



Department
for Education

Support and intervention in schools

**Statutory guidance for support and
intervention action in schools**

November 2024

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Key principles

The Department for Education remains committed to providing a clear and simple accountability system for schools¹. In practice this means that:

- Regions group (RG)² will only mandate academy conversion, governance change or academy trust transfer of a school in relation to educational standards if Ofsted has judged it to be 'requires significant improvement' or 'special measures'
- RG will not use warning notices on the grounds of low standards of pupil performance apart from in exceptional circumstances
- RG will not conduct uninvited visits to schools
- high quality, effective governance is key to the success of any school. As such, the department is committed to ensuring robust governance in all schools. Where breakdowns in governance occur, the department will continue to use the Secretary of State's powers to hold schools to account for their governance and financial management regardless of the school's Ofsted rating. Both maintained schools and academies will be held to account equally and RG will continue to challenge underperformance in both types of school
- unless a school is subject to intervention action or is run by a single academy trust, RG will continue to approach academy trusts, local authorities and (in the case of schools with a religious character) the relevant religious body, rather than individual schools

¹ <https://www.gov.uk/government/publications/principles-for-a-clear-and-simple-school-accountability-system>

² Acting for and on behalf of the Secretary of State

Summary

This is statutory guidance for local authorities given by the Department for Education, on behalf of the Secretary of State. Section 72 of the Education and Inspections Act 2006 places a statutory duty on all local authorities in England, in exercising their functions in respect of maintained schools which are eligible for intervention, to have regard to any guidance given from time to time by the Secretary of State.

This guidance covers:

- maintained schools “causing concern” (within the meaning of section 44 of the Education Act 2005);
- maintained schools that are “eligible for intervention” (within the meaning of Part 4 of the Education Act 2006);
- other maintained schools about which the local authority and/or Secretary of State have serious concerns which need to be addressed³ ; and
- intervention in academies

It sets out the factors local authorities and RG will consider, and the process they will follow in order to decide the right approach to supporting a school to improve.

The Secretary of State’s powers in this area are exercised by RG who are expected to follow this guidance. For the purpose of this guidance, it will generally be RG who are referred to as using the Secretary of State’s described powers.

This guidance primarily sets out how local authorities and RG will intervene at a school level. RG will always approach academy trusts and in the case of schools with a religious character, the relevant religious body, not individual schools, about academy trusts’ leadership and oversight of their schools.

On 2nd September 2024, the government announced the removal of single headline Ofsted grades for schools, with immediate effect. For Ofsted inspections this academic year, parents will see four grades across the existing sub-categories: quality of education, behaviour and attitudes, personal development and leadership & management. This reform paves the way for the introduction of School Report Cards from September 2025, which will provide parents with a full and comprehensive assessment of how schools are performing and ensure that inspections are more effective in driving improvement.

³ Powers of intervention regarding Pupil Referral Units are included in the alternative provision statutory guidance: <https://www.gov.uk/government/publications/alternative-provision>

Effective from date

This guidance is effective from 1 November 2024.

Legislation this publication refers to

This guidance refers to:

- School Standards and Framework Act 1998
- Education Act 2002, including Schedule 2
- Education Act 2005
- Education and Inspections Act 2006 (“the 2006 Act”)
- Apprenticeships, Skills, Children and Learning Act, 2009 (which amends the 2006 Act)
- The School Governance (Transition from an Interim Executive Board) (England) Regulations 2010 (“Transition Regulations”)
- Academies Act 2010
- Education Act 2011 (which amends the 2006 Act, and Schedule 14)
- Children and Families Act 2014
- Education and Adoption Act 2016 (which amends the 2006 Act and the Academies Act 2010)
- The Coasting Schools (England) Regulations 2022

Who this publication is for

This guidance is for:

- local authorities, who must have regard to it as statutory guidance on how they use their powers of intervention in their maintained schools
- RG who will be expected to follow this document as guidance on how they will exercise the Secretary of State’s powers of intervention in maintained schools and academies
- dioceses, school foundations, governing boards of maintained schools and academy trusts will also want to be aware of this guidance and the implications for their schools
- others, such as headteachers, school/academy trust staff, parents and carers, who may find it useful

Main points

A summary of the main changes in this guidance is as follows;

- removed references to single head grades (SHG) i.e. 'Inadequate' except where we are referring to sub judgements. References to 'Inadequate' have been replaced with 'requires significant improvement' and 'special measures'
- amended references to 2RI+ policy
- amended the revocation policy to reflect changes to SHGs and widened the scope of the policy to allow for 2RI+ Academy Orders to be revoked
- added in information on the interim support offer, including eligibility
- updated the governance section and merged the Trust level intervention section into this

Terminology

Maintained schools and academies

Throughout this guidance, “maintained schools” means local authority maintained schools including maintained special schools (and is not referring to academies). Where this guidance refers to “academies” this should be taken to include free schools, studio schools and University Technical Colleges (but is not referring to maintained schools). Where the guidance refers to “schools”, this indicates it applies to both maintained schools and academies.

Standalone academy

In this guidance a 'standalone academy' means any academy that is run by a single academy trust (SAT) or is the only school in a multi-academy trust (MAT)⁴.

Pupil referral units

Pupil referral units (PRU) are maintained by the local authority but are not included within the definition of a 'maintained school'. Chapter 7 gives further advice on the Secretary of State's intervention powers in PRUs.

⁴ In the past some MATs were set up with only a single school in the expectation that additional schools would join in the future.

Schools with a religious character

As set out in the School Standards and Framework Act 1998 (SSFA 1998), a school with a religious character is any school that has been designated as such by an order made by the Secretary of State⁵.

Trustees of the school

The trustees of the school are the members of the foundation which established the school. In foundation schools or voluntary schools, the trustees are therefore the members of the foundation which established the school.

For schools and academies with a religious character the trustee would be the:

- Church of England
- Catholic Church
- other religious bodies

Academy trustee

An academy trustee refers to those who sit on the board of an academy trust. The academy trust board is the decision-making body of the academy trust and is accountable and responsible for the academy in the academy trust. Academy trustees are both the charity trustees and company directors of the academy trust.

In Church academies however, those on the board are referred to as 'directors' and the term 'trustees' is reserved for those on the board of the separate trust that owns the land.

Charity trustee

Academy trustees are also charity trustees⁶.

In foundation and voluntary schools, the governing body (a corporate body created under the SSFA 1998) is a charity and the governors are its charity trustees. Some foundation schools have a separate charity as a foundation which holds the title to the land and buildings on trust for the provision of the school. The members of the trust are the trustees of the foundation and are also charity trustees.

The duties of charity trustees in relation to schools are set out in chapter 6 of this guidance.

⁵ Section 69 of the School Standards and Framework Act 1998.

⁶ See s.177 of the Charities Act 2011 which defines a charity trustee as 'the persons having the general control and management of the administration of a charity'

Chapter 1: Introduction

We are building a supportive schools' culture in which local authorities and RG work with school leaders to drive school improvement for the benefit of pupils and parents. At the same time, it is essential that action is taken wherever a school is judged 'requires significant improvement' or 'special measures', is not making necessary improvements, or where there is financial mismanagement or failure of governance. Interventions are about acting decisively to address underperformance and financial or governance failures and helping schools to deliver the best outcomes for their pupils.

New regional improvement teams (RITs) will be established and begin delivering support in early 2025. They will work with teachers and leaders in struggling schools to deliver sustained improvement. Schools will be supported in developing high-quality and deliverable improvement plans to quickly and directly address areas of weakness. They will also bring oversight and greater coordination to the array of improvement programmes available, including the Department's network of hubs, empowering schools and trusts so that they can better access these supports and drive up standards.

This guidance describes the processes local authorities and RG may take in schools that are eligible for intervention within the meaning of Part 4 of the [Education and Inspections Act 2006](#). These include:

- **Schools that have failed to comply with a warning notice** – Local authorities may give warning notices to their maintained schools where they have concerns about unacceptable educational performance, a breakdown in leadership and governance, or where the safety of pupils or staff may be being threatened. RG may give a warning notice to a maintained school where they have concerns about a breakdown in leadership and governance, or where the safety of pupils or staff may be being threatened. Where a maintained school does not comply with a warning notice, it will become eligible for formal intervention. The warning notice process for maintained schools is described in more detail in Chapter 2 of this guidance.
- **Schools that have been judged 'requires significant improvement' or 'special measures' by Ofsted** – An academy order must, in line with statutory requirements, be issued for all maintained schools that have been judged to be in a category of concern by Ofsted, requiring them to become sponsored academies. When an academy is judged to be 'requires significant improvement' or 'special measures' by Ofsted, RG have the power to terminate the funding agreement with the existing academy trust and move the academy to a new academy trust. The process for schools judged to be in a category of concern by Ofsted is described in more detail in Chapter 2 (maintained schools) and Chapter 4 (academies) of this guidance.
- **Interim support offer** - Schools may be eligible for a package of support of up to 10 days from a system leader. The process for schools and details of eligibility

categories is described in more detail in Chapter 2 (maintained Schools), Chapter 4 (academies) and Chapter 8 (pupil referral unit) of this guidance.

