



Department
for Education

Opening new schools

**Statutory guidance for proposers and
decision-makers**

September 2026

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Summary

This is statutory guidance from the Department for Education ('the department'). Proposers and decision-makers must have regard to it when establishing (opening) a new school.

The purpose of this guidance is to ensure that good quality school places can be provided that best meet the needs of children and families.

This guidance only relates to schools in England.

Transition from previous guidance

This guidance replaces previous guidance on the [free school presumption](#) and on [opening and closing maintained schools](#).

Where a local authority has sought proposals under the free school presumption process prior to 1 September 2026, and specified a date for submission of proposals, the free school presumption guidance shall continue to apply.

Where a local authority, or other proposers, have published proposals under section 10 or section 11 of the Education and Inspections Act 2006 ('the EIA 2006') prior to 1 September 2026, the previous guidance on opening and closing maintained schools should be followed.

If a local authority or other proposer has consulted on a new school prior to 1 September 2026, they do not need to repeat the consultation if the invitation for new school proposals is published after 1 September 2026.

Expiry or review date

This guidance supersedes all previous versions. It will be kept under review, and updated versions will be published if necessary.

What legislation does this guidance refer to?

- [The School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013](#) as amended by [The School Organisation \(Establishment and Discontinuance of Schools\) \(Amendment\) Regulations 2026](#).
- [Education and Inspections Act 2006](#) as amended by [Education Act 2011](#) and [Children's Wellbeing and Schools Act 2026](#).
- See also: [Further information](#).

Who is this guidance for?

This guidance is relevant to all categories of maintained school¹, academies (excluding 16-19 academies), maintained nursery schools and pupil referral units unless explicitly stated otherwise. It is for those proposing the opening of such a school (for example local authorities, academy trusts, dioceses or other relevant religious authorities), decision-makers (including local authorities and the [Schools Adjudicator](#)), and for those affected by a proposal, including dioceses, parents, other local schools and local communities.

Separate advice is available on [making significant changes \('prescribed alterations'\) to maintained schools](#), [making significant changes to an academy](#), [closing maintained schools](#) and [closure of an academy by mutual agreement](#).

It is the responsibility of local authorities and proposers to ensure that they act in accordance with the relevant legislation and have regard to statutory guidance when seeking to open a new school, and they are advised to seek independent legal advice where appropriate. Similarly, local authorities and the Schools Adjudicator, when making decisions on such proposals, must act in accordance with the law and must have regard to statutory guidance.

Main points

- Before a local authority invites proposals for any type of new school, or another proposer² publishes a proposal for a new school, they should have due regard to the sufficiency framework information set out in part 1 of the [making significant changes to an academy](#) guidance.
- Where a local authority think that a new school should be established in their area, section 7 of the EIA 2006 allows the local authority to invite proposals for different types of school (mainstream schools, special schools, alternative provision schools).
- Alongside proposals from other proposers, a local authority may also decide to add their own proposals for a new school to any proposals received.
- Although proposers may submit proposals for a new academy or for a new school other than an academy, they should demonstrate how effective collaboration will be achieved once the school is operating. The government's expectation is that new schools will ultimately join or form high-quality trusts.

¹ Community, foundation, voluntary aided, voluntary controlled, community special and foundation special.

² In this guidance we use 'other proposers' to indicate proposers that do not include the local authority (for example academy trusts, dioceses or other relevant religious authorities). References in this guidance to 'proposers' includes both local authorities and other proposers. This is slightly different to how "proposers" is used in EIA 2006 where the local authority is identified separately and "proposers" refers to anyone else other than the local authority.

