



Department
for Education

Making significant changes to an open academy and closure by mutual agreement

**Departmental guidance for all types of
academy trust**

November 2019

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Who is this guidance for?

Academy trusts considering a change to the characteristics of open academy schools (as defined in the [Academies Act 2010](#)) or academy trusts considering whether to close an academy by mutual agreement with the Secretary of State. This includes free schools, 16-19 academies, special academies, alternative provision, studio schools and university technical colleges (UTCs).

Academy trusts proposing to make a significant change **MUST** submit a proposal for change and follow the required process, in advance of the change being made. **Failure to do so could constitute a breach of their funding agreement.** This includes changes requested by the LA. Separate guidance is available on [how to make changes to a maintained school and opening and closing a maintained school](#).

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

Transition

Applications already submitted to the department prior to the publication of this guidance, will continue to be processed according to the guidance published in October 2018.

All applications received after the publication date of this updated guidance must follow the process as set out in this document.

Expiry or review date

This guidance document will be reviewed in November 2020.

Terminology

Definitions of common terms used in this guidance:

Academies - includes free schools, 16-19 academies, special academies, alternative provision, studio schools and UTCs.

Academy trusts - includes single and multi academy trusts. Academy trusts are set up as charitable companies limited by guarantee.

Trustees of the school - the foundation which established the school. For schools with a religious character this could be the:

- Church of England
- Catholic Church
- other religious authorities.

The term 'trustees' is usually used in the department's documents to refer to those who sit on the board of directors of an academy trust.

In church academies the term 'trustees' refers to the legal trustees, known in law as the 'trustees of the school'. The directors of church academies are always referred to as the directors and not trustees.

Schools with a religious character - all schools designated as having a religious character in accordance with the [School Standards and Framework Act 1998](#).

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

School Admissions Code – Will be referred to throughout this document as 'the Admissions Code'.

Progress 8 – introduced in 2016 as the headline indicator of school performance determining the floor standard. It aims to capture the progress that pupils in a school makes from the end of primary school to the end of key stage 4¹.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/783865/Secondary_accountability_measures_guidance.pdf

Part A: Making significant changes to an open academy

1. Summary

This section provides guidance to academy trusts on what they need to do to make a significant change to an open academy (in general the change may impact the number, type and/or location of school places).

Academy trusts should read this section in full to ensure that they are aware of the circumstances in which their proposal can follow the 'fast track' application process or whether it requires a 'full business case'. They should also fully acquaint themselves with the circumstances in which they need to make an application to the Secretary of State to alter their admission arrangements as a result of a significant change, and the correct process to follow. Where a local authority (LA) has instigated a proposed change, there is still a requirement for academy trusts to go through the significant change process.

The purpose of this section is to ensure that additional good quality school places can be provided quickly where they are needed. Academy trusts should work collaboratively with LAs, dioceses and other schools in the area, to ensure that there is a co-ordinated approach to place management and the strategic needs of the area.

We expect academy trusts to only propose to create additional places in academies 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 academy trust should submit a 'full business case' to the department, and set out its justification for expansion and how education will be improved.

Main points

- Proposed changes must be submitted to the department through either a ['fast track'](#) application or a ['full business case'](#). A decision on the proposal will be made by the relevant [Regional Schools Commissioner](#) (RSC) or the Secretary of State. See [part four](#).
- Some changes can be fast tracked: adding boarding provision; increasing the capacity of an academy (with the exception of satellite expansions and changes to UTCs and studio schools) and age range changes of up to two years with the exception of age-range changes to UTCs and studio schools, adding or removing a sixth form and any cases of a contentious nature. **All unfunded proposed changes, without exception, will require a full business case.**
- In addition, to be eligible for the fast track route, the academy must: be rated as 'good' or 'outstanding' following its last inspection by Ofsted; the most recent Progress 8 score must be of at least the national average; be in good financial

health and have the capacity to make the change without jeopardising the academy's performance. Academy trusts are also required to provide evidence that the LA, and where a school is designated as having a religious character, the trustees of the school and the appropriate religious authority (in the case of church schools the diocese or relevant diocesan board), does not object to the proposed change. The [table of changes](#) and the guidance in [part two](#) set out which changes can be made via this route.

- Changes which do not meet the fast track criteria will require a full business case. The RSC or the Secretary of State will make a decision based on consideration of the factors and evidence relating to the academy trust(s) as set out in [part four](#).
- Academy trusts proposing to make a significant change to an academy which has been designated as having a religious character should engage the trustees of the school and the appropriate religious authority (in the case of church schools the diocese or relevant diocesan board) at the earliest opportunity.
- For any proposed significant change, full consideration should be given to the potential impact of the proposed changes, or the potential impact of imminent pipeline free schools. These schools may well have been approved to meet the same need as the proposed significant change. A list of [pipeline free schools](#) can be found on GOV.UK.
- Academy trusts will normally need to undertake a fair and open local consultation, ensure the change is aligned with local pupil place plans, that all required funding is in place and that appropriate planning permissions and other consents (e.g. trustees of the school for any dealings with land) have been secured.
- Where a proposed change sets a precedent, or is considered [contentious](#) a full business case will be required, irrespective of the school's Ofsted rating.
- Proposed significant changes requiring alterations to [admission arrangements](#) must ensure that a fair and open local consultation on the school's proposed admission arrangements has been completed and a request to vary the admission arrangements should be submitted at the same time as the significant change request. Admission variation consultations must be for 6 weeks and must be, as a minimum, with those bodies/persons set out in paragraph 1.44 of the Admissions Code. It is recommended that the admissions and significant change consultations are run concurrently for 6 weeks in total.
- When seeking a variation to admission arrangements that have already been determined, only those admission changes necessary to implement the significant change should be proposed. The significant change process must not be used to request a variation of the admission policy to make wider changes to the policy. Wider changes must be consulted upon according to the normal process and

timescale for changing admission arrangements set out in paragraphs 1.42 - 1.49 of the Admissions Code. See [part four](#).

- For cases where a significant change will require [admission arrangements](#) to be varied to implement the proposal; if an existing point of entry will be removed, or the published admission number (PAN) reduced, the change must be agreed in advance of the closing date for applications for places to be submitted to the local authority (31 October for secondary schools or 15 January for primary schools) unless exceptional circumstances apply. See [part four](#).
- Where the significant change impacts on school land, for example, an academy trust wants to dispose of, or build on playing field land, or acquire a freehold or leasehold interest in land or buildings, it is likely to necessitate a separate consent of the Secretary of State via a land transaction application. Approval of a significant change application does not provide or imply Secretary of State's approval for any land transaction required to deliver the approved project. The land transaction will require a separate application to the Secretary of State for consent.
- Academy trusts considering any changes that are not listed in this guidance must contact the department at the earliest point via SignificantChange.ACADEMIES@education.gov.uk.
- Academy trusts are responsible for updating the school's details on the department's [Get information about schools \(GIAS\)](#) database. Further guidance is available on the GIAS website. These changes must be made no later than the date of implementation and can be input in advance, once a decision is made. Ofsted uses GIAS as part of its inspection scheduling, so it is important that significant changes are recorded accurately and promptly.
- Normally admission arrangements are changed through the process set out in paragraphs 1.42-1.49 of the Admissions Code. So, for example, any changes to reduce the published admission number ('PAN') or to otherwise change anything in the admission arrangements for 2021 would require a full 6 week consultation with, as a minimum, the bodies/persons set out in paragraph 1.44 of the Code for any 6 weeks between 1 October 2019 and 31 January 2020, with the arrangements being determined as final on or before 28 February 2020. This is also the cycle for subsequent years (e.g. consultation beginning on 1 October 2020 for 2022 policies, 1 October 2021 for 2023 policies, etc).
- Schools can increase their PAN without consultation (providing doing so does not disrupt the co-ordination of admissions by their LA, they publish it on their website and inform their LA).

- Schools do not need to seek approval from the Secretary of State or Regional Schools Commissioner to increase PAN or to change their admission arrangements in the cycle set out above, unless they have a funding agreement signed before 2011 which requires the Secretary of State to approve any admission changes. Very few mainstream academies have such requirements.
- Where, however, academy trusts want to make a significant change to their mainstream academy school which they consider constitutes a major change in circumstances and which necessitates a change to the admission arrangements they are permitted to ask the Secretary of State or Regional Schools Commissioner to vary their admission arrangements outside the cycle set out above. This is called a 'variation' and this is the type of admissions alteration with which this guidance deals. Admissions authorities for maintained schools seek such variations from the Schools Adjudicator.
- The Secretary of State and/or RSC will only agree mainstream academy school variations which he/she considers to be the minimum necessary to implement approved significant changes.
- This guidance also covers the consultation which will be necessary for such requests. Consultation will always be necessary and must be for 6 weeks with, as a minimum, those bodies/persons set out in paragraph 1.44 of the Admissions Code, except in the very rare circumstance where there is no option for the Academy Trust but to request the variation (e.g. where the school will be forced to close if its PAN does not reduce). In such situations we will need to see that, as a minimum, all the bodies/persons set out in 1.44 of the Code have been informed of the change. If in doubt, the safer option for the Academy Trust is always to consult because, if the Secretary of State/RSC does not agree that the school had no option but to request the variation, the Academy Trust will be required to consult on admission changes for 6 weeks before the significant change/variation is considered.
- With all other changes, including enlargements, satellite proposals, amalgamations, deamalgamation, change in age range, sixth form provision, gender, boarding provision and site transfers a full, six-week admission consultation will be required before the request for a significant change is submitted. It must, as a minimum, be with all the bodies/persons set out in 1.44 of the Admissions Code. It does not have to be undertaken within the cycle set out within the Admissions Code if it is not possible, because of the timing of the change, to do so.
- Admission variations will not be necessary simply because of a change in governance or religious designation or the acquisition of VA characteristics by a mainstream academy school, and will be rare where SEN provision is changed. Such changes should be made in the normal admissions cycle.

