

department for  
**children, schools and families**

## Guide for people wishing to enter a new school competition

First published 15 May 2008  
Last updated 16 April 2009

<http://www.dcsf.gov.uk/schoolorg/guidance.cfm?id=2>



# Contents

1	Background	Page 1
2	Introduction to school competitions	Page 2
3	Comply with the conditions	Page 5
4	School site	Page 8
5	Capital funding	Page 9
6	Project plan	Page 10
7	Competition notice	Page 11
8	Seminar for proposers	Page 13
9	Decide on the type of school	Page 14
	Annex 9a Differences between types of school	
	Annex 9b Specialist school status	
	Annex 9c Extended school services	
	Annex 9d Federation or collaboration	
	Annex 9e Religious character	
	Annex 9f Community cohesion	
10	Apply for support	Page 27
11	Prepare your proposals	Page 28
	Annex 11a Information you must include in your proposals	
12	Summary of proposals	Page 34
	Annex 12a Information published by the local authority	
13	Wait for comments/objections	Page 37
14	Receive a decision	Page 38
	Annex 14a Factors considered	
	Annex 14b Types of conditional approval	
15	Implement your proposals	Page 44
	Annex 15a Setting up an Academy	
	Annex 15b Governing body requirements	
	Annex 15c Types of school governor	
	Annex 15d Academy governing bodies	
16	Reference materials	Page 51

# Background

# 1

## **Government aims**

The Government wants every child to receive an excellent education, whatever their background and wherever they live. A key part of that vision is to create a more diverse education sector where:

- a range of individuals, groups, organisations and institutions get involved in setting up schools, bringing new energy, ideas and skills
- schools each have their own character and ethos
- excellence and choice are the norm.

## **New role for local authorities**

Under the new education strategy local authorities will move from being providers of education to a more strategic role as commissioners of educational services, promoting:

- high standards and fulfilment of every child's educational potential
- diversity in school provision and greater parental choice
- fair access for all.

## **Focus on parents**

The Government wants to encourage parent groups who want to see improvements in local provision to come forward and set up new schools. Parents' actions and attitudes can have a huge influence in raising levels of pupil achievement and their knowledge of local needs and connections with the community can be an asset to the school.

The Office of the Schools Commissioner will ensure that authorities listen and respond to parents' views and demands and will formally support any parent group in making a case to the local authority for a new school.

## **Focus on Trust schools**

A key part of the Government's strategy on diversity is to encourage more people to set up 'Trust' schools. A Trust school is not legally defined but is the term used for a foundation school with a foundation or Trust — any body or person which exists for holding land on Trust for the purposes of the school.

Trust schools are self governing schools supported by a charitable foundation that may appoint a majority of the governing body.

A particular feature of Trust schools is that they form long term relationships with external partners such as businesses and universities — bringing new approaches to teaching and school management and a variety of experiences and skills.

# Introduction to school competitions

# 2

Under section 7 of the Education and Inspections Act 2006 a local authority must hold a competition:

- where it identifies a need for a brand new school
- where it wishes to rationalise existing provision, close two or more schools and replace them with a new school
- where it wishes to close a failing school and reopen it as a new school.

The legislation applies to secondary and primary schools.

## Exceptions

A local authority does not have to hold a competition where:

- an existing school is to be rebuilt on the same site or set up on a new site
- the local authority wishes to work with a sponsor to set up an Academy
- the school is a 16-18/19 foundation school.

Exceptionally, the Secretary of State may give his consent for a local authority, or a proposer, to publish proposals for a new school outside a competition in the light of local circumstances, for example:

- where an infant and junior school are to amalgamate and form a primary school
- where one or more religious schools are to be replaced by a school of the same religious character
- where the new school will increase diversity in the area.

The *Guide for people wishing to set up a new school outside a competition* explains the process.

## Who this guide is for

This guide is for **proposers** (other than local authorities) who wish to submit proposals to establish a new maintained mainstream school under section 7(2)(a)&(b) of the Education and Inspections Act 2006 in response to a local authority competition notice.

The sorts of proposers the Government wants to come forward and set up new schools include:

- parents and community groups
- universities and FE colleges
- education charities and business foundations
- voluntary and religious groups, including church and faith communities
- those offering distinctive educational philosophies
- trusts or trustees of existing schools or consortia of schools (but not the governing body).

## What this guide covers

This guide gives details of the steps you will need to follow in preparing your proposals for the new school.

- it explains the local authority's role and what you need to do
- it provides information that will help you decide the type of new school you wish to set up and how it will operate
- it sets out the information the law requires you to provide as part of your new school proposals
- it explains the decision making process and the factors the decision makers take into account in deciding proposals.

Before entering into any commitment, make sure you have a good understanding of the process for setting up a new school, and the role you will be expected to play in it, by reading the remainder of this guide.

## Before you begin

If you are proposing to set up a maintained school you must be sure that your school will be able and willing to comply with the conditions attached to all maintained schools as set out in section 3. If you cannot commit to the conditions you cannot set up your school.

If you are proposing to set up an Academy the conditions your school must meet are more flexible.

## What the local authority will do

The local authority will:

- establish the need for the new school, and provide a school site as explained in section 4
- provide capital funding as described in section 5
- identify key activities, set target dates and provide a project plan as recommended in section 6
- consult and publish a competition notice, as shown in section 7, inviting proposers to submit proposals
- with DCSF consultants hold a seminar for proposers to explain the competition process, as described in section 8

## What you need to do

You should attend the seminar for proposers to help you understand the requirement before deciding whether to enter the competition. If you decide to submit proposals you will need to:

- consider a range of factors about how you want your school to operate and decide on the type of school that best meets the community's needs - the options are set out in section 9
- consider whether to apply for support from an education specialist, as explained in section 10
- prepare your proposals - see section 11.

### **Finally**

When the competition closes the local authority will:

- publish a summary of proposals it has received
- hold a public meeting to consult on the proposals as set out in section 12
- wait for comments/objections – see section 13.

Proposals will then be considered on the basis of their educational merits and what they have to offer parents and the local community – as described in section 14 - and you will receive a decision.

If you are successful and your proposals are approved you must implement your proposals as published as described in section 15.

There is no right of appeal for unsuccessful proposers.

### **Further information**

You can get more information about setting up and running a school by looking at the *A Guide to the Law for School Governors* on [www.governor.net.co.uk](http://www.governor.net.co.uk).

# Comply with the conditions

# 3

## Curriculum and assessment

All maintained schools must:

- provide the national curriculum (except in limited circumstances where the Secretary of State agrees an exemption)
- participate in national curriculum assessment, including tests
- provide RE and Collective Worship.

All secondary schools must provide sex education.

For more information about the national curriculum see [www.nc.uk.net](http://www.nc.uk.net).

## Admissions

An admission authority is responsible for deciding a school's admission arrangements each year. For a Trust, foundation or voluntary aided school this is the governing body, for a voluntary controlled school it is the local authority. Admission authorities may operate any admissions criteria they wish providing they are lawful, reasonable, fair and objective, and comply with the School Admissions Code.

A school's admission arrangements must include over-subscription criteria that specify the basis for allocating places if more children apply than there are places. Points to note are:

- Generally children in care must be given top priority
- Religious schools may give priority to children of the faith, although in practice many set aside a proportion of places for children of other faiths or no faith.
- Schools with a religious character that cannot fill all their places with children of their faith must admit any other children that apply.
- Schools must not interview children or parents when deciding who should be offered a place at the school.
- New schools cannot select pupils on the basis of their academic ability, except under a banded admissions system.

You will need to refer to the School Admissions Code when you prepare your proposals. The Code is published on <http://www.dcsf.gov.uk/sacode/>.

Once proposals for a new school are approved, the admission arrangements cannot be changed for **two years** after the first year of operation, unless the schools adjudicator agrees a variation.

## Staffing

All maintained schools must have a head teacher. Head teachers must normally hold the National Professional Qualification for Headship as set out by the National College for School Leadership ([www.ncsl.org.uk](http://www.ncsl.org.uk)).

Teaching staff in maintained schools normally hold qualified teacher status (QTS) and must be registered with the General Teaching Council. Governing bodies must check teachers' qualifications with the GTC.

Qualified teachers in maintained schools are entitled to agreed terms and conditions as set out in the School Teachers' Pay and Conditions Document 2006.

## Governance

All maintained schools must have a governing body composed according to the type of school. The different models are set out in Section 15b. The governing body has a key role in helping the school provide the best possible standard of education for all its pupils. Among other things it has responsibility for:

- setting targets for pupils' achievement
- taking responsibility for the conduct of the school
- making sure the curriculum is broadly balanced
- managing the school's delegated budget.

