



Department  
for Education

# **School Organisation**

## **Maintained Schools**

**Annex A: Further information for  
proposers**

**January 2014**

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## Annex A.1: Prescribed Alterations

1. Regulations 4 and 5 of the Prescribed Alterations Regulations 2013 set out the prescribed alterations that can be made by governing bodies and LAs in respect of each type of school. The alterations are:

### Expansion (enlargement to premises)

2. Governing bodies seeking to expand a school do not have to follow a statutory process.

3. LAs must follow a statutory process if:

- the proposed enlargement to the premises of the school is permanent (longer than three years) and would increase the capacity of the school by:
  - more than 30 pupils; and
  - 25% or 200 pupils (whichever is the lesser)<sup>1</sup>;
- the proposal involves the making permanent of any temporary enlargement (that meets the above threshold).

4. An expansion without a physical enlargement to the premises of the school does not require a statutory proposal. Increases in pupil numbers may be achieved through an increase in the Published Admission Number under the School Admissions Code.

5. Changes in the size of special schools are dependent on the number of pupils (see prescribed alteration: '[Changes in number of pupils at a special school](#)').

### Changes to age range

6. Governing bodies seeking to alter the upper or lower age range of a school by up to two years do not have to follow a statutory process (except when adding or removing a sixth-form). Alterations of three years or more will require a statutory process when proposed by governing bodies of foundation and voluntary schools.

7. LAs must follow a statutory process to make a change to age range if:

- the proposed age range change is permanent (longer than two years); or
- the proposal involves the making permanent of any temporary change.

8. The 'Who Can do What?' table ([Annex A.5](#)) gives further information on the different types of prescribed age range changes and who can propose which changes.

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<sup>1</sup> As an example: if the proposal is to increase a five-form of entry school with a net capacity of 750 to a six-form of entry school with a capacity of 900 pupils then no proposal is required as although the increase is by more than 30 pupils, it is less than 25% of the current capacity.

9. For special schools, any proposer seeking to alter the upper or lower age limit by a year or more must follow a statutory process (except where it is a temporary change for less than two years).

## **Boarding provision**

10. Governing bodies may seek to add boarding provision to all categories of mainstream school – they do not have to follow a statutory process to do so. Governing bodies will, however, need to ensure that schools comply with other legislation covering health and safety, fire or planning regulations, as well as meeting the National Minimum Standards for Boarding Schools<sup>2</sup>.

11. Governing bodies of foundation and voluntary schools may also seek to remove or decrease boarding provision at their schools. When removing, or decreasing by more than 50% or 50 pupils (whichever is greater) they must follow a statutory process.

12. LAs must follow a statutory process when seeking to add, remove or decrease (by more than 50% or 50 pupils – whichever is greater) boarding provision at community schools.

13. For special schools, the LA must follow a statutory process when seeking to add, remove or decrease (by five pupils or more) boarding provision at a community special school. Governing bodies must do the same for community special and foundation special schools.

## **Changes in the number of pupils or types of need at a special school**

14. Governing bodies of all categories of special school may seek to decrease the number of pupils and change the types of needs provided for by their school. LAs may seek to decrease the number of pupils at a community special school and to change the types of need provided for at all categories of special school. All such changes require a statutory process.

15. Governing bodies and LAs may seek to increase the number of places at any category of special school however, they must follow a statutory process if the increase is by:

- 10%; or
- 20 pupils (5 for all boarding special schools) (whichever is the lesser).

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<sup>2</sup> Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/180948/DFE-00126-2012.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/180948/DFE-00126-2012.pdf)

## Changes to special educational need provision at mainstream schools

16. For special education need (SEN) provision in a mainstream school, proposers must follow a statutory process when:

- establishing new provision;
- changing the type(s) of special educational provision; or
- ending provision.

17. Governing bodies may seek to make all three of these changes at voluntary and foundation schools. LAs may seek to make all three of these changes at community schools and to establish or end such provision at voluntary and foundation schools.

## Grammar school admission arrangements

18. The governing body of a designated grammar school must<sup>3</sup> follow a statutory process if seeking to remove selective criteria from their admission arrangements<sup>4</sup>.