2: Types of changes

This section provides details of whether a type of change is eligible for fast track or a full business case. The academy trust should respond promptly to requests for additional evidence, clarification or further information.

Potentially contentious proposed changes: full business case required

Where a proposed change sets a precedent or is potentially contentious, a full business case is required, regardless of the school's Ofsted rating and whether the type of change being proposed is eligible for the fast track process. Examples, which are not exhaustive, include:

- reducing places in an area of basic need;
- where objections have been received (from the LA and/or neighbouring schools; from the trustees of the school or appropriate religious authority where the school is designated as having a religious character; from the diocese or relevant diocesan board in the case of church schools), that the proposed change could potentially undermine the quality of education provided by other 'good' or 'outstanding' schools in the area, by creating additional places where there is surplus capacity;
- any other objections that may increase the risk of challenge;
- seeking to set up a satellite site to the school;
- any changes to UTCs and studio schools.

Where proposals are particularly controversial and could attract public or press attention, RSCs may choose to escalate such proposed changes to the Secretary of State for a decision.

Governance changes to an academy trust

Applications to make governance changes, such as a single academy trust (SAT) joining or becoming a multi academy trust (MAT) or a trust adding a new free school, are not required to follow the significant change process, and this guidance does not apply.

There are different routes to becoming a MAT; depending on what route a SAT takes, it will need to access the appropriate link and follow the process below. The case will be assessed and the RSC makes the final decision. The change will need to be reflected in funding agreements and articles of association, as necessary.

All applications must be submitted to academy.questions@education.gov.uk for:

- SATs thinking about [setting up a MAT to become a sponsor](#);
- SATs/MATs wishing to [add a new free school to the trust](#);
- The [SAT to MAT application form](#) must be used in the following situations:
 - MATs who are taking responsibility for an existing SAT;
 - Two or more SATs coming together to set up a MAT;
 - A SAT working with other schools who want to form a MAT; and
 - SATs becoming MATs where there are no other schools involved at all and where the change does not relate to becoming a sponsor.

Any structural changes to a MAT need to be approved by the relevant RSC. Please speak to your RSC's office if you are planning any of the following changes:

- A MAT planning to take responsibility for an academy or academies that are transferring from another academy trust;
- Two existing MATs planning to come together to form one MAT;
- A MAT planning to make major changes to its governance, for example, removing or adding a principal sponsor.

Table of changes

The following table shows whether changes are eligible for the fast track or full business case process;

Type of proposal	Fast track route possible?	Full business case needed?
Expansion of physical capacity	Yes	Possibly – if the change meets the expansion criteria but does not meet the fast track criteria, or the proposal could be considered contentious
Expansion onto an additional or satellite site	No	Yes
Changes to the number of pupils in a special school	No	Yes – if the increase is for 10% or more; or 20 pupils or more (whichever is the smaller number)
Change of lower or upper age limit of up to 2 years (including adding a nursery but excluding adding or removing a sixth form)	Yes – if the fast track criteria are met	Possibly – if the fast track criteria are not met or where the proposal could be considered contentious
Change of lower or upper age limit by 3 years or more	No	Yes
Adding a sixth form	No	Yes
Removing a sixth form	No	Yes
Change of age range of UTCs and studio schools	No	Yes
Amalgamating with another academy	No	Yes – the case should address TUPE and land issues, as applicable
De-amalgamating an existing academy	No	Yes

Type of proposal	Fast track route possible?	Full business case needed?
Gaining or changing faith designation	No	Yes
Changing a Church of England academy's characteristics	No	Yes
Transfer to another site	No	Yes
Change of gender composition – single sex to co-educational or vice versa	No	Yes
Change in type of SEN provision	No	Yes
Changes affecting provision reserved for SEN pupils	No	Yes
Adding or increasing boarding provision	Yes – however other legislation applies and will need to be complied with	No
Decrease in or removal of boarding provision	No	Yes – if proposal is to remove at least 50% or 50 pupils (whichever is greater) or entire boarding provision

Expansion of physical capacity

A 'significant expansion' is defined as an enlargement that increases the overall physical capacity of an academy (as recorded in its funding agreement) so that it can increase its overall teaching space enabling the school to provide places for more than 30 additional pupils².

Generally, the permanent enlargement of an academy's buildings requires the significant change process to be followed, however, the process is not required where academies add a temporary bulge class, of no more than 30 pupils, to respond to an urgent need for

² This is primarily to allow for an emergency one off bulge class to be introduced.

more places at short notice. Typically this would be in response to a request from the LA, who would ask the academy to accommodate a temporary classroom for the length of time it takes the bulge class to progress through the school. Academy trusts would be expected to show evidence of the request. If, subsequently, the academy trust wishes to make the arrangement permanent and increase the academy's capacity to enable additional pupils to be admitted year on year, the significant change process to expand the physical capacity would need to be followed.

Permanently changing the internal configuration of a school building to accommodate more than 30 additional pupils would also be classed as an 'increase in capacity' and require the significant change process to be followed.

If the threshold of more than 30 additional pupils is not met, schools do not need to seek approval via the significant change process, but will need to take action to amend the capacity³ figure in their funding agreements. Queries relating to this amendment can be sent to academy.questions@education.gov.uk. Should this be for a period of temporary enlargement, the capacity figure in the funding agreement must reflect the capacity for the period the temporary enlargement is in place.

Under section 14 of the [Education Act 1996](#), each LA is required to provide sufficient school places for primary and secondary education in its area. Both academy trusts and LAs should manage the school estate efficiently and should reduce or find alternative uses for high levels of spare capacity, in order to avoid detriment to schools' educational offer or financial position. As part of this, we would expect academy trusts and LAs to consider all options for the reutilisation of space, including, for example, increasing the provision of early education and childcare, and reconfiguration, including via remodelling, amalgamations and closure where this is the best course of action.

The department is working with LocatED to look at how academy trusts and LAs can improve the efficient use and management of the school estates. This work is currently being piloted on a small scale, but, subject to the outcomes and lessons learned, LocatED and the department will be looking at how they can potentially support a wider range of schools in future.

The department has a strong expectation that academy trusts should work collaboratively with LAs, and where the school is designated as having a religious character the trustees of the school and the appropriate religious authority (in the case of church schools the diocese or relevant diocesan board), on pupil places planning, taking into account the increases or decreases in pupil numbers forecast in the area, especially in areas of basic need. Academy trusts should consider how they can best support their LA in meeting this need. To help achieve this, academy trusts can propose either an expansion of a

³ Capacity - This is the number of pupils that can be taught within the physical space available.

school's capacity, an increase in a school's PAN⁴ or a school admitting over PAN. In areas with high levels of surplus capacity and where forecasts do not demonstrate a future need for places, schools should not normally be expanded, although the quality and diversity of provision should be taken into account to assess the strategic needs of the area.

We expect academy trusts to have considered a range of performance indicators and financial data, before proposing the expansion of an academy. Where schools are underperforming, we would not expect them to expand unless there is a strong case that such an expansion would help to raise standards. We expect academy trusts to propose to create new places in academies 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 academy trust should submit a full business case application to the department, and set out why the expansion is necessary.

Academies that are rated 'good' or 'outstanding' at their last inspection, have a most recent Progress 8 score of at least the national average, are in good financial health and are proposing a change that is not contentious or subject to objections from the LA, may propose to expand their physical capacity by following the fast track process, with the exception of:

- Proposed changes to expand onto a satellite site;
- Proposed changes to expand sixth form provision.
- Proposed changes to UTCs and studio schools

Where the fast track requirements are not met, proposed expansions will require a full business case.

[Part four](#) explains the steps to making a significant change and the information needed for both a fast track application and full business case.

Physical expansions onto satellite sites

Where academy trusts wish to expand onto an additional site they will need to consider whether the new provision is genuinely a change to an existing school or is, in effect, a new school.