This guidance describes the roles and responsibilities of local authorities and RG, and how they will work with others in the school system to ensure underperformance, financial mismanagement or governance failure is challenged and schools are supported to improve. This includes, academy trusts, governing bodies of maintained schools, foundation trusts, the relevant religious bodies and the trustees of the school.

The government is committed to protecting the ethos of schools with a religious character, and RG will ensure that their intervention arrangements safeguard the religious character and ethos of such schools, working closely with the relevant religious body. For all Church of England and Catholic schools, this guidance should be read alongside the relevant Memorandum of Understanding⁷, which describes in further detail how RG and dioceses will work together to address underperformance concerns in those schools.

Where any school is run by charity trustees (as is the case in academies, foundation and voluntary schools) or is on land held by the trustees of the school, local authorities and the Secretary of State will, in using their powers of intervention, have regard to charity law and the responsibilities of the various trustees. This is described further in Chapter 6.

When considering whether to take intervention action in a school, RG will take into account published attendance data (where available) alongside all other relevant information⁸.

Regions Group decision-making principles when considering the use of discretionary intervention powers

When considering the use of the Department's discretionary intervention powers, RG will have regard to relevant school performance data alongside a range of other quantitative and qualitative information about the school and its individual circumstances. In line with previous commitments, RG will not use 2020 or 2021 assessment, test or exam results data to hold schools to account⁹.

⁷ More information about the memoranda of understanding can be found here: <https://www.gov.uk/government/publications/church-schools-and-academies-memoranda-of-understanding>

⁸ More information on how the department will use attendance data can be found here: <https://www.gov.uk/government/publications/working-together-to-improve-school-attendance>

⁹ More information on performance data can be found here: <https://www.gov.uk/government/publications/school-and-college-accountability-approach-2020-to-2022> and in the accountability measures technical guidance for each phase: [primary technical guidance](#), [secondary technical guidance](#) and [16 - 18 technical guidance](#)

RG will have regard to a broad range of information including, but not limited to, the following:

- assessment, test and exams results data;
- attendance and persistence absence data, based on the school census;
- exclusions data;
- information relating to the capacity and capability of leadership and governance, including the oversight and use of finances and the ability to deliver school improvement;
- any evidence relating to workforce recruitment and retention;
- parental preferences, in terms of the number of first-choice applications compared with the PAN;
- pupil destination data

Wherever possible, RG will rely on published data and any information already provided by schools and trusts by way of representations and will not ask schools and trusts to provide new information.

Where a decision has been made to convert or transfer a school, RG will follow the principles set out in the commissioning guidance when considering which academy trust a school will join.

Chapter 2: Maintained schools ‘eligible for intervention’

This chapter explains how a maintained school may become ‘eligible for intervention’ within the meaning of part 4 of the Education and Inspections Act 2006. A maintained school will be ‘eligible for intervention’ if it:

- has failed to comply with a warning notice; and/or
- is judged ‘requires significant improvement’ or ‘special measures’ by Ofsted; and/or
- is coasting, and the Secretary of State has notified the governing body that it is coasting (known as ‘schools not making necessary improvements’ or ‘2RI+’ schools)

Where a maintained school has become eligible for intervention, local authorities and RG have specific powers they may use to bring about improvement. These powers are covered in more detail in chapter 3. Local authorities and RG will exercise their discretion when deciding whether to use these powers.

Warning notices in maintained schools

Warning notices can be given to schools on performance standards and safety grounds. Both RG and local authorities may issue warning notices but there are differences in the circumstances under which they may be issued.

Local authorities may issue warning notices to their maintained schools under the following circumstances:

- the standards of performance of pupils at the school are unacceptably low and are likely to remain so¹⁰ ; or
- there has been a serious breakdown in the way the school is managed or governed which is prejudicing, or likely to prejudice, such standards of performance; or
- the safety of pupils or staff at the school is threatened (whether by a breakdown of discipline or otherwise); or¹¹
- the governing body have failed to comply with a provision of an order under section 122 of the [Education Act 2002](#) (teachers' pay and conditions) that applies

¹⁰ Low performance standards are explained in further detail in Section 60(3) of the Education and Inspections 2006 Act

¹¹ Warning notices issued for unacceptably low performance, a breakdown in management or a threat to staff or pupil safety are named in legislation as ‘performance standards and safety warning notices’.

to a teacher at the school; or have failed to secure that the head teacher of the school complies with such a provision¹²

In general, RG will only issue a warning notice to maintained schools under the following circumstances:

- Where there has been a serious breakdown in the way the school is managed or governed, which is prejudicing, or likely to prejudice, standards of performance; or
- Where the safety of pupils or staff at the school is threatened (whether by a breakdown of discipline or otherwise).

Failure to comply with a warning notice will make a maintained school 'eligible for intervention' under sections 60 and 60A of the 2006 Act. Local authorities and RG will use their discretion to decide whether the use of formal powers is necessary.

Roles of local authorities and Regions Group

Local authorities should use warning notices to hold their schools to account and should work together with RG where they judge that a warning notice is necessary¹³.

RG will issue a warning notice on grounds other than low standards of pupil performance where, in RG opinion, it is appropriate to act. Examples of this may include where the local authority has failed to act swiftly enough in a specific case, has generally not acted swiftly or robustly enough in the past, or lacks capacity to act. The Secretary of State's power to issue a warning notice takes precedence over the local authority's, so the RG can also act where the local authority issues a warning notice that RG does not consider to be robust enough, or where RG does not consider that the action required by a local authority warning notice is robust enough¹⁴.

The local authority must give a copy of any warning notice they issue to the relevant Regional Director; similarly, RG must give a copy of any warning notice they issue to a maintained school to its local authority.

In the case of a school with a religious character, the local authority or RG should raise concerns with the appropriate religious body at the earliest opportunity. RG will continue to have regard to the Church memoranda of understanding when issuing a warning notice.

¹² Warning notices issued for these reasons are named in legislation as 'Teachers' pay and conditions warning notices'.

¹³ Where action is needed urgently, for example where the safety of pupils or staff is threatened, the local authority may reasonably take action without having to wait to discuss the case with the RD beforehand.

¹⁴ Section 60 (4A)-(4B) of the Education and Inspections Act 2006, as inserted by the Education and Adoption Act 2016.

Low standards of pupil performance

The detail of what constitutes “low standards of performance” is set out in section 60(3) of the 2006 Act. Local authorities may continue to exercise their discretion when issuing warning notices on the grounds of low standards of pupil performance.

RG will only use the Secretary of State’s powers to issue warning notices to maintained schools on the grounds of low standards of pupil performance in exceptional circumstances. (The Secretary of State’s powers to issue warning notices to maintained schools on the grounds of low standards of pupil performance are separate from the powers to intervene in schools not making necessary improvements.)

RG may continue to issue warning notices to maintained schools in situations where there has been a breakdown in financial management and/or governance or where the safety of staff or pupils is threatened. RG may issue warning notices on these grounds regardless of the school’s Ofsted rating. Examples of the circumstances in which warning notices might be issued on these grounds are set out in the following sections.

Breakdown in the way a maintained school is managed or governed

Another ground for issuing a warning notice is that there has been a serious breakdown in the way the school is managed or governed, which is prejudicing, or is likely to prejudice, pupils’ standards of performance. High quality and effective governance is key to the success of any school. As such, the department is committed to ensuring robust governance of all schools. Where a breakdown in governance occurs, the local authority and RG will continue to use their powers to hold schools to account for their governance and financial management regardless of the school’s Ofsted rating.

Local authorities (or RG where, for example, a local authority has failed to act swiftly enough, either in a particular case or generally in the past, or lacks the capacity to do so) should identify additional support or consider issuing a warning notice to a maintained school where the governing body is failing to deliver one or more of its three core strategic roles resulting in a serious breakdown in the way the school is managed or governed. The decision to issue a warning notice would depend on the severity of the case.

The core strategic roles of a governing body are to:

- ensure clarity of vision, ethos and strategic direction of the school are clearly defined;
- hold the headteacher to account for the educational performance of the school and its pupils, and the performance management of staff; and
- oversee the financial performance of the school and ensuring the sound, proper and effective use of the school’s financial resources

Evidence that governors may be failing to deliver on one or more of these strategic roles could include, but is not restricted to:

- evidence of poor financial management and oversight, such as consistent overspending of the school's budget beyond agreed thresholds
- high governor turnover;
- a significant, unexplained change to their constitution;
- the governing body having an excessive involvement in the day to day running of the school¹⁵ ;
- lack of appropriate engagement with data. This might include, but is not limited to, data on pupil learning and progress, or staff recruitment; and/or
- not sufficiently managing risks associated with strategic priorities and school improvement plans

These situations could all indicate a serious breakdown of management or governance that may prejudice standards. In such circumstances, the local authority (or RG) may investigate and, where appropriate, take action early by issuing a warning notice.