## Change of co-educational to single sex provision and vice-versa

19. Governing bodies of voluntary, foundation and community special schools and LAs (for community and community special schools) may seek to change single sex schools<sup>5</sup> to co-educational and vice versa. They must follow a statutory process to do so.

## Transfer to a new site

20. Governing bodies of voluntary and foundation schools (including special schools) and community special schools, and LAs (for community and community special schools) may seek to transfer a school to a new site. A statutory proposal is required if:

- the new site is further than two miles<sup>6</sup> from the existing site; or
- the transfer is to a location within a different LA (regardless of distance).

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<sup>3</sup> Under section 109(1) of the SSFA 1998.

<sup>4</sup> Proposals to remove selection will fail if the LA is notified that a petition, which will trigger a ballot, has been received before the proposals are due to be implemented.

<sup>5</sup> Schools that let a comparatively small number of pupils of the other sex into a sixth-form may still be designated as single sex.

<sup>6</sup> Distance should be measured in a straight line between the main entrances of the existing and proposed sites.

## Closure of one of multiple sites

21. Governing bodies of voluntary and foundation schools and LAs (for community schools) seeking to close one site (where a school occupies more than one site) must follow a statutory process unless the straight line distance between the main entrances of the sites is less than one mile.

## Changes of category

22. Governing bodies must follow a statutory process for a proposal to make a change of category<sup>7</sup> from a:

- voluntary-controlled school to a voluntary-aided school;
- voluntary-aided school to a voluntary-controlled school;
- foundation school to a voluntary-controlled school;
- foundation school to a voluntary-aided school;
- community school to a voluntary-controlled school; or
- community school to a voluntary-aided school.

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<sup>7</sup> It is not possible for any school to gain, lose or change religious character through a change of category. Changes of category to foundation follow a different process and are covered in [Annex C](#) of this guidance.

## Annex A.2: Statutory proposals for prescribed alterations

23. A statutory proposal for making significant changes to schools must contain sufficient information for interested parties to make a decision on whether to support the proposed change. A proposal should be accessible to all interested parties and therefore use 'plain English'.

24. Proposers will need to be mindful of the factors that will inform the decision-maker's assessment when determining the proposal (see: Decision-makers Guidance at [Annex B](#)).

25. As a minimum, the department would expect a proposal to include:

- School and LA details;
- Description of alteration and evidence of demand;
- Objectives (including how the proposal would increase educational standards and parental choice);
- The effect on other schools, academies and educational institutions within the area;
- Project costs and indication of how these will be met, including how long term value for money will be achieved;
- Implementation and any proposed stages for implementation; and
- A statement explaining the procedure for responses: support; objections and comments.

## Annex A.3: School closure consultations

26. Under section 16(3) of the EIA 2006 a proposer of a school closure must have regard to any guidance issued by the Secretary of State.

27. In the case of the closure of a rural primary school or a community or foundation special school proposers must<sup>8</sup> consult:

- LA (as appropriate);
- parents of pupils;
- where the LA is a county council the local district or parish council where the school that is the subject to the proposal is situated; and
- in the case of a special school – any LA which maintains a statement of special educational needs in respect of a registered pupil at the school.

28. The Secretary of State considers that these bodies, along with those listed below should be consulted in the case of the proposed closure of all schools:

- the governing body (as appropriate);
- pupils at the school<sup>9</sup>;
- (if a proposal involves, or is likely to affect a school which has a particular religious character) the appropriate diocese or relevant faith group<sup>10</sup>;
- the trustees of the school (if any);
- teachers and other staff at the school;
- any LA likely to be affected by the proposal, in particular neighbouring authorities where there may be significant cross-border movement of pupils;
- the governing bodies, teachers and other staff of any other school that may be affected;
- parents of any pupils at other schools who may be affected by the proposal including where appropriate families of pupils at feeder primary schools;
- any trade unions who represent staff at the school; and representatives of any trade union of staff at other schools who may be affected by the proposal;
- MPs whose constituencies include the school that is the subject of the proposal or whose constituents are likely to be affected by the proposal; and
- any other interested body/person that the proposer thinks is appropriate.

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<sup>8</sup> Under section 16(1) of EIA 2006.

<sup>9</sup> Under section 176 of the Education Act 2002.

<sup>10</sup> Under the DBE Measure 1991 Church of England schools must consult with their diocese before making closure proposals.



