Non-statutory guidelines](#)<sup>45</sup> setting out suggested areas for pitches and games courts are in place.

Where the proposals for a new foundation or voluntary school are approved, the local authority must transfer any interest it has in the premises to either the trustees of the school or, where the school has no trustees, the school's governing body to be held by that body for the relevant purposes. The local authority must pay to relevant persons any reasonable costs incurred in connection with the transfer.

If any doubt or dispute arises as to the persons to whom that transfer is to be made, it must be made to such persons as the Schools Adjudicator thinks proper.

## Early years

Quality early education leads to better outcomes later in life. The department expects proposals for new primary schools to include a nursery, except in exceptional circumstances.

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<sup>45</sup> <https://www.gov.uk/government/publications/area-guidelines-and-net-capacity>

## Proposing to close (discontinue) a maintained school

This section sets out information for local authorities and governing bodies wishing to propose the closure of a maintained school.

Under section 15 of EIA 2006, a local authority can propose the closure of a community, foundation, voluntary, community special, foundation special or maintained nursery school; and the governing body of a voluntary, foundation or foundation special school may publish proposals to close its own school. The statutory process is set out in the Establishment and Discontinuance Regulations<sup>46</sup> and in [the statutory process section](#) of this guidance. Alternatively, the governing body of a foundation or voluntary school may give at least 2 years' notice of its intention to close the school to the Secretary of State and the local authority<sup>47</sup>.

The table below sets out a summary of proposals for closing a maintained school<sup>48</sup>:

| Proposer                      | Type of proposal  | Decision maker  | Right of referral to the Adjudicator? <sup>49</sup>   |
|-------------------------------|---|-----------------|---|
| Local authority <sup>50</sup> | Close a community, community special or maintained nursery school | Local authority | The Diocesan Board of Education of any CofE diocese any part of which is in the area of the local authority.<br>The bishop of any Roman Catholic diocese any part of which is in the area of the local authority. |

<sup>46</sup> Part 4 concerns the proposals, part 5 concerns consideration of the proposals

<sup>47</sup> Section 30 Schools Standards and Framework Act 1998

<sup>48</sup> Proposers should be aware that in ALL cases where the local authority does not make a decision within the prescribed 2 month period, they must refer the proposal to the Schools Adjudicator (see regulations 14 and 15 of the Establishment and Discontinuance Regulations)

<sup>49</sup> Where the Schools Adjudicator is the decision maker, for example because the 2 month period has expired, there is no right of appeal

<sup>50</sup> Section 15(1) EIA 2006: proposal by local authority to discontinue—(a) a community, foundation or voluntary school, (b) a community special or foundation special school, or (c) a maintained nursery school

| Proposer                     | Type of proposal  | Decision maker  | Right of referral to the Adjudicator? <sup>49</sup>  |
|------------------------------|---|-----------------|--|
| Local authority              | Close a foundation, foundation special or voluntary (VC or VA) school | Local authority | The Diocesan Board of Education of any CofE diocese any part of which is in the area of the local authority.<br>The bishop of any Roman Catholic diocese any part of which is in the area of the local authority.<br>The governing body or trustees of the school. |
| Governing Body <sup>51</sup> | Close a voluntary (VC or VA), foundation or foundation special school | Local authority | The Diocesan Board of Education of any CofE diocese any part of which is in the area of the local authority.<br>The bishop of any Roman Catholic diocese any part of which is in the area of the local authority.<br>The governing body or trustees of the school. |

**Table 3: proposals to close a school**

## Reasons for closing a school

Reasons for closing a maintained school include, but are not limited to, where:

- there are surplus places elsewhere in the local area which can accommodate displaced pupils and there is no predicted demand for the school in the medium to long term;
- it is to be amalgamated with another school;
- it has been judged inadequate by Ofsted and the Secretary of State has revoked the academy order;
- it is no longer considered viable;
- it is being replaced by a new school (as sections 10 and 11 provide for).

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<sup>51</sup> Proposal by governing body to discontinue (a) a foundation or voluntary school in England, or (b) a foundation special school

## Schools causing concern

In determining proposals, decision makers must ensure that the guidance on [schools causing concern](#)<sup>52</sup> (intervening in failing or underperforming schools) has been considered where necessary.

## The presumption against the closure of rural schools

Proposers should be aware that the department expects all decision makers to adopt a presumption against the closure of rural schools. This does not mean that a rural school will never close, but that the case for closure should be strong and clearly in the best interests of educational provision in the area.

The presumption does not apply where a rural infant and junior school on the same site are being closed to establish a new primary school.

Proposers should set out whether the school is referred to in the [Designation of Rural Primary Schools \(England\) Order](#)<sup>53</sup> or, where the school is a secondary school, whether the school is identified as rural on the [Get Information about Schools](#)<sup>54</sup> database (using the Office for National Statistics' [Rural and Urban Area Classification](#)<sup>55</sup>).

In formulating any closure proposals under this section in relation to a rural primary school<sup>56</sup>, proposers must have regard to:

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

Proposers, for all rural closures, in addition to the above, should also provide evidence to show they have carefully considered:

- alternatives to closure including:
  - conversion to academy status and joining a multi-academy trust;

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<sup>52</sup> <https://www.gov.uk/government/publications/schools-causing-concern--2>

<sup>53</sup> <https://www.gov.uk/government/publications/rural-primary-schools-designation>

<sup>54</sup> <https://get-information-schools.service.gov.uk/>

<sup>55</sup> <https://www.gov.uk/government/collections/rural-urban-classification>

<sup>56</sup> "Rural primary school" means a primary school designated as such for the purposes of this section by an order made by the Secretary of State

- federation with another local school;
- the scope for an extended school to provide local community services and facilities (e.g. childcare facilities, family and adult learning, healthcare, community internet access);
- the availability, and likely cost to parents, of transport to other schools;
- whether the proposal will result in unreasonably long journey times;
- the size of the school and whether it puts the children at an educational disadvantage e.g. in terms of breadth of curriculum or resources available;
- the proportion of pupils attending the school from within the local community i.e. whether the school is being used by the local community;
- the overall and long term impact on local people and the community of the closure of the school and of the loss of the building as a community facility;
- educational standards at the school and the likely effect on standards at neighbouring schools;
- whether the school is now surplus to requirements (e.g. because there are surplus places elsewhere in the local area which can accommodate displaced pupils, and there is no predicted demand for the school in the medium or long term);
- wider school organisation and capacity of good schools in the area to accommodate displaced pupils.

## **The presumption against the closure of nursery schools**

Proposers should be aware that decision makers are expected to adopt a presumption against the closure of maintained nursery schools. This does not mean that a maintained nursery school will never close, but that the case for closure should be strong.

Where a proposal is for the closure of a maintained nursery school, the proposer should set out:

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

When proposing to close a school which includes early years provision, proposers should set out whether the alternative early years provision will integrate preschool education with childcare services and/or with other services for young children and their families.

## Amalgamations

There are 2 ways to amalgamate 2 (or more) existing maintained schools:

- The local authority and/or governing body (depending on school category) can publish proposals to close 2, or more, schools and the local authority (or a proposer other than the local authority depending on category) can publish a proposal to open a new school. Where this is a presumption school, this will be subject to publication of a section 6A notice (see part 2 of this guidance). This will result in a new school number being issued.
- The local authority and/or governing body (depending on school category) can publish a proposal to close one school (or more) and enlarge/change the age range/transfer site of an existing school (following the statutory prescribed alterations process as necessary), 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. This is sometimes referred to as a 'merger'.

## Schools wishing to acquire, change or lose a religious character

It is not possible to add, change or remove the religious character of an existing maintained school. The school must be closed, following the usual statutory process, and a new school may be established.

Schools designated with a religious character that close will automatically have the designation revoked.

Where a new school with a religious character is proposed (including through amalgamation), the proposer will need to apply separately, to the Secretary of State, for the new school to be [designated with a religious character](#)<sup>57</sup>. This would normally be done once the proposal for the new school has been approved.

Where a new school is proposed to be designated as having a religious character, proposers should set out that that the school will have a religious character and whether their admission arrangements would adopt any faith-based admissions criteria. It will need to have consulted on, and determined, its admission arrangements in accordance with the [School Admissions Code](#)<sup>58</sup>.

<sup>57</sup> <https://www.gov.uk/guidance/religious-character-designation-guide-to-applying#application>

<sup>58</sup> <https://www.gov.uk/government/publications/school-admissions-code--2>

## Reversion of sites

Many Church of England schools occupy sites provided under the School Sites Act 1841. Section 2 of that Act enables a landowner to provide a site for the educational purposes listed (typically a school or a school house), under a statutory charitable trust. It also provides that, if the land ceases to be used for the purpose of the 1841 Act which is stated as the primary purpose in the trust deed (i.e. usually the school), it would revert to the donor or heirs by operation of law<sup>59</sup>. Section 14 of the 1841 Act allows a site to be sold or exchanged and any money arising from such a sale or exchange to be applied for the purposes of the trust deed (without triggering reverter), but it is important to keep in mind that if a school with a site provided under the 1841 Act were to close and not be replaced with a new school held on the same trusts, this would trigger the reversion (close attention must however always be paid to the detailed wording of the trust deed).

## Two years' notice of closure – voluntary and foundation schools

In addition to the statutory process for closure further to proposals made under section 15 of EIA 2006, the governing body of a voluntary or foundation school may, subject to specified provisions<sup>60</sup>, give the Secretary of State and the local authority at least 2 years' notice of their intention to close the school.

The site trustees of a foundation or voluntary school must give their governing body at least 2 years notice if they intend to terminate the school's occupation of its site, subject to specified provisions<sup>61</sup>. The minimum 2 years' notice allows the local authority and/or governing body time to make alternative arrangements for pupils. This might not necessarily lead to the closure of the school. The school might instead just move sites. Section 30(10) of SSFA 1998 also specifies that the notice requirements at section 30(11) only need to be followed if the land is held for the purposes of the school and the termination of the school's occupation of that land would have the result that it was not reasonably practicable for the school to continue to be conducted at its existing site.

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<sup>59</sup> Though section 1 of the Reverter of Sites Act 1987 has now replaced statutory reverter with a non-charitable statutory trust of the land or its proceeds of sale to be held for the donor or heirs

<sup>60</sup> As outlined in section 30 of the School Standards and Framework Act 1998. Please also note the requirements to obtain the Diocesan Board of Education's advice at section 7 of the Diocesan Boards of Education Measure 2021 (the DBE Measure 2021)

<sup>61</sup> As also outlined in section 30 of SSFA 1998. Please again also note the requirements to obtain advice at section 7 of the DBE Measure 2021



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

The Secretary of State may direct<sup>62</sup> a local authority to close a community special or foundation special school if they consider it is in the interests of the health, safety or welfare of the pupils. Prior to making the direction, the Secretary of State must consult: the local authority; any other local authority who would be affected by the closure of the school; for a foundation special school with a foundation, the person who appoints the foundation governors; and any other persons the Secretary of State considers appropriate.

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

### **‘Closures’ which do not require the statutory closure process**

Temporary school closures – a proposal to close a school is not required where a school will temporarily cease to operate due to a rebuild.

Discontinuing use of a site – where a school operating over multiple sites proposes to cease operations on one (or more) of its sites the proposal will be for a [prescribed alteration](#)<sup>63</sup> and not a school closure.

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<sup>62</sup> Section 17 of EIA 2006

<sup>63</sup> <https://www.gov.uk/government/publications/school-organisation-maintained-schools>

## The statutory process

This section sets out the stages of the statutory process. The statutory process below must be followed for opening<sup>64</sup> and closing<sup>65</sup> a maintained school.

## Related proposals

A proposal should be regarded as 'related' if its implementation (or non-implementation) would prevent or undermine the effective implementation of another proposal. Where proposals are related, this should be made clear in consultation and representation periods, in published notices, and proposals.

## Stage one: consultation

It is a statutory requirement to consult any parties the proposer thinks appropriate before publishing proposals under section 10 or 11 for new schools and for section 15 proposals to close a maintained school.

The proposer may use the consultation to consider a range of options for the future of a school (e.g. amalgamation, academy conversion, federation or closure). However, the proposer must then publish specific proposals (see stage 2 of the statutory process below). It is these specific proposals setting out details of the new school or the school to be closed which can be commented on or objected to during the statutory representation period.

It is for the proposer to determine the nature and length of the pre-publication consultation. It is best practice for consultations to be carried out in term time to allow the maximum number of people to respond. Proposers should have regard to the Cabinet Office guidance on [consultation principles](#)<sup>66</sup> when deciding how to carry out the consultation period.

In the case of the closure of rural primary schools and special schools, the Act sets out some particular groups who must be consulted. This is set out in Annex A to this guidance.

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<sup>64</sup> Under sections 10 and 11 of EIA 2006

<sup>65</sup> Under section 15 of EIA 2006

<sup>66</sup> <https://www.gov.uk/government/publications/consultation-principles-guidance>

## Stage 2: publication

A statutory proposal should be published within 12 months of the initial consultation period being completed. This is so that it can be informed by up-to-date feedback. A proposal MUST contain the information specified in either schedule 1 (for establishing a new school, as set out in Annex B to this guidance)<sup>67</sup> or schedule 2 (for closing a school, as set out in Annex C to this guidance) to the Establishment and Discontinuance Regulations.

The proposer must publish the full proposal on a 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 (4 weeks from publication); and
- the address to which objections or comments should be submitted.

A brief notice containing the website address of the full proposal must be published in a local newspaper.

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

- the Secretary of State ([schoolorganisation.notifications@education.gov.uk](mailto:schoolorganisation.notifications@education.gov.uk));
- the Diocesan Board of Education of any Church of England diocese in the relevant area;
- the bishop of any Roman Catholic diocese any part of which is comprised in the area of the relevant authority;
- any other body or person that the proposer thinks is appropriate (e.g. any relevant religious authority);
- where the proposal is for a new school under section 10 or 11 of EIA 2006 and the local authority is not the proposer, the local authority which it is proposed would maintain the school;
- where the proposal is to close a special school, the parents of every registered pupil at the school; and

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<sup>67</sup> Proposals published under section 11(1) (proposals to establish a new maintained nursery school) need not contain the information specified in paragraphs 7, 8, 10, 12, 18, 23, 24, and 25 of schedule 1

- where the proposal is for the closure of a maintained school, the governing body or the local authority responsible for maintaining the school (as appropriate).

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

### **Stage 3: representation**

Proposers should consult organisations, groups and individuals they feel to be appropriate during the representation period (the information in Annex A can be used for examples).

The representation period starts on the date of publication of the statutory proposal and MUST last for 4 weeks. During this period, any person or organisation can submit comments on the proposal, to the local authority, to be taken into account by the decision maker. It is also good practice for local authorities to forward representations to the proposer (subject to any issues of data protection or confidentiality) to ensure that they are aware of local opinion.

The decision maker will need to be satisfied that the proposer has had regard for the statutory process and must consider ALL the views submitted during the representation period, including all support for, objections to, and comments on the proposal.

