GUIDANCE ON LOCAL DECISION MAKING ON STATUTORY PROPOSALS FOR CHANGES IN SCHOOL ORGANISATION

INTRODUCTION

1. This guidance explains the procedures for making significant changes to schools, including opening new schools and closing schools. It is set within the context of the Government’s overall objectives for educational reform and transformation, as set out in paragraphs 5 onwards. It is designed for those bringing forward proposals - local education authorities (LEAs), promoters of new schools and governing bodies - and those deciding them - usually school organisation committees (SOCs) and schools adjudicators (though many proposals continue to be decided by the LEA if no-one objects to the proposals). Sections A1, A2 and A3 are statutory guidance from the Secretary of State to SOCs and Adjudicators on statutory proposals decision-making. Section A4 provides supplementary guidance on SEN provision. Those bringing forward proposals will wish to bear this guidance in mind when drawing up their proposals.

Role of School Organisation Committees

2. A School Organisation Committee consists of 5 groups, representing the Local Education Authority, Church of England and Roman Catholic dioceses for the area, schools, and the Learning and Skills Council. A sixth group can be added to cater for particular local interests. If the Committee cannot agree, proposals are decided by an independent Schools Adjudicator.

Scope and purpose of this guidance

3. Significant changes in the organisation of schools may not be made without the publication and approval of statutory proposals. This guidance explains how proposals should be published, decided and implemented. It is intended to help Local Education Authorities, School Organisation Committees, Adjudicators and others with an interest in school organisation. It should not be treated as exhaustive, nor as a complete and authoritative statement of the law. The relevant factors and the weight to be given to them will differ from case to case.

4. The guidance is in two parts: the Secretary of State’s statutory guidance, to which those concerned are required by legislation to have regard (sections A1, A2 and A3); and non-statutory guidance, which is designed to inform people about the legal requirements and help them to carry out their roles as effectively as possible.

The changing context

5. The document Education and Skills: Investment for Reform, published in July 2002, expressed the Government's determination to transform education so that each school has a distinctive character and ethos, building on the individual talent and potential of each child. It indicated the Secretary of State's wish to move into an era of diversity and innovation, particularly in secondary education, with every school having an incentive to
improve, and with an increased emphasis on effective leadership, management and collaboration between schools and on expanding our best schools and making additional provision to meet local needs. Action to deal with failing schools should be decisive, and the best schools should be encouraged to join in raising the standards of the rest, including by taking over weaker schools. The Secretary of State hopes local educational communities will take a pro-active approach to these new opportunities for transformation.

6. The Education Act 2002 introduced specific modifications to the statutory proposal system with a view to promoting greater diversity and choice. A special procedure for new school competitions, to be decided by the Secretary of State, will apply where an LEA decides that a wholly new (or "additional") secondary school is needed. The LEA has to publish a notice inviting interested parties to bring forward proposals for the new school. As well as being posted in a prominent place in the area and appearing in at least one local newspaper, the notice must be sent to the local CE and RC dioceses, any other person or organisation that has previously expressed an interest in setting up a secondary school to serve pupils in the area, and any other body or organisation that is likely to be interested in the proposals. Responses might include proposals for a new foundation or voluntary school or an Academy. When the deadline for receiving the proposals has passed, the LEA then publishes a notice in a local newspaper, giving details of all the proposals received, and any it wishes to make itself, and inviting comments on the various proposals. The School Organisation Committee then give their views on the proposals and any comments received on them, before they are considered alongside one another and decided by the Secretary of State. In the interest of increased diversity, the Secretary of State considers that LEAs should invite other potential providers to bring forward proposals when any new schools are needed (although this is not a statutory requirement for schools other than additional secondary schools). This is discussed further in paragraph 19 of the guidance below. The statutory guidance on consultation in Section A3 of this guidance has also been revised to require LEAs to consult the local dioceses and anyone else who has previously expressed an interest in setting up a secondary school before proposing any new secondary school, including replacement schools, mergers and amalgamations.

7. The Act also helps successful and popular schools to expand more easily. All schools, including for the first time community schools, will be able to publish their own proposals to expand. This guidance gives a strong presumption in favour of the expansion of successful and popular schools, and successful and popular schools will be able to appeal to the Adjudicator if their proposals to expand are rejected by the School Organisation Committee. Community schools will also be able to publish their own proposals to add sixth forms.