## **Annex A.4: Statutory proposals for school closures**

29. The information below must<sup>11</sup> be included in a proposal to close a school:

### **Contact details**

30. The name and contact details of the LA or governing body publishing the proposal and the name, address and category of the school proposed for closure.

### **Implementation**

31. The proposed closure date or, where it is proposed that the closure be implemented in stages, the dates of, and information about, each stage.

### **Objectives and reason for closure**

32. The objectives of the proposal and the reason why closure of the school is considered necessary.

33. Decision-makers will look to proposals to set out how the proposal will impact on the educational standards and parental choice in the community. Where the proposal is related to another proposal this should be made clear, for example in the case of an area wide reorganisation.

### **Pupil numbers and admissions**

34. Information on the numbers, age range, sex and special educational needs of pupils (distinguishing between boarding and day pupils) for whom provision is currently made at the school.

### **Displaced pupils**

35. Details of the schools at which displaced pupils will be offered places, including:

- any interim arrangements;
- the alternative provision for children recognised by the LA as reserved for children with special educational needs; and
- in the case of special schools, the alternative provision made by LAs other than the LA which maintains the school.

### **Impact on the community**

36. A statement and supporting evidence about the impact on the community and any measures proposed to mitigate any adverse impact, including details of the extended

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<sup>11</sup> Under Schedule 2 to the Establishment and Discontinuance Regulations.

services the school offered and what is proposed for these services once the school has closed.

## **Balance of denominational provision**

37. Where the school has a designated religious character, a statement about the impact of the proposed closure on the balance of denominational provision and impact on parental choice in the area.

## **Rural primary schools**

38. Where a proposal relates to a rural primary school, a statement<sup>12</sup> that the LA or the governing body (as the case may be) has considered:

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

## **Maintained nursery schools**

39. Where a proposal relates to the closure of a maintained nursery school, a statement setting out:

- the LA's assessment of the quality and quantity of the alternative provision compared to the school proposed to be closed and the proposed arrangements to ensure the expertise and specialism continues to be available; and
- the accessibility and convenience of replacement provision for local parents.

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

40. Where the school proposed for closure provides sixth-form education, how the proposal will impact on:

- the educational or training achievements;
- participation in education or training; and
- the range of educational or training opportunities for 16-19 year olds in the area.

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<sup>12</sup> As required by section 15(4) of the EIA 2006.

## **Special educational needs (SEN) provision**

41. Where existing provision that is recognised by the LA as reserved for pupils with special educational needs is being closed, a statement as to how the LA or the governing body (as the case may be) believes a proposal is likely to lead to improvements in the standard, quality and/or range of the educational provision for these children.

## **Travel**

42. The proposed arrangements for travel of displaced pupils to other schools including how the proposed arrangements will work to limit increased car use.

## **Consultation**

43. Decision-makers will need to be assured that consultation has taken place, and that the statutory process has been adhered to. Therefore proposals should include evidence that the period of statutory consultation took place, and the results of that consultation.

## Annex A.5: 'Who can do what?' table

Proposer	Type of proposal	Decision-maker	Right of appeal to the Adjudicator?
Local Authority	<b>Community Schools</b> <b>(following a statutory process):</b> <ul style="list-style-type: none"> <li>- Expansion (enlargement of premises)</li> <li>- Alteration of upper or lower age limit including the addition or removal of a nursery or sixth-form</li> <li>- Addition, removal or change of SEN provision</li> <li>- Co-ed or single sex provision</li> <li>- Addition, removal or change of boarding provision</li> <li>- Transfer to a new site</li> <li>- Closure of one of multiple sites</li> <li>- Closure</li> </ul>	LA  (Schools Adjudicator <sup>13</sup> )	CofE Diocese  RC Diocese
	<b>Community Special Schools</b> <b>(following a statutory process):</b> <ul style="list-style-type: none"> <li>- Alteration of upper or lower age limit</li> <li>- Increase or decrease in the number of pupils</li> <li>- Change in the types of SEN</li> <li>- Addition, removal or change of boarding provision</li> <li>- Co-ed or single sex provision</li> <li>- Transfer to a new site</li> <li>- Closure</li> </ul>	LA  (Schools Adjudicator <sup>13</sup> )	CofE Diocese  RC Diocese
	<b>Foundation and Voluntary Schools</b> <b>(following a statutory process):</b> <ul style="list-style-type: none"> <li>- Expansion (enlargement of premises)</li> <li>- Addition of a sixth-form</li> <li>- Addition and removal of SEN provision</li> <li>- Closure</li> </ul>	LA  (Schools Adjudicator <sup>13</sup> )	CofE Diocese  RC Diocese  GB  Trustees
	<b>Foundation Special Schools</b> <b>(following a statutory process):</b> <ul style="list-style-type: none"> <li>- Change in the types of SEN</li> <li>- Increase in the number of pupils</li> <li>- Closure</li> </ul>	LA  (Schools Adjudicator <sup>13</sup> )	CofE Diocese  RC Diocese  GB  Trustees
	<b>Maintained Nursery Schools</b> <b>(following a statutory process):</b> <ul style="list-style-type: none"> <li>- Transfer to a new site</li> <li>- Closure</li> </ul>	LA  (Schools Adjudicator <sup>13</sup> )	CofE Diocese  RC Diocese