## Equal opportunities

Schools must not discriminate against pupils, or prospective pupils, on the grounds of:

- race
- sex (gender)
- disability
- religion or belief
- sexual orientation.

They must eliminate unlawful discrimination in these areas and promote equal opportunities for all. They must also develop equality policies on race, disability, sex.

**Race:** schools must promote good relations between different racial groups.

**Disability:** schools must address the individual needs of every child in terms of personal development and access to education and other life opportunities; they must do all they can to accommodate those needs.

**Sex:** schools must offer equal opportunities to boys and girls, unless they are single sex schools.

## Revenue funding

All maintained schools in an area are funded according to their local authority's funding formula which is primarily based on the number of pupils on roll. Local authority funding formulae do not distinguish schools on the basis of faith or denomination.

Maintained schools cannot supplement their revenue budget by charging fees for education:

- that takes place in school hours
- is part of the national curriculum.

## Special educational needs

Almost every school in the country has some children on roll who have special educational needs; some of these children will have a statement of special needs from the local authority. If the name of a maintained school is specified in a child's statement a school cannot refuse to admit the child. Schools must consider the most effective ways of delivering special educational needs support to pupils requiring it.

## Community cohesion

Governing bodies of all maintained schools are under a duty to promote community cohesion – educating children and young people to live and work in an ethnically, culturally and socially diverse country.

Schools can contribute through:

- teaching pupils to understand others, promoting discussion and debate about common values and diversity
- removing barriers to access and participation and offer equal opportunities to all pupils to succeed at the highest level possible
- providing opportunities for children, young people and their families to interact with others from different backgrounds.

## Extended schools

Every Child Matters aims to improve outcomes for all children. As part of this agenda all schools must provide children, their parents and the wider community with access to core of extended services, including wrap-round childcare in primary schools, by 2010.

## School site

# 4

The local authority will provide the school site in the area where it has identified the need for places. The authority will provide the site at no cost to you.

If you wish to build the school on a different site you will need to fund it from your own resources. Bear in mind that the site would need to provide places for the catchment area specified by the local authority, and it would be subject to planning permission.

### Site transfer

Where the local authority provides the site it must transfer its interest in the site to:

- the school's foundation or charitable Trust, in the case of a Trust, voluntary aided or voluntary controlled school
- the school's governing body in the case of a foundation school (without a foundation)
- the sponsors of an Academy.

For voluntary aided and controlled schools the local authority must transfer its interest in the school premises and hard play areas. The authority will retain ownership of, and responsibility for investment in, the school playing field areas and associated buildings.

### Section 106 agreements

As part of a new housing development the local authority may negotiate a section 106 agreement whereby the developer bears all, or a large part of, the costs of building the new school. In the case of a competition, the authority must ensure there is provision in the agreement for any proposer to establish the school and hold the site.

Where the developer is to provide the school we also expect the authority to ensure there is scope for the proposer to work with the developer on the specification and design of the buildings.

## Capital funding

# 5

In most cases the local authority will provide the necessary capital funding based on its estimate of the capital costs for the size of school to be provided and the phase of education (primary or secondary). The authority will base its space and cost estimates on DCSF Building Bulletins and other guidance, including BB98 (Area guidelines for secondary schools) and BB99 (Area guidelines for primary schools), and *Education Building Projects; Information on Cost and Performance Data*.

If the school is to be a secondary school funded via BSF, the authority will also take account of the BSF funding allocation model and the BSF funding formula in arriving at its cost estimates.

The local authority's estimates should take account of any costs over and above those covered in the guidance if local circumstances dictate a need. The authority must provide sufficient funding to build and equip the school as specified in its competition notice.

You will need to consider:

- whether you can meet the costs of establishing your proposed school within the local authority's cost estimates
- how you would meet any shortfall.

If your costs are higher than the local authority's estimates and the local authority is unable or unwilling to provide additional funding, you will have to raise the difference or fund it from your own resources.

### **Voluntary aided schools**

If you are proposing a voluntary aided school, the usual requirement for a 10% contribution to the capital costs do not apply. The local authority will provide 100% of your school's initial capital costs, according to its own cost estimates.

### **Academies**

Academies are built at a cost that is comparable to similar secondary schools in the maintained sector.

While the Department usually provides capital funding for academies via funding agreements, in a new school competition the local authority will normally be expected to provide the necessary capital funding for a winning Academy bid.

If the local authority does not offer sufficient assurances that it will make the necessary capital available for an Academy, the Secretary of State may decide that the Department should provide the funding under a funding agreement.

## Project plan

# 6

The local authority's statutory notice will provide the specification for the school and the timetable for delivery. A generic timetable showing the competition activities and relative timescales is set out below.

### Timetable

	Activity	Timescales
1	Local authority considers its requirements and consults local people on its plans	no prescribed timescale: minimum of 6 weeks recommended
2	Local authority publishes its requirement in a competition notice and invites proposals	1 day
3	DCSF contractors hold a local seminar for potential proposers	within 5 weeks of competition notice
4	Proposers may apply for consultancy support (optional)	within 4 months of competition notice
5	Proposers prepare bids and submit to the local authority	within 4 months of competition notice
6	Local authority receives proposals and publishes a summary of all bids	within 3 weeks of competition closing date
7	If Academy proposals received, local authority consults Secretary of State for agreement 'in principle'	within 1 week of receiving the proposals
8	Local authority holds at least one public meeting and invites proposers	the first meeting within 2 weeks of publishing summary of bids
9	Local authority receives comments /objections	within 6 weeks of publishing summary of bids
10	Local authority decides proposals	within 2 months of the deadline for receipt of comments/objections
<i>or</i>	Local authority refers proposals to the schools adjudicator, if it is the proposer or has an interest in a Trust school bid	within 2 weeks of the deadline for receipt of comments/objections
11	Schools adjudicator decides proposals	no prescribed timescale
12	Proposers or local authority or both implement proposals	no prescribed timescale: as specified in published notice subject to any modifications agreed by the local authority or schools adjudicator

## Competition notice

# 7

The local authority will consult local people about its plans for the new school and hold at least one public meeting according to guidance set out in Stage 1 of *Establishing a New Maintained Mainstream School* on [www.dfes.gov.uk/schoolorg/guidance.cfm?id=2](http://www.dfes.gov.uk/schoolorg/guidance.cfm?id=2)

The authority will then publish a notice advising of the competition and inviting interested parties to submit proposals for the new school. Copies of the notice will be available on request.

A short notice will appear in at least one local newspaper and in a national newspaper covering education issues. It will also be posted in a conspicuous place in the locality of the school (for example the library, community centre or post office).

If the new school is connected to the closure of other school(s) the notice will also be posted at the entrance to those school(s).

Within one week of publication the authority will send a copy of the full notice to interested parties including:

- any local authority likely to be affected by the proposals
- the Secretary of State and the schools adjudicator
- the Diocesan Board of Education for any diocese of the Church of England any part of which falls within the local authority's area
- the bishop of a diocese of the Roman Catholic church any part of which falls within the local authority's area
- any other person or body likely to have an interest in the proposals, including those who have previously expressed an interest (in writing to the authority) in setting up a new school in the area
- the Learning and Skills Council for England (in the case of a secondary school).

### **Information the authority will include in the notice**

The local authority will include in its notice:

- an explanation of why the new school is needed
- whether the new school is to replace an existing school or schools
- details of the proposed site, whether it is a split site, and why the site was chosen
- details of the area, community or communities the school is to serve
- accessibility of the site or sites and the proposed pupil transport arrangements
- site tenure and details of any leasehold arrangements
- the required opening date for the school, whether it will open in stages and details of each proposed stage
- the number of pupils for whom the school should provide and their age range
- whether the school will be a single sex school or mixed

- the number of proposed sixth form pupils or early years pupils, if any, and any boarding provision required
- any specialisms the school should provide
- any extended services the school should provide and the resources the authority will make available
- the special educational needs provision the school should provide
- the estimated capital costs of the school based on DCSF guidance and confirmation of the funding arrangements.

The notice will contain a deadline for receipt of proposals which will be at least four months after the date of the notice. During that time you may submit to the local authority proposals for either:

- a maintained school
- an Academy.

**Maintained schools** are publicly funded and maintained by the local authority. They receive their annual revenue budget through the local authority, and they must provide the national curriculum.

**Academies** are publicly funded independent schools. They receive most of their annual revenue budget direct from the DCSF, and they have more flexibility in the curriculum and how they spend their budget. Sponsors have considerable influence over how their school is run.

### **What it means for you**

The competition notice is effectively the local authority's specification for the new school and you will need to take account of it in preparing your proposals. If your proposals do not meet all of the specifications set out in the notice, they will be considered as long as they meet the need for school places in the area.