### **Stage 4: decision**

Related opening and closing proposals must be considered together and, where applicable, referred to the Adjudicator together. Related prescribed alterations proposals should also be considered and, where possible, determined at the same time.

The local authority will be the decision maker on a school closure proposal, unless the closure proposal is 'related' to another proposal that is to be decided by the Schools Adjudicator.

The Schools Adjudicator will decide proposals for new schools made by the local authority and cases where one of the proposals has the local authority involved in the foundation of a proposed foundation school with a foundation in one of the ways set out in paragraph 10(2) of schedule 2 to EIA 2006. The local authority must refer such proposals within 2 weeks of the end of the representation period. The local authority will decide proposals for new schools from other proposers.

The Schools Adjudicator will also be the decision maker in any case where the local authority does not make a decision within a period of 2 months of the end of the

representation period. Where this happens, the local authority must, within a week of the end of that 2 month period, refer the case to the Schools Adjudicator.

Under paragraph 12 of schedule 2 to EIA 2006, the Secretary of State may also direct any section 7 proposals published by the local authority, but not yet determined, to be referred to the Schools Adjudicator.

The body or individual that takes the decision must have regard to the statutory decision makers guidance contained in this document.

When issuing a decision, the decision maker can:

- reject the proposal;
- approve the proposal without modification;
- approve the proposal with such modifications as they think desirable; or
- approve the proposal, with or without modification, subject to certain conditions<sup>68</sup> (such as the granting of planning permission) being met.

A proposal can be withdrawn by the proposer at any point before a decision is taken. When revoking a proposal prior to a decision being made, the proposer must send written notice to the local authority and (where the proposal has been referred to the Adjudicator) also to the Schools Adjudicator.

Where the local authority is the decision maker, within one week of making a decision, they MUST publish their decision and the reasons for such a decision being made on their website. They MUST arrange for notification of the decision and reasons for it to be sent to:

- the Secretary of State (via [schoolorganisation.notifications@education.gov.uk](mailto:schoolorganisation.notifications@education.gov.uk));
- the proposers;
- the Schools Adjudicator;
- the Diocesan Board of Education of any Church of England diocese any part of which is comprised in the area of the relevant authority;
- the bishop of any Roman Catholic diocese any part of which is comprised in the area of the relevant authority; and
- any other body considered appropriate (e.g. site trustees).

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<sup>68</sup> As specified in regulation 16 of the Establishment and Discontinuance Regulations. If these conditions aren't met, the decision maker must consider the proposals afresh

Where the Schools Adjudicator is the decision maker, where possible they should send notification of the decision and reasons for it, within one week of deciding, to the local authority and the Secretary of State (via [schoolorganisation.notifications@education.gov.uk](mailto:schoolorganisation.notifications@education.gov.uk)) to ensure the appropriate records can be updated and to allow for any actions required as a consequence of the decision to be completed (e.g. an admissions preference exercise following approval to close a school).

## **Rights to refer local authority decisions to the Schools Adjudicator**

For rights to refer a decision taken by the local authority to the Schools Adjudicator, see table 2 (for establishment proposals) and table 3 (for closure proposals).

Within one week of receipt of a request for a referral, a local authority must send the proposal, representations received and the minutes and papers for the meeting at which it considered the proposals to the Schools Adjudicator.

There is no right of appeal against determinations made by the Schools Adjudicator. Adjudicator decisions can be challenged only by Judicial Review in the Courts.

## **Stage 5: implementation**

There is no maximum limit on the time between the publication of a proposal and its proposed date of implementation. However, decision makers should be confident the proposers have good justification (for example an authority-wide reorganisation) if they propose a timescale longer than 3 years.

The proposer must implement a proposal in the form approved, including any modifications made by the decision maker (unless modifying or revoking, as below).

The School Organisation Team will make the necessary changes to the school(s) GIAS record(s).

For proposals to establish a new school, the proposer should contact the School Organisation Team (via [schoolorganisation.notifications@education.gov.uk](mailto:schoolorganisation.notifications@education.gov.uk)) at least one month before the proposed opening date to confirm that the new school will be opening on time. It is at this point that a GIAS record will be established, and the school will be assigned a URN.

## **Modification post determination**

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

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

The local authority or the Schools Adjudicator (where the decision in relation to the original proposal was decided by the Schools Adjudicator) will be the decision maker for any proposals for modifications post determination. The decision maker must notify the Secretary of State (via [schoolorganisation.notifications@education.gov.uk](mailto:schoolorganisation.notifications@education.gov.uk)) within one week of decision.

## Revocation

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

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

The proposer must publish the revocation proposal on a website and a brief notice of the revocation proposal (which must include the address of the website where the proposals are published) in a local newspaper. Both must make clear:

- how copies of the revocation proposals may be obtained;
- that any person may object to or comment on the revocation proposals and the address of the local authority to which any objections or comments should be submitted; and
- the date by which such objections or comments must be submitted (which must be within 4 weeks of publication of the proposals).

Within one week of publication, the proposer must send copies of the proposal to:

- the local authority (where they are not the proposer);
- the Secretary of State (via [schoolorganisation.notifications@education.gov.uk](mailto:schoolorganisation.notifications@education.gov.uk)); and
- any other body or person that the proposer thinks appropriate.

The local authority will be the decision maker for revocation proposals with the exception of cases where the initial decision in relation to the original proposal was decided by the Schools Adjudicator. In such cases the local authority must refer the revocation proposal (together with any comments or objections) within 2 weeks of the end of the representation period to the Schools Adjudicator.



## Guidance for decision makers

This section sets out the considerations that should be made by the local authority or Schools Adjudicator when deciding proposals to establish or discontinue (close) a school. Decision makers must have regard to this guidance.

In all cases, the decision maker should be satisfied that the proposer has carried out the requirements of the statutory process satisfactorily and should have due regard to all responses received during the representation period.

### Factors to consider when determining proposals

#### Demand and need

When considering proposals to establish new provision, the decision maker should be satisfied that the proposer has demonstrated demand for the provision being proposed. This should include:

- evidence of any projected increase in pupil population (such as planned housing developments) and any new provision opening in the area (including free schools), in relation to the number of places to be provided;
- the quality and diversity of schools in the relevant area and whether the proposal will meet the needs of parents, raise local standards and narrow attainment gaps;
- the popularity of other schools in the area and evidence of parental demand for a new school; and
- surplus capacity should be a serious consideration – local authorities should consider the impact of the new places on existing good educational provision in the local area, and accumulating high levels of surplus should be avoided.

When determining proposals to discontinue (close) provision, the decision maker should be satisfied that there is sufficient capacity elsewhere in the local area to accommodate displaced pupils, and the likely supply and future demand for places in the medium and long term.

The decision maker should take into account the overall quality of alternative places in the local area, balanced with the need to reduce excessive surplus capacity in the system. The decision maker should have regard for the local context in which the proposals are being made, taking into account the nature of the area, the age of the children involved and, where applicable, alternative options considered for reducing excess surplus capacity.

## Suitability

When considering any proposal for a new maintained school, the decision maker should consider the proposal on its merits and take into account all matters relevant to the proposal. Any proposal put forward by organisations which advocate violence or other illegal activity must be rejected. In order to be approved, a proposal should demonstrate that, as part of a broad and balanced curriculum, the proposed new school would promote the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, as set out in the department's guidance on [Promoting fundamental British values through SMSC](#)<sup>69</sup>.

## Proposed admission arrangements

Before approving a proposal, the decision maker should confirm that the admission arrangements of the school are compliant with the [School Admissions Code](#)<sup>70</sup>. Although the decision maker cannot modify proposed admission arrangements, the decision maker should inform the proposer where arrangements seem unsatisfactory and the admission authority should be given the opportunity to revise them.

## School size

Decision makers should not make blanket assumptions that schools should be of a certain size to be good schools, although the viability and cost-effectiveness of a proposal is an important factor for consideration. Section A2 of [how to apply to set up a mainstream free school](#)<sup>71</sup> sets out the department's expectations on school size.

## Equal opportunity issues

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

- eliminate discrimination;
- advance equality of opportunity; and
- foster good relations between people with a protected characteristic and those without that characteristic.

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<sup>69</sup> <https://www.gov.uk/government/publications/promoting-fundamental-british-values-through-smsc>

<sup>70</sup> <https://www.gov.uk/government/publications/school-admissions-code--2>

<sup>71</sup> <https://www.gov.uk/government/publications/free-school-application-guide/how-to-apply-to-set-up-a-mainstream-free-school>

The decision maker must consider the impact of the proposals on the relevant protected characteristics and any issues that may arise from the proposals (e.g. where there is a proposal to establish new single sex provision in an area, there is equal access to single sex provision for the other sex). Decision makers should be satisfied that the proposer has shown a commitment to providing access to a range of opportunities which reflect the ethnic and cultural mix of the area in which a school is located, whilst ensuring that such opportunities are open to all.

## Integration and community cohesion

The decision maker should consider the impact of any proposal on local integration and community cohesion objectives and have regard to the [Integrated Communities Action Plan](#)<sup>72</sup>.

When considering publishing or deciding a proposal, the proposers and the decision maker should take account of the community to be served by the school and the views of different sections within the community. They should also consider the relevant points set out on [integration and community cohesion](#) earlier in this guidance.

## Travel

Decision makers should be satisfied that the proposal will not adversely impact any particular group, including those with protected characteristics or who are disadvantaged (for example, those who are eligible for free school meals or pupil premium). Decision makers should also consider how the proposal will support the local authority's duty to promote the use of sustainable travel and transport to school.

When closing a school, decision makers should consider whether the proposal will result in unreasonably long journey times or increased travel costs for local authorities or families, as well as any increase in the use of motor vehicles which is likely to result from the discontinuance of the school, and the likely effects of any such increase.

When opening a school, decision makers should consider how children will travel to the school and be satisfied that the proposers have taken into account that the children they expect to apply for the school will be able to travel there sustainably, where possible, e.g. by walking, cycling or using public transport. Further information is available in the statutory [home-to-school travel and transport guidance](#)<sup>73</sup>.

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<sup>72</sup> <https://www.gov.uk/government/publications/integrated-communities-action-plan>

<sup>73</sup> <https://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance>

The decision maker will need to consider the local context, for example in areas with excessive surplus places, the decision maker should consider whether the travel implications of the proposal are reasonable compared to those for alternative options for reducing excessive surplus capacity.

## Funding

The decision maker should be satisfied that any land, premises or necessary funding required to implement the proposal will be available and that all relevant local parties (e.g. trustees or religious authority) have given their agreement to the funding arrangements.

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.

Where a school is closing and other local schools need to take on displaced pupils, the following will apply in terms of the revenue funding support schools will receive for taking on additional pupils. Schools' core allocations in any given year are based on the number of pupils that they had on roll at the previous autumn census. This means that schools that take on additional pupils could be funded for fewer pupils for a given year. Local authorities can use growth funding to support schools to manage the revenue costs of an increase in pupil numbers before schools receive the corresponding increase in their core funding.

The department provides local authorities growth funding through the National Funding Formula (NFF) within their schools' block. Local authorities' growth funding is allocated based on the actual growth in pupil numbers experienced in the previous year. Local authorities determine criteria for allocating growth funding to schools in their area with the agreement of their schools forum. Further information is available in the [Schools Operational Guidance](#)<sup>74</sup> on local implementation of the funding system.

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<sup>74</sup> <https://www.gov.uk/government/publications/pre-16-schools-funding-local-authority-guidance-for-2023-to-2024/schools-operational-guide-2023-to-2024#growth-funding>

## Schools causing concern

In determining proposals, decision makers must ensure that the guidance on [schools causing concern](#)<sup>75</sup> (intervening in failing or underperforming schools) has been considered where necessary.

## Rural schools and the presumption against closure

Decision makers should adopt a presumption against the closure of rural schools. This does not mean that a rural school will never close, but the case for closure should be strong and a proposal must be clearly in the best interests of educational provision in the area. Where a school is not recorded as rural on GIAS, the decision maker can consider evidence provided by interested parties that a particular school should be regarded as rural.

In deciding a proposal to close a rural school, the decision maker should refer to the section on [rural schools](#) earlier in this guidance.

## Nursery schools and the presumption against closure

Decision makers should adopt a presumption against the closure of maintained nursery schools. This does not mean that a maintained nursery school will never close, but the decision maker should refer to the section on [nursery schools](#) earlier in this guidance.

## Balance of denominational provision

In deciding a proposal to close a school that has been designated with a religious character, decision makers should consider the effect that this will have on the balance of denominational provision in the area, as well as taking account of the number of pupils currently on roll, the medium and long term need for places in the area, and whether standards at the school have been persistently low.

In relation to the balance of denominational provision, if an infant and a junior school of a particular religious character in an area are to close and be replaced with a new all-through school, then there should normally be a preference for that new school to be of the same religious character as the predecessor schools.

Where one school has a religious character and the other does not, or has a different religious character, both proposers and decision makers should consider what would best meet the needs of the local community. Decision makers should consider what

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<sup>75</sup> <https://www.gov.uk/government/publications/schools-causing-concern--2>

impact the proposal will have on the balance of denominational provision in the area, the quality of the provision available and parental demand in the area for the different types of provision.

## Community services

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

## Determining revocation proposals

The local authority will be the decision maker for revocation proposals, with the exception of cases where the initial determination of the original proposal was made by the Schools Adjudicator. In such cases, the local authority must refer the revocation proposal together with any comments or objections within 2 weeks of the end of the representation period to the Schools Adjudicator. Where the local authority made the initial determination of the original proposals and the proposals were later referred to the Adjudicator, the local authority should determine any revocation proposals made.

The decision maker should be satisfied that the proposer has carried out the statutory revocation process appropriately (as set out in the [revocation](#) section of this guidance) and should have regard for any responses received during the 4 week representation period.

Local authorities must determine a revocation proposal within 2 months of the end of the representation period. Where the local authority has not determined the proposed by the end of the 2 month period, they must refer the decision to the Schools Adjudicator. The decision maker should make such persons aware of the decision as they consider appropriate. This should include:

- the Secretary of State (via [schoolorganisation.notifications@education.gov.uk](mailto:schoolorganisation.notifications@education.gov.uk));
- the governing body/proposers (as appropriate);
- the Schools Adjudicator or local authority (as appropriate);
- the Diocesan Board of Education of any Church of England diocese any part of which is comprised in the area of the relevant authority;
- the bishop of any Roman Catholic diocese any part of which is comprised in the area of the relevant authority;

- for a special school, the parents of every registered pupil at the school;
- the trustees of the school (where relevant, e.g. site trustees); and
- any other body considered appropriate (e.g. other relevant religious authority).

Where the following bodies are unsatisfied with the outcome of a decision taken on a revocation, they may refer to the Schools Adjudicator (who will take a fresh decision on the proposals) within 4 weeks of the publication of the decision:

- the Diocesan Board of Education for any diocese in the Church of England that is comprised in the area of the relevant authority;
- the bishop of any Roman Catholic diocese in the area of the relevant authority;
- the proposers; or
- the governing body or trustees of any foundation or voluntary school which is the subject of the proposals (where relevant).