<sup>13</sup> Only where it relates to a proposal to be decided by them or where the LA has not made a decision within 2 months of the end of the representation period.

Proposer	Type of proposal	Decision-maker	Right of appeal to the Adjudicator?
Governors of Voluntary Schools	<b>(without a statutory process):</b> <ul style="list-style-type: none"> <li>- Expansion (enlargement of premises)</li> <li>- Alteration of upper or lower age limit by up to 2 years (excluding the addition/removal of a sixth-form)</li> <li>- Addition of boarding provision</li> </ul>	n/a	n/a
	<b>(following a statutory process):</b> <ul style="list-style-type: none"> <li>- Alteration of upper or lower age limit by 3 years or more</li> <li>- Addition or removal of a sixth-form</li> <li>- Addition, removal or change of SEN provision</li> <li>- Removal of selection (grammar schools)</li> <li>- Co-ed or single sex provision</li> <li>- Removal or alteration of boarding provision</li> <li>- Transfer to a new site</li> <li>- Closure of one of multiple sites</li> <li>- Change of category (VC to VA and VA to VC)</li> <li>- Closure</li> </ul>	LA  (Schools Adjudicator <sup>13</sup> )	CofE Diocese  RC Diocese  GB  Trustees
	<b>Foundation Proposals:</b> <ul style="list-style-type: none"> <li>- VC or VA to foundation</li> <li>- VC or VA to foundation and acquire a Foundation (Trust)</li> <li>- VC or VA to foundation and acquire a Foundation (Trust) and acquire a majority of Foundation governors on the governing body</li> </ul>	GB  (Schools Adjudicator <sup>14</sup> )	For proposals at a VA school when decided by the GB:  LA CofE Diocese RC Diocese
Governors of Foundat. Schools	<b>(without a statutory process):</b> <ul style="list-style-type: none"> <li>- Expansion (enlargement of premises)</li> <li>- Alteration of upper or lower age limit by up to 2 years (excluding the addition/removal of a sixth-form)</li> <li>- Addition of boarding provision</li> </ul>	n/a	n/a
	<b>(following a statutory process):</b> <ul style="list-style-type: none"> <li>- Alteration of upper or lower age limit by 3 years or more</li> <li>- Addition or removal of a sixth-form</li> <li>- Addition, removal or change of SEN provision</li> <li>- Removal of selection (grammar schools)</li> <li>- Co-ed or single sex provision</li> <li>- Removal or alteration of boarding provision</li> <li>- Transfer to a new site</li> <li>- Closure of one of multiple sites</li> <li>- Change of category (Foundation to VC or VA)</li> <li>- Closure</li> </ul>	LA  (Schools Adjudicator <sup>13</sup> )	CofE Diocese  RC Diocese  GB  Trustees
	<b>Foundation Proposals:</b> <ul style="list-style-type: none"> <li>- Acquire a Foundation (Trust)</li> <li>- Acquire a majority of Foundation governors on the governing body</li> </ul>	GB  (Schools Adjudicator <sup>14</sup> )	n/a

<sup>14</sup> Under certain circumstances set out in paragraph 8 of Schedule 1 to the Prescribed Alterations Regulations, the LA may require that the proposal to acquire a Trust or majority of foundation governors is referred to the Schools Adjudicator during the representation period.