The establishment of new selective maintained schools and academies is prohibited by statute. Expansion of any existing academy onto a satellite site will only be approved if it

⁴ Published Admission Number (PAN) - as part of determining their admission arrangements, all admission authorities must set an admission number (PAN) for each 'relevant age group'. So, if a school has an admissions number of 120 pupils for Year 7, that is its PAN. Further details can be found in the [Admissions Code](https://www.gov.uk/government/publications/school-admissions-code--2) <https://www.gov.uk/government/publications/school-admissions-code--2>

is a genuine continuance of the same school and the academy trust has the financial resources to create the satellite site.

When deciding whether to approve an expansion onto a satellite site, the RSC on behalf of the Secretary of State will consider factors including:

The reasons for the expansion

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

Admission and curriculum arrangements

- How will the new site be used (e.g. which age groups/pupils will it serve)?
- Are any changes to admission arrangements necessary?
- 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/academy trust board and the same school leadership team)?

Physical characteristics of the school

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

The purpose of considering these factors is to determine the level of integration between the two sites; the more integration, the more likely the change can be considered to be an expansion.

In relation to Church of England and Catholic schools, the consideration by the RSC will take place in light of the respective Memorandum of Understanding and this guidance should be read alongside that document.

Academy trusts proposing to expand above threshold onto a satellite site will always be required to submit a full business case, to enable the department to ensure the proposal

is a genuine expansion and does not in effect constitute [a new academy](#). See [part four](#) for more detail.

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

Mainstream schools must set a PAN for each relevant age group for admission in their determined admission arrangements. A PAN can be increased without consultation providing the local authority is informed and the increased PAN is published on the school's website. If an admission authority for a mainstream academy school wishes to reduce or remove a PAN or adopt a PAN for a new 'relevant age group'⁵ this could be agreed if it is necessary in accordance with the requirements set out in [part 7](#) of this guidance.

It would be helpful for admission authorities to discuss their plans with the LA, and where the school is designated as having a religious character, it must discuss the changes with the trustees of the school and the appropriate religious authority (in the case of church schools the diocese or relevant diocesan board), to consider whether there is a need for additional places in the area when considering increasing a school's PAN. When considering reducing a PAN, again, admission authorities should consider the need for places in the area. An admission authority must carry out a full consultation in accordance with the [Admissions Code](#) when reducing a PAN in these circumstances.

Changes to the number of pupils in a special school

The [Admissions Code](#) does not apply to special schools but the academy trust responsible for special academies may seek to increase the number of places by following the significant change process if the increase is by:

- 10% or more; or
- 20 pupils or more (whichever is the smaller number), with the exception of special boarding schools where the limit is 5 pupils.

The significant change process does not need to be followed where a special school is established in a hospital.

Age range changes

A school's recorded age range should reflect provision at the school correctly. If the change relates to pupils of non-compulsory school age; for example, if nursery or sixth

⁵ 'Relevant age group' is defined in [section 142 of the School Standards and Framework Act 1998](#) as 'an age group in which pupils are normally admitted to the school'.

form provision is to be added or withdrawn, then a proposal for an age range change must be submitted (as set out below).

Academies that were rated as 'good' or 'outstanding' at their last Ofsted inspection, have a most recent Progress 8 score of at least the national average, are in good financial health, have the capacity to make the change, and have evidence to show that the LA, and where the school is designated as having a religious character, the trustees of the school and the appropriate religious authority (in the case of church schools the diocese or relevant diocesan board), does not object to the proposed change, can propose to change the age range of their school by up to two years (including adding nursery provision but excluding adding or removing a sixth form) by following the fast track process.

Academy trusts proposing to change the age range of their schools by three years or more, those which want to add or remove a sixth form, make any age range change which is contentious, or which will set a precedent for schools in their local area, must submit a full business case.

Where proposed changes are likely to have a significant impact on other local provision, a full business case will be required to provide evidence that the education of children in the area, as a whole, will not be compromised. Where local provision is organised in three tiers and the aim is to move to a two tier age range, we expect academy trusts to engage with the local community at the earliest opportunity and to provide details in their application of how they will work with LAs and, where the school is designated as having a religious character, the trustees of the school and the appropriate religious authority (in the case of church schools the diocese or relevant diocesan board), to ensure the change is implemented in a co-ordinated way.

Approval will only be given, in this context, where the department is satisfied that a co-ordinated implementation plan is achievable and can be delivered before the new age range of the academy is operational.

An age range change may, in certain circumstances require changes to admission arrangements in order to implement the change. In such cases, schools must follow the admissions variation process set out in [part 7](#) of this guidance.

If fast track conditions are not met, a full business case is always required, see [part four](#).

Proposed changes to add sixth form provision

Proposed changes to add a sixth form will require a full business case and should only be put forward for existing academies rated as 'good' or 'outstanding'.

Applications for the addition of a sixth form will be assessed against the following criteria:

- **Quality:** The quality of pre-16 education must be good or outstanding (as rated by Ofsted) and the school must have a most recent Progress 8 score above 0;

- **Size:** The proposed sixth form will provide places for a minimum of 200 students;
- **Subject Breadth:** The proposed sixth form should - either directly or through partnership - offer a minimum of 15 A level subjects. Academy trusts/LAs may wish to consider the benefits of delivering a broader A level curriculum through partnership arrangements with other school sixth forms. Working with others can offer opportunities to:
 - 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;
 - Share knowledge and information.

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

- **Demand:** There should be a clear need 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 in the school 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 admission 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, potentially, academic entry requirements on changing its age range. A request for a variation to admission arrangements, in line with the process set out in [part 7](#) of this guidance, should be made at the same time as the school requests the significant change. Schools should not, however, that if a necessary variation is not requested at the same time as a significant change application, this might delay a decision.

Proposed changes to remove sixth form provision

When removing a sixth form, either temporarily or permanently, the significant change process must be followed and a full business case submitted.

A request for an alteration to admission arrangements, in line with the process set out in this [part 7](#) of this guidance, is likely to be necessary and should, if required, be made at the same time as the school makes an application for a significant change.

When an institution closes or stops ESFA-funded 16-19 provision, either on a temporary or permanent basis, this will have implications for sixth form funding. Further details on this are included in paragraphs 9-13 of the [Funding Guidance for Young People 2018 to 2019](#) which is available on GOV.UK.

Proposed changes to the age range of university technical colleges (UTCs) and studio schools

As for other academies, UTCs⁶ and studio schools may make a proposed change to their age range. Due to the differences associated with UTCs and studio schools, including an atypical age range and a specialist/technical and vocationally related curriculum, a full business case is required, accompanied by an education plan that sets out the overall strategy for KS4 and KS3 where appropriate. The requirements for a full business case are as set out in [part 4](#). These include the requirement to set out the local context, and UTCs and studio schools should ensure that their business case fully addresses how the age range change proposal fits within the local school system and any specific local arrangements for KS4.

A comprehensive education plan is required that looks across the whole of KS4 (and KS3, if appropriate) and fully articulates the approach to a different age range in relation to teaching, learning and resourcing. It should therefore include details on the following:

- Curriculum - overall curriculum strategy and how it applies to different year groups (including technical/vocational subjects and enrichment activities);
- Staffing – revisions to staffing structure, details of the resourcing of curriculum delivery, and plans for staff support;
- Quality of teaching - approaches to pedagogy, differentiation for different groups of students, monitoring and improving the quality of teaching;
- Student attainment and progression – approaches to setting standards and targets: systems for tracking individual student performance; assessment, recording and reporting.

Before submitting a proposal, UTCs and studio schools considering an age range change should contact their department lead/contact to discuss in further detail what would be expected in the business case and education plan.

⁶ University technical colleges (UTCs) are academies which focus on delivering technical education to meet the needs of businesses. UTCs follow a very specific model developed by the [Baker Dearing Educational Trust](#) <https://www.utcolleges.org/>.

All decisions on age range changes for UTCs will be taken by the Secretary of State after seeking the view of the RSC (for studio schools the decision maker will be the RSC in line with the process for all other academies).

A request for an alteration to admission arrangements, in line with the process set out in [part 7](#) of this guidance, is likely to be necessary and can, if required, be made at the same time as the school requests the significant change.

Amalgamations

In **ALL** cases, proposed changes to amalgamate an academy with another academy/academies will require a full business case. There are two ways to do this:

- I. The academy trust may propose to close one (or more) academy and expand the remaining academy. The amalgamated academy will retain its school number, as it is not a new school, even if its age-range has changed.
- II. Alternatively, the academy trust may propose to close all the academies involved and replace them with a new school.

An amalgamation is also likely to require an in year variation of the school's admission arrangements. A request for an alteration to admission arrangements, in line with the process set out in [part 7](#) of this guidance, can be made at the same time as the school makes an application for a significant change.

As these proposed changes will involve the closure of at least one school, academy trusts should be mindful of TUPE implications. The issue and implications of excess land will be dealt with by the department as part of an amalgamation case.