- In all cases, where the local authority has invited proposals for a new school, they will be expected to provide the site for the new school and meet all associated capital and pre-/post-opening revenue costs associated with the establishment of the school.
- Where the local authority has not published their own proposals for a new school and will not have a role in relation to a foundation of a foundation school³, the local authority will be the decision-maker on the proposals, unless the Secretary of State directs the local authority to refer proposals to them.
- Where the local authority has published their own proposals for a new school or will have a role in relation to a foundation of a foundation school, the Secretary of State will be the decision-maker on the proposals (in practice, this will be delegated to the relevant departmental Regional Director).
- Where local authorities are to decide on a set of proposals which include an academy proposal, submitted in response to an invitation notice, the local authority must consult departmental officials (acting on behalf of the Secretary of State) on the proposals. Where a local authority is considering approving an academy proposal under this process, the local authority must obtain the Secretary of State's agreement that they would, in principle, be willing to enter into a funding agreement for that specific academy.
- Where a local authority has not published a relevant notice inviting proposals under section 7, proposers may publish proposals for a new voluntary, foundation or foundation special school under section 10 of the EIA 2006 at any time. A proposal for a new maintained nursery school may also be made at any time under this section.
- Proposals to replace a community, community special, foundation or foundation special school with another maintained school, or a pupil referral unit with another pupil referral unit, may also be made at any time under section 10 of the EIA 2006, as long as a relevant invitation notice has not been published by the local authority.
- The decision-maker for proposals made under section 10 will be the local authority, unless the proposals have been made by the local authority, or relate to the establishment of a foundation school with a foundation in which the local authority will have a role, in which case the decision-maker will be the Schools Adjudicator.
- All invitations for proposals under section 7, and publications of proposals under section 10, must be carried out in line with the statutory process outlined within this guidance. Sufficient regard should be given to all consultation and representation responses, and these exercises should be advertised to a broad audience to ensure they are open, fair and transparent.

³ See footnote 4 for how a local authority might be considered to be involved in a foundation proposal.

- All decisions on proposals to open a school must be made with regard to the factors outlined in this guidance and follow the relevant statutory process. The decision-maker must consider the expressed views of all those affected by a proposal or who have an interest in it, including cross-local authority border interests, and should give appropriate weight to the range of responses from those stakeholders likely to be most directly affected by a proposal.

Introduction

Local authorities have a statutory responsibility to ensure there are enough school places available in their area for every pupil of compulsory school age (the ‘sufficiency duty’). This is set out in section 14 of the Education Act 1996. It is for local authorities, working collaboratively with academy trusts and local partners (including dioceses and other religious authorities), to balance the supply and demand of school places, in line with changing demographics locally.

The amendments to the EIA 2006 made by the [Children’s Wellbeing and Schools Act 2026](#) mean that decision-makers on a new school will be able to choose the proposal that will best meet the needs of children and families. In doing so, they must follow the statutory process set out in Schedule 2 to the EIA 2006 and the Establishment and Discontinuance Regulations (as amended), as the guidance below sets out.

Table 1 summarises the ways in which a new school may be established, who the decision-maker will be and rights of referral. It includes proposals for new schools made in response to an invitation from a local authority under section 7 of the EIA 2006, which we refer to below as ‘the invitation process’, and proposals made under section 10 of the EIA 2006, when no relevant invitation from the local authority under section 7 has been published.

Table 1: Ways to propose a new school

Type of proposal	Proposer	Decision-maker	Who has a right of referral to the Schools Adjudicator / Secretary of State?
Section 7 – Invitation process (The local authority is not one of the proposers and is not involved in foundation proposals ⁴)	Other proposers	Local Authority	No-one. The Secretary of State may direct the local authority to refer proposals to them prior to determination.

⁴ Meaning proposals to establish a foundation school with a foundation established otherwise than under the School Standards and Framework Act 1998, where the local authority is to be involved in one of the ways set out at paragraph 10(2) of Schedule 2 to EIA 2006, that is being a member, trustee or having voting rights in the foundation or appointing someone who will.