In the case of a school with a religious character, we would expect the local authority or RG to raise concerns about governance with the appropriate religious body at the earliest opportunity and before any formal action is taken.

Where a local authority (or RG) has concerns about the quality of a maintained school's governance, they may consider recommending that the school commissions an external review of governance, before considering more formal intervention. Guidance is available on commissioning and conducting such external reviews¹⁶ .

The [Maintained schools governance guide](#)¹⁷ provides further information about requirements and expectations of governors, and provides links to additional guidance, support and best practice.

The safety of pupils or staff at a maintained school is threatened (whether by a breakdown of discipline or otherwise)

Where local authorities or RG are concerned that the safety of pupils or staff at a maintained school is threatened, whether by a breakdown of discipline or otherwise, they should issue a warning notice. We would expect local authorities to issue warning notices

¹⁵ Governors must act in line with the 3 core functions of governance as set out in the The School Governance (Roles, Procedures and Allowances) (England) Regulations 2013. Excessive involvement in the operational running of the school may impair a governor's ability to carry out their role properly and in line with the 3 core functions of governance.

¹⁶ See under 'Further sources of information' for departmental guidance on governance reviews.

¹⁷ See 'Further sources of information' for links to the Maintained schools governance guide..

in these circumstances for schools they maintain, but RG can act where local authorities fail to act swiftly or lack the capacity to do so.

Local authorities and RG should have regard to the statutory guidance on roles and responsibilities for safeguarding: 'Keeping Children Safe in Education' and 'Working Together to Safeguard Children'¹⁸. The guidance makes clear what all education institutions (including academies and free schools) should do to safeguard children in their care.

Teachers' pay and conditions warning notices

Under section 60A of the 2006 Act, local authorities have a power to issue a teachers' pay and conditions warning notice to their maintained schools. Failure to comply or secure compliance with the notice within the specified period will mean that the school becomes eligible for intervention under sections 64-66 of the 2006 Act¹⁹ (addressed in more detail in Chapter 4). These powers must be used within a period of two months following the end of the compliance period specified in the teachers' pay and conditions warning notice²⁰. If the local authority fails to exercise these powers within this time, they can no longer be exercised, and a new teachers' pay and conditions warning notice must be given in order to do so.

The Secretary of State does not have the power to (and therefore RG may not) issue teachers' pay and conditions warning notices.

A local authority must send RG a copy of any teachers' pay and conditions warning notice it issues²¹.

Issuing a warning notice to a maintained school

Local authorities should work with RG where they judge that a warning notice is necessary. Once it has been determined that a local authority or RG will issue a warning notice to a maintained school, they must give the notice in writing to the governing body of the school. The notice must set out:

- the matters on which their concerns are based;

¹⁸ See 'Further sources of information' for link to safeguarding guidance

¹⁹ These are the local authority's powers to appoint additional governors (section 64), to provide for the governing body to consist of interim executive members (section 65) and to suspend the school's right to a delegated budget (section 66). Chapter 3 of this guidance explains these intervention powers in more detail

²⁰ These are the local authority's powers to appoint additional governors (section 64) and to suspend the school's right to a delegated budget (section 66).

²¹ Section 60A (6)(a) of the Education and Inspections Act 2006, as inserted by the Education and Adoption Act 2016.

- the action the governing body is required to take in order to address the concerns raised;
- the period within which the governing body must comply or secure compliance with that action (the compliance period); and
- the action the local authority or RG is minded to take (under one or more of sections 63 to 69 of the Education and Inspections Act 2006 or otherwise) if the governing body does not take the required action

In addition to giving the governing body a warning notice, the local authority or RG must give a copy to the headteacher; and in the case of a Church of England school or a Roman Catholic school, the appropriate diocesan authority; and in the case of a foundation or voluntary school, the person who appoints the foundation governors²² .

A copy of a warning notice must also be given to the relevant region in RG copying in School.NOTIFICATIONS@education.gov.uk, when it is a local authority making it, or a copy must be given to the local authority, when it is RG making it²³ . All warning notices must be copied to Ofsted at the time of issuing using the email address warningnotices@ofsted.gov.uk.

Warning notices issued to maintained schools by RG will also be published online.

If a local authority is notified that RG has given a warning notice, the local authority may not give such a warning notice to the same maintained school without RG's agreement. If RG gives a warning notice, any earlier warning notice given to the same maintained school by the local authority will cease to have effect²⁴ . Whichever has given a warning notice should keep the other informed about what action the maintained school has taken to address the concern, whether they consider the school to have complied with the warning notice, and what, if any, interventions will be made as a result.

Action local authorities and Regions Group may take in maintained schools that have failed to comply with a warning notice

When a governing body has failed to comply with a warning notice to the satisfaction of RG or local authority within the compliance period, and the issuing local authority or

²² Section 60(6) of the Education and Inspections Act 2006, as amended by the Education and Adoption Act 2016.

²³ Section 60(6A)-(6B) of the Education and Inspections Act 2006, as inserted by the Education and Adoption Act 2016.

²⁴ Section 60(4A)-(4B) of the Education and Inspections Act, as inserted by the Education and Adoption Act 2016.

relevant region in RG has given reasonable written notice that they propose to intervene, a school is eligible for intervention and further action may be taken²⁵ .

The local authority or RG must have specified in the warning notice what action they were minded to take if the governing body failed to comply.

The powers in sections 63, 64, 66 and 66A of the 2006 Act²⁶ must be exercised within a period of two months following the end of the compliance period. If the local authority or RG fails to exercise these powers within this time, these powers can no longer be exercised and a new warning notice must be given in order to do so.

Maintained schools judged to be in a category of concern by Ofsted

Schools that have been judged by Ofsted to be in a category of concern, are:

- any school Ofsted judges as requiring significant improvement (as addressed in section 61 of the Education and Inspections Act 2006)²⁷ ; and
- any school Ofsted judges as requiring special measures (as addressed in section 62 of the 2006 Act).

The Secretary of State has a duty²⁸ to make an academy order in respect of any maintained school judged as ‘requires significant improvement’ or ‘special measures’, by Ofsted, to enable it to become an academy and receive additional support from a sponsor.

RG, acting on behalf of the Secretary of State, will take responsibility for ensuring that the maintained school becomes a sponsored academy, including identifying the most suitable academy trust and brokering the new relationship between that academy trust and the maintained school. Further details about academy orders are set out in Chapter 3 of this guidance.

In the case of a foundation or voluntary school that is eligible for intervention and subject to an academy order, RG is required to consult about the identity of the person with whom academy arrangements are being entered into (called “the academy trust” in this guidance) before entering into such arrangements. RG will consult with the trustees of the school, the person or persons who appoint the foundation governors, and in the case

²⁵ Section 60(1)(d) and 60A(1)(d) of the Education and Inspections Act 2006 as amended by the Education and Adoption Act 2016. Chapter 3 of this guidance explains the intervention powers in more detail.

²⁶ These powers are as follows: Section 63 contains the power to require the governing body to enter into arrangements; Section 64 contains the power to appoint additional governors; Section 66 contains the power to suspend the delegated budget and Section 66A contains the Secretary of States power to require governing body to enter into arrangements

²⁷ This is also known as a ‘serious weaknesses’ judgement by Ofsted.

²⁸ Section 4(A1) of the Academies Act 2010, as inserted by the Education and Adoption Act 2016

of a school that has a religious character the appropriate religious body²⁹. RG will ensure that any arrangements will safeguard the religious character and ethos of these maintained schools³⁰.

If a maintained school is the subject of an academy order made under section 4(A1) or (1)(b) of the Academies Act 2010, the governing body and the local authority will be under a duty to facilitate the maintained school's conversion into an academy by taking all reasonable steps towards that end. This means local authorities cannot charge for the costs associated with the conversion. During the interim period between a maintained school receiving an academy order and the school re-opening as an academy the local authority retains the responsibility for the school's performance, including provision for school improvement. RG can use the Secretary of State's power to give the governing body or local authority a direction, or directions, to take specified steps for this purpose³¹. This can include requiring the governing body or local authority to prepare a draft of a scheme for the transfer of local authority-owned land that is no longer, or about to be no longer, used for the purposes of the school,³² or for the transfer of other assets from the local authority or governing body³³. RG is able to set a date by which these steps must be taken³⁴. If RG have identified an academy trust to run that maintained school once it becomes an academy, and have notified the school of this, then the governing body and the local authority must take all reasonable steps to facilitate that academy trust taking responsibility for the school.