De-amalgamations

In exceptional circumstances, academy trusts may propose to split ("de-amalgamate") existing provision into two or more separate, distinct schools. This change will require a full business case which we would expect only to be put forward by good and outstanding schools⁷ where there is a clear education or organisational benefit in doing so.

Where proposed changes seek to establish provision that is significantly different to the existing provision; for example, offering a significant increase in places or covering a wider range of year groups, the proposer will need to submit a proposal to establish a new school. Legislation prohibits the establishment of new selective schools, so selective academies will not be allowed to establish additional provision through this process.

Academy trusts that seek to propose this change must submit a full business case, clearly demonstrating that the proposal is based on a clear vision to deliver a high-class

⁷ Any request to de-amalgamate an academy rated as "requires improvement" or "inadequate" will be referred to the Secretary of State for a decision.

education that delivers value for money and is supported by strong management and governance structures. Academy trusts proposing such a change would need to demonstrate:

- The original school site will remain open;
- The provision delivered by the existing and additional school, collectively, should not deviate from the provision of the original school (basically the same size, delivering the same curriculum and not looking to add any new special units);
- Splitting the school would represent a good and lawful use of the existing site and any new/additional sites (if applicable);
- The clear educational or organisational benefits that would be delivered/addressed through splitting the school;
- The additional school(s) will meet all of the departmental expectations for new schools;
- Admission policies may require variation where the de-amalgamation involves; setting up two single sex schools from the de-amalgamation of a co-educational school, the de-amalgamation of a primary into an infant and junior school or any demerger of all-through schools;
- It is not possible for a 16-19 academy to be created by a de-amalgamation.

When deciding whether to approve a split in provision, the RSC, on behalf of the Secretary of State, will consider the case for the split including;

Educational vision:

- Does the proposal deliver a strong educational vision based on the delivery of high standards?
- Will the split in provision meet the needs of all children?
- Does the proposal demonstrate a commitment to excellent teaching and learning?

The curriculum and teaching:

- Has the academy trust demonstrated a commitment to an ambitious, broad and balanced curriculum?
- What strategies have been put in place for measuring pupil performance and setting challenging targets?
- Does the proposal detail enrichment and extended services?

Capacity and Capability:

- Has the academy trust correctly identified and secured the resources needed to support the development of the new school?
- Is there clear evidence of the range of skills and abilities needed to set up a new school?
- Does the proposal clearly demonstrate strong school organisation and governance arrangements?

Funding and Costs:

- Does the proposal deliver value for money on all areas of build, site costs and ongoing delivery of provision?
- Have issues surrounding the ownership, control, future/alternative use of the land and transfer of leave been explored?
- All legal, planning and related costs in advance of a decision would need to be funded by the academy trust.

Admissions:

- Where splitting a school would result in a change to the age or gender of pupils that the original school would admit, the application to split provision must be supported by a request to vary the admission arrangements to such an extent as is necessary to implement the proposal, to ensure that both schools have fair and lawful arrangements and remain in line with the Admissions Code. The same applies where the split establishes two schools with different age-ranges.
- Where the proposal is to establish a single sex school or change single sex schools to be co-educational; decision makers should ensure the proposal complies with equalities legislation and does not create a significant imbalance of either girls or boys places in the area.
- Evidence that the bodies in paragraph 1.44 of the Admissions Code have been consulted for 6 weeks must be submitted.

Registering a new school following an amalgamation or de-amalgamation

As a state funded independent school, any new academy resulting from a de-amalgamation of an existing academy must be registered before it can start to operate. As part of the full business case, academy trusts will also need to provide:

- A plan showing the layout of the premises and accommodation of all buildings;
- Detailed curriculum plans, schemes of work for every subject and year group taught and pupil assessment procedures;
- A copy of the school's written policies on:
 - The written behaviour policy setting out, amongst other matters, the sanctions to be adopted in the event of pupil misbehaviour;
 - Particulars of the school's arrangements to safeguard and promote the welfare of pupils at the school and how those arrangements have regard to guidance issued by the Secretary of State;
 - Particulars of the school's anti-bullying strategy;
 - Health and Safety;
 - The school's complaints procedure.

On receipt of the documents listed above and following all necessary internal checks, the department will forward the application to Ofsted with a request that it arranges a visit to

the school. If the school intends to admit boarding pupils, it will also be subject to inspection of the boarding facilities. Ofsted will report to the department on its findings and, in order to register the school as a state funded independent school, the Secretary of State must be satisfied it is likely to meet all the [Independent School Standards](#) once registered.

If the Secretary of State is not satisfied that the standards are likely to be met on opening, the application to de-amalgamate the school will be rejected.

Faith-related changes

Gaining or changing a faith designation requires approval based on a full business case (changing a faith designation would require a new funding agreement). Academies designated as having a religious character have specific freedoms which permit them to take faith into account when admitting pupils, appointing staff and in the teaching of religious education and delivery of collective worship. These freedoms differ according to whether the academy was previously a voluntary aided (VA) school, voluntary controlled (VC) school or free school.

Before they may apply for a school to be designated as having a religious character, academy trusts are required, by their funding agreements, to seek the Secretary of State's consent.

The academy trust must clearly set out, as a minimum, in its business case: its proposed new governance and staffing arrangements; the basis on which it considers the change is needed; and, why it will benefit the academy and the wider community. It must show that there is support for this change from its school and the wider local community and it has the express consent of the relevant religious body for its school to become a school designated as having a religious character. Because faith schools do not have to adopt faith admission criteria, if faith based admission arrangements are proposed, it will not normally be appropriate to change these via the variation process permitted by paragraph 3.6 of the Code because the change is not 'necessary' for the school to be able to implement the change. Such changes must be consulted upon at the appropriate time in accordance with the requirements set out in paragraphs 1.42-1.49 of [the Admissions Code](#). The academy trust should also consider if an Equalities Impact Assessment should be completed, and include this with the business case.

Once approval has been given, the academy trust must then formally apply to have the school designated as having a religious character. A school can only be considered a school with a religious character with a completed religious designation order. A school will not be permitted any of the freedoms associated with this status until the designation process has been completed. Please approach your project lead for details of the documentation that will need to be provided.

Process for former VC Church of England schools to gain the same characteristics as VA schools

It is possible for an academy that was formerly a voluntary controlled school to alter certain characteristics; i.e. its governance structures, approach to employment of staff; teaching of religious education and collective worship, so they are akin to those of a VA school.

This gives the academy greater freedoms in relation to how it maintains and develops its faith ethos. Therefore, the academy trust is required to undertake a local consultation, including with staff and parents, and submit a summary of the results with its application. Once the RSC is satisfied there is sufficient support, changes are made to the funding agreement and articles of association. If the school wishes to have VA style freedoms in relation to employment of staff, an Order will be issued to ensure compliance with legislation.

Other proposed changes

Temporary changes:- In the vast majority of cases the significant change process will have to be followed when making a temporary change. Academy trusts wishing to make a temporary significant change must contact the department in the first instance via SignificantChange.ACADEMIES@education.gov.uk

Changes to deliver a different type of provision:- academy trusts wishing to make changes to the type of provision offered, e.g. from mainstream to special or alternative provision, or providing pre-school childcare, should contact the department at the earliest point via an [enquiry form](#). Consideration will also need to be given to whether the land permits the change or not.

Removal of or changes to early years provision:- is subject to the significant change process.

Transfer to another site:- can mean an enlargement of the premises, but might also affect any catchment area. If a change to the catchment is necessary, the academy trust must seek a variation to its admission arrangements. The RSC or the Secretary of State will determine whether the change to the catchment area is necessary and should be approved. A full business case is required in all cases.

Change of gender composition:- made via a full business case, allows a move from single sex to co-educational (or vice versa). A change from single sex to co-educational provision in post-16 provision can be made through the normal procedures for changing admissions. Academy trusts should remember that a co-educational school cannot change its nursery or post-16 provision to single sex. Whenever changes to co-educational from single sex provision are made, or vice versa, the decision-maker (i.e. the RSC or Secretary of State) will consider whether the change complies with equalities legislation.

A request for an alteration to admission arrangements, in line with the process set out in [part 7](#) of this guidance, is likely to be necessary and should be made at the same time as the school makes an application for a significant change.

Change in the type of SEN provision:- proposed changes require a full business case and allow special academies to add/remove the designation and categories of SEN provision that they currently provide. The home and neighbouring LAs and affected parents should be consulted.

Changes affecting provision reserved for pupils with SEN:- proposed changes require a full business case to add or remove the reserved provision or increase/decrease the number for which the reserved provision caters. The characteristics of the reserved provision may also be changed so as to change the age range or type of SEN for which the reserved provision caters. Academy trusts should note that provision reserved for pupils with SEN includes both "resourced provision" (where pupils spend more than half of their time in mainstream classes with support) and "designated SEN units" (where pupils spend more than half of their time in special classes).