## Seminar for proposers

# 8

The DCSF has appointed a dedicated team to run a seminar for potential proposers in each local authority running a new schools competition.

This team will:

- research and identify local potential proposers
- advertise the seminar in local newspapers, schools, library etc
- alert national proposer organisations.

They will invite potential proposers to attend the seminar which will comprise presentations on the competition process and what proposers must include in their proposals – as set out in this guide – and the local authority's requirements.

### **Local authority requirements**

The local authority's presentation will be particularly important for you in preparing your proposals. You will learn more about the background to the competition and the local authority's requirements, including:

- the case for the new school
- local demographics such as population changes, catchment areas, projected pupil numbers, profile of existing schools
- the local job market and skills needs
- local standards and aspirations for the new school
- progress to date on plans, local engagement and consultation, school design etc

The seminar will provide opportunities for you and others to ask any questions you may have. It will also offer networking opportunities for you to:

- share ideas with others
- talk to others who have been through the process of setting up a new school, particularly if you do not have a lot of experience
- link up with others with a view to preparing a joint bid, for example smaller groups such as parents might join with larger more experienced bodies or organisations.

### **Benefits of joint proposals**

Joint proposals have much to offer, particularly where two or more proposer groups, each with different strengths, come together.

For example parent groups that have knowledge of local needs and connections with the local community might join forces with a national provider that has in depth knowledge of education and running schools. This team might in turn join up with representatives from local business and higher education to develop a strong bid combining broad local knowledge with experience of running schools.

# Decide on the type of school

# 9

You need to decide what kind of school best meets the community's needs and make decisions on a wide range of factors relating to the new school.

## Types of school

You may propose one of the following types of school:

- voluntary aided (VA)
- voluntary controlled (VC)
- Trust (foundation school with a foundation)
- foundation (no foundation)
- Academy.

The main characteristics of each type are summarised in [Annexe 9a](#) of this section.

## Trust schools

If you decide to set up a Trust school you may wish to consider including other partner organisations on your Trust – university or business for example. In looking for a Trust partner, bear in mind that they do not have to contribute funding. Their contribution will come from working with the school to impart knowledge, expertise and skills in education, training or management.

Your proposals will need to include details of the membership of your proposed Trust and the entitlement to appoint charitable trustees, but the Trust need not be established at the point at which you enter your proposals.

## Factors to consider

You need to consider your school's ethos, and whether your school will:

- apply for specialist school status or have a specialism
- provide extended school services and what form they will take
- form a federation or collaboration with another school or schools
- have a religious character and what that will be.

You also need to consider how your school will contribute to community cohesion.

For more information please refer to the guidelines at [Annexe 9b to 9f](#) of this section.

## Differences between types of school

9<sub>b</sub>

	Voluntary aided school	Voluntary controlled school	Foundation school (no foundation)	Trust* school	Academy
<b>Source of initial capital funding (in a competition)</b>	local authority	local authority	local authority	local authority	local authority
<b>Implementation support</b>	local authority	local authority	local authority	local authority	DCSF funds project management support
<b>Improvement (devolved formula) capital funding</b>	through local authority on national formula reflecting governors' 10% contribution and VAT	through local authority on national formula	through local authority on national formula	through local authority on national formula	direct from DCSF on national formula **see footnote
<b>Staff employer</b>	governing body	local authority	governing body	governing body	Academy trust
<b>Owner/holder of school's site and buildings</b>	charitable foundation	charitable foundation	governing body	charitable foundation	Academy trust ***see footnote
<b>Owner/holder of playing fields</b>	local authority (usually)	local authority (usually)	governing body (usually)	charitable foundation (usually)	Academy trust ***see footnote
<b>Admissions authority</b>	governing body	local authority	governing body	governing body	governing body

\* A Trust school is a foundation school with a foundation

\*\* Enquiries on devolved formula capital funding for Academies should be addressed to [academies.financeteam@dcsf.gsi.gov.uk](mailto:academies.financeteam@dcsf.gsi.gov.uk)

\*\*\* The LA will usually retain the freehold and lease the site and buildings to the Academy Trust for 125 years for a peppercorn.

## Specialist school status

You should include in your proposals any ambition you may have for your school to:

- have a specialism from day one
- apply to the Secretary of State for specialist school status from day one.

Before making a decision you should look carefully at:

- the range of specialisms already available in schools across the local authority area
- the criteria that your application will need to satisfy to be successful.

### Who can apply for specialist school status?

In the year leading up to opening - once the temporary governing body, and preferably the head teacher and senior management team, are in place - your school can apply for specialist school status providing it is a secondary school.

Specialist school status brings with it a one-off capital grant of £100,000 and recurrent funding of £129 per pupil per year over a four year period, scaled as follows:

- up to 1,000 pupils - £129 per pupil
- 1,001 to 1,199 pupils - as above per 1,000 pupils only
- 1,200 pupils and over - £129 per pupil.

To become a specialist school your school will need to raise £50,000 in sponsorship. If you fall short of this target you may qualify for financial assistance, providing you can demonstrate that you made a serious effort to raise the full amount.

If you do not intend the school to apply for specialist school status at the outset you can still decide to have a specialism, but your school will not qualify for additional funding.

### Specialist schools programme

The Specialist Schools Programme helps schools, in partnership with private sector sponsors and supported by additional Government funding, to:

- establish distinctive identities through their chosen specialisms
- achieve their targets to raise standards across the whole curriculum.

Specialist schools have a special focus on those subjects relating to their chosen specialism but must also meet the National Curriculum requirements and deliver a broad and balanced education to all pupils.

### Specialisms

Any maintained secondary school in England can apply for specialist status in one or two of the following 10 specialist areas:

9<sub>b</sub>

- arts
- business & enterprise
- engineering
- humanities
- languages
- mathematics & computing
- music
- science
- sports
- technology

### **Further information**

You can get support and advice, including help with finding a sponsor, from the Specialist Schools and Academies Trust.

You can get further guidance and an application form on the specialist schools website ([www.specialistschools.org.uk](http://www.specialistschools.org.uk)).

## Extended school services

9c

Extended schools are central to delivering the *Every Child Matters* strategy for reshaping children and young people's services. They offer pupils, their families and communities, services that go beyond the school day and the formal curriculum.

Section 27 of the Education Act 2002 enables governing bodies to:

- provide community facilities for families of pupils at the school and people who live or work in the area
- enter into agreements with other partners to provide services on school premises
- charge for some services.

### Support

The Government wants all schools to provide access to a core offer of extended services by 2010 and has put in place support to help them achieve this:

- Funding is provided through local authorities, so that they can plan extended services strategically with all their schools and partners.
- Schools can also use their school standards grant to develop and deliver access to extended services. The local authority's extended school remodelling adviser will provide advice and support.

### What you must do

You must include in your proposals whether, and to what extent, your school will provide extended services. In deciding the type of services your school might offer you need to consider:

- the needs of families and the local community your school will serve
- the range of extended services already on offer in the area
- the cost of setting up those services and how you will fund them.

Before you publish your proposals you will need to discuss your plans with your local authority and other partners.

### Types of extended services

You will want to work with the governing body, when it is in place, and head teacher designate to consider the strategy and priorities for developing extended services at your school– taking into account local needs and existing provision. In shaping your school's offering you will need to work in partnership with the local authority, parents, other schools, other children's agencies and the voluntary and private sectors.

Core services you might consider include:

- wrap-around childcare from 8am to 6pm all year round, if you are setting up a primary school

- parenting support and adult and family learning
- a varied menu of activities including study support, sport and music clubs and volunteering opportunities
- swift and easy referral to a wide range of specialist services such as speech therapy, health and social care
- community access to facilities such as information and communications technology, sports and arts.

In providing extended services, your school's governing body must ensure that those services do not interfere with the main duty to educate pupils.

### **Voluntary aided schools and VAT**

You need to bear in mind that your school will become liable for the VAT on building works retrospectively at any time during the following 10 years if:

- the new school building works are zero rated for Value Added Tax, and
- the school later uses the buildings for non-school or commercial purposes, and
- the non-school usage exceeds 10% of the school usage in terms of time, floor area or number of users

This is because your school's land and buildings will be held under charitable trust. You may need to seek advice from your local VAT office on the operation of the 10% threshold.

### **Further information**

You can find out more about setting up extended services, including case studies and funding, in the extended schools guidance on ([www.teachernet.gov.uk/wholeschool/extendedschools](http://www.teachernet.gov.uk/wholeschool/extendedschools)).

## Federation or collaboration

9<sub>d</sub>

Many schools work closely together and develop joint working arrangements but there are only two forms of statutory arrangements - federation and collaboration. The main rationale is to raise standards.