Type of proposal	Proposer	Decision-maker	Who has a right of referral to the Schools Adjudicator / Secretary of State?
Section 7 – Invitation process (The local authority is one of the proposers or is involved in foundation proposals)	Local authority or a proposer of a foundation proposal Other proposers	Secretary of State	No-one
Section 10 To open a maintained nursery school	Local authority	Schools Adjudicator	No-one
Section 10 A new community, community special, foundation or foundation special school which is to replace one or more maintained schools	Local authority	Schools Adjudicator	No-one
Section 10 To replace one or more pupil referral units with another pupil referral unit	Local authority	Schools Adjudicator	No-one
Section 10 To open a new foundation, voluntary or foundation special school (and the local authority is not involved), where there is no invitation notice under section 7	Other proposers	Local authority	Proposers. The Diocesan Board of Education of any Church of England diocese, or the bishop of any Roman Catholic diocese, any part of which is comprised in the local authority area.
Section 10 To open a new foundation, or foundation special school where the local authority will be involved ⁵ , where there is no invitation notice under section 7	Local authority or other proposers	Schools Adjudicator	Proposers. The Diocesan Board of Education of any Church of England diocese, or the bishop of any Roman Catholic diocese, any part of which is comprised in the local authority area.

⁵ See footnote 4.

16-19 academies and sixth forms

The section 7 process cannot be used to establish new 16-19 academies, as they are not schools. Please refer to [16 to 19 education \(non-apprenticeship\): market entry](#) guidance for further information if you are looking to establish a new 16-19 provider. Existing sixth-form colleges may apply to convert to become 16-19 academies, following the [convert to an academy: guidance for sixth-form colleges](#) guidance.

Where a proposer wants to include sixth-form provision as part of a proposal for a new school, they should set out how this complements existing provision as part of the proposal.

Where a school or proprietor wants to add sixth-form provision to an existing school, they should follow the [making significant changes \('prescribed alterations'\) to maintained schools](#) for maintained schools, or the [making significant changes to an academy](#) guidance for academies.

The Sufficiency Duty

Local authorities have a statutory responsibility to ensure there are enough school places available in their area for every pupil of compulsory school age (the 'sufficiency duty'). This is set out in section 14 of the Education Act 1996.

The department provides capital funding to local authorities through Basic Need grant allocations to support them to meet their statutory duty, based on their pupil forecasts and school capacity data. Local authorities can use this funding to create places by expanding or remodelling existing schools, working with any school in their local area to do so, or by creating new schools. Prior to launching an invitation process for a new school, a local authority should be satisfied that there is a need for a new school in a particular area.

Details of how the local authority is expected to meet their responsibilities, and how other parties including, but not limited to, academy trusts, are expected to work with the local authority are set out in part 1 of the [making significant changes to an academy](#) guidance. This includes guidance on the roles and responsibilities of different parties, on forecasting the need for places, on collaboration, transparency, and on working with the department. The Children's Wellbeing and Schools Act 2026 has also created new duties for mainstream state schools and local authorities to co-operate regarding their respective school admissions functions, and for mainstream, special and alternative provision state schools to co-operate with local authorities to help them carry out their place planning functions.

Local authorities that have identified a need for new school places and are considering ways to provide them that could include a new school, should contact the department through their Regions Group contact as early as possible to ensure that there is a common understanding of action being taken to provide new school places and to improve the overall quality of educational provision in the area.

Sufficiency of specialist provision

The same duties apply when considering specialist provision for pupils with special educational needs and disabilities (SEND), and those requiring alternative provision. The Children and Families Act 2014 also places duties on local authorities to keep the services and provision available for children and young people with SEND under review as part of the Local Offer duties, working with parents, young people, the full range of educational providers and health and social care partners. The department provides high needs capital allocations to support local authorities to create or adapt places for pupils with SEND or who require alternative provision.