Within one week of receiving the referral, the local authority must send to the Adjudicator:

- any objections or comments in relation to the proposals;
- minutes of the meeting at which the revocation proposals were considered; and
- any papers considered by the local authority at that meeting.

## **Determining requests to modify approved proposals**

Proposers may request modifications to approved proposals or ask the body which approved the proposals to specify a later date in respect of conditional approval. Where the Schools Adjudicator made the initial decision on the original proposals, the local authority must refer the case to the Adjudicator within 2 weeks of receipt of the request from the proposers.

The decision maker should be satisfied that the proposal does not modify the existing proposals to the extent that new proposals are substituted for those that were originally published.

Where approved proposals are modified, the local authority or the Schools Adjudicator (as the case may be) must notify the Secretary of State (via [schoolorganisation@education.gov.uk](mailto:schoolorganisation@education.gov.uk)) within one week of the date of the proposals being modified.

## Annex A: Consultations

In the case of the proposed closure of a rural primary school or a community special or foundation special school, prior to publishing a statutory notice and proposal, proposers must<sup>76</sup> consult:

- the registered parents of registered pupils at the school;
- in the case of a rural primary school:
  - the local authority (where they are not the proposer);
  - where the local authority are a county council, any district council for the area in which the school is situated;
  - any parish council for the area in which the school is situated;
- in the case of a special school, any local authority which maintains an Education, Health and Care plan in respect of a registered pupil at the school;
- any other interested organisation/person that the proposer thinks appropriate.

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

- the governing body (as appropriate);
- pupils at the school;
- if a proposal involves, or is likely to affect, a school which has a particular religious character, the appropriate diocese or relevant religious authority<sup>77</sup> ;
- the trustees of the school (if any);
- teachers and other staff at the school;
- any local authority likely to be affected by the proposal, in particular neighbouring authorities where there may be significant cross-border movement of pupils;
- the governing bodies, teachers and other staff of any other school that may be affected;
- parents of any pupils at other schools who may be affected by the proposal including, where appropriate, families of pupils at feeder primary schools;

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<sup>76</sup> Under section 16(1) of EIA 2006.

<sup>77</sup> As highlighted by earlier footnotes, under the DBE Measure 2021 church school (as defined by the Measure) governing bodies must seek their Diocesan Board of Education's advice, before making closure proposals under s15(2) and site trustees have a duty to do this too.



- any trade unions who represent staff at the school, and representatives of any trade union of staff at other schools who may be affected by the proposal; and
- MPs whose constituencies include the school that is the subject of the proposal or whose constituents are likely to be affected by the proposal.

## **Annex B: Statutory proposals for establishing a new school**

As set out in schedule 1 to the Establishment and Discontinuance Regulations, the information below must be included in section 10 and 11 proposals to establish a new school:

### **Contact details**

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

### **Implementation**

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

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

- a statement as to the extent that they are to be implemented by each body; and
- a statement as to the extent to which the capital costs of implementation are to be met by each body.

### **Reason for the new school**

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

### **Category**

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

## **Ethos and religious character**

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

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

Where it is proposed that the school has a religious character, evidence of the demand in the area for education in accordance with the tenets of the religion.

Where it is proposed that the school adheres to a particular philosophy, evidence of the demand for education in accordance with that philosophy that is not already met in other maintained schools or academies in the area.

## **Pupil numbers and admissions**

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

## **Admission arrangements**

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

- the extent to which priority for places is proposed to be given to children of the school's religion or religious denomination; and
- the extent, if any, to which priority is to be given to children of other religions or religious denominations or to children having no religion or religious denomination.

## **Early years provision**

Where the proposals are to include provision for pupils aged 2 to 5:

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

- how the school will integrate the early years provision with childcare services, and how the proposals for the establishment of the school are consistent with the integration of early years provision with childcare;
- evidence of parental demand for additional early years provision;
- assessment of capacity, quality and sustainability of provision in schools, and in settings outside of the maintained school sector which deliver the Early Years Foundation Stage, within 3 miles of the school; and
- the reasons why schools and settings outside the maintained school sector which deliver the Early Years Foundation Stage within 3 miles of the school, and which have spare capacity, cannot make provision for any forecast increase in the numbers of such children.

## Sixth form provision

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

- improve the educational or training achievements;
- increase participation in education or training;
- expand the range of educational or training opportunities available to them.

Where the addition of sixth-form provision to existing provision is being proposed, a change of age-range will be required, and proposers should refer to the separate guidance on [prescribed alterations](#)<sup>78</sup>.

## Special educational needs provision

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

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

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

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<sup>78</sup> <https://www.gov.uk/government/publications/school-organisation-maintained-schools>

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

## **Single sex school**

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

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

## **Curriculum**

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

## **Relevant experience of proposers**

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

## **Effects on standards and contributions to school improvement**

Information and supporting evidence on:

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

## **Location and costs**

A statement about:

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

## **Travel**

The proposed arrangements for travel of pupils to the school.

## **Federation**

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

## **Voluntary aided schools**

Where the school is to be a voluntary aided school:

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

## **Foundation schools**

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

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

## **Independent schools entering the maintained sector**

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

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

## **Annex C: Statutory proposals for school closures**

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

### **Contact details**

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

### **Implementation**

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

### **Reason for closure**

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

### **Pupil numbers and admissions**

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

### **Displaced pupils**

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

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

- any interim arrangements;
- the provision that is to be made for those pupils who receive educational provision recognised by the local authority as reserved for children with special educational needs; and



- in the case of special schools, the alternative provision (i.e. alternative suitable schools in the area) made by local authorities other than the local authority which maintain the school.

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

## **Impact on the community**

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

## **Rural primary schools**

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

## **Balance of denominational provision**

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

## **Maintained nursery schools**

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

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

## **Sixth form provision**

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

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

## **Special educational needs provision**

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

## **Travel**

Details of length and journeys to alternative provision (i.e. alternative suitable schools in the area).

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

## Annex D: Further Information

This guidance primarily relates to:

- [The Education and Inspections Act 2006](#), as amended by the [Education Act 2011](#)
- [The School Standards and Framework Act 1998](#), as amended by the [Education Act 2002](#)
- [The School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013](#)
- [Rural primary schools designation](#)
- [Rural and Urban Area Classification](#)
- [The Religious Character of Schools \(Designation Procedure\) Regulations 1998](#)
- [How to apply for religious designation](#)
- [Schools Adjudicator](#)
- [School Admissions Code](#)

It also relates to:

- [School Governance \(Constitution\) \(England\) Regulations 2012](#)
- [School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013](#)
- [Governance Handbook](#)
- [School Premises \(England\) Regulations 2012](#)
- [The School Companies Regulations 2002](#) as amended by the [2003 Regulations](#) and the [2014 Regulations](#)
- [The School Organisation \(Prescribed Alterations to Maintained Schools\) \(England\) Regulations 2013](#)
- [Change your charity's governing document](#)
- [Academies Act 2010](#)
- [The free school presumption](#) - departmental advice for local authorities and new school proposers
- [Making significant changes to an academy](#)
- [Closure of an academy by mutual agreement](#)
- [Regional Department for Education Directors](#)
- [Consultation principles](#)



Department  
for Education

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Department  
for Education

# **Making significant changes (‘prescribed alterations’) to maintained schools**

**Statutory guidance for proposers  
and decision makers**

**January 2023**

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## Summary

### About this guidance

This is from the Department for Education. It only relates to schools in England.

This means that local authorities, governing bodies and the Schools Adjudicator must have regard to this guidance<sup>1</sup> when exercising functions under the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013, referred to in this guidance as the Prescribed Alterations Regulations<sup>2</sup>. This means that they must follow this guidance unless there is a good reason not to. It applies to all categories of maintained schools unless explicitly stated. A maintained school means a community, foundation or voluntary school; a community or foundation special school; or a maintained nursery school. This guidance is not relevant to [pupil referral units](#)<sup>3</sup>. Separate advice on [making significant changes to an academy](#)<sup>4</sup> and [opening and closing a maintained school](#)<sup>5</sup> is available.

The purpose of this guidance is to ensure that good quality school places can be provided quickly where they are needed; local authorities and governing bodies do not take decisions that will have a negative impact on other schools in the area; and that changes can be implemented effectively where there is a strong case for doing so. 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.

Local authorities and governing bodies need to consider how the Prescribed Alterations Regulations apply in conjunction with this guidance. It is the responsibility of local authorities and governing bodies to ensure that they act in accordance with the [relevant legislation](#). If they are unsure of how the legislation applies to the individual circumstances of their case, they should consider seeking independent legal advice as the department cannot advise on individual cases.

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<sup>1</sup> [Regulation 7 of the Prescribed Alterations Regulations](#)

<sup>2</sup> <https://www.legislation.gov.uk/uksi/2013/3110/contents/made>.

<sup>3</sup> <https://www.gov.uk/government/publications/alternative-provision>.

<sup>4</sup> <https://www.gov.uk/government/publications/making-significant-changes-to-an-existing-academy>.

<sup>5</sup> <https://www.gov.uk/government/publications/school-organisation-maintained-schools>.

## Expiry or review date

This guidance supersedes all previous versions. It will be kept under review and updated versions will be published if necessary.

## What legislation does this guidance refer to?

This guidance primarily relates to:

- The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013

For a full list please see the [relevant departmental advice and statutory guidance](#) section.

## Who is this guidance for?

This guidance is for:

- Proposers and decision makers (local authorities, governing bodies and the Schools Adjudicator)
- 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.).

## 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 [School Standards and Framework Act 1998](#)<sup>6</sup> ('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)** – A parent should be considered to be whoever has parental responsibility, including parents, carers and legal guardians.

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<sup>6</sup> <https://www.legislation.gov.uk/ukpga/1998/31/contents>.

## Main points

Where a local authority proposes to expand a school that is eligible for intervention<sup>7</sup>, they should copy the proposal to the relevant Department for Education [Regional Director](#)<sup>8</sup> (RD) 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 the [contentious proposals](#) section below, to the School Organisation mailbox as soon as it is published [schoolorganisation.notifications@education.gov.uk](mailto:schoolorganisation.notifications@education.gov.uk).

Local authorities and governing bodies proposing to make significant changes to a school which has been designated as having a religious character should engage any trustees of the school<sup>9</sup>, 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 the school occupies land held by a charitable trust, trustees should always be consulted on whether any proposed alterations to a school are compatible with the terms of the trust.

Where a local authority is the decision maker, it must make a decision within a period of 2 months of the end of the representation period. Where a decision is not made within this time frame, the local authority must refer the proposal to the Schools Adjudicator for a decision.

Where neighbouring local authority areas are likely to be impacted by proposals, the proposer should ensure they are included in the process. Where a governing body is the proposer, they should ensure the home local authority has been involved in the process at an early stage.

It is not possible for any school to gain, lose or change a religious character through a change of category. Information on the process to be followed is available in the [opening and closing maintained schools guidance](#)<sup>10</sup>.

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<sup>7</sup> [Section 59\(2\) of the Education and Inspections Act 2006](#).

<sup>8</sup> <https://www.gov.uk/government/organisations/regional-department-for-education-dfe-directors/about>.

<sup>9</sup> Although the term trustee is usually used in the department's documents to refer to those who sit on the board of directors of an academy trust, trustees in this document means any person (other than the governing body) holding property on trust for the purpose of the school. In the case of schools designated

as having a religious character, this could be the Church of England, the Catholic Church or any other religious body.

<sup>10</sup> <https://www.gov.uk/government/publications/school-organisation-maintained-schools>.

Once a decision has been made the proposer (governing body or local authority) must make changes to the school's record in the department's system [Get Information About Schools](#)<sup>11</sup> (GIAS) within one week of the change being implemented.

Where a school wishes to change their name, the governing body will need to amend the instrument of government in line with regulation 30 of [The School Governance \(Constitution\) \(England\) Regulations 2012](#)<sup>12</sup>. Once that is done, either the school or the local authority will need to update the school record in the department's GIAS system.

Smaller changes that do not meet the thresholds set out in the relevant sections below do not need to follow the [prescribed alterations' statutory process](#). Nevertheless, proposers should adhere to the usual principles of public law, see the [changes that can be made outside of the statutory process](#) section.

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<sup>11</sup> <https://get-information-schools.service.gov.uk>.

<sup>12</sup> <http://www.legislation.gov.uk/uksi/2012/1034/contents/made>.

## Prescribed alteration changes

### Enlargement of premises (expansion)

This section applies to mainstream schools. Details of how [special schools can increase their intake](#)<sup>13</sup> are covered below.

Under section 14 of the [Education Act 1996](#)<sup>14</sup>, local authorities have a statutory duty to ensure that there are sufficient schools for primary and secondary education in their areas. The department expects local authorities 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. Local authorities 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 local authority can propose an enlargement of the capacity<sup>15</sup> of premises.

The [prescribed alterations' statutory process](#) must be followed to enlarge premises as set out in the [Prescribed Alterations Regulations](#)<sup>16</sup> if:

- the proposed enlargement is permanent (longer than 3 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 3 years) that meets the above threshold.

Small scale expansions that do not meet the thresholds above do not need to follow the formal statutory process [below](#). Furthermore, in many cases, small increases in the

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<sup>13</sup> The number of pupils admitted into the school at a particular time.

<sup>14</sup> <https://www.legislation.gov.uk/ukpga/1996/56/contents>.

<sup>15</sup> Net capacity as calculated using the department's Guidance Assessing the Net Capacity of Schools which can be found [assessing the net capacity of schools.pdf \(nationalarchives.gov.uk\)](#), and read in conjunction with the [School capacity survey: guide for local authorities - GOV.UK \(www.gov.uk\)](#).

<sup>16</sup> <https://www.legislation.gov.uk/uksi/2014/3110/contents/made>.

number of places can be achieved solely by increasing the school's published admissions number<sup>17</sup> (PAN); please see the [School Admissions Code](#)<sup>18</sup>.

## Examples of when you 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 bring the capacity to 900 pupils, creating space that would allow the addition of one form of entry (30 extra pupils x 5 year groups = increase of 150 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. 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 as 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  $45 \times 7 = 315$ ), **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 local authorities 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 local authorities 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 local authority should notify their Pupil Place Planning adviser<sup>19</sup>. In cases where there is a proposal to expand a



<sup>17</sup> 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 for Year 7.

<sup>18</sup> <https://www.gov.uk/government/publications/school-admissions-code--2>.

<sup>19</sup> [Advisers.PPP@education.gov.uk](mailto:Advisers.PPP@education.gov.uk)

school that is rated inadequate, the local authority should also send a copy of the proposal to the relevant RD 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:

| <b>Proposer</b>                             | <b>Type of proposal</b>                          | <b>Process</b>    | <b>Decision maker</b> | <b>Right of referral to the adjudicator</b>                   |
|---|--|-------------------|-----------------------|---|
| Local authority for community               | Enlargement of premises that meets the threshold | Statutory process | Local authority       | Church of England (CofE) diocese, Roman Catholic (RC) diocese |
| Local authority for voluntary or foundation | Enlargement of premises that meets the threshold | Statutory process | Local authority       | CofE diocese, RC diocese, Governing body/Trustees             |

**Table 1: Enlargement of premises process**

## **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 local authority decides that a new school is needed to meet basic need, they should refer to the guidance for opening new schools<sup>20</sup>.