Once RG have identified the academy trust for a maintained school that was rated 'requires significant improvement' or 'special measures', that academy trust has a duty to communicate to parents information about their plans for improving that school, before it is converted into an academy³⁵. This is described in more detail in Chapter 4.

Interim support offer for LA Maintained schools

Eligible schools can receive up to 10 days of support from a system leader. This will normally be either a chief executive officer (CEO) of a high-quality MAT, supported by their wider team or a [national leader of education \(NLE\)](#).

They will help the leadership team to put sustainable improvements in place and ensure actions align with the school's central strategy for improvement.

²⁹ Section 5A of the Academies Act 2010, as inserted by the Education and Adoption Act 2016

³⁰ RG should have regard to the Church schools Memoranda of Understanding. A link to the memoranda can be found in the 'further sources of information' section of this guidance.

³¹ Section 5C of the Academies Act 2010, as inserted by the Education and Adoption Act 2016.

³² Part 1 Schedule 1 to the Academies Act 2010.

³³ Section 8 Academies Act 2010.

³⁴ Section 5C of the Academies Act 2010, as inserted by the Education and Adoption Act 2016.

³⁵ Section 5E of the Academies Act, as inserted by the Education and Adoption Act 2016.

Eligibility for the interim support offer includes the following;

- schools who currently hold an 'Requires Improvement' (RI) Ofsted judgement or lower and receive an additional RI grade in either 'Leadership and Management' or 'Quality of Education' sub judgement, between September 2024 and February 2025; or
- schools judged to be "requires significant improvement' or 'special measures' between September 2024 and February 2025; or
- schools previously eligible for intervention under the former '2RI+' policy where schools had previously received two or more consecutive judgements less than 'Good' (2RI+), but the academy order has been revoked because conversion was scheduled after January 1, 2025

RG will use the procured regional delivery partners (RDPs) who previously helped to deliver the Trust and School Improvement (TSI) offer in 2023/24. RDPs will notify eligible schools about the offer. If a school accepts the support, RDPs will take the lead, working with Regions Group to identify suitable system leaders to deliver the necessary support.

Chapter 3: Specific powers of local authorities and the Secretary of State in maintained schools eligible for intervention

Local authorities and RG will work closely and co-operatively to support improvement in maintained schools. Where a maintained school is eligible for intervention³⁶ there are a number of statutory powers the local authority and the Secretary of State may use to support school improvement.

The intervention powers in respect of local authorities are set out in sections 63-66 of the 2006 Act:

Section 63 – power to require the governing body to enter into arrangements;

Section 64 – power to appoint additional governors;

Section 65 – power to appoint an interim executive board (IEB);

Section 66 – power to suspend the delegated budget.

The intervention powers in respect of the Secretary of State are set out in sections 66A-69 and 70C of the 2006 Act and section 4 of the Academies Act 2010:

Section 66A – power to require governing body to enter into arrangements;

Section 67 – power to appoint additional governors;

Section 68 – power to direct closure of a school;

Section 69 – power to appoint an interim executive board (IEB);

Section 70C – power to take over responsibility for an IEB;

Section 4 Academies Act – power to make an academy order.³⁷

In accordance with section 70A of the 2006 Act³⁸ the local authority must notify the relevant region in RG each time they intend to use their intervention powers, copying in School.NOTIFICATIONS@education.gov.uk

Local authorities should obtain consent from RG before appointing an Interim Executive Board (IEB). RG will also notify the local authority before requiring the governing body to

³⁶ As defined by section 60B of the Education and Inspection Act 2006, as inserted by the Education and Adoption Act 2016

³⁷ Or in the case of an Inadequate school, duty.

³⁸ As inserted by the Education and Adoption Act 2016.

enter into arrangements, appointing additional governors, appointing an IEB³⁹ or when the Secretary of State directs a local authority to close a maintained school.

When a local authority has been notified that RG intends to exercise the Secretary of State's intervention powers in a maintained school, the local authority may not use its intervention powers in relation to that school until RG notifies the local authority that it may do so⁴⁰.

This Chapter describes each power, the consultations the local authority or RG must make before exercising the power, and the parties they must notify when they are exercising the powers.

Local authority and Secretary of State powers to require the governing body to enter into arrangements

Sections 63 and 66A of the 2006 Act enable a local authority and RG respectively, to require a maintained school that is eligible for intervention⁴¹ to enter into arrangements with a view to improving the performance of the school. A notice may require the maintained school:

- to enter into a contract or other arrangement for specified services of an advisory nature with a specified person (who may be the governing body of another school);
- to make arrangements to collaborate with the governing body of another school;
- to make arrangements to collaborate with a further education body; or
- to take specified steps for the purpose of creating or joining a federation

These arrangements could include support from a Teaching Schools Alliance or partnership with high performing local schools.

Prior to requiring the governing body to enter into arrangements, the relevant body must consult the governing body of the school, the appropriate diocesan authority (in the case of a Church of England or Roman Catholic school) and in the case of any other foundation or voluntary school, the person or persons by whom foundation governors are appointed. There is no statutory time scale in which the consultation process is to be

³⁹ Section 70A of the Education and Inspections Act 2006, as inserted by the Education and Adoption Act 2016.

⁴⁰ Section 70B of the Education and Inspections Act 2006, as inserted by the Education and Adoption Act 2016.

⁴¹ Except a school that is eligible for intervention as the result of a teachers' pay and conditions warning notice.

completed and time scales may vary depending on the circumstances of the case. We would expect a normal consultation process to last for a period of 10 (ten) days⁴².

Local authority and Secretary of State powers to appoint additional governors

Sections 64 and 67 of the 2006 Act enable a local authority and RG respectively, to appoint additional governors where a maintained school is eligible for intervention. This will usually be used when they believe a school would benefit from additional expertise to support or strengthen existing governance arrangements.

Before making any appointment, RG must consult:

- the local authority;
- the governing body of the school;
- in the case of a Church of England school or a Roman Catholic school, the appropriate diocesan authority; and
- in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed

There is no statutory time scale in which the consultation process is to be completed. We would expect a normal consultation process to have been carried out within 10 (ten) days but this may vary depending on the circumstances and urgency of the case.

Where RG has used this power, they may pay remuneration and allowances which they consider appropriate to any governor they appoint. Further, the local authority may not exercise their power to suspend the governing body's right to a delegated budget.

Where the local authority appoints additional governors there is no requirement to consult.

In the case of a voluntary aided school, where a local authority has used their power to appoint additional governors, the appropriate appointing authority may appoint a number of foundation governors equal to those appointed by the local authority, in order to preserve their majority. However, legislation provides that where RG has used this power, the relevant appointing bodies are not authorised to appoint foundation governors for the purpose of outnumbering the other governors including those appointed by RG⁴³.

⁴² Local authorities and RG should be mindful of weekends, bank holidays and school holidays when deciding on the length of the consultation.

⁴³ Section 67(6)(b) of the Education and Inspections Act 2006.

Local authority and Secretary of State powers to appoint an Interim Executive Board (IEB)

Section 65 of the 2006 Act enables the local authority to apply to RG for consent to constitute the governing body of a maintained school as an IEB, and section 69 enables RG to require the governing body of a maintained school to be constituted as an IEB. Both of these powers must be exercised in accordance with Schedule 6 of the 2006 Act.

Local authorities and RG should work together in circumstances where an IEB may be put in place. Local authorities and RG should assess each individual case and decide who is best placed to implement and take responsibility for the IEB. RG have the power to appoint additional members to a local authority IEB and, if necessary, take control of the IEB using the powers set out in this chapter.

Consultation

Before the local authority or RG can use this power, they must consult:

- the local authority (only required when RG is intervening);
- the governing body of the school;
- in the case of a Church of England school or a Roman Catholic school, the appropriate diocesan authority; and
- in the case of any other foundation or voluntary school, the person or persons that appoint the foundation governors

This requirement for RG to consult the bodies in 2, 3 and 4 above does not apply if the local authority has already done so as part of their own proposal to appoint an IEB. There is no requirement for RG to consult about appointing an IEB if an academy order has effect in respect of the maintained school⁴⁴. In these circumstances RG will give advance notice to those listed above that the governing body will be replaced by an IEB on a specified date. There is no statutory time scale in which the consultation process must be completed. It is likely that the time scale will vary depending on the circumstances in which the IEB is required. We would expect a normal consultation process to last for a period of 10 (ten) days⁴⁵.

Local authorities must use the IEB application form on the DfE website⁴⁶ following the accompanying instructions.

When the decision has been taken to appoint an IEB, the local authority or RG must write to the governing body to give them notice that the IEB will be established. This notice

⁴⁴ RG should continue to have regard for both of the church MOUs. The MOUs require continuing engagement with the relevant diocese regardless of whether an academy order is in place.