This government is committed to supporting more children and young people with SEND to achieve and thrive in a local mainstream school, reducing the need to travel a long way to access a specialist placement. Where appropriate, local authorities are

encouraged to work with mainstream settings in establishing [inclusion bases](#)⁶ to increase local capacity, alongside other capital adaptations to improve the inclusiveness of mainstream settings, and to consider these as a central part of their local sufficiency planning. Special schools will continue to support children and young people with the most complex needs where these needs require a distinctive offer which only special schools can deliver, so expansions or creation of whole new schools should only be considered in these circumstances. In support of this, the department has commissioned each local area partnership to develop and submit a Local SEND Reform Plan, where they will set out how their high needs sufficiency strategy enables mainstream inclusion.

Section 7

Overview of the section 7 process

If, following a consultation, a local authority determines that there is a need for a new school, including a school that provides alternative provision, they should initiate the 'invitation process' by publishing an 'invitation notice', as set out in section 7 of the EIA 2006. The invitation process provides the opportunity for proposers to submit proposals for a new mainstream school (academy school, voluntary school or foundation school), special school (special academy or foundation special school) or alternative provision academy. The invitation process may not be used to establish a school that provides education only to pupils above compulsory school age. In all cases the local authority is expected to provide premises and meet the capital and revenue costs of implementing the successful proposal.

The government believes that all schools should be able to benefit from effective collaboration and strong community links, and that this is best achieved by moving towards all schools joining or forming high-quality school trusts, including new local authority established trusts. Proposers may submit proposals for a new school other than an academy, though the government's expectation remains that new schools will join or form high-quality trusts. Proposers who take this route will need to set out in their proposal how effective collaboration will be achieved once the school is operating and how they expect the school to move into a high-quality trust over time. Governing bodies of maintained schools are not able to put forward proposals for new schools.

At the same time as other proposers are submitting proposals in response to an invitation notice, the local authority may choose to put forward their own proposals for a new community, community special, foundation or foundation special school or pupil referral

⁶ 'Inclusion base' has replaced the terms 'SEN unit', 'resourced provision', and 'pupil support unit'. Inclusion bases are underpinned by two models: Support bases (commissioned and funded by individual settings and multi academy trusts); and Specialist bases (commissioned and funded by the local authority).

unit. If this is the case, the decision-maker on the proposals will be the relevant departmental Regional Director, on behalf of the Secretary of State. The Regional Director will also be the decision-maker in cases where there is a proposal for a foundation school with a foundation⁷ where the local authority will be a member, charity trustee or have voting rights in the foundation, or the local authority will appoint someone who does.

As a minimum, the EIA 2006 and the Establishment and Discontinuance Regulations require the local authority to:

- Carry out a consultation prior to publishing an invitation notice;
- Develop a specification about the desired school containing specified information and publish the notice and specification in a specified way;
- Provide a way for others to give their views on the proposals;
- Decide which, if any, proposals to approve or refer proposals to the Secretary of State in specific cases (including where the local authority has published their own proposals);
- Where the local authority is making the decision, and the proposals include academy proposals, consult the Secretary of State so that the Secretary of State can confirm whether they would, in principle, be willing to enter into a funding agreement for a particular academy;
- Publish the decision.

Responsibilities for securing a site and providing funding

The school site

For schools that are to be established through the section 7 process, the local authority is expected to provide the site for the new school. Local authorities should carefully consider the location of any new site, having regard to local outdoor air quality, safe travel and provision of suitable outdoor space.

If the successful proposal is for an academy and the land is owned by the local authority, the local authority will be expected to grant the standard departmental model lease to the successful proposer on handover of the new school. It is the department's expectation that the site be made available free or on a peppercorn basis by the local authority to the successful proposer. If the land is owned by a third party, the nature of the lease will need to be discussed with them to reflect individual circumstances.