You must include in your proposals whether your school will form a 'hard' federation or collaboration - known as a 'soft' federation - with another school or schools, and you must provide details of the proposed arrangements.

### **Hard federation**

A hard federation is an arrangement under section 24 and 25 of the Education Act 2002 by which two or more schools share a single governing body.

Federations can involve a mix of primary and secondary schools. Within the federation each school retains its separate legal identity in respect of its budget, admissions and performance tables, and each is subject to a separate inspection by Ofsted.

### **Soft federation or collaboration**

A soft federation, or collaboration, is a formal arrangement under section 26 of the Education Act 2002 by which two or more governing bodies share elements of governance or establish a joint strategic committee with delegated powers. Under these arrangements each school retains its individual governing body.

Soft federation can involve a mix of primary and secondary schools and is based on the principle of allowing governing bodies and joint committees freedom to determine their own arrangements within an agreed framework. It can cover a range of operational models from an over-arching committee delegated to take strategic decisions on behalf of two or more governing bodies, to setting up single-issue committees such as premises or curriculum committees.

### **Reasons for federating**

You may want your school to become part of a new or existing federation, for instance:

- If your foundation or Trust supports other schools you may wish to federate with them, although it is possible for a number of schools to share a Trust without forming a federation.
- You may wish to federate with an established and high performing school nearby whose experience your school would benefit from.
- If yours is to be a specialist school you may want to federate with another school with the same or a complementary specialism to share facilities/resources.

## What you have to do

Ideally, if you intend your new school to be part of a hard or soft federation when it opens, you should include your intentions in the new school proposals you publish.

If you decide to federate after you have published your proposals you can still go ahead with your plans, providing you do so before your school's temporary governing body is in place. To do this you must follow the procedures set out in A Guide to the Law for School Governors which are described below.

Once the temporary governing body is in place it must make the decision to federate and must follow the same procedures.

## Federation procedure

You the proposers, or your schools temporary governing body if it is in place, must publish proposals to federate jointly with the governing body or bodies of the other school or schools involved.

Proposals must contain the:

- names of governing bodies involved
- size and make-up of the governing body for the proposed federation
- arrangements for staffing and admissions for the schools within the new federation
- proposed date for the federation to come into being
- date by which written representations should be made to the proposing governing bodies, allowing at least six weeks.

Proposals must be published by sending them to the:

- local authority or authorities in which the schools are located
- head teacher of each school in the proposed federation and school staff
- parents of all registered pupils at each school
- foundation governors where there is a foundation and appropriate diocese or other body for schools with a religious character.

After receiving written representations, the governing bodies (and you the proposers if appropriate) must decide whether to proceed with the federation as proposed or whether to modify the proposals to address points made in the representations.

Where the governing bodies decide to proceed with federation, they (and you if appropriate) must jointly give notice to the relevant local authority or authorities.

## Informal arrangements

There are many less formal ways than federation or collaboration in which schools can work together for the general good of their pupils. These might involve, for example:

- committees/groups of governors from one or more schools but without formal decision-making authority
- schools with joint management groups of head teachers, etc.
- the joint employment of finance and other support staff or specialist teachers (e.g. for music or sport) or Advanced Skills Teachers
- the sharing of facilities such as ICT suites or sports facilities
- joint working on curriculum issues or cooperation between primary and secondary schools.

You or your school's governing body may consider these arrangements rather than formal federation, providing it does not involve governing bodies carrying out their functions jointly or setting up formal joint committees.

### **Further information**

You can find more information about federation and collaboration on the DCSF Standards Site ([www.standards.dcsf.gov.uk](http://www.standards.dcsf.gov.uk)).

You should also see sections 24, 25 and 26 of the Education Act 2002.

# Religious character

You must include in your proposals whether you intend to ask the Secretary of State to designate your school as having a religious character.

## Designation criteria

The Secretary of State will designate your school if it meets at least one of the following conditions:

- at least one member of the governing body is appointed as a foundation governor to represent the interests of a religion or religious denomination
- if the school should close, the premises will be disposed of for the benefit of one or more religions or religious denominations
- the Trust which owns the site has made it available on the condition that the school provides education in accordance with the tenets of the faith.

Your school may have the religious character of one or more religions or religious denominations.

## Characteristics of schools with a religious character

Schools with a religious character – often called faith schools - have particular characteristics that distinguish them from other voluntary or foundation schools:

### Staff

In appointing a head teacher and teachers the governing body of a voluntary aided school may take into account applicants' commitment to the school's religious ethos. The governing body may appoint other staff on this basis but there must be a genuine occupational requirement in relation to the post – in accordance with the Employment Equality (Religion or belief) Regulations 2003.

Voluntary controlled and foundation schools with a religious character have similar powers in appointing a head teacher but not in appointing teachers (except for 'reserved teachers') or other staff.

### Religious education and collective worship

In voluntary aided schools RE is taught in accordance with the tenets of the faith. In voluntary controlled, foundation and Trust schools RE is taught to the locally agreed syllabus unless parents request that it be taught in accordance with the faith of the school's title deeds. In all three types of school collective worship is conducted according to the tenets of the faith.

### Admissions

Voluntary aided, voluntary controlled, foundation and Trust schools may give priority to applicants who are of the faith of the school, although they may consider allocating a

proportion of places to other children. If they cannot fill all of their places with children of the faith they must admit other applicants.

9<sub>e</sub>

### **Ethos**

Schools with a religious character have a faith-based ethos that is written into the schools' Instrument of Government.

# Community cohesion

9<sub>f</sub>

The Education and Inspections Act 2006 places a duty on the governing bodies of all maintained schools to promote community cohesion, for example through their approach to:

- teaching and learning: teaching pupils to understand others, promoting discussion and debate about common values and diversity
- equity and excellence: removing barriers to access and participation, offering equal opportunities to all their pupils to succeed at the highest level possible
- engagement and ethos: providing opportunities for children, young people and their families to interact with others from different backgrounds.

## Ways of promoting community cohesion

You need to consider some elements of community cohesion when developing your proposals for the new school. Bear in mind that your school's approach should reflect the nature of the school's population and the community it serves; contributions will differ from school to school. Your approach will probably include a range of activities:

- within the school
- with other schools
- with parents and the local and wider community.

Some examples you might consider are:

## Teaching and learning

- teaching and curriculum provision that supports high standards of attainment, promotes common values, and builds pupils' understanding of the diversity that surrounds them
- lessons across the curriculum that promote common values and help pupils to value differences and challenge prejudice and stereotyping
- a programme of curriculum based activities whereby pupils' understanding of community and diversity is enriched through fieldwork, visits and meetings with members of different communities
- support for pupils for whom English is an additional language to enable them to achieve at the highest possible level in English.

## Equity and excellence

- a focus on securing high standards of attainment for all pupils from all ethnic backgrounds and of different socio-economic status
- effective approaches in place to deal with incidents of prejudice, bullying and harassment
- admission arrangements that promote community cohesion and social equity.

## Engagement and ethos

### School to school:

- partnership arrangements to share good practice and offer pupils the opportunity to meet and learn from other young people from different backgrounds.
- Links built into existing schemes of work and grounded in the curriculum with pupils working together on a joint project or activity
- shared use of facilities to provide a means for pupils to interact

### School to parents and the community:

- working with community representatives, for example through mentoring schemes or bringing community representatives into school to work with pupils
- strong links and multi-agency working between the school and other local agencies, such as the youth support service, the police and social care and health professionals
- engagement with parents through coffee mornings, curriculum evenings, parent and child courses
- provision of extended services and community use of facilities for activities that take place out of school hours, including adult and family learning, information and communications technology, and English classes for speakers of other languages.

## Apply for support

10

The DCSF is offering proposers up to five days free consultancy support from an educational specialist with knowledge of preparing proposals and the relevant legislation.

You may register an interest at the seminar for proposers, or you can request an application form from DCSF by emailing [school.competitions@dczf.gsi.gov.uk](mailto:school.competitions@dczf.gsi.gov.uk)

# Prepare your proposals

11

## **Tailor your proposals**

The notice published by the local authority is effectively their specification for the new school and you need to tailor your proposal to reflect the needs of the local area as set out by the local authority.

In preparing your proposals you must include the statutory information that is prescribed in regulations and set out in [Annexe 11a](#) to this section.

You must send a copy of your proposals to the local authority at the address given in the competition notice within four months of the date of the notice.

The information in your proposals is in the public domain and may be published without notifying you.

## **Voluntary aided schools**

If you are proposing a voluntary aided school, you should complete a Form 18 and submit it with your proposals when you send them to your local authority. This is a statement of the governors' resources indicating that they can meet their contribution of at least 10% for maintaining the school. Form 18 is available on [www.teachernet.gov.uk/docbank/index.cfm?id=6079](http://www.teachernet.gov.uk/docbank/index.cfm?id=6079)

# Information you must include in your proposals

11a

You must include in your proposals the following information from Schedule 2 Part 1 of the School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007.