⁴⁵ Local authorities and RG should be mindful of weekends, bank holidays and school holidays when deciding on the length of the consultation.

⁴⁶ See under 'Further sources of information'.

must specify a date when the IEB will commence and will usually also give a date when the IEB will cease, or an exit plan.

Delegated budget

An IEB has a right to a delegated budget. If the school's budget has previously been withdrawn from the governing body, then the local authority must restore the budget from the date the IEB commences its work. If a notice to withdraw the right to a delegated budget was given to the original governing body specifying a date to do so, the notice will no longer be valid from the date of commencement of the IEB.

The role and duties of the IEB

The IEB's function is to provide interim expertise and high-quality governance to support future improvement in the maintained school and this should include the promotion of high standards of educational achievement.

While an IEB is in place, it qualifies as the governing body of the maintained school and any reference in the Education Acts to a governor or foundation governor applies to an interim executive member. During the interim period, the requirements concerning the governing body's constitution set out in the School Governance (Constitution) (England) Regulations 2012 do not apply.

The IEB will take on the responsibilities of a normally constituted governing body, including the management of the budget, curriculum, staffing, pay and performance management and the appointment of the headteacher and deputy headteacher. Where the school in question is a foundation or voluntary school, and the IEB members will also be acting as charity trustees, the IEB members must carry out their duties under charity law – those duties are described further in Chapter 6 of this guidance. Any obligations on the governing body in relation to maintaining the religious ethos of a maintained school will also apply to the IEB.

An IEB may recommend to a local authority that a maintained school be closed. It may also recommend that the Secretary of State give a direction to a local authority regarding the closure of a maintained school. It cannot however, publish proposals for closure itself. Where, following the statutory consultation and other procedures, it is agreed that the school will be closed, the IEB should continue to hold office until the implementation date of the proposal. The IEB may also seek an academy order from the Secretary of State which enables the maintained school to convert to an academy. Where a maintained school has been issued with an academy order, requiring that school to become a

sponsored academy, the IEB will have the same duties to support that process as an ordinary governing body⁴⁷ .

Membership of the IEB

As set out in Schedule 6 to the 2006 Act, the number of interim executive members must not be less than two. Once the IEB has been established, further interim executive members can be appointed at any time. RG can also direct the local authority as to the membership and the terms of appointment of an IEB appointed by that authority.

An IEB should be a focused group appointed for the full period of time expected to make sufficient improvements in the school. Members of an IEB should be chosen on a case-by-case basis, depending on the needs of the school, but should normally include individuals with financial skills and experience of transformational educational improvement. Where an academy order has already been made and a proposed academy trust identified, the academy trust should be represented on the IEB. If a proposed academy trust is identified in an academy order during the operation of the IEB, a representative of the academy trust should join the IEB at that point.

Although it is not prohibited by law, in most cases we would not expect existing governors who are vacating office to be nominated as IEB members. Local authorities that are considering doing this should discuss the particular circumstances of the school with RG. The IEB may however arrange for the discharge of their functions by other people as they see fit⁴⁸ . In this way, the IEB could continue to benefit from the experience of existing governors and help engage future governors. The local authority or RG can nominate one of the members of the IEB to act as Chair.

The local authority or RG should produce a written notice of appointment for each member of the IEB. Copies of this notice should be sent to: all other members of the IEB; the maintained school's existing governing body; the RD (where it is a local authority appointed IEB); and, in the case of foundation or voluntary schools, the Diocese or other appropriate authority. A local authority may choose to pay interim executive members such remuneration and allowances as they consider appropriate.

Interim executive members may be removed by whoever appointed them (the local authority or RG). This may be for incapacity, misbehaviour, or where their written notice of appointment provides for termination.

⁴⁷ Under section 5B of the Academies Act 2010 as inserted by the Education and Adoption Act 2016.

⁴⁸ Under paragraph 11(2) of Schedule 6 of the 2006 Act

Power of the local authority to suspend the delegated authority for the governing body to manage a maintained school's budget

Section 66 of the 2006 Act enables a local authority to suspend the governing body's right to a delegated budget by giving the governing body of the maintained school notice in writing. This applies where a maintained school is eligible for intervention and the school has a delegated budget within the meaning of Part 2 of the School Standards and Framework Act 1998. Using this power allows local authorities to secure control over staffing and spending decisions to secure improvements. There is no requirement for the local authority to consult before exercising this power.

A copy of the notice must be given to the head teacher of the maintained school and the governing body. If the local authority or RG has appointed an IEB, the local authority cannot suspend the school's right to a delegated budget during the period when the governing body is constituted as an IEB.

Power of the Secretary of State to direct a local authority on the appointment of interim executive members

Where a local authority has appointed an IEB, RG may, on behalf of the Secretary of State, direct the local authority as to:

- who the interim executive members should be;
- how many members the local authority can appoint;
- what the terms of appointment should be; and
- the termination of any appointment

This power will enable RG to contribute to the make-up and the arrangements of the IEB where it is felt that the local authority is best placed to take the IEB forward.

The Secretary of State will not exercise this power in relation to a school that became eligible for intervention after failing to comply with a warning notice issued on the grounds of low standards of performance, except in exceptional circumstances.

Power of the Secretary of State to take over responsibility for interim executive members

Under section 70C of the 2006 Act⁴⁹, where a local authority has already appointed an IEB, RG may take over responsibility for arrangements in connection with the IEB members. If this happens, the notice given by the local authority to the governing body

⁴⁹ As inserted by the Education and Adoption Act 2016.

(setting out that it will consist of interim executive members), and any further actions taken by the local authority in respect of the IEB, will be treated as having been given by RG.

Power of the Secretary of State to direct the closure of a maintained school

Section 68 of the 2006 Act enables the Secretary of State to direct a local authority to close a maintained school that is eligible for intervention⁵⁰. This will usually be done where there is no prospect of the maintained school making sufficient improvement through other means of support. Before this power can be exercised, the Secretary of State must consult:

- the local authority and the governing body of the school;
- in the case of a Church of England or Roman Catholic Church school, the appropriate diocesan authority;
- in the case of any other foundation or voluntary school the person or persons by whom the foundation governors are appointed; and
- such other persons as the Secretary of State considers appropriate.

It is recommended that where appropriate any trustees of the school (who own the school site) or other relevant religious bodies should also be consulted.

If the direction to close a maintained school has been given, the local authority will be expected to meet any costs of terminating staff contracts and make appropriate arrangements for the pupils' continuing education, whether in a replacement school, or through transition to an alternative existing school.

Power of the Secretary of State to make an academy order

Using the Secretary of State's powers under section 4 of the Academies Act 2010, RG can make an academy order in respect of a maintained school either on the application of a school's governing body or if the school is eligible for intervention within the meaning of Part 4 of the 2006 Act.

Where a maintained school is judged 'requires significant improvement' or 'special measures' by Ofsted RG is **under a duty** to make an academy order. RG has the power to make an academy order where a maintained school is eligible for intervention under sections 60 or 60B of the Education and Inspections Act 2006, but as a matter of policy

⁵⁰ Except a maintained school that is eligible for intervention as the result of a teachers' pay and conditions warning notice.

will not issue an academy order in these circumstances⁵¹. In particular, following the ending of single headline Ofsted grades, RG will no longer issue an academy order to a '2RI+' school and has revoked academy orders issued to schools where conversion was scheduled after 1 January 2025.

If an academy order is made in respect of a school, RG must give a copy of the order to:

- the governing body of the school;
- the headteacher;
- the local authority; and
- in the case of a foundation or voluntary school that has a foundation:
 - the trustees of the school;
 - the person or persons by whom the foundation governors are appointed; and,
 - in the case of a school which has a religious character, the appropriate religious body.

Consultation

For a maintained school which has been judged 'requires significant improvement' or 'special measures' by Ofsted:

There is no requirement for a consultation to be carried out by the governing body or by the academy trust on whether the conversion should take place. There is no requirement for RG to consult on whether the maintained school should convert to an academy.

Where such a maintained school is a foundation or voluntary school that has a foundation, RG must consult the following regarding the identity of the academy trust⁵²:

- the trustees of the school;
- the person or persons by whom the foundation governors are appointed; and
- in the case of a school which has a religious character, the appropriate religious body

Sponsored and Converter Academies

An academy is considered a sponsored academy where RG makes an academy order for a school that is eligible for intervention, or where a school has applied to become an

⁵¹ RG will only issue academy orders to maintained schools that become eligible for intervention after failing to comply with a warning noticed issued on the grounds of low standards of pupil performance in the most exceptional of circumstances.