Where proposals for a new foundation or voluntary school are approved, and the local authority has provided land either through statutory obligation or using discretionary

⁷ Established otherwise than under the School Standards and Framework Act 1998.

powers, the authority must transfer any interest it has in land held for the purposes of the school, which is not playing field land, to either the trustees of the school⁸ or, where the school has no trustees, the school's governing body. The local authority will need, if relevant, to agree with the religious authority the identity of the appropriate trustees of the school and liaise with them in relation to the transfer of land. The land is then to be held by those trustees for the purposes of the school. The local authority must pay to the transferees their reasonable costs incurred in connection with the transfer.

Under [The School Premises \(England\) Regulations 2012](#), all maintained schools are required to have suitable outdoor space in order to enable physical education to be provided to pupils in accordance with the school curriculum; and for pupils to play outside safely. [The Education \(Independent School Standards\) Regulations 2014](#) apply similar requirements to academies.

Capital funding

The local authority is expected to meet the capital costs of a new school. In addition to using their own resources, a local authority can also meet these costs from capital allocations it receives from the department and contributions from housing developers. The department publishes capital grants on GOV.UK. Currently available grants include:

- **Basic need capital funding** which the department allocates to local authorities to support them to meet their statutory duty to secure sufficient school places. They can use this funding to provide places in new schools or through expansions of existing schools. Local authorities' Basic Need capital allocations, together with conditions of grant and guidance are published at [basic need allocations](#).
- **High needs provision capital allocations (HNPCA)** which the department allocates to local authorities to support them to deliver new places in mainstream and special schools, as well as other specialist settings, and to improve the suitability and accessibility of existing buildings. Local authorities' HNPCA, including conditions of grant and guidance are published at [high needs provision capital allocations](#).

Contributions from housing developers are an important way of helping to meet demand for new school places when housing developments are driving pupil numbers. It is for the Local Planning Authority (LPA) to secure developer contributions through section 106 agreements and/or the Community Infrastructure Levy (CIL), and to decide on the local infrastructure needs that this contribution should support.

⁸ By trustee(s) of a school, we mean the body or individuals that hold land on trust either specifically for the purposes of the school or (less commonly) for wider charitable purposes which can include use by a school. They must agree to any changes to that land. This term is not to be confused with the directors of an academy trust company - who are sometimes called trustees.

We would encourage LPAs to secure significant contributions for new school places and work closely with colleagues planning school places in their area, including county councils when the local authority responsible for education is not the LPA. LPAs can approach the department for support on assessing local school infrastructure needs, calculating costs of school provision and negotiations with developers. Guidance for local authorities on securing developer contributions for education is published at [delivering schools to support housing growth](#).

Revenue funding

Local authorities are also expected to meet the revenue costs of the new provision from within their Dedicated Schools Grant (DSG) allocations. This relates to:

- the annual allocation of revenue funding (which the department recoups or deducts from the local authority's DSG for academies), and any other funding (for example high needs top-up funding) which the local authority pays directly to the school;
- all funding for pre-opening development costs and post-opening funding required to address diseconomies of scale as the school builds up to capacity including underwriting of places (which local authorities can make provision for in their growth funds to support increases in pupil numbers relating to basic need, as detailed in the [pre-16 schools funding](#) guidance).

Special academies' continuing financial viability depends on local authorities continuing to place children and young people with EHC plans in those schools through the statutory processes (including parental preference rights) in the Children and Families Act 2014. It is important that the school proposers offer the type of places that local authorities need, at a cost they are prepared to fund.

Local authorities decide how many places a special academy will be funded for in the upcoming year from the school's second year of opening, in discussion with the school. The department will pay the funding directly to the academy, with the equivalent amounts deducted from the local authority's DSG.

Early years

Quality early education can break the link between background and opportunity and lead to better outcomes later in life. The government's ambition is that all families have access to high-quality, affordable and flexible early education and childcare, improving both the life chances for every child, helping them be ready for school, and the work choices for every parent. As a part of this, the department expects proposals for new primary schools to include a nursery, except in exceptional circumstances. Proposers can refer to [establishing school-based nursery provision](#) guidance for further information.