Proposer	Type of proposal	Decision-maker	Right of appeal to the Adjudicator?
	<b>Removal Proposals<sup>15</sup>:</b> <ul style="list-style-type: none"> <li>- Removal of a Foundation and/or reduction in a majority of Foundation governors on the governing body</li> </ul>	GB	n/a
<b>Governors of Comm. Schools</b>	<b>(without a statutory process):</b> <ul style="list-style-type: none"> <li>- Expansion (enlargement of premises)</li> <li>- Alteration of upper or lower age limit by up to 2 years (excluding the addition/removal of a sixth-form)</li> <li>- Addition of boarding provision</li> </ul>	n/a	n/a
	<b>(following a statutory process):</b> <ul style="list-style-type: none"> <li>- Addition of a sixth-form</li> <li>- Removal of selection (grammar schools)</li> <li>- Change of category from community to VC or VA</li> </ul>	LA (Schools Adjudicator <sup>13</sup> )	CofE Diocese RC Diocese
	<b>Foundation Proposals:</b> <ul style="list-style-type: none"> <li>- Community to foundation</li> <li>- Community to foundation and acquire a Foundation (Trust)</li> <li>- Community to foundation and acquire a Foundation (Trust) and acquire a majority of Foundation governors on the governing body</li> </ul>	GB (Schools Adjudicator <sup>14</sup> )	n/a
<b>Governors of Foundat. Special Schools</b>	<b>(following a statutory process):</b> <ul style="list-style-type: none"> <li>- Alteration of upper or lower age limit by 1 year or more</li> <li>- Increase or decrease in the number of pupils</li> <li>- Change in the types of SEN</li> <li>- Co-ed or single sex provision</li> <li>- Addition, removal or change of boarding provision</li> <li>- Transfer to a new site</li> </ul>	LA (Schools Adjudicator <sup>13</sup> )	CofE Diocese RC Diocese GB Trustees
	<b>Removal Proposals:</b> <ul style="list-style-type: none"> <li>- Removal of a Foundation and/or reduce a majority of Foundation governors on the governing body</li> </ul>	GB	n/a
<b>Governors of Comm. Special Schools</b>	<b>(following a statutory process):</b> <ul style="list-style-type: none"> <li>- Alteration of upper or lower age limit by 1 year or more</li> <li>- Increase or decrease in the number of pupils</li> <li>- Change in the types of SEN</li> <li>- Co-ed or single sex provision</li> <li>- Addition, removal or change of boarding provision</li> <li>- Transfer to a new site</li> </ul>	LA (Schools Adjudicator <sup>13</sup> )	CofE Diocese RC Diocese

<sup>15</sup> Under section 25 of the EIA 2006 and the School Organisation (Removal of Foundation, Reduction in Numbers of Foundation Governors and Ability of Foundation to Pay Debts) (England) Regulations 2007.

Proposer	Type of proposal	Decision-maker	Right of appeal to the Adjudicator?
Other Proposers	<p>- Establish a new school under section 7 (in a competition)</p> <p>(Following the approval of the Secretary of State where academy presumption has gained no suitable proposals).</p>	<p><u>1. Academy proposals</u></p> <p>Secretary of State</p>	n/a
		<p><u>2. Non-academy proposals by proposers other than the LA</u> (where no academy bid is deemed suitable)</p> <p>LA</p> <p>(Schools Adjudicator<sup>16</sup>)</p> <p>Where no suitable bid is received at this stage the LA may propose a new foundation or community school (inc. special school) under section 11. It does not need further consent from the Secretary of State to do so. See below.</p>	n/a
	<p>Establish a new school under section 10 or 11</p>	<p>Schools Adjudicator decides LA proposals and where the LA is involved in the Trust of a Foundation school.</p> <p>The LA decides proposals from other proposers.</p>	<p>CofE Diocese</p> <p>RC Diocese</p> <p>The proposers (where the LA is the decision-maker)<sup>17</sup></p>

<sup>16</sup> Only where the LA is involved in the Trust of a proposed foundation school, or where the LA is required to refer proposals to them.

<sup>17</sup> See paragraph 14 of Schedule 2 to the EIA 2006.



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