Judgements 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 more integration, the more likely the change is an expansion:

- **The reasons for the expansion**

<sup>20</sup> <https://www.gov.uk/government/publications/school-organisation-maintained-schools>.

- What is the rationale for this approach and this particular site?
- **Admission and curriculum arrangements**
    - How will the new site be used (e.g. which age groups/pupils will it serve)?
    - What will the admission arrangements be?
    - Will there be movement of pupils between sites?
  - **Governance and administration**
    - How will whole school activities be managed?
    - Will staff be employed on contracts to work on both sites? How frequently will they do so?
    - What governance, leadership and management arrangements will be put in place to oversee the new site (e.g. will the new site be governed by the same governing body and the same school leadership team)?
  - **Physical characteristics of the school**
    - How will facilities across the 2 sites be used (e.g. sharing of the facilities and resources available at the 2 sites, such as playing fields)?
    - Is the new site in an area that is easily accessible to the community that the current school serves?

Where proposers seek to establish an additional site within another local authority area, they should consult with the local authority for that area with regards to the details of the proposal and any subsequent objections and comments on the proposed site.

Where changes are likely to impact on a neighbouring local authority's ability to effectively manage the school estate in its area, the department expects that the proposer will involve that local authority during the decision making process. An example of where another local authority area may be affected is where pupils regularly cross between the local authorities' areas to go to school.

Local authorities should copy any proposal to expand a school onto a satellite site to [schoolorganisation.notifications@education.gov.uk](mailto:schoolorganisation.notifications@education.gov.uk) for monitoring purposes.

## Expansion of existing grammar schools

Legislation prohibits the establishment of new grammar schools<sup>21</sup>. Expansion of any existing grammar school onto a satellite site can only happen if the new site is genuinely

<sup>21</sup> Except where a grammar school is replacing one or more existing grammar schools.

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 authorities<sup>22</sup> 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 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](#)<sup>23</sup> for further details of the processes admission authorities must follow).

## Change of age range

Local authorities and governing bodies can propose the following age range changes. This section is for changes that are expected to be in place for more than 2 years (as these are considered permanent increases). Temporary changes (expected to be in place for no more than 2 years) do not require the statutory process to be followed.

**Local authorities** can propose a change of age range of one year group or more for community schools (including the adding or removal of sixth form or nursery provision) or an alteration of the upper age limit of a foundation or voluntary school to add sixth form provision by following the [prescribed alterations' statutory process](#).

**Governing bodies** of foundation and voluntary schools can propose an age range change of 3 year groups or more (including adding or removing a sixth form) by following the [prescribed alterations' statutory process](#).

Before making such a proposal, the governing body should consult with local authorities, 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. Where the school occupies land held by a charitable trust, the governing body should also consult with the trustees to ensure the terms under which the land is held do not restrict the age-range in any way.

<sup>22</sup> The local authority in the case of community and voluntary controlled schools or the governing body in the case of voluntary aided and foundation schools.

<sup>23</sup> <https://www.gov.uk/government/publications/school-admissions-code--2>.

**Governing bodies** of community schools can propose the alteration of their upper age limit to add sixth form provision following the [prescribed alterations' statutory process](#).

Where a proposed age range change would also require an expansion of the school's premises, the local authority or governing body 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:

| <b>Proposer</b>                              | <b>Type of proposal</b>  | <b>Process</b>    | <b>Decision maker</b> | <b>Right of referral to the adjudicator</b>       |
|--|--|-------------------|-----------------------|---|
| Governing body of voluntary and foundation   | Alteration of upper or lower age range by 3 years or more  | Statutory process | Local authority       | CofE diocese, RC diocese, Governing body/Trustees |
| Local authority for community                | Alteration of upper or lower age range by one year or more, including the adding or removal of sixth form or nursery provision | Statutory process | Local authority       | CofE diocese, RC diocese                          |
| Local authority for voluntary and foundation | Alteration of upper age range so as to add sixth form provision  | Statutory process | Local authority       | CofE diocese, RC diocese, Governing body/Trustees |



| Proposer                                   | Type of proposal   | Process           | Decision maker  | Right of referral to the adjudicator              |
|--|--|-------------------|-----------------|---|
| Governing body of voluntary and foundation | Alteration of upper age range so as to add sixth form provision    | Statutory process | Local authority | CofE diocese, RC diocese, Governing body/Trustees |
| Governing body of community                | Alteration of upper age range so as to add sixth form provision    | Statutory process | Local authority | CofE diocese, RC diocese                          |
| Governing body of voluntary and foundation | Alteration of upper age range so as to remove sixth form provision | Statutory process | Local authority | CofE diocese, RC diocese, Governing body/Trustees |

**Table 2: Change of age range process**

## Adding a sixth form

This section applies to mainstream schools. Details of [how special schools can add post-16 provision](#) are covered below.

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 mainstream 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 should be good or outstanding (as rated by Ofsted) and the school should have a history of positive Progress 8 scores (above 0);
- **Size:** The proposed sixth form should provide at least 200 places;

- **Subject Breadth:** The proposed sixth form should – either directly or through partnership – offer a minimum of 15 A level subjects. Local authorities 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:
  - Improve choice and attainment for pupils;
  - Deliver new, improved or more integrated services;
  - Make efficiency savings through sharing costs;
  - Develop a stronger, more united voice; and
  - Share knowledge and information.

Schools proposing a partnership arrangement should 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 schools that are already operating on a satellite site, proposals to close any site of the school must follow the [prescribed alterations' statutory process](#) 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 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 referral to the adjudicator              |
|--|----------------------------------|-------------------|-----------------|---|
| Local authority for community              | Closure of one or multiple sites | Statutory process | Local authority | CofE diocese, RC diocese                          |
| Governing body for voluntary or foundation | Closure of one or multiple sites | Statutory process | Local authority | CofE diocese, RC diocese, Governing body/Trustees |

**Table 3: Closure of an additional site process**

## Transfer to a new site

Where the main entrance of the proposed new site for a school would be more than 2 miles from the main entrance of the current school site, or if the proposed new site is within the area of another local authority:

- Local authorities can propose the transfer to an entirely new site for community schools and maintained nursery schools following the [prescribed alterations' statutory process](#).
- Governing bodies of voluntary and foundation can propose a transfer to a new site following the [prescribed alterations' statutory process](#).

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 referral to the adjudicator              |
|--|----------------------|-------------------|-----------------|---|
| Local authority for community and maintained nursery | Transfer to new site | Statutory process | Local authority | CofE diocese, RC diocese                          |
| Governing body of voluntary foundation               | Transfer to new site | Statutory process | Local authority | CofE diocese, RC diocese, Governing body/Trustees |

**Table 4: Transfer to a new site process**

## Changes of category

**Governing bodies** of all categories of maintained schools, apart from governing bodies of foundation special and maintained nursery schools, may propose to change category by following the statutory process. The process for the addition or removal of a foundation is described in the [statutory process: foundation proposals](#) section below.

For a proposal to change the category of a school to voluntary aided, the decision maker should be satisfied that the governing body and/or the foundation are able and willing to meet their financial responsibilities for building work. The decision maker may wish to consider whether the governing body has access to sufficient funds to enable it to meet 10% of its capital expenditure for at least 5 years from the date of implementation, taking into account anticipated building projects.

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. Further information can be found in [Schedule 5 to the Prescribed Alterations Regulations](#)<sup>24</sup>.

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

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<sup>24</sup> <https://www.legislation.gov.uk/ukxi/2013/3110/schedule/5/made>.

| <b>Proposer</b>              | <b>Type of proposal</b>   | <b>Process</b>    | <b>Decision maker</b> | <b>Right of referral to the adjudicator</b>  |
|------------------------------|---|-------------------|-----------------------|--|
| Governing body of voluntary  | Voluntary controlled to voluntary aided,<br>Voluntary aided to voluntary controlled | Statutory process | Local authority       | CofE diocese, RC diocese, Governing body/Trustees  |
| Governing body of voluntary  | Voluntary controlled or voluntary aided to foundation school                        | Statutory process | Governing body        | For proposals at a voluntary aided school when decided by the governing body:<br>Local authority, CofE diocese, RC diocese |
| Governing body of foundation | Foundation school to voluntary controlled or voluntary aided                        | Statutory process | Local authority       | CofE diocese, RC diocese, Governing body/Trustees  |
| Governing body of community  | Community to voluntary controlled or voluntary aided <sup>25</sup>                  | Statutory process | Local authority       | CofE diocese, RC diocese   |
| Governing body of community  | Community to foundation school  | Statutory process | Governing body        | N/A  |

**Table 5: Changes of category process**

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<sup>25</sup> Where this change would result in a change of religious character, this would not be permitted. Instead the governing body should follow the [opening and closing maintained schools guidance](#).

The following proposals to change the category of a mainstream school are not permitted under section 18 of the [Education and Inspections Act 2006](#)<sup>26</sup>:

- from foundation or voluntary school to community school;
- from mainstream school to community special or foundation special school;
- from community special or foundation special school to mainstream school;
- from foundation special to community special;
- from maintained nursery school to any other kind of maintained school; and
- from any other kind of maintained school to maintained nursery school.

### 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) but they should be able to 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, local authorities will need to consider the demand for and balance of school places for boys and girls in line with the [Equality Act 2010](#)<sup>27</sup>.

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 referral to the adjudicator              |
|---|----------------------------------|-------------------|-----------------|---|
| Local authority for community             | To co-ed or single sex provision | Statutory process | Local authority | CofE diocese, RC diocese                          |
| Governing body of foundation or voluntary | To co-ed or single sex provision | Statutory process | Local authority | CofE diocese, RC diocese, Governing body/Trustees |

**Table 6: Single sex school becoming co-educational (or vice versa) process**

<sup>26</sup> <https://www.legislation.gov.uk/ukpga/2006/40/contents>.

<sup>27</sup> <https://www.legislation.gov.uk/ukpga/2010/15/contents>.

## Boarding provision

The introduction of boarding provision may require the statutory process to be followed (depending on the type of school in question – see table below).

**Local authorities** can propose the establishment, removal or decrease by 50 pupils or 50% whichever is the greater of boarding provision for community schools by following the [prescribed alterations' statutory process](#).

**Governing bodies** of voluntary and foundation schools can propose the removal or decrease by 50 pupils or 50% whichever is the greater of boarding provision by following the [prescribed alterations' statutory process](#).

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

| Proposer                                  | Type of proposal   | Process           | Decision maker  | Right of referral to the adjudicator              |
|---|--|-------------------|-----------------|---|
| Local authority for community             | Add, remove or decrease (decrease by 50 pupils or 50% whichever is greater) boarding provision | Statutory process | Local authority | CofE diocese, RC diocese                          |
| Governing body of foundation or voluntary | Remove or decrease (decrease by 50 pupils or 50% whichever is greater) boarding provision      | Statutory process | Local authority | CofE diocese, RC diocese, Governing body/Trustees |

**Table 7: Boarding provision process**

In making a decision on a proposal to remove or decrease 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 arrangements<sup>28</sup> and what process must be followed:

| Proposer                                  | Type of proposal                        | Process           | Decision maker  | Right of referral to the adjudicator              |
|---|---|-------------------|-----------------|---|
| Governing body of voluntary or foundation | Remove selective admission arrangements | Statutory process | Local authority | CofE diocese, RC diocese, Governing body/Trustees |
| Governing body of community               | Remove selective admission arrangements | Statutory process | Local authority | CofE diocese, RC diocese                          |

**Table 8: Remove selective admission arrangements at a grammar school process**

## Amalgamations

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

Alternatively, local authorities 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](#)<sup>29</sup>.

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<sup>28</sup> In accordance with [s. 109\(1\) of the School Standards and Framework Act 1998](#).

<sup>29</sup> <https://www.gov.uk/government/publications/school-organisation-maintained-schools>.



## Changes to special schools and special educational needs (SEN) provision

### Change of age range at special schools

Where the proposed alteration is a permanent one that is anticipated to be in place for more than 2 years:

- **Local authorities** can propose a change of age range of one year or more for community special schools by following the [prescribed alterations' statutory process](#).
- **Governing bodies** can propose a change of age range of one year or more for foundation special schools and community special schools by following the [prescribed alterations' statutory process](#).

| Proposer                              | Type of proposal   | Process           | Decision maker  | Right of referral to the adjudicator              |
|---------------------------------------|--|-------------------|-----------------|---|
| Local authority for community special | Alteration of upper or lower age range by one year or more | Statutory process | Local authority | CofE diocese, RC diocese                          |
| Governing body of foundation special  | Alteration of upper or lower age range by one year or more | Statutory process | Local authority | CofE diocese, RC diocese, Governing body/Trustees |
| Governing body of community special   | Alteration of upper or lower age range by one year or more | Statutory process | Local authority | CofE diocese, RC diocese                          |

**Table 9: Change of age range at special schools process**

## Change in number of pupils in a special school

The [School Admissions Code](#)<sup>30</sup> does not apply to special schools. For a special school, the 'number of pupils' means the maximum number of pupils the school is set up to provide for (which is not necessarily the same as the number of pupils actually attending the school).

Governing bodies and local authorities may seek to increase the number of places by following the [prescribed alterations' statutory process](#) 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. In such a circumstance, the prescribed alterations process is not applicable.

Governing bodies of both categories of maintained special school, and local authorities for community special schools, may seek to decrease the number of places, by following the [prescribed alterations' statutory process](#). As above, this does not apply to a special school established in a hospital.

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 referral to the adjudicator              |
|--------------------------------------|---|-------------------|-----------------|---|
| Governing body of foundation special | Increase by 10% or 20 pupils (5 for boarding special) or decrease numbers | Statutory process | Local authority | CofE diocese, RC diocese, Governing body/Trustees |

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<sup>30</sup> <https://www.gov.uk/government/publications/school-admissions-code--2>.

| Proposer                               | Type of proposal  | Process           | Decision maker  | Right of referral to the adjudicator              |
|--|---|-------------------|-----------------|---|
| Governing body of community special    | Increase by 10% or 20 pupils (5 for boarding special) or decrease numbers | Statutory process | Local authority | CofE diocese, RC diocese                          |
| Local authority for community special  | Increase by 10% or 20 pupils (5 for boarding special) or decrease numbers | Statutory process | Local authority | CofE diocese, RC diocese                          |
| Local authority for foundation special | Increase by 10% or 20 pupils (5 for boarding special)                     | Statutory process | Local authority | Governing body/Trustees, CofE diocese, RC diocese |

**Table 10: Change in number of pupils in a special school process**

## Expansion of a special school into a satellite site

In addition to the factors stated in the [expansions onto a satellite site](#) section above, where the proposal is for a special school to establish a satellite site (particularly where this involves sharing a site with a mainstream school), the decision maker may also want to consider:

- the suitability of a mainstream school, where applicable, to support the proposed provision and the practical implications of sharing a site;
- who is to be responsible for delivering the provision and for the safeguarding of the pupils; and
- how transport arrangements will be made.