Factors to consider when determining section 10 proposals

Demand and need

When considering proposals to establish new provision, the decision-maker should be satisfied that the proposer has demonstrated demand for the provision being proposed. This should include:

- evidence of any projected increase in pupil population (for example driven by planned housing developments) above existing school capacity and any new provision opening in the same area, in relation to the number of places to be provided;
- the quality and diversity of schools in the relevant area and whether the proposal will meet the needs of parents and children, raise local standards and narrow attainment gaps;
- the popularity of other schools in the area and evidence of parental demand for a new school; and
- surplus capacity should be a serious consideration – decision-makers should consider the impact of the new places on existing good educational provision in the local area, and accumulating high levels of surplus should be avoided.

Proposed admission arrangements

Before approving a proposal for a mainstream school, the decision-maker should confirm that any details of the admission arrangements for the school set out in the proposal are compliant with the [School Admissions Code](#). The final admission arrangements will be determined separately, so it may not be necessary for the decision-maker to make modifications to the proposals to deal with any aspects that do not appear to comply with the School Admissions Code, but the decision-maker should alert the proposer to these aspects. The admission authority should take the decision-maker's comments on board as part of the implementation of proposals.

Balance of denominational provision

The balance of denominational provision is an important part of considerations in relation to the Public Sector Equality Duty. Decision-makers should consider what impact the proposal will have on the balance of denominational provision in the area, the quality of the provision available and parental demand in the area for the different types of provision.

If an infant and a junior school of a particular religious character in an area are to close and be replaced with a new all-through school, then there should normally be a preference for that new school to be of the same religious character as the predecessor schools. Where one school has a religious character and the other does not, or has a different religious character, both proposers and decision-makers should consider what would best meet the needs of the local community.

Funding

The decision-maker should be satisfied that any land, premises or necessary funding required to implement the proposal will be available and that all relevant local parties (for example charitable trustees or religious authorities, third party landowners) have given their agreement to the funding arrangements and the terms of the school's occupancy of the land.

Approval does not obligate the department to provide capital funding to support the creation of the new school or indicate that it will do so.

Travel

Local authorities have a duty to arrange free-of-charge travel assistance for eligible children and to promote sustainable home to school travel. Further information is available in the statutory guidance on [travel to school for children of compulsory school age](#).

Decision-makers should consider how children will travel to the school and should be satisfied that:

- wherever possible, the children the proposers expect to attend the school will be able to travel there sustainably for example by walking, cycling, scooting or using public transport;
- the proposers have sought to avoid children requiring travel arranged by the local authority, as far as possible;
- where travel arranged by the local authority will be needed, the proposers have worked with the local authority school travel team to ensure suitable travel arrangements can be made;
- where children will not be eligible for travel arranged by the local authority, the proposers have sought to avoid excessive journey times for children and excessive travel costs for families; and
- the arrangements for travelling to the school do not adversely impact equality (see below) or disadvantaged groups (for example, those who are eligible for free school meals or pupil premium).

Equal opportunity issues

The decision-maker must comply with the PSED, which requires them to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.
- advance equality of opportunity between those who share a relevant protected characteristic and those who do not share it.

- foster good relations between those who share a relevant protected characteristic and those who do not share it.

The decision-maker must consider the impact of the proposals on people who share the relevant protected characteristics and any issues that may arise from the proposals (for example where there is a proposal to establish new single sex provision in an area, there is equal access to single sex provision for the other sex). Decision-makers should be satisfied that the proposer has shown a commitment to providing access to a range of opportunities which reflect the ethnic and cultural mix of the area in which a school is located, whilst ensuring that such opportunities are open to all.