⁵² In relation to this requirement to consult, for the purpose of this guidance we refer to the identity of 'the academy trust' but this is in fact the identity of the person with whom the arrangements are to be entered into, as described in Section 5A of the Academies Act 2010, as inserted by the Education and Adoption Act 2016.

academy but where RG does not consider the school strong enough to convert without the additional support of a sponsor. The sponsor identified to support a maintained school required to become an academy will be under a duty⁵³ to communicate to parents information about their plans for improving the school, before the school is converted into a sponsored academy.

A converter academy is one that converts after an application by the governing body of the school and RG considers the school is strong enough to do so without additional support. The method by which a school converts and whether it is classed as a sponsored or a converter academy has implications for the treatment of surplus and deficit balances⁵⁴.

Power of the Secretary of State to revoke an academy order

Section 5D of the Academies Act 2010 enables the Secretary of State to revoke an academy order that was made because a maintained school is eligible for intervention. This power can be used at the discretion of the Secretary of State and it will only be used in exceptional circumstances.

Examples of “exceptional circumstances” include where:

- the Secretary of State considers that the school would not be viable as an academy (in these cases, we would expect the local authority to close the maintained school and the Secretary of State can direct them to do so if necessary); or
- the maintained school has been re-inspected by Ofsted and is no longer in a category of concern; has achieved a ‘Good’ or ‘Outstanding’ rating in both ‘Leadership and Management’ and ‘Quality of Education’ sub judgements; and the Secretary of State is satisfied that the improvement can be sustained without the support of a strong sponsor. Ofsted’s findings will be one of a number of sources of information the Secretary of State will consider when deciding whether improvement can be sustained without the support of a strong sponsor

The examples above are not exhaustive and the Secretary of State will consider each case on its individual merits.

The Secretary of State will normally consider revoking an academy order at the request of the maintained school’s governing body, except where the maintained school would in the Secretary of State’s view not be viable as an academy, and the local authority asks for the order to be revoked so that the maintained school can be closed. In these

⁵³ Section 5E of the Academies Act 2010, as inserted by the Education and Adoption Act 2016.

⁵⁴ The Treatment of surplus and deficit balances when maintained schools become academies: <https://www.gov.uk/government/publications/academy-conversion-surplus-and-deficit-balance-transfer-process>

circumstances the local authority will be expected to close the maintained school following the statutory school closure process and if necessary, ministers may use the power to direct them to do so.

The Secretary of State may also decide to revoke an academy order without receiving a request from the governing body, in other circumstances – for example where it is not practicable to convert the school into a sponsored academy because no suitable academy trust is available – provided the Secretary of State is satisfied that alternative arrangements are in place to secure improvements in the school. The department will give prior notice to the school’s governing body before revoking an academy order.

Chapter 4: Intervention in academies

The department will hold academies to account just as robustly as they would maintained schools. In particular, RG (with the ESFA as appropriate) will assess what action is necessary wherever an academy is judged 'requires significant improvement' or 'special measures' by Ofsted or where financial mismanagement and/or governance failure is identified. A range of information is systematically collected and shared with RG and the ESFA, who will agree a robust and joined up approach to addressing underperformance. Where concerns are identified, the department will take action in line with the funding agreement of the academy in question.

Termination warning notices in academies

Arrangements for academies to be issued with a termination warning notice (TWN) otherwise than where they been judged 'requires significant improvement' or 'special measures' by Ofsted, are specified in their academy funding agreements. Such warning notices can usually be given on the grounds that:

- the academy trust has breached the provisions of its funding agreement;
- there has been a serious breakdown in the way the academy is managed or governed; or
- the safety of pupils or staff is threatened, including by a breakdown of discipline.

Detail on what could constitute a serious breakdown in management or governance, or the safety of pupils or staff being threatened are similar to those for maintained schools and more information can be found on pages 14-16.

An academy's funding agreement may also allow RG to issue a warning notice for educational standards that are unacceptably low. However, RG will only issue this kind of TWN in exceptional circumstances⁵⁵.

RG (on behalf of the Secretary of State) will consider any representations from the academy trust received by the date specified in the TWN. If the academy trust fails to carry out the actions set out in a TWN, RG may issue a termination notice.

Where a local authority has concerns about standards, management or governance, or safety in an academy, it should alert the relevant region in RG.

TWNs issued to academy trusts by RG are published online⁵⁶, as well as being shared with Ofsted at the time of issuing.

⁵⁵ The Secretary of State will consider the use of their termination powers as set out in the Funding Agreement if requested to do so in writing by the Diocesan Authority in accordance with Section 12 of the Church Supplemental Agreement.

⁵⁶ Via: <https://www.gov.uk/government/collections/letters-to-academies-about-poor-performance>

Academy funding agreements also allow the Secretary of State to issue a TWN where an academy is coasting, and the Secretary of State has notified the trust that it is coasting (known as ‘schools not making necessary improvements’ or ‘2RI+’ schools). Following the ending of single headline Ofsted grades, RG will no longer issue TWNs in relation to ‘2RI+’ academies.

Academies judged ‘requires significant improvement’ or ‘special measures’

RG will respond just as swiftly if an academy has been judged ‘requires significant improvement’ or ‘special measures’ by Ofsted as they would for a maintained school.

As set out in the Academies Act 2010⁵⁷, regardless of the terms in an academy’s funding agreement, RG (on behalf of the Secretary of State) can terminate the funding agreement of an academy that has been judged ‘requires significant improvement’ or ‘special measures’. This is a power rather than a duty. RG may decide to implement other measures to improve the academy, rather than terminate its funding agreement to bring about a change of academy trust, for example, where a change of academy trust would prevent the consolidation of improvements in an academy.

Where an academy has been judged ‘requires significant improvement’ or ‘special measures’ there is policy presumption in favour of issuing the academy trust with a TWN. The notice will give the academy trust the opportunity to make representations before any decision on termination is made.

Where a Church Supplemental Agreement has been entered into, alongside the funding agreement, RG will also notify the appropriate diocesan body and consider its representations. RG must comply with any other terms specified in the Church Supplemental Agreement regarding termination. When considering the use of intervention powers in Church academies causing concern, RG will continue to have regard to the Church memoranda of understanding. A link to the memoranda can be found in the ‘further sources of information’ section of this guidance.

When an academy has been judged ‘requires significant improvement’ or ‘special measures’, RG may identify a new academy trust to take on responsibility for the academy, and will enter into a new funding agreement in respect of that academy (this is sometimes referred to as an academy transfer). RG will assess these cases on an individual basis, and may not effect a transfer. If the academy that was judged ‘requires significant improvement’ or ‘special measures’ was previously a ‘standalone’ academy, this will generally mean it will join a strong multi-academy trust that has been assessed as having the capacity to improve the academy. The academy will continue to function, and RG and the new academy trust will work to ensure minimal disruption to pupils’

⁵⁷ Sections 2A and 2D of the Academies Act 2010, as inserted by the Education and Adoption Act 2016.

education during the transition. In some exceptional cases, where the academy is not considered viable in the long term, RG can move to terminate the funding agreement in order to close it.

Interim support offer for academies

Eligible schools can receive up to 10 days of support from a system leader. This will normally be either a chief executive officer (CEO) of a high-quality MAT, supported by their wider team or a [national leader of education \(NLE\)](#).

They will help the leadership team to put sustainable improvements in place and ensure actions align with the schools central strategy for improvement.

Eligible schools that are part of a MAT will usually get support at trust level rather than school level. However, the school will get direct support if system leaders decide that it would be more effective.

Eligibility for the interim support offer includes the following;

- schools who currently hold an 'Requires Improvement' (RI) Ofsted judgement or lower and receive an additional RI grade in either 'Leadership and Management' or 'Quality of Education' sub judgement, between September 2024 and February 2025; or
- schools judged to be 'requires significant improvement' or 'special measures' between September 2024 and February 2025; or
- schools previously eligible for intervention under the former '2RI+' policy where schools had previously received two or more consecutive judgements less than 'Good' (2RI+), but the decision for planned structural intervention has since been revoked because it was scheduled after January 1, 2025

RG will use the procured regional delivery partners (RDPs) who previously helped to deliver the Trust and School Improvement (TSI) offer in 2023/24. RDPs will notify eligible schools about the offer. If a school accepts the support, RDPs will take the lead, working with Regions Group to identify suitable system leaders to deliver the necessary support.

Chapter 5: Other local authority duties

School performance

A local authority must exercise its education functions with a view to promoting high standards⁵⁸.

Beyond the above statutory duty, local authorities have considerable freedom as to how they deliver their statutory responsibilities. Local authorities should act as champions of high standards of education across maintained schools in their area, and in doing so should:

- Understand the performance of maintained schools in their area, using data as a starting point to identify any maintained school that is underperforming, while working with them to explore ways to support progress;
- Work closely with RG, diocese and other local partners to ensure maintained schools receive the support they need to improve;
- Where underperformance has been recognised in a maintained school, proactively work with RG, combining local and regional expertise to ensure the right approach, including sending warning notices, and using intervention powers where this will improve leadership and standards; and
- Encourage high-performing maintained schools to take responsibility for their own improvement; support other maintained schools; and enable other maintained schools to access the support they need to improve.