## Special school transferring to a new site

Where the main entrance of the proposed new site for a school would be more than 2 miles from the main entrance of the current school site, or if the proposed new site is within the area of another local authority:

- **Local authorities** can propose the transfer to an entirely new site for community special schools by following the [prescribed alterations' statutory process](#).
- **Governing bodies** of foundation special and community special schools can propose a transfer to a new site following the [prescribed alterations' statutory process](#).

| Proposer                              | Type of proposal     | Process           | Decision maker  | Right of referral to the adjudicator              |
|---------------------------------------|----------------------|-------------------|-----------------|---|
| Local authority for community special | Transfer to new site | Statutory process | Local authority | CofE diocese, RC diocese                          |
| Governing body for foundation special | Transfer to new site | Statutory process | Local authority | CofE diocese, RC diocese, Governing body/Trustees |
| Governing body for community special  | Transfer to new site | Statutory process | Local authority | CofE diocese, RC diocese                          |

Table 11: Special school transferring to a new site process

## Removal of foundation and/or reduce majority of foundation in a special school

The process for the addition or removal of a foundation is described [below](#).

| Proposer                             | Type of proposal   | Process           | Decision maker | Right of referral to the adjudicator |
|--------------------------------------|--|-------------------|----------------|--------------------------------------|
| Governing body of foundation special | Remove foundation and/or reduce majority of foundation governors on governing body | Statutory process | Governing body | N/A                                  |

**Table 12: Removal of foundation and/or reduce majority of foundation in a special school process**

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

As with mainstream schools, proposers can seek to change their school from single sex to co-educational (or vice versa) but they should be able to show that this would better serve their local community. When making a decision, local authorities will need to consider the demand for and balance of school places for boys and girls in line with the [Equality Act 2010](#)<sup>31</sup>.

| Proposer                                | Type of proposal                 | Process           | Decision maker  | Right of referral to the adjudicator              |
|---|----------------------------------|-------------------|-----------------|---|
| Local authorities for community special | To co-ed or single sex provision | Statutory process | Local authority | CofE diocese, RC diocese                          |
| Governing body of foundation special    | To co-ed or single sex provision | Statutory process | Local authority | CofE diocese, RC diocese, Governing body/Trustees |
| Governing body of community special     | To co-ed or single sex provision | Statutory process | Local authority | CofE diocese, RC diocese                          |

<sup>31</sup> <https://www.legislation.gov.uk/ukpga/2010/15/contents>.

**Table 13: Single sex special school becoming co-educational (or vice versa) process**

## Boarding provision in special schools

**Local authorities** can propose the establishment or removal of boarding provision for community special schools or, where the school makes provision for day and boarding pupils, the increase or decrease of boarding provision by 5 pupils or more by following the [prescribed alterations' statutory process](#).

**Governing bodies** can propose to add or remove boarding provision or, where the school makes provision for day and boarding pupils, to increase or decrease boarding provision by 5 pupils or more following the [prescribed alterations' statutory process](#).

| Proposer                              | Type of proposal  | Process           | Decision maker  | Right of referral to the adjudicator              |
|---------------------------------------|---|-------------------|-----------------|---|
| Local authority for community special | Add, remove or change (increase or decrease by 5 pupils or more) boarding provision | Statutory process | Local authority | CofE diocese, RC diocese                          |
| Governing body of foundation special  | Add, remove or change (increase or decrease by 5 pupils or more) boarding provision | Statutory process | Local authority | CofE diocese, RC diocese, Governing body/Trustees |
| Governing body of community special   | Add, remove or change (increase or decrease by 5 pupils or more) boarding provision | Statutory process | Local authority | CofE diocese, RC diocese                          |

**Table 14: Boarding provision in special schools process**

## Special schools adding post-16 provision

Where a special school wishes to add 16-19 provision, the guidelines set out for mainstream schools do not apply. The procedure is the same as for any other change of age range (as described above).

Schools wishing to add post-19 provision should consult: [High needs funding: due diligence process for special post-16 institutions](#)<sup>32</sup>.

## Mainstream school: establish/remove/alter SEN provision

Many mainstream schools include dedicated provision for pupils with SEN, either SEN units or resourced provision:

- SEN units are special provisions within a mainstream school where the pupils with SEN are taught within separate classes for at least half of their time.
- Resourced provision are places that are reserved at a mainstream school for pupils with a specific type of SEN, taught for at least half of their time within mainstream classes, but requiring a base and some specialist facilities around the school.

When considering any reorganisation of provision that the local authority recognises as reserved for pupils with special educational needs, including that which might lead to children being displaced, proposers should 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.

Changes might be made to add or remove a SEN unit or resourced provision or to change the type of special educational provision a SEN unit or resourced provision supports.

The table below sets out who can propose to establish, remove or alter SEN provision and what process must be followed. In this table, 'SEN provision' means provision which is recognised by the local authority as reserved for children with SEN and 'alter' means change the type or types of SEN provision:

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<sup>32</sup> <https://www.gov.uk/government/publications/high-needs-funding-due-diligence-process-for-new-special-post-16-providers/high-needs-funding-due-diligence-process-for-special-post-16-institutions-for-academic-year-2018-to-2019>.

| <b>Proposer</b>                              | <b>Type of proposal</b>                  | <b>Process</b>    | <b>Decision maker</b> | <b>Right of referral to the adjudicator</b>       |
|--|--|-------------------|-----------------------|---|
| Local authority for community                | Establish, remove or alter SEN provision | Statutory process | Local authority       | CofE diocese, RC diocese                          |
| Local authority for voluntary and foundation | Establish or remove SEN provision        | Statutory process | Local authority       | CofE diocese, RC diocese, Governing body/Trustees |
| Governing body of foundation and voluntary   | Establish, remove or alter SEN provision | Statutory process | Local authority       | CofE diocese, RC diocese, Governing body/Trustees |

**Table 15: Mainstream school: establish/remove/alter SEN provision process**

## 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:

| <b>Proposer</b>                        | <b>Type of proposal</b>      | <b>Process</b>    | <b>Decision maker</b> | <b>Right of referral to the adjudicator</b>       |
|--|------------------------------|-------------------|-----------------------|---|
| Local authority for community special  | Change type of SEN provision | Statutory process | Local authority       | CofE diocese, RC diocese                          |
| Local authority for foundation special | Change type of SEN provision | Statutory process | Local authority       | CofE diocese, RC diocese, Governing body/Trustees |
| Governing body of community special    | Change type of SEN provision | Statutory process | Local authority       | CofE diocese, RC diocese                          |



| <b>Proposer</b>                      | <b>Type of proposal</b>      | <b>Process</b>    | <b>Decision maker</b> | <b>Right of referral to the adjudicator</b>       |
|--------------------------------------|------------------------------|-------------------|-----------------------|---|
| Governing body of foundation special | Change type of SEN provision | Statutory process | Local authority       | CofE diocese, RC diocese, Governing body/Trustees |

**Table 16: Change the types of need catered for by a special school process**

## Contentious proposals

When proposing changes, local authorities and governing bodies 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, local authorities and governing bodies should notify [schoolorganisation.notifications@education.gov.uk](mailto: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.

## Changes that can be made outside of the statutory process

Local authorities and governing bodies of maintained schools can make limited changes to their schools without following the statutory process, including some temporary changes (e.g. enlargement of premises anticipated to be in place for no more than 3 years, or a change of age range anticipated to be in place for no more than 2); local authorities and governing bodies are nevertheless required to adhere to the usual principles of public law. Local authorities and governing bodies MUST:

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

The department expects that in making these changes, local authorities and governing bodies 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 further education (FE) colleges as required) and other interested parties. The [consultation principles guidance](#)<sup>33</sup> can be referenced for examples of good practice.

Before making any changes, governing bodies should ensure that:

- they have consulted with the local authority to ensure the proposal is aligned with local place planning arrangements;

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<sup>33</sup> <https://www.gov.uk/government/publications/consultation-principles-guidance>.

- they have secured any necessary funding;
- they have identified suitable accommodation and sites;
- they have secured planning permission and/or agreement on the transfer of land where necessary<sup>34</sup>;
- they have the consent of the site trustees or other land owner where the land is not owned by the governing body;
- 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, as appropriate; and
- the admission authority is content for the PAN to be changed where this forms part of expansion plans, in accordance with the [School Admissions Code](#)<sup>35</sup>.

Once a decision on the change has been made, the change should be recorded in the department's [GIAS](#)<sup>36</sup> system. These changes should be made within a week of the date of implementation of the change and can be input in advance, once a decision is made.

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<sup>34</sup> 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](#).

<sup>35</sup> <https://www.gov.uk/government/publications/school-admissions-code--2>.

<sup>36</sup> <https://get-information-schools.service.gov.uk>.

## Statutory process: prescribed alterations

The statutory process for making prescribed alterations to schools (other than alterations arising from foundation proposals, which are covered in [statutory process: foundation proposals](#) section) has 5 stages:

| Stage   | Description                                | Timescale   | Comments  |
|---------|--|---|---|
| Stage 1 | Publication<br>(statutory proposal/notice) | -   | Where the proposed implementation timescale is longer than 3 years, the proposer should demonstrate good reason |
| Stage 2 | Representation<br>(formal consultation)    | Must be 4 weeks   | As set out in the 'Prescribed Alterations' regulations  |
| Stage 3 | Decision                                   | Local authority must decide a proposal within 2 months  |   |
| Stage 4 | Referral (if applicable)                   | If a decision has been made, any referral to the adjudicator must be made within 4 weeks of the decision.<br><br>If the local authority has not decided a proposal within 2 months, it must refer the proposal to the Schools Adjudicator |   |

| Stage   | Description    | Timescale               | Comments  |
|---------|----------------|-------------------------|---|
| Stage 5 | Implementation | No prescribed timescale | It must be as specified in the published statutory notice, subject to any modifications decided by the decision maker |

**Table 17: Prescribed alterations statutory process**

Although there is no longer a statutory ‘pre-publication’ consultation period for prescribed alteration changes, there is a strong expectation that governing bodies and local authorities will consult interested parties in developing their proposal prior to publication, to take into account all relevant considerations. Governing bodies 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, 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 any pre-publication consultation period if it overlaps school holidays etc;
- by planning where any public and stakeholder meetings are held to maximise response;
- by taking into account the admissions cycle for changes that will impact on the school’s admission arrangements.

A number of changes can impact admissions, necessitating e.g. 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 2 ways:

- the consultation on changing the admission arrangements (as set out in the [School Admissions Code](#)<sup>37</sup>) 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

<sup>37</sup> <https://www.gov.uk/government/publications/school-admissions-code--2>.

- a variation is sought, where necessary, in view of a major change in circumstances, from the [Schools Adjudicator](#)<sup>38</sup> 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 necessitate a reduction in PAN or removal of a relevant age group for admission after parents have submitted an application for the following September (i.e. 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 local authority is 'related' to a proposal by other proposers (e.g. where one school is to be enlarged because another is being closed), the 2 notices could be published together and cross-refer to the other.

The full proposal must be published on a website (e.g. the school or local authority'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 local authority's address to which objections or comments should be submitted.

A brief notice (including the website address) must be published in a local newspaper. If the proposal is published by a governing body, then notification must also be posted in a conspicuous place on the school premises and at or near all of the main entrances to the school.

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<sup>38</sup> <https://www.gov.uk/government/organisations/office-of-the-schools-adjudicator>.

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

- the governing body/local authority (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 Diocesan Boards of Education for any diocese of the CofE any part of which is comprised in the area of the local authority;
  - the bishop(s) of a diocese of the RC Church any part of which is comprised in the area of the local authority; or
  - the relevant faith group in relation to the school; and
- any other body or person that the proposer thinks is appropriate e.g. any affected educational institutions in the area, or neighbouring local authorities.

Proposals affecting a special school should go to any local authority that has commissioned a place at the school (i.e. all relevant authorities who have made an out of county/borough placement there).

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 3 years.

## **Representation (formal consultation)**

The representation period must last for 4 weeks from the date of the publication. During this period, any person or organisation can submit comments on the proposal to the local authority 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 local authority will be the decision maker in all cases<sup>39</sup> except where a proposal is 'related' to another proposal that must be decided by the [Schools Adjudicator](#)<sup>40</sup>, or where the proposals are referred to the Adjudicator as described below.

Decision makers will need to be satisfied that the appropriate fair and open representation period has been carried out and that the proposer has given full consideration to all the responses received during any pre-publication consultation. 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 2 months of the end of the representation period, or the proposals 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 whichever of the local authority and/or governing body that has not proposed the modification; or
- approve the proposal, with or without modification (having consulted on any modifications as mentioned above) subject to certain conditions<sup>41</sup> (such as the granting of planning permission) being met.

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<sup>39</sup> With the exception of proposals relating to changing category to foundation, acquiring a foundation trust and/or acquiring a foundation majority (see the [statutory process: foundation proposals](#) section below).

<sup>40</sup> <https://www.gov.uk/government/organisations/office-of-the-schools-adjudicator>.

<sup>41</sup> The condition must be the occurrence of a prescribed event. The prescribed events are those listed in [paragraph 8 of Schedule 3 to the Prescribed Alterations Regulations](#). These are:

- (c) the grant of planning permission under Part 3 of the Town and Country Planning Act 1990;
- (d) the acquisition of any site required for the implementation of the proposals;
- (e) the acquisition of playing fields required for the implementation of the proposals;
- (f) the securing of any necessary access to a site referred to in Paragraph (b) or playing fields referred to in Paragraph (c);
- (g) the entering into an agreement for any necessary building project supported by the Department for Education;
- (h) in the case of mainstream schools, the agreement to any change of the admission arrangements relating to the school or any other school or schools, as specified in the approval;
- (i) the making of any scheme relating to any charity connected with the school;
- (j) the formation of any federation (within the meaning of section 24(2) of the Education Act 2002 of which it is intended that the school should form part, or the fulfilling of any other condition relating to the school forming part of a federation;

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 local authority or the governing body (as appropriate); or the Schools Adjudicator (if the proposal has been referred to them). A notice must be placed on the website where the original proposal was published.

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

- the local authority (where the Schools Adjudicator is the decision maker);
- the Schools Adjudicator (where the local authority is the decision maker);
- the governing body (as appropriate);
- the trustees of the school (if any);
- the Diocesan Board of Education for any diocese of the CofE any part of which is comprised in the area of the local authority;
- the bishop(s) of a diocese of the RC Church any part of which is comprised in the area of the local authority;
- 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](#)<sup>42</sup> 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 local authority must publish the decision, with reasons, on the website where the original proposal was published.