Proposed changes for adding or increasing boarding provision:- can be made through a fast track application. In these cases compliance with the [boarding schools national minimum standards](#), health and safety, fire, planning regulations will be required.

When adding new boarding or residential provision, following all necessary internal checks, the department will forward the application to Ofsted with a request that they arrange a visit to the school to inspect the boarding facilities, to ensure the [boarding schools national minimum standards](#) and [residential special schools national minimum standards](#) are met. The department will commission the inspection to check that the school is likely to meet the standards. Ofsted will normally contact the school two days prior to the inspection.

An inspection is not required where an academy trust is proposing to increase existing boarding provision.

Where an academy makes accommodation arrangements for boarders, for example with host families, the academy must still register as a boarding school. A fast track application will need to be made, as well as, a material change inspection.

Decrease in, or removal of boarding provision:- requires a full business case when the proposal is to decrease by 50 pupils or 50% (whichever is the greater), or the entirety of boarding provision.

When boarding provision is to be added or removed as part of a significant change proposal, a request for an alteration to admission arrangements in line with the process set out in [part 7](#) of this guidance will be necessary and should be made at the same time as the school makes an application for a significant change.

3: Funding

Generally the department does not provide funding for significant changes or any associated legal or administrative costs. Academy trusts will need to consider how to fund any associated costs in terms of capital funding. The proposal should include indicative costings and an explanation of how these will be met.

Where capital funding for expansion has been sought from the Condition Improvement Fund (CIF), academy trusts must state this in their business case. The decision on capital funding rests with the Secretary of State, taking into account the RSC's view on the proposed significant change. Academies will need to make a separate CIF application to demonstrate their ability to plan and deliver the proposed capital project.

Where an academy agrees to expand in response to a proposal by a LA to meet a local need for places, the LA should meet the capital costs. The department provides capital funding to LAs facing a shortfall of places (basic need), to help support them to meet their statutory duty to secure sufficient school places in their area. Academies should confirm that agreement has been reached with their LA.

It is expected that all academies that were rated as 'good' or 'outstanding' at their last Ofsted inspection and which are situated in areas of population growth, will actively consider how they can best support LAs in meeting their duty to provide sufficient school places. This can include increasing PAN without expansion of the premises or an expansion of the premises alongside an increase in PAN.

LAs can fund expansion at academies either by allocating funding directly from a growth fund, whose size and criteria have been agreed by the schools forum, or by varying the pupil numbers on which the school is funded from the previous census to the estimated number for the following academic year. In both cases, they must treat academies on the same basis as maintained schools. Where the authority varies pupil numbers, the ESFA will use those figures to fund the academy's GAG, unless it is already funded on estimates in its funding agreement.

4: What are the steps for making changes?

For **ALL** significant change enquiries and proposed changes, academy trusts will need to contact the department, via SignificantChange.ACADEMIES@education.gov.uk, at least three months prior to the proposed change coming into effect. This is to ensure that there is time for the decision to be made and that the funding agreement and, if necessary, the admission arrangements can be varied **BEFORE** the change can take effect. **Failure to follow the correct procedure could constitute a breach of the funding agreement.**

Who should be consulted and how?

For both full business case proposed changes **and** fast track applications, the academy trust will need to demonstrate that a fair and open local consultation has been undertaken **with all those who could be affected by the proposed change**, and that the academy trust has considered all responses received. Comments or objections can be made on any grounds and opportunities for feedback should be given at all public and stakeholder meetings.

The LA will hold important contextual information on the requirement for places locally, and **must** be consulted in all cases and where the school has been designated as having a religious character, the trustees of the school and the appropriate religious authority (in the case of church schools the diocese or relevant diocesan board), must be consulted. The RSC (or the Secretary of State as appropriate) will need evidence that they have been consulted, and will consider any reasonable objections from them.

Conditions of funding for any future capital are that the academy trust has conducted a consultation, that responses have been considered, and that any consents (including planning permission, land transfers, trustees of the school, appropriate religious authority, diocese or relevant diocesan board) required have been given. Changes will **not** be agreed unless an appropriate consultation has taken place.

If you represent the governing body of a maintained school and are consulting on a proposed change to make a significant change as soon as it becomes an academy, this must be undertaken as part of your conversion consultation. See [section 5 of the conversion guidance](#). Decisions about significant changes immediately following conversion are separate to decisions about conversion, and may not be approved when conversion is approved.

The department considers that the stakeholders listed below must be consulted about a proposed change, but others may also be included:

- Each LA which maintains an Education Health and Care Plan (EHCP) or statement of SEN in respect of a child attending the school;
- Parents of children who attend the school;
- Parents in the area;
- Primary, secondary, AP and special schools and sixth form and FE colleges in the area;
- The Admissions Forum for the academy's area, where one exists (if admissions are to be affected);

- Affected admission authorities, including those in neighbouring LA areas (if admissions are to be affected);
- Where a school is designated as having a religious character, the trustees of the school and appropriate religious authority (in the case of church schools the diocese or relevant diocesan board).

Where a significant change does not require a variation to the school's admission arrangements, the consultation should run for a minimum of **four weeks**. Where the significant change also requires a variation to admission arrangements after they have been determined, the school is not required to consult in accordance with the timescale set out in paragraph 1.43 of the Admissions Code but will, as a minimum, be expected to have consulted for six weeks on the variation with the bodies/persons set out in paragraph 1.44 of [the Admissions Code](#). To be clear, consultation on the proposed significant change can be run concurrently with the consultation on the proposed admissions variation. The consultation must be for a minimum of 6 weeks if run concurrently. Whether they are run separately or together, both consultations must be completed before the school applies for the change.

It is important to take timing into account in order to maximise responses to the consultation, including attendance at any public meetings, for example; consulting during term time rather than school holidays wherever possible. The location of public and stakeholder meetings should also be planned to maximise responses; it is good practice to hold meetings in the academy or in a venue close to it. It is also important when making changes that affect admission arrangements, to ensure consultation is completed and the business case and variation request are submitted in sufficient time to ensure any changes to admission arrangements can be implemented before parents submit their applications for school places.

Guidance is available from the Cabinet Office on [consultation principles](#), which are examples of good practice.

Equality Impact Assessment

Academy trusts proposing a significant change must undertake an equalities impact assessment in order to consider the expected impact of the proposed change on all individuals with protected characteristics, under the [Equality Act 2010](#). Further guidance on how to conduct equality impact assessments can be found on the [Equality and Human Rights Commission's \(EHRC\) website](#).

Land requirements

It is important to consider at an early stage whether the proposed project (if approved from a significant change perspective) will have an impact on school land and necessitate the separate consent of the Secretary of State via a land transaction

application. Where the significant change impacts on school land, for example, an academy trust wants to dispose of, or build on playing field land, or acquire a freehold or leasehold interest in land or buildings, it is likely to necessitate a separate consent of the Secretary of State via a land transaction application. Approval of a significant change application does not provide or imply Secretary of State's approval for any land transaction required to deliver the project. The land transaction will require a separate application to the Secretary of State for consent please see [guidance on school land and property](#) for more details. You must obtain the separate approval of the Secretary of State before proceeding with the land transaction necessary to deliver the project.

5: Requesting a change: fast track and full business case

Fast track application

Changes which can be made via the [fast track application](#) i.e. do not require a full business case, are academies, rated as 'good' or 'outstanding' in their last inspection by Ofsted, have a most recent Progress 8 score of at least the national average, are in good financial health, have the capacity to make the change and can provide evidence that the local authority, and where a school is designated as having a religious character, the trustees of the school and appropriate religious authority (in the case of church schools the diocese or relevant diocesan board), does not object to the proposed change. This evidence could be in the form of a letter, email or a formal record of a meeting. The types of changes that can be fast tracked are:

- any increase in the capacity of an academy (with the exception of satellite expansions and changes to UTCs and studio schools);
- an age range change (of up to two years) e.g. to extend existing nursery provision to two year-olds (with the exception of age-range changes to UTCs and studio schools, adding or removing a sixth form and any cases of a contentious nature);
- adding boarding provision.

When assessing a fast track application, the RSC will consider the impact that the proposed change will have on the quality and capacity of the academy. Proposers must provide evidence that:

- a fair and open consultation has taken place, including demonstrating that any consultation relating to admission changes has been undertaken, the number and percentage of people/bodies in favour of the change and against it have been considered, and if there are any objections, how the issues raised will be (or have been) managed;

- a request for an alteration to the admission arrangements, where changes are necessary to implement a proposed change. The request for alteration to admission arrangements should flag all the necessary changes.
- funding to cover the capital costs of the proposed change has been secured, and that there are no issues with the school's current budget and/or finances. In the case of expansions, academies must show they have sufficient funding for additional pupils, until lagged funding is received;
- the change is aligned with local pupil place plans, with supporting evidence from the local authority and it is unlikely to have a negative impact on educational standards at the academy or at other local schools or colleges;
- appropriate planning permissions and other consents required have been secured; and
- the proposal does not displace existing pupils, or where it does, that the LA has been engaged in good time to run a preference exercise to find displaced pupils a place in an alternative mainstream school or post 16 provider.