Local authorities should be mindful that impact assessments should give due regard to all protected characteristics, including religion and belief, and should not make assumptions about how schools with a religious character may or may not promote community cohesion, but rather consider each proposal fairly on its own merits. Parliament has legislated to allow schools designated with a religious character to apply faith-based admissions criteria when oversubscribed, and nothing in this guidance should be taken to imply a presumption of negative impact on their contribution to community cohesion. These schools continue to operate under the Equality Act 2010 and the public sector equality duty, which underpin their wider role in promoting respect and inclusion.

Suitability

In order to be approved, a proposal should demonstrate that, as part of a broad and balanced curriculum, the proposed new school would promote the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, as set out in the [promoting fundamental British values through SMSC](#) guidance. Any proposal put forward by organisations which advocate violence or other illegal activity should be rejected.

Integration and community cohesion

When deciding a proposal, the decision-maker should take account of the community to be served by the school and the views of different sections within the community and should be satisfied that the proposer has done the same. The decision-maker should be satisfied that the proposer has considered the importance of promoting local integration and community cohesion.

Accessibility, inclusion and school design

Decision-makers should be satisfied that proposals demonstrate that the new school site will be accessible and inclusive for all its pupils, including those with SEND, and that the new school will meet the required standards for school premises. In this situation, decision-makers should be satisfied that proposers have had regard to the [school and college design and construction](#) guidance, which include standards and guidance for those involved in the design and construction of school buildings and grounds.

School size

Decision-makers should not make blanket assumptions that schools should be of a certain size to be good schools, although the viability and cost-effectiveness of a proposal is an important factor for consideration. The department's expectations on certain school sizes are as follows:

Mainstream primary: Minimum of 2 forms of entry of 30 pupils – total capacity 420 pupils.

Mainstream secondary without a sixth form: Minimum of 4 forms of entry of 30 pupils – total capacity 600 pupils.

Mainstream secondary with a sixth form: Minimum of 4 forms of entry of 30 pupils in years 7 to 11 – total capacity 600 pupils plus a minimum of 200 students in the sixth form.

Special: Minimum 70 pupils.

Implementation (Section 7 and Section 10)

The following guidance outlines some of the key considerations that will be relevant for proposers of new schools once a proposal has been approved.

For new academies, further detail is provided in the [pre-opening guide](#), which sets out the steps that proprietors of academies must take before an academy opens. In particular, the pre-opening guide sets out the steps that must be taken before a funding agreement can be signed, including steps on assurance and consultation under section 10 of the Academies Act 2010. The guide also sets out information about Ofsted pre-registration inspections and readiness-to-open meetings for new academies.

Implementation duty

The proposer (and the local authority if they are not the proposer but have a duty to implement some or all of the proposal) must implement a proposal in the form approved, including any modifications made by the decision-maker (unless modifying or revoking the proposal, as set out [below](#)).

There is no maximum limit on the time between the publication of a proposal and its proposed date of implementation. However, decision-makers should be confident the proposers have good justification (for example an authority-wide reorganisation) if they propose a timescale longer than three years.

The school site

The department expects local authorities to conduct a robust evaluation of procurement options for any education capital projects and, in doing so, to consider the use of the department's construction frameworks where this is likely to deliver overall savings and advantages. A local authority should encourage academy trusts and other responsible bodies to do the same, should they be procuring a construction project directly.

We strongly encourage local authorities, in developing their local capital plans, as well as the party responsible for providing the site (where it is not the local authority), to refer to the [school and college design and construction](#) guidance. The guidance sets good quality parameters on a wide range of building requirements including acoustics, space, fire, thermal comfort, ventilation, energy and tackling climate change as well as improving access to nature.

Inclusive school design focuses on, for example:

- Spatial sequencing and clear wayfinding for example ramps, wayfinding handrails
- Inclusive sanitary provision for example accessible toilets, changing facilities
- Lighting, thermal comfort and ventilation for example low surface temperature radiators

- Inclusive acoustics for example acoustic wall panels, acoustic pods, acoustic ceilings
- Spaces for re-regulation for example 1:1 restorative spaces or breakout rooms.
- Access to nature for example doors from classrooms for direct access to outside space.