## **Contact Details**

1. The name of the proposer or proposers and a contact address.
2. Whether the proposals are being submitted independently or jointly with another proposer or proposers.

## **Category**

3. The type of school that it is proposed be established (a foundation school and, if so, whether it is to have a foundation, a voluntary school or a community school) and, if required by section 8, a statement that the Secretary of State's consent has been obtained to publication of the proposals.

## **Pupil numbers and admissions**

4. Confirmation that the size, age-range and pupil number of the school will be in line with the specification in the competition notice, or, if this is not the case, the proposed details.

## **Extended Services**

5. Information on the extended services which it is envisaged will be provided on the site of the school.

## **Ethos/Religious Character**

6. A short statement suitable for publication setting out the proposed ethos of the school, including details of any educational philosophy, which it is proposed that the school will adhere to.
7. If the school is to have a religious character, confirmation of the religion or religious denomination in accordance with whose tenets religious education will, or may be required to be provided at the school; and a statement that the proposers intend to ask the Secretary of State to designate the school as a school with such a religious character.

## **Area or community that school serves**

8. The area or particular community or communities which the new school is expected to serve if different from that specified in the competition notice.

## **Admission Arrangements**

9. An indication of the proposed admission arrangements and over-subscription criteria for the new school including, where the school is proposed to be a foundation or voluntary school or Academy which is to have a religious character—
  - (a) the extent to which priority for places is proposed to be given to children of the school's religion or religious denomination; and
  - (b) the extent, if any, to which priority is to be given to children of other religions or religious denominations or to children having no religion or religious denomination.

## **Grammar schools**

10. Where the school is to be established in substitution for one or more discontinued grammar schools, a statement to this effect and a statement that the school may be designated as a grammar school for

the purpose of Chapter 2 of Part 3 of SSFA 1998.

### **Schools with a religious character or particular educational philosophy – parental demand**

11. Where the school is—

- (a) proposed to have a religious character, evidence of the demand in the area for education in accordance with the tenets of the religion; or
- (b) proposed to adhere to a particular philosophy, evidence of the demand for education in accordance with the philosophy in question that is not already met in other maintained schools or Academies in the area.

### **Sixth Form Education**

12. Where it is proposed that the school will provide sixth form education, how the proposals will—

- (a) improve the educational or training achievements;
- (b) increase participation in education or training; and
- (c) expand the range of educational or training opportunities, for 16-19 year olds in the area.

### **Early Years Provision**

13. Where the proposals are to include provision for pupils aged between 2 and 5, the following information must be provided—

- (a) details of how the early years provision will be organised, including the number of fulltime and part-time pupils, the number of places, the number and length of sessions in each week, and the services for disabled children that will be offered;
- (b) how the school will integrate the early years provision with childcare services, and how the proposals for the establishment of the school are consistent with the integration of early years provision with childcare;
- (c) evidence of parental demand for additional provision of early years provision;
- (d) assessment of capacity, quality and sustainability of provision in schools, and in settings outside of the maintained school sector who deliver the Early Years Foundation Stage within 3 miles of the school; and
- (e) the reasons why schools and settings outside the maintained school sector who deliver the Early Years Foundation Stage within 3 miles of the school and who have spare capacity, cannot make provision for any forecast increase in the numbers of such children.

### **Specialisms**

14. Whether the school will have any specialisms on implementation and whether the proposer intends to apply to the Secretary of State for the school to be a specialist school from implementation.

### **Effects on Standards and Contributions to School Improvement**

15. Information and supporting evidence on:

- (a) how the school will contribute to enhancing the diversity and quality of education in the area; and
- (b) how the school will help to raise the standard of education in the area and contribute to school improvement.

16. Information and supporting evidence on how the proposals will contribute to enabling children and young people to be healthy, stay safe, enjoy and achieve, make a positive contribution to the community and society, and achieve economic well-being.

**Community Cohesion**

17. The following information relating to the proposals—

- (a) how the school will promote and contribute to community cohesion;
- (b) how the school will increase inclusion and equality of access for all social groups; and
- (c) how the school will collaborate with other schools, and in relation to secondary school proposals how the new school will collaborate with colleges and training providers.

**Accommodation**

18. A statement as to whether accommodation will be adequate to meet the number of pupil places specified in paragraph 4 of Schedule 1.

**Single sex or co-educational school**

19. Whether the new school will admit pupils of both sexes or boys only or girls only and, in the case of a single sex school where it is intended to provide sixth form education, whether both sexes or boys or girls only are to be admitted to the sixth form.

20. Where the school is to admit pupils of a single sex—

- (a) evidence of local demand for single sex education and how this will be met if the proposals are approved; and
- (b) A statement giving details of the likely effect the alteration will have on the balance of provision of single sex education in the area.

**Location**

21. Confirmation that the school will be established on the site specified in the competition notice or where that is not the case—

- (a) the location of the site (including, where appropriate, the postal address or addresses if the school is to occupy a split site);
- (b) whether the school will occupy a single or split site;
- (c) the accessibility of the site (or if the school is to occupy a split site the accessibility of the accommodation);
- (d) the current ownership and tenure (freehold or leasehold) of the site and the proposed use of any buildings already on the site;
- (e) details of the tenure (freehold or leasehold) on which the site of the school will be held, and if the site is to be held on a lease, details of the proposed lease including details of any provisions which could obstruct the governing body or the head teacher in the exercise of any of their functions under any of the Education Acts or place indirect pressures upon funding bodies;
- (f) whether the site is currently used for the purposes of another school which will no longer be required for the purposes of that school. If so, provide details as to why the site will no longer be required for the purposes of that school; and
- (g) the estimated costs of providing the site and a statement about how the costs will be met.

**Implementation**

22. Confirmation that the proposals will be implemented in line with the timing in the competition notice or, if this is not the case, the date when it is planned that the proposals will be implemented, or where the proposals are to be implemented in stages, information about each stage and the date on which

each stage is planned to be implemented.

23. Where the proposals are to establish a voluntary controlled or foundation school, a statement as to whether the proposals are to be implemented by the local education authority or by the proposers, and if the proposals are to be implemented by both,

(a) a statement as to the extent that they are to be implemented by each body, and

(b) a statement as to the extent to which the capital costs of implementation are to be met by each body.

#### **Project Costs**

24. Confirmation that the proposers consider that the costs of establishing the new school can be met within the estimate of capital costs of providing the school outlined in the competition notice and, where they cannot be met within that estimate, an explanation of the reasons for the additional costs and how any shortfall will be met.

25. A copy of a confirmation from the Secretary of State or local education authority or the Learning and Skills Council for England (as the case may be) that funds will be made available (including costs to cover any necessary site purchase).

26. Details of how it is proposed to fund the proposer's share of the capital costs of implementing the proposals (if any).

#### **Travel**

27. The proposed arrangements for travel of pupils to the school.

#### **Federation**

28. Details of any proposals for the school to be federated with one or more schools (by virtue of section 24 of EA 2002 and section 12).

#### **Curriculum**

29. Confirmation that the school will meet the general requirements in relation to curriculum contained in section 78 of EA 2002 and an outline of any provision that will be in addition to the basic curriculum required by section 80 of EA 2002, in particular any 14-19 vocational education.

#### **Voluntary aided schools**

30. In addition, where the school is to be a voluntary aided school—

(a) details of the Trusts on which the site is to be held; and

(b) confirmation that governing body will be able and willing to carry out their obligations under Schedule 3 to SSFA 1998.

#### **Foundation Schools**

31. Where the school is to be a foundation school, confirmation as to whether the school—

(a) will have a foundation established otherwise than under SSFA 1998 and, if so, the identity of that foundation;

(b) will belong to a group of schools for which a foundation body acts under section 21 of SSFA 1998; or

(c) will not fall within sub-paragraph (a) or (b).

32. Where the school is to be a foundation school which has a foundation—

(a) the name of the foundation where known;

- (b) the rationale for the foundation and the particular ethos that it will bring to the school;
- (c) the details of membership of the foundation, including the names of the members;
- (d) the entitlement to appoint charity trustees and the number of trustees to be appointed;
- (e) the proposed constitution of the governing body;
- (f) details of the foundation's charitable objects;
- (g) where the majority of governors are to be foundation governors, a statement that a parent council will be established in accordance with section 23A of EA 2002;
- (h) a statement that the requirements set out in the School Organisation (Requirements as to Foundations) (England ) Regulations will be met;
- (i) a statement of how the foundation will contribute to the advancement of education at the school and how it is envisaged it will help to raise standards; and
- (j) a statement of how the foundation will contribute to the advancement of community cohesion and the impact the foundation will have on the diversity of school provision in the area.