The department may need to request additional information to that requested above, depending on the complexity of the proposed change and may also request that a full business case is submitted.

Full business case

For full [business case proposed changes](#), the RSC will make a decision based on consideration of all relevant factors and any evidence provided by the academy trust(s). These include:

- educational track record and current performance of the academy;
- the details of the change, including the rationale and impact on the school, any potential issues/risks relating to the proposed change (e.g. changes to leadership and governance, any foreseen adaptations, additions, refurbishments or land transfers needed), and evidence of demand;
- when the change is to be implemented, and how (e.g. will it be done in stages?);
- evidence that the LA has been engaged to find places for displaced pupils including proposed arrangements for any pupils part way through their GCSE or post 16 studies where a change in age range or amalgamation will displace them;
- local context including supply of school places data, LA wider position data and the impact on the availability of places, the effect on other schools, academies, colleges and educational institutions within the LA;

- evidence of fair and open local consultation, including an overview of the responses to the consultation;
- evidence of the degree of LA support and what the academy has done in response to any consultation responses from it;
- financial health of the academy and funding arrangements for the proposed change, any indicative costings and an indication of how these might be met, including how the change will be sustained in terms of capacity and value for money;
- a request for a variation to the admission arrangements, where changes are necessary to implement a proposed change. The request should flag all the necessary changes including whether it is proposed that a PAN will be reduced, or a relevant age group for admission will be removed;
- information on the consultation on the proposed change including any admissions consultation, including the number and percentage of persons/bodies in favour of the change and against it, and if there are any objections, how the issues raised will be (or have been) managed;
- when an academy is proposing changes to its SEN provision, the business case must demonstrate that the proposed change will not have a detrimental impact on local SEN provision or pupils with SEN currently in the school;
- details of financial and governance arrangements and if appropriate, confirmation that planning permission has been secured;
- where a school is designated as having a religious character, consent of the trustees of the school and the appropriate religious authority (in the case of church schools the diocese or relevant diocesan board); and
- any implications for other statutory requirements e.g. under TUPE, childcare (early years), equalities and health and safety legislation.

6: Decision making process

The RSC will consider a range of factors and make a balanced judgement when deciding whether to approve or reject a proposal. The RSC may also defer the approval pending further evidence. Where proposed changes are particularly controversial and could attract adverse public or press attention; the RSC may choose to escalate such proposed changes to the Secretary of State for a decision.

Any approval given by the RSC to the proposal will not provide or imply Secretary of State's approval for any land transaction required to deliver the project.

The department will notify the academy trust of the RSC's decision. The responsibility for amending academy trust documentation and registering the change on GIAS lies with the academy trust. GIAS can be updated any time after the decision date but must be done prior to implementation.

7: Admission related changes

If the proposed significant change will affect the admission arrangements of the school, the academy trust must request the minimum variation to admission arrangements that is necessary to implement the change at the time it submits the application for the significant change.

The academy trust must first consult for 6 weeks on the variation with the bodies/persons set out in paragraph 1.44 of the [the Admissions Code](#) . That consultation can run concurrently with the consultation on the significant change.

The RSC or Minister will only agree a variation to admission arrangements where there has been a major change in circumstances that justifies the variation that has been applied for.. Variations can only be proposed by an academy trust where it considers such changes to be necessary in view of a major change in circumstances (see paragraph 3.6 of the Admissions Code).

Where a variation of the admission arrangements is necessary to implement the significant change but the academy trust has not consulted on it, or has not requested a variation, the RSC or the Secretary of State will not be able to approve the significant change application.

Any request for a variation to admission arrangements must be made sufficiently in advance of the closing date for admission applications.

Changes to admission arrangements

- All mainstream academy schools are contractually obliged to comply with [the Admissions Code](#), including the timescales for changing admissions arrangements.
- The normal lead in time between beginning consultation on changing admission arrangements, as set out in the Admissions Code, and places being offered under the proposed revised arrangements, is 17 months which includes a six-week statutory consultation on the proposed revision to arrangements. However, this may not always be possible; for example, if the timing for a significant change does not align with the normal admissions consultation timetable set out in paragraphs 1.42 -1.49 of the Admissions Code.
- Where it is not possible to follow the normal admissions timetable, and the academy considers there is a major change of circumstances making it

necessary to change its admission arrangements in order to implement the proposed significant change, the academy must seek a 'variation' of their admission arrangements. This request should be made at the same time as the academy submits its full business case for the significant change.

- A variation can only be requested by an academy trust if it considers there to be a major change in circumstances necessitating a change to the admission arrangements.
- All variation requests should be the minimum necessary to implement the significant change, if the change is approved.
- Variations that are not connected to a significant change can be made by the academy trust at any time but only if they are necessary to give effect to a mandatory requirement of the Admissions Code, admissions law, a determination of the Schools Adjudicator or any misprint in the admission arrangements. Such changes should be the minimum necessary and must be published as revisions to the admissions policy.

The variation process

- The academy trust must consult the relevant persons or bodies as set out in paragraph 1.44 of [the Admissions Code](#).
- The consultation must cover the relevant changes to the admission arrangements.
- The consultation on the variation of the admission arrangements must last six weeks.
- The above consultation can and can run concurrently with the significant change consultation.
- Evidence of the consultation must be submitted with the business case.
- Where a change reduces a PAN or removes a relevant age group, it is essential a decision is made before parents apply for a place. Submissions must therefore be sufficiently in advance of the closing date for applications in order to allow the RSC, on behalf of the Secretary of State, to take a decision. The following deadlines apply:
 - Changes reducing a primary PAN or removing a primary relevant age group for admission – submission to the department by 1 November⁸ in the year before the change will be implemented;

⁸ The closing date for parents to submit an application for the following September is 15 January

- Changes reducing a secondary PAN or removing a secondary relevant age group for admission – submission to the department by 31 August⁹ in the year before the change will be implemented.

What changes to admission arrangements are likely to be necessary if the age range is changed?

- Where, for example, a school changes its age range from 11-16 to 4-16, the department would normally expect the current oversubscription criteria to be used. However, a new PAN, to apply to reception as a new point of entry, should be determined and the year seven PAN may need to be reduced or removed depending on whether the change is also an amalgamation.
- Where a school adds boarding provision, a boarding admission number and boarding admission criteria must be adopted.
- Where a school adds a sixth form, there is no need for changes to be made to admission arrangements unless the intention is to admit external pupils, in which case a year 12 PAN must be requested through a variation and the school may also wish to add academic entry criteria for entry into the sixth form, although this is not mandatory. In most cases the existing oversubscription criteria for the school will be appropriate for the sixth form.

⁹ The closing date for parents to submit an application for the following September is 31 October

Part B: Departmental guidance for academy trusts considering academy closure by mutual agreement

1: Summary

This section sets out matters for consideration concerning whether to close an academy by mutual agreement with the Secretary of State. It is not to be taken as providing legal guidance and academy trusts should seek their own independent legal advice to ensure they are complying with their legal obligations.

This guidance sets out an expectation that academy trusts will work collaboratively with Regional Schools Commissioners (RSCs) and local authorities (LAs), and where the academy is designated as having a religious character the trustees of the school (which are separate to the trustees of the Academy Trust) and the appropriate religious authority (in the case of church academies the diocese or relevant diocesan board). It emphasises the need for an area-based approach to pupil place planning. Just as it is important that academy trusts and, where relevant, dioceses, support LAs in providing additional places where they are needed, it is equally important that they support the removal of surplus capacity in the system, where there is no forecast increase in the need for school places in the medium or long term.

In some circumstances closure, alongside other changes such as amalgamations, a reduction in the Published Admission Number (PAN) and/or reorganisation of the school estate more broadly, can be the most appropriate course of action in order to deliver good school places, and support better educational outcomes, as well as long term financial sustainability.

This guidance recognises the need for a clear and consistent approach to the consideration of academy closures by mutual agreement, and sets out the processes for academy trusts to follow.

2: Introduction

This section will support academy trusts to understand when closure of an academy might be an appropriate solution to address standards and/or viability issues, including in areas where there are surplus places and there is no predicted increase in the need for places in the medium or long term. Managing surplus capacity is about considering a range of options for the reutilisation and reconfiguration of space, and in some circumstances, closure. Mutually agreed closure can curtail prolonged decline in standards and viability, and as such support better educational outcomes for pupils.

Academies where there are low pupil numbers with limited prospect of increasing numbers through recruitment, should consider area based solutions for removing surplus capacity; including mergers with other local schools, reduction of PAN, the reutilisation of

part of the academy premises for other purposes, such as nursery provision, or, where appropriate, academy closure.