8. The Act also amends the School Standards and Framework Act to give a right to promoters of new schools not represented on the School
Organisation Committee to appeal to the Schools Adjudicator if their proposals are rejected by the Committee (the LEA and CE and RC dioceses are represented on the Committee, and so are able to ensure that their proposals would go to the Adjudicator automatically).

9. Proposals in respect of sixth forms will also be able to be brought forward by the Learning and Skills Council (as well as by those who may already make proposals in respect of schools). These proposals will be decided by the Secretary of State.

10. In order to give decision-makers information on the full range of views in the local community, the Act provides for comments as well as objections to be made to proposals. This will allow people to express positive support for proposals, and also any concerns about particular aspects of proposals, even though they may generally support them. The "objection period" is renamed the "representation period" and, in order to speed the decision-making process, becomes one month for all proposals.

School Organisation Plans

11. This document complements the Secretary of State's guidance on School Organisation Plans, which is also being updated to reflect the changing context in which changes in school organisation need to be considered.
SECTION A

This section gives the Secretary of State’s statutory guidance to Local Education Authorities, School Organisation Committees and Adjudicators. Dioceses, school governing bodies and others bringing forward proposals will find it helpful to bear this guidance in mind. A1 gives the policy background and general guidance on particular issues. A2 lists factors which need to be taken into account in considering proposals for specific changes, bearing in mind the policy and general guidance. The weight to be given to particular factors in each case is for the Committee or Adjudicator to decide. This guidance is not exhaustive and all proposals should be decided on their individual merits. A3 contains guidance on whether a new secondary school planned by the LEA is an "additional" school for which a notice must be published inviting other interested parties to bring forward proposals before the LEA may publish its own proposals; on consideration by the LEA of whether any statutory proposals made by them may be decided by them or must be decided by the School Organisation Committee; and on who must be consulted on proposals.

The term “Decision Maker” is used in this section to indicate both the School Organisation Committee and Schools Adjudicator, who must both consider the statutory guidance when making their assessment and decisions. Where a point applies only to one or the other, they will be named.

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1 It is issued under section 28(5), 29(4) and 31(4) of and paragraphs 3(4)(a), 3(7)(b) and 4(4) of Schedule 6 to the School Standards and Framework Act 1998, section 6[9](7) of the Education Act 2002 [and regulation 12 of the Education (Additional Secondary School Proposals) Regulations 2002].
A1 - ISSUES

Standards

1. The Secretary of State wishes to encourage changes to local school provision which will boost standards and opportunities for young people, while matching school place supply as closely as possible to pupils and parents' needs and wishes. They believe that Decision Makers should assess proposals by these criteria, subject only to the specific further considerations set out in this guidance. In particular, although the Decision Maker should have regard to the School Organisation Plan for the area, it is not a sufficient argument against a proposal that it is not consistent with a pre-existing plan. It is also important that Decision Makers should not make blanket assumptions that schools need to be of a certain size before they can be good schools. Each proposal should be considered on its merits.

2. The Government aims to transform secondary education, partly through greater diversity and innovation, with each school developing its own ethos and sense of mission and being encouraged to develop a centre of excellence or specialism. Every school should have an incentive to improve, have effective leadership and management, and collaborate with other schools. Successful and popular schools who wish to expand should be able to do so.

3. The Government wishes to break down the culture of isolation that has held back the comprehensive system. The Government want to use the best schools to lever up standards across the system. This may be by enabling successful and popular schools to expand, or by encouraging a range of collaborative arrangements by which successful schools can share their management and other expertise with less successful schools. Such arrangements might involve a variety of school clusters or "federations" in which the best school leaders will drive school improvements across a group of schools. Alongside collaboration and partnership, decisive action will be needed to deal with failing schools.

4. In assessing the likely impact of proposals on standards, both in the primary and secondary sectors, the Decision Maker should consider them in the context of this approach, as reflected in the local Education Development Plan.

5. In considering standards issues, the Decision Maker should also take account of recent reports from Ofsted or other inspectorates, the autumn package of performance data, and any other performance data. The LEAs and others bringing forward proposals should justify them specifically in terms of their impact on standards.