#### **Relevant experience of proposers**

33. Evidence of any relevant experience in education held by the proposer, or proposers (other than a local education authority), including details of any involvement in the improvement of standards in education.

#### **Special educational needs**

34. Where the proposals will include provision that would be recognised by the local authority as reserved for children with special educational needs, details of the specific educational benefits that will flow from the proposals in terms of—

- (a) improved access to education and associated services including the curriculum, wider school activities, facilities and equipment with reference to the local education authority's Accessibility Strategy;
- (b) improved access to specialist staff, both education and other professionals, including any external support and/or outreach services;
- (c) improved access to suitable accommodation;
- (d) improved supply of suitable places; and
- (e) a statement that special educational needs provision will be in line with that specified in the competitions notice, or, where not, the nature of any such provision and the proposed number of pupils for whom such provision is to be made.

# Summary of proposals

# 12

## Publication

Within three weeks of the competition closing date the local authority will publish a summary of all the proposals it receives, including any it wishes to make, in the form of a statutory notice placed:

- in a local newspaper
- in a conspicuous place in the area served by the new school (for example the local library, community centre or post office).

The notice will contain the information in [Annex 12a](#) to this section and details of any divergence from the local authority's specification in the competition notice. It will also:

- say how members of the public can obtain copies of the full proposals and submit comments and objections
- give the address of the local authority to which objections/comments should be sent and the deadline for receipt
- give notice of the public meeting to promote awareness of proposals.

## Public meeting

The local authority will hold at least one public meeting, the first within two weeks of the notice, to promote public awareness. You will be invited to attend and it is important that you do so. It is your opportunity to promote the benefits of your proposals to the local community.

## Distribution

The local authority will send you a copy of all your competitors' proposals and it will send all of them a copy of your proposals.

Within one week of publishing the statutory notice the authority will also send copies of all proposals to:

- any other local authority likely to be affected by the proposals
- the Diocesan Board of Education for any diocese of the Church of England any part of which falls within the local authority's area
- the bishop of a diocese of the Roman Catholic church any part of which falls within the local authority's area
- any other person or body who has previously expressed an interest in setting up a school in the area
- the Learning and Skills Council for England if your proposals include provision of 14-16 education or sixth form
- the Secretary of State; and
- any person requesting a copy (within one week of receiving the request).

## Information published by the local authority

12<sub>a</sub>

For each proposal the local authority receives it will prepare a summary for publication containing the following information.

### Contact details

- Name of proposer(s) and contact address
- Whether the proposals are being submitted independently or jointly with another proposer or proposers.

### Category

- Type of school proposed and whether it will have a foundation
- In the case of a community school, confirmation that the Secretary of State has given his consent to publication of proposals.

### Extended services

- Information on the extended services proposed on the school site.

### Ethos/religious character

- A short statement, suitable for publication, setting out the proposed ethos of the school including details of any educational philosophy the school will adhere to.
- If the school is to be a faith school, confirmation that the proposers will ask the Secretary of State to designate the school as having a religious character and what the religion/denomination will be.

### Admission arrangements

- The proposed admission arrangements and over-subscription criteria for the new school
- Where the school will be a foundation school, voluntary school or Academy with a religious character:
  - the extent to which priority for places will be given to children of the school's religion or religious denomination, and
  - the extent to which priority will be given to children of other religions or religious denominations, or to those with no religious affiliations.

### Schools with a religious character or particular educational philosophy

- Evidence of local demand for education in accordance with the tenets of the religion, or for education in accordance with the philosophy in question, that is not already met in other maintained schools or Academies in the area.

**Specialisms**

- Whether the school will have any specialisms from the start, or whether the proposer will apply to the Secretary of State for the school to be a specialist school when it opens.

**Foundation schools**

- name of the foundation where known
- summary of the rationale for the foundation and the ethos it will bring to the school
- details of the foundation's membership, including members' names.

## Wait for comments/objections

13

Once the local authority has published details of the proposals it received, there follows a statutory six week period during which representations (objections or supportive comments) can be made directly to the authority.

## Receive a decision

# 14

### Decision maker

The **local authority** is responsible for deciding the proposals, unless it is making its own proposals, or has an interest in proposals for a Trust school where:

- the authority or anyone it appoints is to be a member of the foundation
- the authority or anyone it appoints is to have voting rights in the foundation
- anyone the authority appoints is to be a charity trustee of the foundation.

The local authority must pass all of the proposals to the **schools adjudicator** for a decision where it:

- has an interest in competing proposals as defined above
- fails to reach a decision within two months from the end of the six-week representation period or, if later, the date on which it received the information required by regulations.

### Academy proposals

If the local authority receives any proposals for an Academy either it or the schools adjudicator, whichever is to make the decision, will consult the Secretary of State within one week of receiving the proposals before making a decision. The Secretary of State will confirm whether he would be willing, in principle, to begin negotiations with a view to entering into an agreement for setting up an Academy if the Academy proposals were to win the competition.

### Decision criteria

When considering the proposals the local authority or schools adjudicator must have regard to guidance issued by the Secretary of State. The guidance is contained in Part C of *Establishing a New Maintained School* which is available on [www.dfes.gov.uk/schoolorg/guidance.cfm?id=2](http://www.dfes.gov.uk/schoolorg/guidance.cfm?id=2)

The guidance contains the factors that decision makers must consider. It is up to them to decide how much weight to give to each of the criteria in each particular case. The factors considered are set out in summary form in [Annex 14a](#) to this section.

The local authority or schools adjudicator can reach any one of the following decisions on the proposals:

- approval of one set of proposals
- approval of multiple proposals which together meet the specification for the new school
- approval of any proposals with modification, eg the school's opening date
- conditional approval of any proposals, eg subject to planning permission
- rejection of all the proposals.

## Conditional approval

The local authority or schools adjudicator, whichever is the decision maker, may approve proposals conditionally in the circumstances set out in [Annex 14b](#) to this section. Where conditional approval is given the decision maker, will set a date by which the condition should be met. If you subsequently find that the condition will met later than originally thought you can ask the decision maker to modify the date, providing you do so before expiry of the original date.

Once the condition is met you should inform the local authority or schools adjudicator and the DCSF by email to [school.organisation@dcsf.gsi.gov.uk](mailto:school.organisation@dcsf.gsi.gov.uk). If you cannot meet the condition by the specified date you should refer your proposals back to the decision maker for fresh consideration.

## Decision notification

If the local authority is deciding the proposals it will make a decision within two months of the end of the representation period. There is no prescribed timeframe for an adjudicator's decision. Whichever decides you will receive a letter notifying you of the decision and the rationale for that decision.

## Grounds for appeal

You cannot appeal against a decision by the local authority or schools adjudicator in a new schools competition.

## Factors considered

14a

Different proposals will have different strengths and weaknesses. All will be considered on their individual merits. The local authority or schools adjudicator will:

- consider the proposals according to criteria set out in the Secretary of State's guidance to decision makers
- decide which proposals best meet the local authority's specification for the new school.

The Secretary of State's guidance is contained in Part C of *Establishing a New Maintained School* and is available on [www.dfes.gov.uk/schoolorg/guidance.cfm?id=2](http://www.dfes.gov.uk/schoolorg/guidance.cfm?id=2). The following is a summary of factors considered.

### **Effect on standards and contribution to diversity**

The extent to which proposals will:

- improve the quality of educational provision in the area, help raise standards, improve attainment and narrow the attainment gap for under-performing groups
- improve the diversity of educational provision in the area
- provide a broad and balanced curriculum, the national curriculum, religious education and, if a secondary school, sex education
- help every child and young person at the school achieve their full potential, for example through personal development, access to academic and vocational training, and by removing barriers to participation
- meet the aspirations of parents and the local community, and whether your proposals are the result of parental pressure for a new school.

### **Admissions**

- whether your school's proposed admission arrangements are equitable and allow fair access for all, and whether they comply with the law and the School Admissions Code – see [www.dcsf.gov.uk/sacode/](http://www.dcsf.gov.uk/sacode/).

### **Finance**

- whether the capital resources you need are available
- whether your proposals are viable and represent a cost-effective use of public funds
- if you are proposing a new voluntary aided school, whether you have provided evidence (Form 18) that the governing body will be able to meet their financial responsibilities for future building work.

### **Site**

If you are providing your own site:

- the land tenure arrangements and, if you are proposing a voluntary or Trust school where the Trust will not hold the freehold of the site; whether the **land tenure** arrangements are satisfactory
- whether the new school will meet the minimum statutory requirement for provision of school playing fields.