LAs have overall responsibility for local place planning and academy trusts play an important role in supporting LAs to manage the school estate effectively. In the case of church schools the diocese will work in partnership with the LA in place planning. If an academy trust is considering the future viability of its school, it will need to work collaboratively with RSCs, LAs, other academy trusts and academies, dioceses and the governing bodies of other schools in the area to ensure that decisions are made in the best interests of pupils. This section sets out the processes academy trusts need to follow, and provides guidance as to when academy trusts should talk to other parties.

3: Academy closure by mutual agreement - principles and processes

If the Secretary of State agrees to terminate the academy trust's funding agreement and has decided not to transfer the academy to another academy trust, then the school will close.

The Secretary of State must agree to the termination of the funding agreement before an academy can close.

This decision will be based on evidence supporting the case for closure and evidence that the academy trust has followed this guidance.

Academy trusts will need to plan ahead to ensure that any closure takes place in good time. Relevant local authorities will be able to advise on the availability of alternative places and will be required to run a preference exercise to find an alternative place for any displaced pupils. LAs must be able to begin this process at the earliest stage feasible to allow for choices to be made, places to be found and for disruption to be minimised.

The circumstances in which an academy trust might ask the Secretary of State to agree to the closure of an academy include:

- Where an academy has low numbers of pupils on roll, and there is no reasonable prospect of attracting additional pupils because there are surplus places in schools elsewhere in the local area, and no predicted increase in the medium and long-term need for places.
- Where an academy in an area with a need for additional school places has been underperforming for some time and is under capacity, and shows no realistic prospect of meeting the required standard. However, in these circumstances, as an alternative to proceeding to closure, the Secretary of State may agree to allow trustees to terminate their agreement early and seek an alternative sponsor or multi academy trust with the skills and capacity to improve standards.

Process and factors to consider

Stage 1: Consideration of closure

When considering a closure solution, it is important that the academy trust engages early with the relevant RSC and LAs, and quickly establishes an active working relationship, involving them in planning and decision-making right from the outset. Where the academy is designated as having a religious character, these discussions would take place between the RSC and the trustees of the school and the appropriate religious authority (in the case of church schools the diocese or diocesan board). Early discussions should be handled sensitively with the interests of the pupils at the heart of the consideration. At this stage the academy trust should not announce the possibility of closure or make changes to their admission arrangements unless this is agreed with the RSC and LA.

Factors to consider in closure discussions

- Are pupil numbers low? Is this due to a surplus of places in the area?
- Is the surplus of places likely to change in the future? If so, are there steps the academy trust can take in the meantime to improve viability of the school?
- If numbers are low for reasons other than surplus places, does the academy trust have the capacity to drive the necessary improvement to increase viability? If not, is there another academy trust willing and able to take over?
- If the school closes, will there be sufficient places in the area for the pupils affected? Will any pupils be moved into underperforming schools?
- Are there any alternatives to closure, e.g. a merger.
- Has the academy trust exhausted all other appropriate options related to increasing income and achieving efficiencies?
- What time frame is the academy trust considering?
- What can be done to minimise any impact to pupils who will be in exam years?

Stage 2: Seeking in principle agreement

- If, in consultation with the RSC, the academy trust comes to a preliminary view that closure is the best option, the trust should submit, in writing, a request to terminate the funding agreement by mutual consent and, its proposal for closure together with documentary evidence. Where the academy is designated as having a religious character, consent of the trustees of the school (which are separate to the trustees of the academy Trust) and the appropriate religious authority (in the case of church schools the diocese or diocesan board) is required.

The proposal should include (but should not be limited to) the following:

- The primary reason for seeking agreement to terminate the funding agreement, and the rationale and evidence in support of a closure solution;
- Confirmation that reasonable alternatives to closure have been considered;

- Consideration of the impact the academy closure will have on the local community;
- Confirmation of the existence of other available provision for pupils within reasonable travelling distance.
- Consideration of whether partial closure or an extended closure date is an option, allowing pupils in exam year groups to complete their studies. (It should be noted that a partial closure may result in a reduction in GAG funding);
- Where an academy provides early years provision, confirmation of discussions with the LA to avoid a shortfall of nursery provision;
- An indicative closure timeline/calendar.
- An initial Academy Equality Impact Assessment of the proposed closure in order to consider the expected impact of the proposed change on all individuals with protected characteristics, under the [Equality Act 2010](#). Further guidance on how to conduct equality impact assessments can be found on the [Equality and Human Rights Commission's \(EHRC\) website](#). This has to be done and updated in addition to any Department Equality Impact Assessment.

Stage 3: In principle decision

- The RSC will consider the information available and make a recommendation to the Secretary of State as to whether, in principle, the funding agreement should be terminated and the academy should close. Where the academy is designated as having a religious character, the RSC will consider evidence and discussions with the trustees of the school and the appropriate religious authority (in the case of church schools the diocese or diocesan board). The department will communicate the Secretary of State's decision to the academy trust.

Factors considered by the RSC/Secretary of State will normally include:

- LA projections for future levels of basic need. These should be bespoke, rather than school capacity survey (SCAP) data;
- The viability of the school under the current academy trust (including the effectiveness of any previous attempts to improve educational standards and financial performance);
- The availability of other academy trusts to take on the school and their capacity to drive the necessary improvements (where the academy is designated as having a religious character, the trustees of the school and the appropriate religious authority (in the case of church schools, the diocese or diocesan board) will lead these discussions);
- The impact on those likely to be affected by the closure;
- The impact on any pupils with special educational needs or disabilities, and the availability of suitable alternative provision for displaced pupils.
- Cost effectiveness of closure.
- Equality impact of the closure

Stage 4: Seeking a substantive decision on closure

- If there is an agreement in principle, the department will work with the academy trust and the LA, and where the academy is designated as having a religious character the trustees of the school (which are separate to the trustees of the academy Trust) and the appropriate religious authority (in the case of church schools the diocese or relevant diocesan board).
- Further work will also be completed by the department at this stage which will include an updated value for money/viability assessment and an updated Department Equality Impact Assessment.
- In parallel the academy trust can develop a communications and stakeholder plan for the closure of the academy. This will allow the process to move swiftly assuming the Secretary of State agrees school closure.

The academy trust's communications and stakeholder plan must set out how they will undertake ongoing communications with pupils and parents, academy employees and their representatives and the LAs and schools affected by the closure throughout the closure period.

Once the plan is completed, the following actions should be taken:

- Explore availability of alternative provision for pupils in the local area and evidence that costs and transport arrangements to attend other schools have been considered and are reasonable and viable. The academy trust may need to work with their relevant LA, and any other local authorities where pupils reside, in order to obtain this information. Local authorities are required to run a mini preference exercise following the announcement of the closure of a school and will need to be allowed the appropriate time to complete this process.
- Make appropriate financial arrangements. The ESFA will provide support throughout this process. When an academy closes and its funding agreement terminates, its general annual grant ceases immediately. Academy trusts are expected to meet the costs of closure from existing reserves. This includes any redundancy payments, the costs of appointing an independent auditor, of providing financial statements and an accounts return, any legal advice, or penalties incurred by the early termination of contracts or leases.
- The academy Accounting Officer **must** agree to provide a written commitment to comply with the checklist at **Annex B** and provide the final accounts in cases where the trust is closing.

Stage 5: Substantive closure decision

The Secretary of State will decide whether the funding agreement should be terminated and the school should close. The department will communicate the Secretary of State's decision to the academy trust.

Following a substantive decision from the Secretary of State to proceed to closure, the academy trust should share news of the closure with pupils, parents, staff, unions, relevant LAs and schools elsewhere in the local area at the earliest opportunity, and conduct a listening period.

The listening period is an opportunity for stakeholders and interested parties to be provided with information as to why the school is closing and how it is proposed the closure process will operate. Likewise it is an opportunity for stakeholders and interested parties to submit their views on how the school closure process can be best managed.

Annex A sets out the expectations of a listening period in more detail. The academy trust should have regard for the responses received when developing their final proposed closure plan.

Stage 6: Approval and implementation of the closure plan

The Secretary of State will consider the outcome of the listening period and give permission for the trust to announce details of the closure. It is the academy trust's responsibility (seeking external advice if required) to ensure that all closure obligations are met. The department will provide support to the academy trust throughout this process

The key actions to be carried out by the academy trust include at this stage:

Placement of pupils

Where an Academy is to be closed, the LA must collaborate with all schools in their area to consider the best way to secure provision for children in other local schools (see paragraph 2.25 of the Admissions Code).

Detailed work with the LA admissions office should be undertaken to ensure that suitable places are found for all pupils (excluding post-16 students). The LA should take responsibility for running a preference exercise and co-ordinating the process of identifying places and agreeing transfers with local heads. For post-16 students, there is an expectation that the closure is planned to allow A Level pupils to complete their studies in situ. Where this is not possible, the academy trust should support students to find suitable alternative institutions to allow them to continue their courses

The academy trust must plan for the storage of pupil records, including access to coursework, until these can be transferred to the receiving institutions.