Local authorities are permitted to de-delegate from maintained schools' budget shares to fund this core school improvement activity.

As set out above, these core school improvement activities extend beyond exercising of statutory intervention powers but do not extend to a duty to provide or fund school improvement services themselves; and relate only to schools they maintain, rather than academies which are accountable to the Secretary of State. However, should a local authority have any concerns about an academy's standards, leadership or governance, they should raise these directly with RG.

RG will apply the same rigour to the academies and free schools in their regions, as local authorities should apply to maintained schools in their area, and will similarly champion education excellence.

⁵⁸ Section 13A of the Education Act 1996.

Special Educational Needs and Disabilities (SEND)

Local authorities are subject to a range of duties under the Children and Families Act 2014⁵⁹ and the Equality Act 2010 relating to children and young people with special educational needs (SEN) and disabilities (SEND). Information on local authority responsibilities in relation to children with SEND can be found in the SEND Code of Practice⁶⁰.

Local authorities must keep their educational and training provision and social care provision for children and young people with SEN or disabilities under review.

Local authorities must carry out their functions with a view to identifying all the children and young people in their area who have or may have SEN or have or may have a disability. In addition, where a child or young person is brought to their attention, the local authority must decide whether to carry out an Education, Health and Care (EHC) needs assessment and, if necessary, issue an EHC plan. If they issue an EHC plan, the local authority must secure the special educational provision specified in it and must maintain the plan. Local authorities fund any additional costs of this provision from the high needs block of the Dedicated Schools Grant (DSG).

In performing all these functions local authorities are subject to duties in the Equality Act 2010, including the Public Sector Equality Duty.

Where, in fulfilling its statutory duties to keep special educational provision under review or to secure provision in an EHC plan, a local authority identifies concerns over the standards, management or governance, or safety of a maintained school or academy, they should raise them with the maintaining LA or RG.

Alternative Provision

When children of compulsory school age are not receiving suitable education, for example as a result of a permanent exclusion or where a child has health-related needs that mean they are unable to attend a mainstream school full-time, the local authority has a duty under the Education Act 1996 to arrange it. Schools may also commission places in PRUs, for example if they are arranging suitable full-time education from the sixth day of a fixed period exclusion or if they are directing pupils off-site in order to help improve their behaviour.

⁵⁹ Children and Families Act 2014, Part 3, Section 22.

⁶⁰ More information on the SEND Code of Practice can be found here: <https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

Where, in fulfilling its statutory duties to secure alternative provision, a local authority identifies concerns over the standards, management, governance, or safety of a PRU or AP academy, they should raise them with the maintaining local authority and RG.

Safeguarding

Local authorities have overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area, regardless of the types of educational settings they attend. There are a number of statutory duties under the 1989 and 2004 Children Acts which make this clear. In order to fulfil these duties effectively, local authorities need to work in partnership with all schools (including independent schools), appropriate religious bodies and further education and sixth form colleges in their area.

Where a local authority has concerns about an academy or free school's safeguarding arrangements or procedures (arising as a result of investigations about individual children or otherwise), these concerns should be raised to the DfE as the body with responsibility for ensuring that academy trusts comply with their Funding Agreements. Details of the concern should be submitted through the online [enquiry form](#)⁶¹ where it will be directed to the appropriate regional team.

Where a local authority has a concern about an independent school's safeguarding arrangements or procedures (arising as a result of investigations about individual children or otherwise), these concerns should be reported to the Independent Education Division at the DfE, who have responsibility for enforcing the independent school standards and taking regulatory action where necessary.

Where a local authority has a concern about safeguarding at a maintained school, the authority can use its intervention powers as set out in this guidance.

'Keeping Children Safe in Education'⁶² is statutory guidance to which schools and colleges must have regard when carrying out their duties to safeguard and promote the welfare of children. 'Working Together to Safeguard Children' is statutory guidance on multi-agency working to safeguard and promote the welfare of children⁶³.

Schools' governing bodies and proprietors should ensure that the school or college contributes to multi-agency working in line with statutory guidance Working Together to

⁶¹ The DfE enquiry form can be found here: <https://www.gov.uk/contact-dfe> When completing the form on the behalf of an LA, please select the "disclosure in the public interest" option and "No" to the question "Do you wish to remain anonymous".

⁶² Keeping Children Safe in Education: <https://www.gov.uk/government/publications/keeping-children-safe-in-education--2>

⁶³ Working Together to Safeguard Children: <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

Safeguard Children (2018). Schools and colleges should work with local safeguarding partners – the local authority, police and health services - to promote the welfare of children and protect them from harm.

Chapter 6: Governance

Effective governance is essential for securing high educational standards and keeping children safe.

The DfE governance guides for academy trusts and local authority-maintained schools bring together essential information from a range of sources on the governing body's roles and legal responsibilities (see 'Further sources of information').

Local authority oversight of governance in maintained schools

Local authorities may issue a warning notice to a maintained school where there has been a serious breakdown in the way the school is managed or governed which is prejudicing, or likely to prejudice, standards of pupil performance. It is good practice for local authorities to have in place appropriate monitoring arrangements to identify signs of failure in relation to governing bodies' oversight of finance, safety or performance standards. Effective monitoring may enable the local authority to recognise where a school must improve and support the governing body before a breakdown occurs.

Where a maintained school is eligible for intervention – as a result of non-compliance with a warning notice or otherwise - the local authority (and the Secretary of State) has powers to strengthen governance where necessary, including by appointing additional governors or replacing the governing body with an interim executive board (IEB). Where a school is subject to intervention, it is good practice for governing bodies (and IEBs if applicable) to ensure parents are updated on what steps are being taken provided to address concerns about performance.

Local authorities have an important role to play in supporting governors. In accordance with section 22 of the Education Act 2002, local authorities must:

- ensure that every governor in a maintained school is provided, free of charge, with such information as the authority considers appropriate in connection with the discharge of their functions as governor, and
- ensure that training is made available to governors, free of charge, as necessary for the effective discharge of those functions

Effective governing bodies create and maintain a code of conduct which is agreed by all governors. This will set out the governing body's expectation that governors undertake training or development activity where needed so they can engage fully with discussions and strategic decision making. Breaching the code of conduct could result in the governor's suspension, or in more severe cases, the removal of a governor.

In order to be able to carry out their duties effectively, it is good practice for local authorities to maintain up to date records of governors in maintained schools. This will enable local authorities to carry out any necessary due diligence including identifying governors who sit on more than one governing body. The Department for Education may

ask local authorities to share this information to enable it to carry out its own regulatory functions.

In carrying out these responsibilities in respect of voluntary and foundation schools, local authorities will also need to work closely with religious bodies or other bodies who appoint the governors.

Regions Group (RG) oversight of governance in academy trusts

High standards of governance and financial management are key to the effective running of an academy trust and underpin the trust's ability to support academies in delivering the best educational outcomes. Academy Trusts are bound by their funding agreements to follow the requirements of, and have regard to the guidance in, the Academy Trust Handbook (ATH)⁶⁴. The Handbook sets out the department's intervention powers and makes clear that where the Education and Skills Funding Agency (ESFA)⁶⁵ or RG have concerns about financial management and/or governance in an academy trust a Notice to Improve (Ntl) may be issued.

All Ntl's are published online⁶⁶. The academy trust must comply with the Ntl. Failure to comply will be deemed a breach of the funding agreement. In exceptional circumstances, the funding agreement may be terminated due to non-compliance with an Ntl. More information concerning financial intervention and Ntl's can be found in the ATH. The ATH includes examples of the when an Ntl may be issued, which include trustees lacking the skills, knowledge and experience to exercise effective oversight of the trust's operations and performance, including educational performance. The department will engage with the sector in developing its approach to trust-level intervention, including the process to be followed by RG and the evidence that they will rely on to determine the strength of trustees' oversight of educational performance.

Where a local authority has concerns about the governance of an academy or free school in their area, the authority should raise these with RG.

Intervention and charity law

Academy trusts, and the governing bodies of foundation and voluntary schools are all charities and must comply with charity law. They are exempt from registration and direct regulation by the Charity Commission and are instead overseen by a Principal Regulator – the Secretary of State. The Principal Regulator has a duty to promote compliance with

⁶⁴ Also known as the Academies financial handbook. More information on the Academy Trust Handbook can be found here: <https://www.gov.uk/government/publications/academies-financial-handbook>

⁶⁵ The department announced on 11 September 2024 that ESFA's functions would transfer to the Department for Education in early 2025. See here: <https://www.gov.uk/government/news/esfa-functions-to-move-to-the-department-for-education>

⁶⁶ Published Ntl's can be found here: <https://www.gov.uk/government/collections/academy-trust-notice-to-improve>

charity law by the charity trustees in a trust's management and administration. Enforcement powers rest with the Charity Commission.