### **Community cohesion and inclusiveness**

- whether your proposals tackle divisions in the community - religious, social, racial and cultural - and the extent to which your school will promote community cohesion
- the extent to which your school will collaborate with other schools, FE colleges and other educational providers in the area
- whether your school will have strong links with families and the local community; whether it will provide extended services that contribute to the *Every Child Matters* agenda, and whether you have the funding needed.

### **14-19 issues (if your school will be catering for this age group)**

- the extent to which your proposals will extend the range of options available to 14-16 year olds opportunities for collaborative arrangements with other providers
- if your school includes 16–19 provision, the extent to which your proposals offer high quality provision, breadth of curriculum, and meet the diverse needs of all young people through collaborative arrangements with other providers.

### **Trust schools**

- the nature and constitution of the proposed Trust, and the activities and reputation of the proposed trustees
- if the Trust is to hold the majority on the governing body, plans for setting up a parent council and its proposed constitution
- the nature and strength of existing and proposed relationships with partners.

### **Other issues**

- if your school is to have a **specialism**, whether there is existing provision of the specialist subject in the area, and the links proposed with other local schools
- whether your proposals are to join an existing **federation** or to jointly establish a new federation, and whether the arrangements will help raise standards
- whether your proposals are to join an existing group **foundation body** or to jointly establish a new group foundation body. (In the latter case, approval of your proposals will be conditional upon the Secretary of State's approval for the new foundation body).
- whether there are any **equal opportunities** issues - sex, race or disability discrimination or human rights
- if your proposals are for a primary school with early years provision, the level of **integration of pre-school education** with childcare and other child/family services.

**Views of interested parties**

- parents, pupils, families, local residents affected by the proposals or who have an interest in them
- pupils, staff and governing bodies/Trusts of other schools and colleges in your area
- any local authority affected by your proposals or with an interest in them
- the Church of England and Roman Catholic dioceses in your area and any other religious bodies providing schools
- if your proposals affect 14-19 provision, the Learning and Skills Council
- if your proposals affect early education provision, the Early Years Development and Childcare Partnership or any partnership in its place.

## Types of conditional approval

14<sub>b</sub>

Decision makers may approve proposals conditionally, where approval can automatically follow an outstanding event, in the following circumstances:

- granting of planning permission
- acquisition of the school site or playing fields
- securing of access to the site or playing fields
- private finance credit approval in the case of a PFI contract
- agreement for any building project connected to Building Schools for the Future
- setting up of a charitable trust in connection with the school
- formation of a federation that the school will form part of
- establishment of a foundation body to act for a group of schools
- agreement to a change in the admission arrangements of another school
- establishment of a foundation
- the making of an Academy agreement
- approval for the relaxation of school premises regulations (including playing fields) in the case of a maintained school being set up in place of an independent school
- consent for the disposal of school land or buildings where funding is dependent upon capital receipts
- approval for dis-application of, or modification to, the National Curriculum
- the occurrence of any of the above events in relation to the school or any other school by a specified date

# Implement your proposals

# 15

## Responsibilities

If your proposals are approved and you are setting up a **maintained school**, those legally responsible for their implementation – you, the local authority, or both of you as stated in your proposals - must do whatever is necessary to establish the school.

If your proposals are approved and you are setting up an **Academy**, you must follow the appropriate steps for setting up an Academy. The steps are set out in [Annexe 15a](#) to this section.

If the local authority is to provide your school site, it is under a duty to transfer its interest in the site to the foundation body, charitable Trust or governing body, depending on the type of school you are establishing.

If you cannot or do not want to proceed with implementation, you must publish and get approval for statutory proposals relieving you of your duty.

## Requesting changes

If you find it difficult to implement your proposals as published you may ask the local authority for a modification, for example to the date by which you must implement your proposals. You cannot make significant modifications to your proposals.

## Capital work

If you are setting up a voluntary controlled, foundation or Trust school, the responsibility for implementation could rest with you, your local authority or both of you as stated in your proposals. Whatever the arrangement, the local authority should involve you and the temporary governing body in your school's final design.

If you are setting up a voluntary aided school you have sole responsibility for implementing your proposals, including the design of the school. If capital investment is part of a Building Schools for the Future project, the Local Education Partnership (or the agreed alternative) will coordinate procurement of goods and services.

If you are an Academy sponsor you are solely responsible for implementing your proposals, including design of the school.

## Running costs

If your school is a maintained school, once it opens the local authority will provide a delegated budget:

- based largely on the number of pupils at the school
- taking account of social deprivation, for example, the number of pupils in receipt of free school meals

- possibly including other factors such as funding for special educational needs, the size and condition of the premises, split sites.

Your school's budget will be set before the start of each financial year.

In the year before your school opens the local authority must provide it with sufficient funds to meet the costs of any staffing, purchase of goods and services it needs to enable it to admit pupils. Once the temporary governing body is in place, the local authority will provide your school with a delegated budget payable at least 15 months prior to its opening. This period may be varied at the discretion of the local Schools Forum.

If you are setting up an **Academy** your school's budget will be calculated in the same way as other schools in the area but you will receive it direct from the DCSF.

### **Governing body**

Each maintained school has a governing body responsible for:

- setting the school's strategic direction
- monitoring and evaluating the school's performance
- securing accountability.

There must be at least nine but no more than 20 governors on the governing body. Beyond this, governors may choose their preferred constitutional model so long as the proportion of different types of governor is in line with the governing body requirements, set out in [Annexe 15b](#) to this section - and subject to Diocesan or trustee approval if appropriate. You can find out more about the different types of school governor in [Annex 15c](#).

If you are setting up an Academy the governance arrangements are different. You need to find out about Academy governing bodies (see [Annexe 15d](#)).

### **Temporary governing body**

Until your school opens and the permanent governing body is in place the local authority will need to put in place a temporary one to cover the period from getting approval for your proposals.

Once established, the temporary governing body takes legal responsibility for carrying out most of the necessary work. It has most of the powers and responsibilities of a permanent governing body; for example, in the case of a voluntary aided or foundation school it has the power to appoint the head teacher. In the case of a voluntary controlled school the appointment is subject to local authority confirmation.

Your local authority is responsible for establishing the temporary governing body but:

- if your school is to be voluntary controlled the authority must consult you

- if your school is to be voluntary aided, foundation or Trust the authority and you must agree the arrangements for establishing the temporary governing body.

If you want to know more about governing bodies you should read the '*A Guide to the Law for School Governors*' which is available on [www.governor.net.co.uk](http://www.governor.net.co.uk).

### **Religious character**

If your school or Academy is to have a religious character the governing body must apply to the Secretary of State for the school to be designated as such. If Church of England or Roman Catholic it must get prior approval from the appropriate diocesan authority.

### **Next steps**

When you are ready to implement your proposals you should follow the detailed guidance in the *Guide for proposers implementing proposals for a new school*.

## Setting up an Academy

15<sub>a</sub>

If the Secretary of State gives agreement in principle to proposals for an Academy in a competition, and those proposals are the winning proposals, he is not compelled to enter into an agreement under section 482 of the Education Act 1996, even though he has confirmed his willingness, in principle, to commence negotiations.

### **Funding agreement**

Once your proposals have been approved you must complete the necessary steps for the Secretary of State to be able to enter into a funding agreement with the Academy trust. This will normally take 6-9 months to complete, depending on the complexity of the project.

As soon as the Department is aware that your Academy proposal has been chosen as the winning bid in a competition, it will nominate a lead official who will contact you to advise and guide you through all the practical aspects of implementing your proposals. This will include putting in place experienced Project Management support.

At this stage the Secretary of State will formally consult:

- the local authority in which the area the academy will be based
- any other local authority from which a significant proportion of the Academy's pupils are expected to be drawn.

Once the Secretary of State is content with the proposals he and the academy trust will sign the funding agreement and the project can proceed to full implementation.