Displaced pupils in the case of closure

Pupils must not be moved to another school when this is not in line with parents' wishes. Where it is in line with parental preferences, a child can transfer but only if the child has priority for admission under the published admission arrangements of that school or the school has sufficient space to accommodate them without applying its admissions policy.

The normal process therefore is for the academy, as soon as the Secretary of State has given permission to close, is to inform parents of its plans (through the listening period) and to continue to engage the LA to run a preference exercise to find a place for any displaced pupils in an alternative mainstream school or post 16 provider. Both must be done at an earliest stage as is feasible to allow for choices to be made, places to be found and for disruption to be minimised.

Wherever possible, closures should be planned so that children studying for GCSEs or A levels etc should be able to complete their studies in situ before the school closes.

A statement on the process for the finding of places for displaced pupils should be agreed with the LA. That statement should include setting out the provision that is to be made for children with special educational needs and the proposed arrangements for travel of displaced pupils to other schools.

Disposal of academy assets (including its land, buildings, finance, fixtures and fittings)
The memorandum and articles of association of the academy trust and its funding agreement influences how the assets are dealt with. In practical terms, the academy trust will work with the RSC and ESFA to establish a method of distributing all assets including its land, building fixtures and fittings.

Redundancies The academy trust is responsible for meeting redundancy costs.

Pension liabilities

The academy trust is responsible for meeting the costs of pension liabilities associated with closure. The academy trust should engage with the Local Government Pension Scheme (LGPS) fund manager as early as possible. The fund manager will need to know the proposed/actual closure date, which will enable the fund manager to request and provide the academy trust with a 'cessation report'. Further advice on the LGPS arrangements can be found [here](#).

Submission of final accounts

Where an academy trust is being wound up, the academy trust **should** submit final accounts before termination of the funding agreement and closure of the academy.

When an academy is closed or its management is transferred to a different academy trust, its trustees must ensure audited financial statements and an accounts return from the start of the reporting period (1 September) up to the date of termination of the funding agreement are prepared and submitted to the department no later than 4 months after termination.

Deed of Termination

Once final accounts have been submitted, the academy trust should produce a Deed of Termination for agreement and sign off with the department.

Trustees must then undertake closure action with [Companies House](#) where the trust is being wound up.

Closure of rural schools

There is a presumption against the closure of rural primary schools. The list of schools designated as rural can be found [here](#). In respect of academies, this means that both the department and the LA need to agree to the closure of a rural academy, and where the school is designated as having a religious character the trustees of the school and appropriate religious authority (in the case of church schools the diocese or relevant diocesan board).

The presumption does not mean that a rural school will never close, but it does mean that the case for closure should be strong and that the closure is clearly in the best interests of educational provision in the area.

Rural secondary schools are identified on the [Get Information about Schools](#) database using the Office for National Statistics' [Rural and Urban Area Classification](#).

When considering a closure solution for a rural academy, it is important that due regard is given to the factors below (in addition to those outlined above):

- the likely impact of the closure on the local community, including the loss of the building as a community facility;
- the availability, and likely cost, of transport to other schools;
- any increase in the use of motor vehicles which is likely to result from the closure of the academy, and the likely effects of any such increase.

Annex A: Listening period

This is provided as guidance only.

1. The department's expectation, **in all cases**, is that academy trusts discuss their closure plans openly and transparently with all individuals and organisations likely to be affected by the closure, once a substantive decision has been given by the department.
2. The listening period should normally take place over a period of no less than four weeks (during term time, and not school holidays). It should set out the rationale for closure and plans the academy trust intends to put in place to transfer pupils to schools elsewhere in the local area. It should also propose a timeline for closure.

Information that should normally be provided to interested parties:

- a) The name and the contact address of the academy trust considering closure.
- b) The likely date of closure or, where it is proposed that the closure be implemented in stages, the dates of and information about each stage.
- c) A statement explaining the reason why closure of the school is considered necessary.
- d) The numbers (distinguishing between compulsory and non-compulsory school age pupils), age range, sex, and special educational needs of pupils at the school (distinguishing between boarding and day pupils) for whom provision is currently made.
- e) A statement and supporting evidence about the need for school places in the area including whether there is sufficient capacity to accommodate displaced pupils.
- f) A statement on the process for finding places at other schools or colleges for displaced pupils (produced in collaboration with the LA). The statement should also set out the provision that is to be made for pupils with special educational needs.
- g) A statement and supporting evidence about the likely impact of closure of the school on the community and any measures proposed to mitigate any adverse impact.
- h) Where closure plans relate to a rural primary school; a statement that the trustees have considered the likely effect on the local community, the availability and the likely cost to the LA of transport of pupils 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 closure of the school (such as consideration of amalgamation with other schools, or community use).
- i) Where the academy has a religious character, a statement about the impact of closure on the balance of denominational provision in the area and its impact on parental choice.

- j) A statement/report as to the equality impact of the closure and any measures proposed to mitigate any adverse impact.
- k) Where the plans for closure relate to an academy that provides sixth form education, the likely impact on 16 to 19 year olds in the area in respect of their participation in education or training and the range of educational or training opportunities available to them.
- l) Where the closure will remove existing provision reserved for pupils with special educational needs, a statement as to how the trustees believe their proposed changes are likely to lead to improvements in the standard, quality and/or range of the educational provision for these children.
- m) The proposed arrangements for travel of displaced pupils to other schools including how the proposed arrangements will mitigate against increased car use.

The department considers the following individuals and organisations to be interested parties:

- The LA and any other LA likely to be affected by the closure, in particular any LA that maintains an EHC plan or statement of special needs in respect of a registered pupil at the academy or an academy with a looked after child. Where the LA is a County Council, the local district or parish council where the academy is situated;
- Local Authority County Councillors/Members;
- Pupils and the parents of pupils registered at the academy;
- Teachers and other staff at the academy;
- Parents of any pupils at other schools affected by the closure of the academy; including, for example the families of pupils at feeder schools;
- Any trade unions who represent staff at the academy;
- The MP for the constituency in which the academy is situated.

Annex B: Final account checklist

In cases where the overall academy trust is closing, the Secretary of State will not agree to the early termination of a funding agreement, without an assurance statement from the academy trust's Accounting Officer (AO) to confirm that funds received to the point of termination have been used for the purposes intended. The AO should also provide a written commitment that they will comply with the following checklist. They must:

- Make provision for the production of audited financial statements and accounts return (i.e. have tasked a member of the academy trust staff to produce the accounts and/or instructed their accountants to do so). This should be completed no later than 4 months after termination.
- Safeguard the academy's accounting records, evidence and systems to facilitate the production and audit of the financial statements and accounts return.
- Share the forecast costs and cash flows expected to the point of termination and ensure funds are set aside to meet the cost of producing the audited Financial Statements and an accounts return.
- Ensure the academy trust has appointed and instructed an independent auditor, and a member of finance staff (or a trustee) is available to respond to audit queries from the independent auditor and the department who will be available 'post closure' in case there are final queries.
- Ensure a representative of the academy trust has committed to sign off the Financial Statements that the Board has approved - as required by the Companies Act 2006.

Further Information

Queries can be submitted via the [online enquiry form](#)

- [Education Act 1996](#)
- [Childcare Act 2006](#)
- [Academies Act 2010](#)
- [Equality Act 2010](#)
- [Equality and Human Rights Commission](#)
- [School Standards and Framework Act 1998](#)
- [Pipeline Free Schools](#)
- [Funding Guidance for Young People 2018 to 2019](#)
- [Convert to an Academy: guide for schools](#)
- [Small Business Enterprise and Employment Act 2015](#)
- [The School and Early Years Finance \(England\) Regulations 2014](#)
- [The Education \(Independent School Standards\) Regulations 2014](#)
- [Regional Schools Commissioners](#)
- [Charity Commission](#)
- [‘Going Concern Basis of Accounting and Reporting on Solvency and Liquidity Risks’](#)
- [Schools Causing Concern guidance](#)
- [Establishing a new school: free school presumption](#)
- [Opening a free school](#)
- [Sponsor an academy](#)
- [Academies: funding, payments and compliance](#)
- [Condition Improvement Fund guidance \[www.gov.uk/guidance/condition-improvement-fund\]\(http://www.gov.uk/guidance/condition-improvement-fund\)](#)

- [Selective Schools Expansion Fund - GOV.UK](#)
- [The School Admissions Code](#)
- [Governance Handbook](#)
- [Change your charity's governing document](#)
- [Boarding schools national minimum standards](#)
- [Residential special schools national minimum standards](#)
- [Ofsted material change inspection](#)
- [Get information about schools \(GIAS\)](#)
- [How to make changes to a maintained school](#)
- [Opening and Closing LA maintained schools guidance](#)
- [Consultation principles guidance](#)
- [Independent School Standards](#)
- [Local Government Pension Scheme](#)
- [Companies House](#)
- [Charity Commission](#)



Department
for Education

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