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(k) where the proposals are to alter the upper age limit of the school, the decision of the Secretary of State to establish a new further education institution under section 16 or 33C of the Further and Higher Education Act 1992;

(l) where the proposals in question depend upon any of the events specified in Paragraphs (a) to (i) occurring by a specified date in relation to proposals relating to any other school or proposed school, the occurrence of such an event; and

(m) where proposals are related to proposals for the establishment of new schools or discontinuance of schools, and these proposals depend on the occurrence of events specified in regulation 16 of the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 the occurrence of such an event.

<sup>42</sup> <https://www.gov.uk/government/organisations/office-of-the-schools-adjudicator>.

## 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 events<sup>43</sup>. The decision maker must set a date by which the condition should be met but can modify the date if the governing body that made the proposal asks for this before the date expires, for example because the condition will be met later than originally thought. If the decision maker is the Schools Adjudicator they must consult the local authority before doing this.

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.

## 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.

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<sup>43</sup> Under [paragraph 8 of Schedule 3 to the Prescribed Alterations Regulations](#). See footnote 41.

Further information on the considerations can be found on the [Equality and Human Rights Commission](#)<sup>44</sup> 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 be satisfied that proposed changes will not adversely impact any particular group, including those with protected characteristics or who are disadvantaged (for example, those who are eligible for free school meals or pupil premium). Decision makers should also consider how the proposal will support the local authorities' duty to promote the use of sustainable travel and transport to school.

The decision maker should consider whether a proposal will result in unreasonably long journey times or increased travel costs for local authorities or families, as well as any increase in the use of motor vehicles which is likely to result from the change, and the likely effects of any such increase.

Decision makers should be satisfied that the proposers have taken into account whether the proposal will result in a significant increase in the number of children who are unable to travel sustainably, for example due to a lack of suitable walking, cycling or public transport routes. Further information is available in the statutory [Home-to-school travel and transport guidance](#)<sup>45</sup> for local authorities.

## Funding

The decision maker should be satisfied that any land, premises or necessary funding required to implement the proposal will be available and that all relevant local parties (e.g. trustees of the school, diocese or relevant diocesan board) have given any agreements required for this. A proposal cannot be approved conditionally upon funding being made available (unless the proposal is conditional on funding for any necessary

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<sup>44</sup> <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty>.

<sup>45</sup> <https://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance>.

building project supported by the Department<sup>46</sup>). In such circumstances consideration of the proposal should be deferred until it is clear that the capital necessary to implement the proposal will be provided.

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.

In terms of the revenue funding support that schools will receive for taking on additional pupils, schools' core allocations in any given year are based on the number of pupils that they had on roll at the previous autumn census. This means that schools that expand to educate additional pupils could be funded for fewer pupils for a given year. Local authorities can use growth funding to support schools to manage the revenue costs of an increase in pupil numbers before schools receive the corresponding increase in their core funding.

The department provides local authorities growth funding through the National Funding Formula (NFF) within their schools' block. Local authorities' growth funding is allocated based on the actual growth in pupil numbers experienced in the previous year. Local authorities determine criteria for allocating growth funding to schools in their area with the agreement of their schools forum. We expect any additional school places required to meet basic need would be funded in accordance with those local criteria.

Further information is available in the [Schools Operational Guidance](#) on local implementation of the funding system<sup>47</sup>.

## Right of referral

For prescribed alterations to maintained schools, the following bodies may refer a decision made by a local authority decision maker to the Schools Adjudicator, within 4 weeks of the decision being made:

- a Diocesan Board of Education for any diocese of the CofE any part of which is comprised in the area of the local authority;

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<sup>46</sup> [Paragraph 8\(e\) of Schedule 3 to the School Organisation \(Prescribed Alterations to Maintained Schools\) \(England\) Regulations 2013.](#)

<sup>47</sup> [https://www.gov.uk/government/publications/pre-16-schools-funding-local-authority-guidance-for-2023-to-2024/schools-operational-guide-2023-to-2024#growth-funding.](https://www.gov.uk/government/publications/pre-16-schools-funding-local-authority-guidance-for-2023-to-2024/schools-operational-guide-2023-to-2024#growth-funding)

- a bishop of the RC Church any part of which is comprised in the area of the local authority; and
- the governing body or trustees of a foundation, foundation special or voluntary school that is subject to the proposal.

On receipt of a request for a referral, a local authority decision maker must then send the proposal and representations received to the Schools Adjudicator within one week of receipt. There is no right of appeal on determinations made by the Schools Adjudicator.

## Implementation

A proposal must be implemented in the form that it was approved, including any modifications made by the decision maker.

## Modification post determination

Governing bodies 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. If the decision maker agrees, this removes the duty to implement as set out in the [School Organisation \(Prescribed Alterations to Maintained Schools\) \(England\) Regulations 2013](#)<sup>48</sup>.

## Land and buildings

### Foundation, foundation special or voluntary controlled schools

Where a local authority is required to provide a site for a foundation, foundation special or voluntary controlled school, the local authority must<sup>49</sup>:

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<sup>48</sup> <http://www.legislation.gov.uk/ukxi/2013/3110/contents/made>.

<sup>49</sup> <http://www.legislation.gov.uk/ukxi/2013/3110/schedule/3/paragraph/17/made>.

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

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

## **Voluntary aided schools**

Where a local authority is required to provide a site for a voluntary aided school<sup>50</sup>, or where they choose to use their discretionary powers to provide assistance by means of providing a site<sup>51</sup>, they must transfer their interest in the land to the trustees of the school or to the school's foundation bodies if the school has no trustees, and must pay to the persons to whom the transfer is made the reasonable costs in connection with the transfer.

## **School premises and playing fields**

Under the School Premises (England) Regulations 2012, all schools maintained by local authorities (except pupil referral units) are required to have 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](#)<sup>52</sup> setting out suggested areas for pitches and games courts are in place although these are non-statutory.

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<sup>50</sup> Paragraph 4 of Schedule 3 to the [School Standards and Framework Act 1998](#).

<sup>51</sup> Paragraph 8 of Schedule 3 to the [School Standards and Framework Act 1998](#).

<sup>52</sup> <https://www.gov.uk/guidance/school-land-and-property-protection-transfer-and-disposal>.

## Statutory process: foundation proposals

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

The foundation of a foundation trust school is called a 'foundation trust'. A foundation trust must have a charitable purpose of advancing the education of pupils at the school and must promote community cohesion.

The term 'acquire a foundation majority' means acquiring an instrument of government whereby a majority of governors on the governing body must be foundation governors<sup>53</sup>. Governing bodies can propose:

| Proposer                    | Type of proposal  | Process           | Decision maker | Right of referral to the adjudicator   |
|-----------------------------|---|-------------------|----------------|--|
| Governing body of voluntary | Voluntary controlled or voluntary aided to foundation school and acquire a foundation, Voluntary controlled or voluntary aided to foundation school, acquire a foundation and majority foundation governors on the governing body | Statutory process | Governing body | For proposals at a voluntary aided school when decided by the governing body:<br>Local authority, CofE diocese, RC diocese |

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<sup>53</sup> 'Foundation governor' is defined in regulation 9 of the School Governance (Constitution) (England) Regulations 2012.



| <b>Proposer</b>              | <b>Type of proposal</b>  | <b>Process</b>    | <b>Decision maker</b> | <b>Right of referral to the adjudicator</b> |
|------------------------------|--|-------------------|-----------------------|---|
| Governing body of foundation | Acquire foundation,<br>Acquire a majority of foundation governors on the governing body  | Statutory process | Governing body        | N/A   |
| Governing body of community  | Community to foundation school,<br>Community to foundation school and acquire foundation,<br>Community to foundation school and acquire majority of foundation governors on governing body | Statutory process | Governing body        | N/A   |

**Table 18: Changing category to foundation, acquiring a foundation trust and/or acquiring a foundation majority process**

Where a school’s governing body considers changing category to foundation and/or acquiring a foundation (including a foundation trust) and/or acquiring a foundation majority, the following 5-stage statutory process must be followed. These 3 types of proposals are collectively called ‘foundation proposals’.

| Stage   | Description                          | Timescale  | Comments   |
|---------|--------------------------------------|--|--|
| Stage 1 | Initiation/consent                   | -  | The governing body must in some cases get consent (as described below) before publishing proposals for a change of category to foundation/acquisition of a foundation trust/acquisition of a foundation majority |
| Stage 2 | Publication                          | -  | Having gained consent where required   |
| Stage 3 | Representation (formal consultation) | Must be 4 weeks  | As set out in the Prescribed Alterations Regulations   |
| Stage 4 | Decision                             | The governing body must decide within 12 months of the date of publication | Unless the local authority has triggered referral of 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 made by the decision maker  |

**Table 19: Foundation proposals statutory process**

## **Initiation/consent**

For a proposal to change the category of a school to a foundation school, the governing body should inform the local authority in writing of a proposed motion to consult, at least 7 days in advance of a meeting.

Before the governing body can publish a proposal to change category from a voluntary school to a foundation school, or a proposal for some types of foundation school to acquire a foundation majority, 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. [Schedule 1 to the Prescribed Alterations Regulations](#)<sup>54</sup> specifies information that the statutory proposal must contain.

## Representation (formal consultation)

The representation period starts on the date of the publication of the proposal and must last 4 weeks. During this period, any person or organisation can submit comments on the proposal to the governing body, to be taken into account when the decision is made.

During the representation period, the local authority has the power to require the referral of a proposal to acquire a foundation majority, or a proposal that would result in the school becoming a foundation school with a foundation or a foundation special school with a foundation, to the [Schools Adjudicator](#)<sup>55</sup> for decision, if they consider it will have a negative impact on standards at the school. The local authority does not have this power in respect of a proposal solely to change category to foundation<sup>56</sup>.

Where a proposal is referred to the [Schools Adjudicator](#)<sup>57</sup>, the governing body must forward any objections or comments it has received to the Schools Adjudicator within one week of the end of the representation period.

## Decision

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

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<sup>54</sup> <https://www.legislation.gov.uk/ukxi/2013/3110/schedule/1/part/1/made>.

<sup>55</sup> <https://www.gov.uk/government/organisations/office-of-the-schools-adjudicator>.

<sup>56</sup> However, where such a proposal is related to a proposal to acquire a foundation, then the whole set of proposals will be referred to the Schools Adjudicator.

<sup>57</sup> <https://www.gov.uk/government/organisations/office-of-the-schools-adjudicator>.

Where a proposal to acquire a foundation 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 local authority (or, if the decision maker is the Schools Adjudicator, the governing body); or
- approve the proposal with or without modifications (consulting as above before deciding on any modifications) but conditional upon:
  - the making of any scheme relating to any charity connected with the school; and
  - the establishment of a foundation<sup>58</sup>.

Where the local authority has required a governing body to refer a proposal to the Schools Adjudicator for decision, any related proposal(s) (including a change of category to foundation) will 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 duty<sup>59</sup> 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 (if the foundation trust is already in existence at the time of the decision).

## **Foundation schools acquiring a foundation trust**

For proposals for schools to become foundation trust schools the decision maker should be satisfied that the following criteria are met for the proposal to be approved:

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<sup>58</sup> As defined in [section 23A of the School Standards and Framework Act 1998](#).

<sup>59</sup> Under [section 23A of the School Standards and Framework Act 1998](#).

- 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 proposed foundation trustees are disqualified from exercising the function of foundation trustee, either by virtue of:
  - disqualifications from working with children or young people;
  - not having obtained a criminal record check certificate<sup>60</sup>;
  - the Charities Act 2011<sup>61</sup> which disqualifies 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. Foundation trust partners are partnership governors that only exist in foundation schools that have no foundation or equivalent body, and they act instead of foundation governors. They are eligible to be appointed if the person nominating them believes that they have the skills needed to contribute to the effective governance and success of the school. Decision makers 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](#)<sup>62</sup>
- [The Charity Commission's Register of Charities](#)<sup>63</sup>; and
- [The Companies House web check service](#)<sup>64</sup>.

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<sup>60</sup> Under [section 113A of the Police Act 1997](#).

<sup>61</sup> Section 178: <http://www.legislation.gov.uk/ukpga/2011/25/contents>.

<sup>62</sup> Appearance on this database should not automatically disqualify a potential trust member; decision makers will wish to consider each case on its merits: <https://www.hse.gov.uk/enforce/convictions.htm>.

<sup>63</sup> <https://register-of-charities.charitycommission.gov.uk>.

<sup>64</sup> <https://wck2.companieshouse.gov.uk/wcframe?name=accessCompanyInfo>.

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

- the local authority;
- the Diocesan Board of Education for any diocese of the CofE any part of which is comprised in the area of the local authority, if the proposal relates to a change of category from voluntary aided to foundation school; and
- the bishop(s) of a diocese of the RC Church any part of which is comprised in the area of the local authority, if the proposal relates to a change of category from voluntary aided to foundation school.

Where a proposal has been decided by the governing body and relates to changing the category of a voluntary aided school to foundation (with or without the acquisition of a foundation /foundation majority), the following bodies have the right to request referral to the [Schools Adjudicator](#)<sup>65</sup>:

- the local authority;
- the Diocesan Board of Education for any diocese of the CofE any part of which is comprised in the area of the local authority; and
- the bishop(s) of a diocese of the RC Church any part of which is comprised in the area of the local authority.

If one of those bodies requests referral, the governing body must submit the proposals, and any objections or comments received, to the Schools Adjudicator within one week of receiving the request.

## **Conditional approval**

Decision makers may make their approval conditional on certain prescribed kinds of events<sup>66</sup>. The decision maker must set a date by which the condition should be met but a governing body can modify the date before the date expires, for example if the condition will be met later than originally thought. Before changing the date for a condition to be met for a change of category to foundation school and/or the acquisition of a foundation, a governing body must consult the local authority.

<sup>65</sup> <https://www.gov.uk/government/organisations/office-of-the-schools-adjudicator>. The specific circumstances in which a referral can be made are prescribed under [paragraph 15 of Schedule 1 to the Prescribed Alterations Regulations](#).

<sup>66</sup> Under [paragraph 16 of Schedule 1 to the Prescribed Alterations Regulations](#).



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 governing body must implement any approved proposal by the approved implementation date, including any modifications made by the decision maker.

Within one week of implementation the governing body must provide information to the Secretary of State<sup>67</sup> about foundation proposals that have been implemented. Copies of the statutory proposals and decision record should be submitted to [schoolorganisation.notifications@education.gov.uk](mailto: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. The local authority must be consulted before any modification is made to a proposal for a change of category to foundation school or for the acquisition of a foundation. The details of the modification must be published on the website where the original proposal was published.

## Revocation

If the proposer no longer wants to implement an approved proposal, they must publish a revocation proposal as set out in the [Prescribed Alterations Regulations](#)<sup>68</sup>. If they decide, following that procedure, that the proposed changes should not be implemented, they will be relieved of the duty to implement.

## Governance and staffing issues

[Schedule 4 to the Prescribed Alterations Regulations](#)<sup>69</sup> provides further information on the requirements about:

- the revision or replacement of the school's instrument of government;
- reconstitution or replacement of the governing body;
- current governors continuing in office;

<sup>67</sup> <http://www.legislation.gov.uk/uksi/2013/3110/schedule/1/paragraph/18/made>.