The Charity Commission can exercise powers of investigation and enforcement over these charities where the Principal Regulator requests that the Commission investigates a concern that the department has identified. This means that, in consultation with the Principal Regulator, the Charity Commission may investigate and, if a serious failure to comply with charity law is found, will have the necessary enforcement powers to act if sanctions are required. A memorandum of understanding is in place, which sets out how the Department and the Charity Commission work together, including principles for managing referrals⁶⁷.

The members of the governing body of a foundation or voluntary school, and academy trustees, are charity trustees in law and have a number of duties under charity law, which overlap their duties as school governors and academy trustees. These are summarised and explained in Charity Commission guidance, *The Essential Trustee*⁶⁸.

If a school is eligible for intervention, the charity trustees may also be in breach of one or more of their charity law duties. It is important to remember, however, that the charity trustees continue to be bound to comply with charity law. RG and local authorities should bear this in mind when exercising powers of intervention, and as far as possible take an approach that allows charity trustees to comply with their duties and take an active role in resolving the concern.

The role of the academy trustee is crucial in the effective governance of academies, and requires the highest level of conduct. The Department may refer cases involving misconduct on the part of academy trustees to the Insolvency Service for consideration under the Company Directors Disqualification Act 1986. The Memorandum of Understanding between the Department and the Insolvency Service sets out how we will work together to coordinate regulatory operations⁶⁹.

The Department also has its own powers, under section 128 of the Education and Skills Act 2008, to sanction individuals engaged in misconduct by barring them from involvement in the management of education institutions. We will always first consider using these powers where there is evidence to suggest that individuals have engaged in misconduct and are unsuitable to be involved in the management of schools.

⁶⁷ <https://www.gov.uk/government/publications/memorandum-of-understanding-charity-commission-and-the-department-for-education>.

⁶⁸ The Charity Commission's guidance 'The Essential Trustee' can be found here: <https://www.gov.uk/government/publications/the-essential-trustee-what-you-need-to-know-cc3>

⁶⁹ <https://www.gov.uk/government/publications/memorandum-of-understanding-dfe-and-the-insolvency-service>

Chapter 7: Pupil referral Units

Pupil Referral Units (PRUs) are maintained by the local authority (although they are not included within the definition of a 'maintained school'). PRUs are set up to provide education for pupils of compulsory school age outside mainstream or special schools, who would not otherwise receive suitable education for any reason. This includes permanently excluded pupils, pupils with health needs preventing school attendance, or those without a school place. Schools may also commission places in PRUs, for example if they are arranging suitable full-time education from the sixth day of a fixed period exclusion or if they are directing pupils off-site in order to help improve their behaviour.

Regulations give the Secretary of State specific powers of intervention in PRUs. These powers are:

- the power to direct closure of a PRU⁷⁰;
- the power to appoint an interim executive board (IEB)⁷¹;
- a duty to make an academy order in PRUs judged 'requires significant improvement' or 'special measures' by Ofsted⁷²

RG may establish an IEB in a PRU where it has been judged to be in a category of concern ('requires significant improvement' or 'special measures') by Ofsted, or where the Secretary of State is satisfied that:

- the standards of performance of pupils at the PRU are unacceptably low, and are likely to remain so⁷³;
- the quality of provision for pupils at the PRU is unacceptably low⁷⁴;
- there has been a serious breakdown in the way the PRU is conducted which is prejudicing, or likely to prejudice, such standards of performance; or

⁷⁰ Section 68 of the Education and Inspections Act 2006 read together with paragraph 23 of Schedule 1 to the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007, as amended by regulation 3 of the Pupil Referral Units (Miscellaneous Amendments) (England) Regulations 2012.

⁷¹ Section 69 of the Education and Inspections Act 2006 read together with regulations 2 and 24 of the Education (Pupil Referral Units) (Management Committees etc.) (England) Regulations 2007, as amended by regulation 2 of the Pupil Referral Units (Miscellaneous Amendments) (England) Regulations 2012.

⁷² Section 4 of the Academies Act 2010 read together with paragraph 23C of Schedule 1 to the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 as amended by regulations 2 and 4 of the Education (Pupil Referral Units) (Application of Enactments) (England) (Amendment) Regulations 2012 and regulations 2 and 3 of the Education (Pupil Referral Units) (Application of Enactments) (England) (Amendment) Regulations 2016.

⁷³ Low performance standards are explained in further detail in regulation 2(2)(a) of the Education (Pupil Referral Units) (Management Committees etc.) (England) Regulations 2007 as amended by regulation 2 of the Pupil Referral Units (Miscellaneous Amendments) (England) Regulations 2012.

⁷⁴ Low quality of provision is explained in further detail in regulation 2(2)(b) of the Education (Pupil Referral Units) (Management Committees etc.) (England) Regulations 2007 as amended by regulation 2 of the Pupil Referral Units (Miscellaneous Amendments) (England) Regulations 2012.

- the safety of pupils or staff of the PRU is threatened (whether by a breakdown of discipline or otherwise)

Where a PRU has received an Ofsted 'requires significant improvement' or 'special measures' judgement, RG will take responsibility for ensuring that the PRU becomes a sponsored Alternative Provision (AP) academy as swiftly as possible. This includes identifying the most suitable sponsor and brokering the new relationship between that sponsor and the PRU.

The PRU's management committee will not be required to conduct a consultation but, along with the local authority that maintains the PRU, will be under a duty to take all reasonable steps to facilitate the conversion of the PRU into an AP academy. Where necessary, the Secretary of State for Education will be able to direct the PRU's management committee or the local authority to take specified steps within a set timescale to enable the PRU to become an AP academy.

The Secretary of State has a power to revoke academy orders issued to PRUs who are eligible for intervention. The policy for the use of this power is the same as that for maintained schools and is set out on page 34.

Interim support offer in PRU's

Eligible PRUs can receive up to 10 days of support from a system leader. This will normally be either a chief executive officer (CEO) of a high-quality MAT, supported by their wider team or a [national leader of education \(NLE\)](#).

They will help the leadership team to put sustainable improvements in place and ensure actions align with the PRUs central strategy for improvement.

Eligibility for the interim support offer includes the following;

- PRUs who currently hold an 'Requires Improvement' (RI) Ofsted judgement or lower and receive an additional RI grade in either 'Leadership and Management' or 'Quality of Education' sub judgement, between September 2024 and February 2025; or
- PRUs judged to be 'requires significant improvement' or 'special measures' between September 2024 and February 2025; or
- PRUs previously eligible for intervention under the former '2RI+' policy where schools had previously received two or more consecutive judgements less than 'Good' (2RI+), but the decision for planned structural intervention has since been revoked because it was scheduled after January 1, 2025

RG will use the procured regional delivery partners (RDPs) who previously helped to deliver the Trust and School Improvement (TSI) offer in 2023/24. RDPs will notify eligible

schools about the offer. If a school accepts the support, RDPs will take the lead, working with Regions Group to identify suitable system leaders to deliver the necessary support.

Further information

Legislation:

- [Education and Adoption Act 2016](#) (which amends the Education and Inspections Act 2006 and the Academies Act 2010)
- [Education Act 2011](#) (which amended the 2006 Act and also the Academies Act 2010 in respect of land transfers to academies. Schedule 14 applies)
- [Academies Act 2010](#)
- [Apprenticeships, Skills, Children and Learning Act 2009](#) (amended the 2006 Act) - makes provision for apprenticeships, education, training and children's services.
- [Education and Inspections Act 2006](#)
- [Education Act 2002 Schedule 2](#) Effect on Staffing on suspension of delegated budget
- [School Governance \(Transition from an Interim Executive Board\) \(England\) Regulations 2010](#)
- [School Governance \(Role, Procedures and Allowances\) \(England\) Regulations 2013](#) – [associated departmental guidance](#) is available.
- [School Standards and Framework Act 1998](#) - contains provisions for schools and nursery education. This covers further education for young people at school, and in FE institutions across the UK.
- [Education and skills Acts 2008](#)
- [Company Directors Disqualification Act 1986](#)
- [The Coasting Schools \(England\) Regulations 2022](#)

Other relevant departmental advice and statutory guidance:

- [Maintained school governance guide](#)
- [Academy trust governance guide](#)
- [Working Together to Safeguard Children](#)
- [Keeping Children Safe in Education](#)
- [external reviews of school governance](#)
- [external reviews of the pupil premium](#)
- [Interim Executive Board](#)

Other departmental resources:

- [performance tables – user guide and resources \(includes progress measures\)](#)
- [school and college performance tables: statements of intent](#)

- [church school memoranda of understanding](#)
- [Regions Group \(RG\)](#)



Department
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