For further information about accessibility and inclusivity of buildings, local authorities should refer to the [school and college design and construction](#) guidance, which includes building bulletins for acoustic design of schools: performance standards ([BB 93](#)), ventilation, thermal comfort and indoor air quality ([BB 101](#)), and area guidelines ([BB 103](#), [BB 104](#)), and how these can be designed to optimise inclusivity and accessibility. Please also refer to [PAS 6463:2022 Design for the mind: Neurodiversity and the built environment](#) guide for further advice.

In due course, the department will also be publishing guidance on adaptations to enhance inclusivity and accessibility in mainstream settings, as well as more targeted guidance on identifying suitable interventions across mainstream settings.

Financial considerations for academies

Once the decision-maker has approved a proposal, the local authority and the successful proposer should work together to resolve any funding related issues as quickly as possible (if the successful proposer is not the local authority). If applicable, once the two parties have agreed a reasonable and mutually acceptable funding allocation to cover pre- and post-opening costs, as well as the timing of any payments, they should inform the department via [the relevant Regional Director mailbox](#)²⁶ (if the new school is an academy).

The department expects local authorities to provide sustainable underwriting arrangements for new schools in support of the pupil forecasts agreed between the successful proposer and the local authority (if applicable). This can provide the necessary reassurance of the financial viability of the new school ahead of opening and ahead of the funding agreement (if the new school is an academy). This can be achieved by the local authority agreeing to underwrite the per-pupil revenue funding for new schools by guaranteeing pupil numbers in the [Authority Proforma Tool \(APT\)](#). Alternatively, the local authority can choose to fund any unfilled places that it has agreed to underwrite directly using their growth fund. Such payments should be listed in the local authority's APT the following year.

²⁶ Found under each individual Regional Director in the 'Who we are' section.

Project Development Grant (PDG) funding will not be available for schools established through the section 7 invitation process or under section 10.

In determining the financial viability of the school, the local authority and successful proposer will need to consider the minimum viable number (MVN) for the school, meaning the minimum number of pupils required in order to be financially viable. This is not the same as the school's published admission number (PAN), or planned number of places, and will need to be understood in the context of any post-opening diseconomies funding and financial underwriting arrangements that the local authority will provide. For academies, when the local authority and successful trust have reached agreement on the school's MVN, this information (along with the background to the decision) should be provided to the department, which may provide constructive challenge to ensure that the local authority and successful proposer are confident in their agreed MVN for the school.

Governance

The [maintained schools: governance guide](#) sets out expectations for the governance of maintained schools and the [constitution of governing bodies of maintained schools guidance](#) explains how governance structures should be established. For academy trusts, the governance arrangements that must be complied with are set out in the [Academy trust handbook](#). Further advice is given in the [academy trusts: governance guide](#). Annex 3 of the [alternative provision](#) statutory guidance sets out how pupil referral units are managed.

Admissions

Where the successful proposal is for a mainstream academy, the necessary steps to establish admission arrangements for the new school are set out in the admissions section of the [pre-opening guide](#) and in the [School Admissions Code](#).

Where the successful proposal is for a maintained mainstream school, the local authority and successful proposer (where different) should refer to the information available in the [School Admissions Code](#).

Special schools (maintained special and special academies) do not admit pupils on the basis of the School Admissions Code. Generally, they are permitted only to admit pupils with EHC plans, or, on a temporary basis, pupils whose needs are being assessed, or in certain other exceptional circumstances (as set out in section 34 (5)-(8) of the Children and Families Act 2014). See paragraph 1.29 of the [SEND code of practice: 0 to 25 years](#) for more information. The School Admissions Code does not apply to alternative provision academies or pupil referral units. Admissions into alternative provision academies and pupil referral units are arranged by agreement between the school and the commissioner(s) of the provision.