<sup>68</sup> <https://www.legislation.gov.uk/uksi/2013/3110/contents/made>.

<sup>70</sup> <https://www.legislation.gov.uk/uksi/2007/1289/schedule/4/made>.

- surplus governors;
- transfer of staff; and
- transitional admission arrangements.

## Land transfer issues

When making a proposal to acquire a foundation, 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. Requirements as to land transfers when a school acquires a foundation are prescribed in [Schedule 5 to the Prescribed Alterations Regulations](#)<sup>70</sup>.

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.

## Removing a foundation trust and/or removing a foundation majority

Governing bodies of foundation schools can propose to remove a foundation trust and/or remove a foundation majority by following the statutory process:

| Proposer                     | Type of proposal   | Process           | Decision maker | Right of referral to the adjudicator |
|------------------------------|--|-------------------|----------------|--------------------------------------|
| Governing body of foundation | Removal of foundation and/or reduction in majority of foundation governors on governing body | Statutory process | Governing body | N/A                                  |

**Table 20: Removing a foundation trust and/or removing a foundation majority process**

There are 5 or 6 statutory stages (depending on the proposal and circumstances) to remove a foundation and/or to remove a foundation majority. This procedure applies only if the school was established under the Education and Inspections Act 2006 or acquired its foundation under that Act. It does not apply to a foundation that was established under

<sup>70</sup> <https://www.legislation.gov.uk/uksi/2007/1289/schedule/4/made>.

the School Standards and Framework Act 1998. It may be triggered in 2 different ways – either by a majority or a minority of the governing body:

| Stage   | Description  | Timescale   | Comments  |
|---------|--|---|---|
| Stage 1 | Initiation   | -   | <p><b>Majority</b><br/>A meeting of the whole governing body votes to publish a proposal to remove a foundation/remove the foundation majority,</p> <p>or</p> <p><b>Minority</b><br/>A minority (of not less than a third of the governors) notify the clerk of the governing body of their wish for the governing body to publish a proposal to remove a foundation/remove the foundation majority</p> |
| Stage 2 | Land Issues (applicable only to removal of foundation) | If not resolved within 3 months, disputes must be referred to the Schools Adjudicator | In cases of removing foundation, the governing body, trustees and the local authority must resolve issues related to land and assets before a proposal is published   |

| Stage   | Description    | Timescale   | Comments  |
|---------|----------------|---|---|
| Stage 3 | Consultation   | <p><b>Majority</b><br/>A minimum of 4 weeks is recommended or</p> <p><b>Minority</b><br/>No consultation required</p>   | <p><b>Majority</b><br/>It is for the governing body to determine the length of consultation</p>   |
| Stage 4 | Publication    | <p><b>Minority</b><br/>Where there are no land or asset issues – publish within 3 months of receipt of notice by governing body clerk</p> <p>Where there are land issues, publish within one month of receipt of School Adjudicator’s determination</p> | -   |
| Stage 5 | Representation | 6 week representation period  | -   |
| Stage 6 | Decision       | Within 3 months of publication  | A proposal initiated by a minority of governors may not be rejected unless at least 2/3 of the governing body vote in favour of the rejection |

| Stage   | Description    | Timescale               | Comments  |
|---------|----------------|-------------------------|---|
| Stage 7 | Implementation | No prescribed timescale | Must be as specified in the statutory notice, subject to any modifications made by the decision maker |

**Table 21: Remove a foundation and/or foundation majority statutory process**

## Initiation

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

- the governing body<sup>71</sup> or a committee deciding to publish a proposal. The decision to publish must be confirmed by the whole governing body at a meeting held at least 28 days after the meeting at which the initial decision was made; or
- at least 1/3<sup>72</sup> of the governors requesting in writing to the clerk of the governing body, that a proposal be published. No vote of the governing body is required as they are obliged to publish a proposal. To prevent on-going challenges there are a number of prescribed circumstances<sup>73</sup> in which there is no obligation to follow the wishes of the minority of governors.

## Land and assets (when removing a foundation)

Before publishing proposals to remove a foundation, the governing body must reach agreement with the trustees and local authority on prescribed issues relating to the school's land and assets<sup>74</sup>. Where such issues remain unresolved within 3 months of the initial decision (majority) or receipt of notice by the clerk (minority), they must be referred to the [Schools Adjudicator](#)<sup>75</sup> for determination.

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<sup>71</sup> [Regulation 4 of the School Organisation \(Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations 2007.](#)

<sup>72</sup> [Regulation 5 of the School Organisation \(Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations 2007.](#)

<sup>73</sup> [Regulation 5\(4\) of the School Organisation \(Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations 2007.](#)

<sup>74</sup> The issues on which they must agree are set out in regulation 6(1) of the School Organisation (Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts) (England) Regulations 2007

<sup>75</sup> <https://www.gov.uk/government/organisations/office-of-the-schools-adjudicator>.

On the removal of the foundation, all publicly provided land held by the foundation for the purposes of the school will transfer to the governing body<sup>76</sup>. Where the land originated from private sources (for example, where land was gifted on trust), the land will transfer to the governing body in accordance with a transfer agreement, providing for consideration to be paid by the governing body to the trustees where appropriate. This also applies to a transfer of publicly provided land if the trustees sold other land to buy the land or to build buildings on it. However, there may be land which has benefited from investment from public funds which remains with the trustees under the transfer agreement.

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

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

## Consultation

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

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

- families of pupils at the school;
- teachers and other staff at the school;
- the trustees and, if different, whoever appoints foundation governors;
- the local authority;
- the governing bodies of any other foundation or foundation special schools maintained by the same local authority 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;



<sup>76</sup> By virtue of [regulation 17\(1\) of the School Organisation \(Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations 2007](#).

- the Secretary of State if the proposals affect the provision of full-time education suitable to children and young people between the beginning of the academic year when they turn 15 and the date they turn 19; and
- any other person the governing body consider appropriate.

## Publication

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

Where the decision to publish a proposal was made by a minority of governors and there are no land issues to be determined, the governing body must publish the proposal within 3 months of the receipt of the notice by the clerk. If land issues were referred to the [Schools Adjudicator](#)<sup>77</sup>, the proposal must be published within one month of receipt of its determination.

Proposals to remove a foundation 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](#)<sup>78</sup>.

At the same time as publishing the proposals, the governing body must send copies of the proposals to the trustees, the Secretary of State, and the local authority. The Secretary of State's copy should be emailed to [schoolorganisation.notifications@education.gov.uk](mailto:schoolorganisation.notifications@education.gov.uk).

## Representation

The representation period starts on the date of the publication of the proposal and must last 6 weeks. During this period, any person or organisation can submit comments on the proposal to the governing body to be taken into account when the decision is made.

Unlike the foundation acquisition process, there is no power for the local authority to refer a proposal to the Schools Adjudicator to remove a school's foundation or to remove a foundation majority. However, governing bodies must bear in mind that failure to follow the requirements of the statutory process could lead to a complaint to the Secretary of

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<sup>77</sup> <https://www.gov.uk/government/organisations/office-of-the-schools-adjudicator>.

<sup>78</sup> <https://www.legislation.gov.uk/uksi/2007/3475/contents/made>.

State under section 496/497 of the Education Act 1996, and/or ultimately be challenged through judicial review.

## Decision

The governing body is the decision maker for a proposal to remove a foundation or a foundation majority and must determine the proposal within 3 months of the date of its publication.

If a proposal was published following a decision of the whole governing body, then it may be determined by a majority vote of those governors present at the meeting to decide the proposals<sup>79</sup>.

If a proposal was initiated by a minority of governors, then the governing body may not reject the proposal unless 2/3 or more of the governors indicate that they are in favour of its rejection<sup>80</sup>.

When deciding a proposal for the removal of a foundation, the governing body should consider the proposal in the context of the original decision to acquire the foundation, and consider whether the foundation has fulfilled its expectations. Where new information has come to light regarding the suitability of foundation trust partners to act as a partnership governor in a foundation school that has no foundation or equivalent body, 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<sup>81</sup>.

The governing body must notify the relevant local authority, trustees and the Secretary of State of their decision. Notification to the Secretary of State should be sent via [schoolorganisation.notifications@education.gov.uk](mailto:schoolorganisation.notifications@education.gov.uk).

## Implementation

The governing body is under a statutory duty to implement any approved proposal, as published (and as modified in the final decision), by the approved implementation date.

Removal of a foundation must be implemented in accordance with regulations 14-18, and removal of foundation majority must be implemented as per regulations 14-16 of the

<sup>79</sup> As per the [School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013](#).

<sup>80</sup> As per [regulation 11\(2\) of the School Organisation \(Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations 2007](#).

<sup>81</sup> Except as otherwise provided by the [School Organisation \(Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations 2007](#).

School Organisation (Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts) (England) Regulations 2007.

An implementation period begins when the proposal is decided and ends on the date set out in the proposal (as published or as subsequently modified) as the date by which implementation is to occur. During this period, the local authority and governing body are required to ensure that a new instrument of government is made for the school, so enough time must be built into the timeframe for this to happen. The governing body must then be reconstituted in accordance with the new instrument of government and the [School Governance \(Constitution\) \(England\) Regulations 2012](#)<sup>82</sup>.

When removing a foundation 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 governing body who continues as a governor on these grounds holds office for the remainder of the term for which they were originally appointed or elected. Where a school with a religious character has no foundation trust, the governing body must appoint partnership governors with a view to ensuring that the religious character of the school is preserved and developed in accordance with the School Governance (Constitution) (England) Regulations 2012. There is nothing to prevent a former foundation governor being reappointed by the governing body as a partnership governor, if eligible.

Where there are more governors for the category than are provided for by the new instrument of government, it must be decided which governors in that category are best placed to contribute to the effective governance and success of the school. For foundation governors, this decision must be made by those who appointed them. For governors without a foundation, this decision must be made by the governing body. The others must cease to hold office.

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 for the use of the school and premises.

## **Modification of proposals**

The governing body may approve a proposal subject to modifications. Modifications can only be made to the implementation date and the proposed constitution of the governing body. If the proposal was initiated by a minority of governors, a modification can only be made at a vote of at least 2/3 of the governors.

<sup>82</sup> <https://www.legislation.gov.uk/uksi/2012/1034/contents/made>.

## Further information

### Relevant departmental advice and statutory guidance

This guidance primarily relates to:

- [The School Organisation \(Prescribed Alterations to Maintained Schools\) \(England\) Regulations 2013](#)
- [The School Organisation \(Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations 2007](#)
- [The School Organisation \(Requirements as to Foundations\) \(England\) Regulations 2007](#)
- [Education and Inspections Act 2006](#) (especially Parts 2 and 3)
- [School Standards and Framework Act 1998](#)
- [The School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013](#)

It also relates to:

- [The School Governance \(Constitution\) \(England\) Regulations 2012](#)
- [The School Governance \(Constitution and Federations\) \(England\) \(Amendment\) Regulations 2014](#)
- [The School Governance \(Miscellaneous Amendments\) \(England\) Regulations 2015](#)
- [The School Governance \(New Schools\) \(England\) Regulations 2007](#)
- [The School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013](#)
- [Childcare Act 2006](#)
- [The School Premises \(England\) Regulations 2012](#)
- [Making significant changes to existing academies guidance](#)
- [Closure of an academy by mutual agreement guidance](#)
- [Establishing a new school: free school presumption guidance](#)
- [Opening and closing maintained schools guidance](#)
- [School admissions code](#)

- [Education Act 1996](#)
- [Equality Act 2010](#)
- [Police Act 1997](#)
- [Charities Act 2011](#)
- Guidance from the Equality and Human Rights Commission on the [Public Sector Equality Duty](#)

## Other departmental resources

Contact details for Regional Directors offices:

- East Midlands – [RG.EM@education.gov.uk](mailto:RG.EM@education.gov.uk)
- East of England – [RG.EOE@education.gov.uk](mailto:RG.EOE@education.gov.uk)
- London – [RG.LONDON@education.gov.uk](mailto:RG.LONDON@education.gov.uk)
- North West – [RG.NW@education.gov.uk](mailto:RG.NW@education.gov.uk)
- South East – [RG.SE@education.gov.uk](mailto:RG.SE@education.gov.uk)
- South West – [RG.SW@education.gov.uk](mailto:RG.SW@education.gov.uk)
- West Midlands – [RG.WM@education.gov.uk](mailto:RG.WM@education.gov.uk)
- Yorkshire and Humber – [RG.YH@education.gov.uk](mailto:RG.YH@education.gov.uk)



## **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 local authority 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.



Department  
for Education

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## 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:

Statutory Proposals in relation to community schools and non-statutory proposals in relation to voluntary schools in the Berwick Partnership with respect to reorganisation to a 2-tier(primary/secondary) structure.

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

Cabinet approval is requested for implementation of proposals set out in the Statutory Proposal approved by the Council's Cabinet for publication on 11 May 2023:

- Closure of the following schools:
  - Berwick Middle School with effect from 31 August 2026;
  - Glendale Middle School with effect from 31 August 2026;
  - Tweedmouth Community Middle School with effect from 31 August 2026.
- To facilitate the above, extension of the age ranges of the following schools:
  - Scremerston First School from an age 4 to 9 first school to an age 4 to 11 primary school in a phased way with effect from 1 September 2025.
  - Tweedmouth Prior Park First School from an age 3 to 9 first school to an age 3 to 11 primary school in a phased way with effect from 1 September 2025.
  - Tweedmouth West First School from an age 4 to 9 first school to an age 4 to 11 primary school in a phased way with effect from 1 September 2025.
  - Wooler First School from an age 2 to 9 first school to an age 2 to 11 primary school in a phased way with effect from 1 September 2025.
- Establishment of a SEN unit:

- Establish a SEN Unit at the site of Berwick St Mary's Church of England First School with 30 places for children diagnosed with special educational needs, primarily those with Autistic Spectrum Disorder (ASD), Social, Emotional and Mental Health (SEMH), Speech Language and Communication (SLCN) and Moderate Learning Difficulties (MLD) with effect from 1 September 2025.

Linked to the statutory proposals, Cabinet approval is also requested for implementation of the following non-statutory changes consulted on at Phase 2 pre-statutory consultation to extend the age ranges of the following schools;

- Berwick St Mary's Church of England First School from an age 3 to 9 first school to an age 3 to 11 primary school with effect from 1 September 2025.
- Holy Trinity Church of England First School from an age 3 to 9 first school to an age 3 to 11 primary school with effect from 1 September 2025.
- Holy Island Church of England First School from an age 3 to 9 first school to an age 3-11 primary school with effect from 1 September 2025.
- Hugh Joicey Church of England First School from an age 4 to 9 first school to an age 4 to 11 primary school with effect from 1 September 2025.
- Lowick Church of England Voluntary Controlled First School from an age 2 to 9 first school to an age 2 to 11 primary school with effect from 1 September 2025.
- Norham St Ceolwulf's C of E Controlled First School from an age 3 to 9 first school to an age 3 to 11 primary school with effect from 1 September 2025.