# Governing body requirements

15<sub>b</sub>

	<b>Voluntary aided schools</b>	<b>Voluntary controlled &amp; foundation schools</b>	<b>Trust schools (no majority on GB)</b>	<b>Trust schools (majority on GB)</b>
<b>Parent governors</b>	at least a third of the total (including foundation parent governors): at least one must be an elected parent governor (or if that is not possible, a parent governor appointed by the governing body)	at least a third of the total	at least a third of the total	at least a third of the total (including foundation parent governors): at least one must be an elected parent governor (or if that is not possible, a parent governor appointed by the governing body)
<b>Staff governors</b>	at least two places but no more than a third of the total including the head teacher	at least two places, but no more than a third of the total, including the head teacher	at least two places but no more than a third of the total, including the head teacher	at least two places but no more than a third of the total, including the head teacher
<b>LA appointed governors</b>	at least one place but no more than a tenth of the total	at least one place but no more than a fifth of the total	at least one place but no more than a fifth of the total	at least one place but no more than a fifth of the total
<b>Community governors</b>		at least a tenth of the total	at least a tenth of the total	at least a tenth of the total
<b>Foundation governors (partnership governors if the school has no foundation)</b>	must outnumber the other governors by two and at least a fifth must be eligible to be parent governors	at least two places but no more than a quarter of the total	at least two places but no more than 45% of the total	outnumber the other governors by up to two; the governing body must set up a parent council
<b>Sponsor governors</b>	governing body may appoint one or two sponsor governors in primary schools, and up to four in secondary schools. In that case the person appointing the foundation governors may appoint an equal number of foundation governors to preserve their majority of two	governing body may appoint one or two sponsor governors in primary schools, and up to four in secondary schools.	governing body may appoint one or two sponsor governors in primary schools, and up to four in secondary schools.	governing body may appoint one or two sponsor governors in primary schools, and up to four in secondary schools. In that case the person appointing the foundation governors may appoint an equal number of foundation governors to preserve their majority of up to two

## Types of school governor

15<sub>c</sub>

**Parent governors** - parents, including carers, of pupils at the school are eligible to stand for election as governors. Parent governors are elected by other parents at the school. If insufficient parents stand for election, the governing body may appoint parents.

**Staff governors** - the head teacher is a staff governor by virtue of their office. Other staff, both teaching and support, may become governors so long as they are paid to work at the school (volunteers do not qualify). Staff governors are elected by the school staff. Any election which is contested must be held by ballot.

**Local authority governors** - local authorities are encouraged to appoint high calibre governors to schools that need most support and to appoint candidates irrespective of any political affiliation or preferences. Authorities may appoint minor authority representatives, e.g. district and parish councillors, as local authority governors.

**Community governors** - community governors are appointed by the governing body to represent community interests. They can be individuals who:

- live or work in the community served by the school *or*
- are committed to the good governance and success of the school even though they do not work or live close to it.

The definition of community governor is wide. People from a business or professional background and minor authority representatives can be appointed as community governors.

**Foundation and partnership governors** - foundation governors are appointed by the school's founding body, church or other organisation named in the school's instrument of government. If the school has a religious character the foundation governors must preserve and develop this. They must also ensure compliance with the Trust deed, if there is one. If a foundation school has no foundation or equivalent body, the foundation governors are replaced by partnership governors appointed by the governing body after a nomination process.

**Sponsor governors** - sponsor governors are appointed by the governing body. They may be individuals who:

- give substantial assistance to the school, financially or in kind
- provide services to the school.

If the governing body wants to appoint sponsor governors it must seek nominations from the sponsor(s). The governing body can appoint a maximum of two persons as sponsor governors in the case of a primary school and four in the case of a secondary school.

## Academy governing bodies

15<sub>d</sub>

The DCSF does not prescribe the numbers of governors on an Academy governing body but it is usual for an Academy to have around 13. Academy governors are appointed on the basis of their potential contribution to the school.

The Sponsor can appoint the majority of trustee governors – typically around seven of the 13 – with the agreement of the DCSF.

Also on an Academy governing body is:

- the principal, in an ex-officio capacity
- a local authority representative
- at least one elected parent representative.

Most academies also have an elected or appointed:

- teacher governor
- staff governor.

Additionally, the governing body of an Academy may include:

- community representatives
- representatives from the various joined-up services where an Academy is an extended school
- co-opted governors appointed by the governing body.

### Publications

- A New Specialist System: Transforming Secondary Education ([www.teachernet.gov.uk/makingadiff](http://www.teachernet.gov.uk/makingadiff) )
- Working Together to Safeguard Children ([www.everychildmatters.gov.uk/socialcare/safeguarding/](http://www.everychildmatters.gov.uk/socialcare/safeguarding/))
- Extended Schools Guidance ([www.teachernet.gov.uk/extendedschools](http://www.teachernet.gov.uk/extendedschools) )
- School Admissions Code ([www.dcsf.gov.uk/sacode](http://www.dcsf.gov.uk/sacode) )
- The Blue Book – Capital Funding for Voluntary Aided (VA) schools in England (2005-06 version) [www.teachernet.gov.uk/vabluebook](http://www.teachernet.gov.uk/vabluebook)

### Legislation (on [www.hmso.gov.uk](http://www.hmso.gov.uk))

- The Education and Inspections Act 2006
- The Education Act 2005
- The Education Act 2002
- The School Standards and Framework Act 1998
- The School Organisation and Governance (Amendment) (England) Regulations 2007 (SI 2007/3464)
- The School Organisation (Establishment and Discontinuance of Maintained Schools) (England) Regulations 2007 (SI 2006/2139)
- The New Schools (General) (England) Regulations 2003 (SI 2003/1558)
- The Education School Governance (Constitution)(England) Regulations 2003 (SI 2003/348)
- The School Staffing (England) Regulations 2003 (SI 2003/1963)
- The Disability Discrimination Act 1995 and SEND Act 2001
- The Education (Transition to New Framework) (New Schools, Groups and Miscellaneous) Regulations 1998 (SI 1999/362)
- The Religious Character of Schools (Designation Procedure) Regulations 1998 (SI 1998/2535)

### Accommodation publications

- Architect's Handbook (ISBN 0-632-033925-6)
- Building Bulletin 99: Briefing Framework for Primary Schools
- Building Bulletin 98: Briefing Framework for Secondary Schools
- Key Design Guidance for Schools: Access to Information for School Design
- Client Guide – Achieving Well Designed Schools Through PFI ([www.cabe.org.uk](http://www.cabe.org.uk))
- Curriculum Analysis Model ([www.teachernet.gov.uk/schoolbuildings](http://www.teachernet.gov.uk/schoolbuildings))
- DCSF Constructional Standards

- Education Building Projects – Information on Costs and Performance Data – Schools Building and Design Unit, available from DCSF publications [dcsf@prolog.uk.com](mailto:dcsf@prolog.uk.com) reference number DCSF/0288/2003
- Exemplar Designs [www.bsf.gov.uk/bsf/exemplars.htm](http://www.bsf.gov.uk/bsf/exemplars.htm)
- School Buildings: Obtaining Approval for Projects
- Schools for the Future – Designs for Learning Communities: Building Bulletin 95
- Standards for School Premises ([www.teachernet.gov.uk/docbank/index.cfm?id=3928](http://www.teachernet.gov.uk/docbank/index.cfm?id=3928))

### **Accommodation legislation**

- The Building Regulations 2000 (SI 2000/2531)
- The Construction (Design and Management) Regulations 1994 (SI 1994/3140)
- DCSF Constructional Standards
- The Education (School Premises) Regulations 1999 (SI 1999/2)
- Protection of School Playing Fields
- The Education (Specified Work and Registration) (England) Regulations 2003 (SI 2003/1663)
- Health and Safety Regulations

### **Websites**

[www.dcsf.gov.uk/fairfunding](http://www.dcsf.gov.uk/fairfunding)

[www.dcsf.gov.uk/sacode](http://www.dcsf.gov.uk/sacode)

[www.dcsf.gov.uk/schoolorg](http://www.dcsf.gov.uk/schoolorg)

[www.dcsf.gov.uk/section96](http://www.dcsf.gov.uk/section96)

[www.governornet.co.uk](http://www.governornet.co.uk)

[www.standards.dcsf.gov.uk/specialistschools](http://www.standards.dcsf.gov.uk/specialistschools)

[www.teachernet.gov.uk](http://www.teachernet.gov.uk)

[www.standards.dcsf.gov.uk/federations](http://www.standards.dcsf.gov.uk/federations)

[www.teachernet.gov.uk/management/resourcesfinanceandbuilding/schoolbuildings/schoolsforthefuture](http://www.teachernet.gov.uk/management/resourcesfinanceandbuilding/schoolbuildings/schoolsforthefuture)

[www.teachernet.gov.uk/management/schoolfunding](http://www.teachernet.gov.uk/management/schoolfunding)

[www.teachernet.gov.uk/schoolscapital](http://www.teachernet.gov.uk/schoolscapital)

[www.teachernet.gov.uk/voluntaryaidedschools](http://www.teachernet.gov.uk/voluntaryaidedschools)



We hope you found this guide helpful. If you have any questions or comments, please call 01325 391 282, or email [schools.organisation-unit@dcf.gov.uk](mailto:schools.organisation-unit@dcf.gov.uk)

Prepared by:

School Organisation and Competitions Unit  
Department for Children, Schools and Families  
Mowden Hall  
Darlington  
DL3 9BG

This guide is also available on  
<http://www.dcf.gov.uk/schoolorg/guidance.cfm?id=2>