



Department
for Education

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Respond by 24 October 2013
Ref: Department for Education

Changes to the System of School Organisation

Changes to the System of School Organisation

The Department for Education is considering amending the existing legislative and policy requirements for making significant changes to schools.

The aim is for schools to be more in charge of their own decisions about size and composition and to be able to respond to what parents want locally without being unduly restricted by process. In practice, this means that:

- individual maintained schools would have the freedom to make certain changes (e.g. enlargement of premises) without following a statutory process;
- the requirement for academies to apply to the department for permission to make similar changes would be removed;
- the statutory processes would be slimmed down for certain other changes to maintained schools (e.g. a single sex school becoming co-educational) by reducing the length of the process and the level of prescription.

This consultation seeks views on the implementation of these aims.

To Parents/Carers, Nurseries and Other Pre-School Settings, Local Authorities, Training Providers, Early Years Practitioners, Childminders, Schools, Teachers

Issued 12 September 2013

Enquiries To If your enquiry is related to the policy content of the consultation you can contact the Department on 0370 000 2288

e-mail: schoolorganisation.consultation@education.gsi.gov.uk

Contact Details

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the Ministerial and Public Communications Division by e-mail: consultation.unit@education.gsi.gov.uk or by telephone: 0370

000 2288 or via the Department's ['Contact Us'](#) page.

1 Alterations to maintained schools

1.1 Alterations to maintained schools¹

Freedoms for individual schools

Provided they already have suitable accommodation, or have secured any necessary funding to expand school buildings,² **individual maintained mainstream schools will have the freedom to make the following changes without following a statutory process:**

- expansion (enlargement of premises);
- changes to a school's lower or upper age range (other than adding or removing a sixth form) by a year or more. In particular this will make it easier for schools to offer Early Learning places to two-year-olds³;
- adding boarding provision.

1.2 Although we are removing the duty to follow a statutory process, we would still expect some form of consultation to be undertaken by schools when proposing these changes.

1.3 In line with their sufficiency duties, LAs will still have the power to propose these changes for community schools, but must follow a streamlined statutory process.

1.4 Streamlined statutory processes

For alterations where a statutory process is to be retained, we intend to streamline the legislative requirements by introducing new secondary legislation – The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013⁴ – which is available [here](#).

1 - Section 19 of the Education and Inspections Act (EIA) 2006

2 - Section 19 of the Education and Inspections Act (EIA) 2006

3 - This does not allow schools to add an additional phase of education, which may constitute a new school for which the academy presumption would apply

4 - These replace the 2007 Regulations of the same name.

1.5 This will reduce the length of the statutory process by:

- removing the requirement to consult before publishing proposals_(usually 4 to 6 weeks at present). This does not prevent proposers from undertaking informal consultation if they want to do so.⁵
- reducing the statutory representation period from 6 to 4 weeks. This will continue to allow for the submission of comments that must be taken into account by the decision maker.

1.6 It will also reduce the level of prescription for:

- the detail that proposals must contain;
- publication requirements;
- the prescribed list of bodies to whom proposals must be sent.

1.7 The slimmed down processes would apply to the following changes: adding/ removing a sixth form; removing boarding provision; adding/ removing/ altering SEN provision; single sex school becoming co-educational (or vice versa); transferring to a new site; closure of one site in a split site school; changes of category.

1.8 Special schools will have to follow the new streamlined statutory process to make changes to their school size and composition.

1.9 Further information on who will be able to make what changes under the new Prescribed Alteration Regulations is available **here** and guidance will also be made available.

⁵ - Expansion of buildings will be subject to planning law and regulations that include public consultation.

2 Alterations to academies

2.1 We are proposing to give individual academies the freedom to make the following changes (provided they have secured any necessary funding, and have conducted a local consultation as part of their decision making process), **without having to follow a formal process to seek agreement from ministers:**

- expansion (enlargement of premises), the costs of which the academy would meet through its own resources or having been successful in obtaining funding. There is no automatic right for capital funding as a result of having taken the decision to expand;
- changes to an academy's lower or upper age range (other than adding or removing a sixth form) by a year or more. In particular this will make it easier for academies to offer Early Learning places to two-year-olds⁶;
- adding boarding provision;
- any changes in admissions arrangements for the first (around 200) academies where this was written into their funding agreements⁷.

2.2 Academies will still need to secure Education Funding Agency consent for all other significant changes not listed here. They will also need to contact the Education Funding Agency to make changes to their funding agreements, and the details that are held for them.

6 - This does not allow academies to add an additional phase of education without seeking consent from the EFA.

7 - Changes to admission arrangements can only be made in line with the School Admissions Code

3 Establishing and discontinuing maintained schools

3.1 The Education Act 2011 introduced the ‘academy presumption’ (where a LA has identified the need for a new school, it must first seek proposals to establish an academy or free school). However, there are still limited circumstances in which a new maintained school can be established⁸ and we intend to streamline the legislative requirements by:

- removing the statutory requirement to hold a public meeting;
- reducing the level of prescription for:
 - how maintained school proposals⁹, and revocation of proposals where circumstances have changed and the proposal is no longer needed, must be published;
 - the detail that proposals must contain;
 - the length of the representation period for non-academy bids;
 - the bodies – other than the Secretary of State – who must be informed of non-academy bids.¹⁰ This will be for the LA to determine and they need only inform others if no academy proposals are received or approved.

3.2 We have updated the conditions that a decision may be subject to ‘conditional approval’. **Decisions now only need to be published on the LA’s website** and the list of bodies that must be notified separately has been reduced, leaving this largely to the LA’s discretion.

3.3 We have also reduced the level of prescription required to close a school, whilst retaining the statutory consultation period. Specifically, we have reduced: how proposals must be published;¹¹ the detail they must contain; the length of the representation period; and the bodies who must be informed of the decision.

8 - School competitions under section 7 of the Education and Inspections Act (EIA) 2006

9 - Under section 10 of EIA 2006, or in special cases (under section 11 of EIA 2006)

10 - To compliment this we intend to add a requirement that where a copy of the notice is requested, the LA must provide this within one week. 11 - Under section 15 of EIA 2006

- 3.4 The proposed new secondary legislation for establishing and discontinuing maintained schools – The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2013 – is available **here**.¹²

4 How To Respond

- 4.1 Consultation responses can be completed online at www.education.gov.uk/consultations

or by downloading a response form which should be completed and emailed to schoolorganisation.consultation@education.gsi.gov.uk

Or sent by post to:

Jamie Zucker
Education Choice and Access Division,
4th Floor
Department for Education
Sanctuary Buildings
20 Great Smith Street
London
SW1P 3BT

5 Additional Copies

- 5.1 Additional copies are available electronically and can be downloaded from the Department for Education e-consultation website at: www.education.gov.uk/consultations

6 Plans for making results public

- 6.1 The results of the consultation and the Department's response will be published on the DfE e-consultation website by the end of 2013.