Phase 2 (pre-statutory) consultation on proposals for schools and academies took place between 31 October 2022 and 3 March 2023, setting out proposals for a revised 3-tier structure and a 2-tier (primary/secondary) which would require school reorganisation in light of the proposed capital investment in schools in the Berwick Partnership, falling pupil numbers in the Berwick area in order to support sustainable and viable schools in the future. Following analysis of the outcomes of Phase 2 Consultation, cabinet was recommended to approve the publication of the statutory proposals set out above. Details of the outcomes of Phase 2 consultation are set out in the Report of the Member for Children's Services, 9 May 2023.

Phase 2 Consultation also included proposals to provide additional specialist SEND places to meet the growing need for places for children and young people diagnosed with a primary need of Autistic Spectrum Disorder (ASD) and Social, Emotional and Mental Health needs (SEMH) within the Berwick Partnership area. As set out above, a proposal to create a SEN unit of for pupils with primary needs in ASD, SEMH, SLCN and MLD was included in the statutory proposal

Cabinet approved consultation in the light of the need to ensure that the proposed capital investment of £39.9m (at that time) in school buildings in the Berwick Partnership set out in the Council's medium term plan would be invested in an educational system that would improve outcomes for children and young people in the Berwick area across all phases and that would support sustainable and viable schools for the foreseeable future.

Regulations require that some of the proposed prescribed alterations for some schools would fall to be required to be published in a statutory proposal, while some are non-statutory. Related to the proposals for the above mainstream schools are proposals in relation to the two academies in the partnership have received approval from their

respective Trustees, with final approval being required from the Regional Director North East. Cabinet would need to make a final decision on the proposals set out within the statutory notice within two months of the end of the representation period.

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

Disability Sex Age ~~Race~~ ~~Religion~~ Sexual orientation

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

~~Employees who are married/in civil partnerships~~

4) The characteristics checked above are not relevant because:

In the medium to long-term and in relation to both the reorganisation of the mainstream schools within the statutory and non-statutory proposals including proposed specialist provision units at St Mary's Church of England Primary School (as it would be) and Berwick Academy for pupils with primary needs of SEMH, ASD, MLD and SLCN, there is no reason to believe that these proposals would affect more positively or negatively than their peers any group of children, parents or staff linked with these schools defined by their religion, race, gender-reassignment status or marital status. Should the Council decide to implement the proposed statutory and non-statutory proposals in relation to schools for which it is the Decision Maker, and should the Trustees of St Mary's and Berwick Academy and the Regional Director DfE North East decide to approve the proposal for those academies at a future date, during the immediate process of transition, families would be invited to inform the Council and/or the relevant Trustees that they are concerned about the impact that the change may have on the support networks for any individual children who may be at particular risk of harassment or discrimination. Reasonable adjustments would be made to support individual students where appropriate.

The statutory and non-statutory proposals include school closure proposals and therefore staff in schools proposed for closure would be placed at risk of redundancy. Existing HR policies covering organisational change and redundancy would apply to staff employed at any of the maintained schools affected. These are designed to ensure that the equalities duties of the Council and the schools are fully met.

Reasonable adjustments would be made for disabled members of staff. The Council operates a guaranteed interview scheme for disabled members of staff.

## **PART 2 – Relevance to different Protected Characteristics**

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

### **Disability**

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

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

As at January 2023, there were 29 pupils on roll at the first schools with an EHCP, 12 students on roll in middle schools with an EHCP and 13 students on roll in Berwick Academy with an EHCP (partnership total 54). It is therefore expected that a number of these students would still be on roll at these schools, by the time the proposal is planned to be implemented from September 2025. Should the proposals be approved, individual transition plans would be developed to ensure that any impact on pupils with EHCPs that would be displaced as a result school closures is minimal and planned for effectively.

Any students who were offered a place at the proposed SEN units at St Mary's and Berwick Academy would similarly have suitable transition plans in place in accordance with their needs.

Any member of staff, or parent or a carer of a student at one of the schools or academies in the Berwick Partnership who has a disability would not be affected disproportionately by the proposal as any reasonable adjustments or arrangements would be put in place at buildings where required and in any new buildings (e.g. for Berwick Academy) as part of the design process.

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

Refer to para. 5

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

No evidence has arisen during the statutory period to suggest that the implementation of the proposed statutory and non-statutory proposals would affect any current arrangements for disabled people to participate in public life. However, in relation to residents living in the areas around the location of the school sites in particular, should any impact in this regard come to light, ameliorating and proportionate measures would be investigated to address any negative impact.

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

No evidence has arisen during the statutory period to suggest that the implementation of the statutory proposals would affect public attitudes to disabled people. However, should any impact in this regard come to light, ameliorating and proportionate measures would be investigated to address any negative impact.

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

No evidence has arisen during the statutory period to suggest that the implementation of the statutory and non-statutory proposals would affect public attitudes to disabled people. However, should any impact in this regard come to light, ameliorating and proportionate measures would be investigated to address any negative impact.

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

The premise of the statutory and non-statutory proposals in relation to the reorganisation of the mainstream schools and the proposals of the academies is that educational outcomes for all students in their schools would improve across all phases of education and that schools and academies would be sustainable and viable for the medium to long term. Therefore, it is envisaged there would be disproportionate advantage of the proposal to all students on roll at the relevant mainstream schools within the partnership.

In relation to the development of a SEN units at St Mary's and Berwick Academy, while it is also envisaged that their educational outcomes would improve, they would also be able to receive their education closer to their home communities thus reducing travelling times to school and also enabling them to develop friendships with pupils in their local area. It is therefore envisaged that these students would be disproportionately advantaged both educationally and socially.

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

Should this proposal be implemented, there would potentially be opportunities for positive impacts for disabled people within the design of the new buildings that are not currently in place in existing buildings. See also para. 10.

## **Sex (Gender)**

12) What do you know about usage of the services affected by this change, decision or proposal in relation to people of a certain gender, about their experiences of it, and about any current barriers to access?

Schools and academies in the Berwick Partnership are co-educational.

13) Could people of a certain gender be disproportionately advantaged or disadvantaged by the change, decision or proposal?

No evidence has arisen during the statutory period to suggest that either boys or girls would be disproportionately advantaged or disadvantaged by the statutory and non-statutory proposals.

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

No evidence has arisen during the statutory period to suggest that the ability of people of a certain gender to participate in public life would be affected by the implementation of the statutory and non-statutory proposals. However, should any impact in this regard come to light, ameliorating and proportionate measures would be investigated to address any negative impact.

15) Could the change, decision or proposal affect public attitudes towards people of a certain gender (e.g. by increasing or reducing their presence in the community)

To date, there has been no evidence to suggest that public attitudes to people with people of a certain gender would be impacted positively or negatively as a result of the statutory and non-statutory proposals. However, ameliorating actions would be implemented in the event that issues were identified.

16) Could the change, decision or proposal make it more or less likely that people of a certain gender will be at risk of harassment or victimisation?

Should the statutory and non-statutory proposals be implemented, the risk of harassment or victimisation of people of a certain gender, such as bullying, would be monitored. Should evidence be identified that risk of harassment had increased, relevant actions stated would be undertaken to address the reasons for harassment or victimisation, including awareness programmes.

17) If there are risks that people of a certain gender could be disproportionately disadvantaged by the change, decision or proposal, are there reasonable steps or adjustments that could be taken to reduce these risks?

No evidence has so far been identified during the statutory period to suggest that people of a certain gender could be disproportionately disadvantaged through the implementation of the proposal. However, ameliorating actions would be implemented in the event that issues were identified.

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

It is envisaged that the positive impacts of the statutory and non-statutory proposals would affect people of different sexual orientations equally. However, while none have been so far identified, any opportunities to create positive impacts for people with different genders would be identified.

## **Age**

19) 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?

First schools in the Berwick Partnership provide education to young people from the age of 2,3 or 4 to age 9, the middle schools provide education to young people aged 9 to 13, and Berwick Academy provides education to young people between the ages of 13 and 18. Students on roll at these schools at the proposed date of implementation would be impacted. It is proposed that the new SEN unit at St Mary's would provide education for pupils aged 4 to 11, while the SEN unit at Berwick Academy would educate children and young people aged 11 to 18.



Staff at the schools proposed for closure within the statutory proposal are employed equitably in accordance with the relevant school and council's employment policies. All appropriate HR processes and procedures would be adhered to throughout any staff consultation and redundancy process (if any were necessary) in line with NCC policies.

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

While the premise of the statutory and non-statutory proposals is that pupils would be advantaged educationally, there may be other impacts such as shorter journeys to school e.g. for children attending first schools, if the schools are approved to become primaries, they would receive their Year 5 and 6 education at their local school, while children who may be allocated a place at either the St Mary's or Berwick Academy SEN Units would be likely to have a shorter journey to school than may have been the case if they attended an alternative specialist provision. Therefore, shorter journeys would be seen as advantageous to those pupils.

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

There is no evidence to suggest statutory consultation that the proposed statutory and non-statutory proposals would have any effect on the ability of different age groups to participate in public life.

22) 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 from the statutory period that the proposed statutory proposals would affect public attitudes to different age groups.

24) 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?

No evidence has arisen during the statutory period that people of different age groups could be disproportionately disadvantaged by the statutory and non-statutory proposals. Should approval be given to implement the proposals and any risks are identified during such implementation, reasonable steps would be taken to ameliorate such risks.

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

The premise of the proposal is to create a positive impact for all students on roll in schools in the Berwick Partnership and for those students who would be allocated a place at the St Mary's and Berwick Academy SEN units in relation to improved educational outcomes.

## **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.*

26) 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?

No evidence has arisen during the statutory period to suggest that the proposal would create any barriers to students accessing any of the schools that would be included in the statutory proposals, non-statutory and academy proposals as all students eligible for Home to School Transport would receive it.

In relation to the proposed reorganisation of the Berwick Partnership mainstream schools, any parent of a student in a school in the partnership who may be pregnant or who has other children under 26 weeks old would not be disadvantaged as children in the first schools would stay at their school as it became primary up to the end of Year 6. This could therefore be advantageous to this protected group.

Any staff of schools named in the statutory or non-statutory proposals who may be pregnant would have the same rights extended to them under reorganisation, or in the case of the proposed primary and secondary SEN units, if such staff took up a post at the proposed SEN units.

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

See para.26.

28) 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.)

No evidence has arisen during the statutory period to suggest that the statutory and non-statutory proposals would have any effect on the ability of pregnant women or those with children under 26 weeks participate in public life under the proposals.

29) 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)

No evidence has arisen during the statutory period to suggest that the statutory and non-statutory proposals would have any effect on public attitudes to this protected group under the proposals.

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

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

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

No, for the reasons set out at para. 26.

32) 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. 26.

## **Sexual Orientation**

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

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

There is currently no evidence to suggest that any student on roll in a school named in the statutory and non-statutory proposals or a member of staff who identifies as LGBT employed by these schools would be disproportionately impacted positively or negatively should approval be given to implement the proposals.

However, should any pupil or member of staff who identifies with this group be identified as requiring support, the authority would encourage staff of schools and academies named in the statutory and non-statutory proposals to use the Stonewall Education champion's resources and to increase awareness of any potential issues such as increased risk of bullying.

Should a member of staff identifying as LGBT in a school in the schools named in the statutory and non-statutory proposals feel that their support networks have been disrupted, staff would be made aware of the support available through the Council's LGBT staff group and managers will be made aware of the guide to supporting LGBT staff on the Council Equality and Diversity webpage. HR policies aim to promote equality and inclusion. Staff working in the academies within the partnership would also be able to access these support groups.

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

There is currently no evidence from the statutory period to suggest that different sexual orientations would be disproportionately advantaged or disadvantaged by the implementation of the statutory and non-statutory proposals. However, ameliorating actions stated in para. 33 would be implemented in the event that issues were identified.

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

There is currently no evidence arising from the statutory period to suggest that the ability of people with different sexual orientations to participate in public life would be affected by the implementation of the statutory proposal. However, ameliorating actions stated in para. 33 would be implemented in the event that issues were identified.

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

To date, there has been no evidence to suggest that public attitudes to people with different sexual orientations would be affected by the proposed statutory and non-statutory proposals. However, ameliorating actions stated in para. 33 would be implemented in the event that issues were identified.

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

Should the proposals be approved for implementation at a later date, the risk of harassment or victimisation of people with different sexual orientations would be monitored. Should evidence be identified that risk of harassment had increased, the relevant actions stated in para. 33 would be implemented.

There is currently no evidence to suggest that any member of the public, pupil in one of the schools or academies named in the statutory and non-statutory proposals, parent of a pupils on roll in the schools or academies named in the statutory and non-statutory proposals or member of staff employed in one of the schools or academies named in the statutory and non-statutory proposals who identifies as LGBT would be more or less likely to be at risk of harassment or victimisation. Should the approval be given to implement the proposals at a later date. However, should any of this group of people who identifies within this protected group be identified as at risk as a result of the implementation of this proposal, the authority and trustees of the academies would encourage the staff of the relevant schools to use the Stonewall Education champion's resources and to increase awareness of any potential issues such as increased risk of bullying.

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

No evidence has so far been identified during the statutory period to suggest that people with different sexual orientations could be disproportionately disadvantaged through the implementation of the statutory proposal. However, ameliorating actions stated in para. 33 would be implemented in the event that issues were identified.

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

Should approval be given to implement the statutory and non-statutory proposals, while none have been so far identified any opportunities to create positive impacts for

people with different sexual orientations would be implemented, possibly through the implementation of the actions set out in para. 33.

## Human Rights

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

While there is no specific evidence to suggest that the implementation of the statutory and non-statutory proposals would impact positively on human rights, the rationale for this proposal as originally consulted on is to provide improved educational outcomes for all students on roll in schools in the Berwick Partnership and to support the sustainability and viability of schools and academies. For all pupils, including those who would be allocated places at the proposed SEN units at St Mary's and Berwick Academy, the aim would be to improve their life chances.

### PART 3 - Course of Action

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

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

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

From the initial analysis of the possible negative or positive impacts of the statutory and non-statutory proposals on the groups with protected characteristics, the premise of the proposal as originally consulted on suggests that pupils on roll at schools and academies in the Berwick Partnership and those who would be allocated a place the SEN units at St Mary's or Berwick Academy would be disproportionately advantaged. No evidence has arisen during the statutory period to suggest that there could be possible negative impacts on the protected groups identified in this assessment. However, should approval be given to implement the statutory and non-statutory proposals, any identified risks would be analysed to establish whether or not these were 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**

42) 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 re-assessed in the light of feedback from the statutory consultation periods set out earlier in this report. Should the proposals be approved by the relevant bodies (and in the case of the Council's Cabinet, approve the publication of the statutory proposals) for implementation, the EIA would be further updated and monitored during the implementation period i.e. until August 2026. Should any risks to protected groups be identified during the implementation period, an action plan to ameliorate such risks with timescales would be developed and implemented.

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

Name of Head of Service and Date Approved

Sue Aviston 23 June 2023

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