6. The Decision Maker must also be satisfied that the proposals are consistent with delivery of a broad and balanced curriculum\(^2\) to the pupils involved.

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\(^2\) The requirements of a broad and balanced curriculum are set out in sections 78 to 96 of the Education Act 2002.
Proposals involving schools in special measures and those causing concern

Powers of Intervention

7. The categories of schools causing concern are defined in sections 14-19 of the Schools Standards and Framework Act 1998, as amended by sections 54-59 of and Schedule 5 to the Education Act 2002. Further information on these categories and the relevant follow-up procedures can be found in the DfES guidance on schools causing concern.

8. All schools causing concern should receive intensive support from their LEA.

9. The Education Act 2002 has provided both LEAs and the Secretary of State with new intervention powers to support schools with serious weaknesses, matching their existing powers in respect of schools placed in special measures.

Closure/Fresh Start proposals

10. When considering the closure of any school causing concern and the expansion of other schools in the area, LEAs should take into account the popularity with parents of alternative schools.

11. “Fresh start” proposals are designed to replace a school that is subject to special measures, has serious weaknesses or is subject to a warning under section 15 of the School Standards and Framework Act 1998. The proposals for both the closure of the school and the opening of the new school on the same site should be submitted in parallel and should be considered together. In such cases there should be a presumption to approve both proposals.

12. When considering the approval of a Fresh Start proposal, the Decision Maker should check that the places the new school will provide are needed.

13. DfES has put in place a programme to support Fresh Start schools. In order to qualify for support under this programme, the Fresh Start proposal will need to be endorsed by Ministers. Such endorsement will of course depend on approval of the statutory proposals relating to the Fresh Start. However, in exceptional circumstances Ministers may decide not to endorse a Fresh Start proposal after the associated statutory proposals have been approved. In such circumstances, the new school will neither qualify for support from the Fresh Start support programme, nor be recognised nationally as a “Fresh Start” school.

14. For all closure and Fresh Start proposals involving schools causing concern, copies of the OFSTED monitoring letters for the relevant schools should be made available. The Decision Maker should have regard to the length of time the school has been on special measures, has had serious weaknesses or otherwise caused concern, the progress it has made, the prognosis for improvement, and the provision of places at neighbouring
schools. Where the Decision Maker is presented with proposals to close schools in special measures or otherwise causing concern, they should start from the presumption that these should be approved, subject only to checking that there will be sufficient places available in the area to meet foreseeable demand and accommodate the displaced pupils.

15. Where a school is to be closed so that it may be merged with a more successful and popular school, the Decision Maker should again normally approve these proposals, subject to evidence being provided by the LEA and other interests that the development will have a positive impact on standards.

Secretary of State’s power to direct closure

16. Section 19 of the School Standards and Framework Act 1998, as amended by section 56(2) of the Education Act 2002, gives the Secretary of State the power to direct an LEA to close a school requiring special measures or with serious weaknesses. It is likely that this power will be used only in exceptional circumstances. Such a direction would not be subject to the agreement of the School Organisation Committee or Schools Adjudicator. However, they may be required to consider proposals for the opening of a new school or for alterations as a consequence of the directed closure. There should be a presumption to approve the consequential proposals.

Proposals other than closure or Fresh Start

17. These should be dealt with as quickly as possible, and the Decision Maker should have regard to the impact the proposals may have on the school’s ability to take forward its action plan for recovering from special measures or removing serious weaknesses.

Creating Additional Places (in existing school or by new schools)

18. Where proposals will provide additional places the Decision Maker should consider whether they are needed. In considering need, the Decision Maker should take into account not only the existence of spare capacity in neighbouring schools but also the quality and popularity with parents of the schools in which spare capacity exists and evidence of parents’ aspirations for a new school. The existence of surplus capacity in neighbouring less popular or successful schools should not in itself prevent the addition of new places. In considering proposals for additional places the Decision Maker must take account of the impact which proposals will have on the standards of provision. Where proposals add to surplus capacity (either by adding places at existing schools or creating new schools) but there is a strong case for approval on parental preference and standards grounds, the presumption should be for approval. The LEA in these cases will need to consider parallel action to remove the surplus capacity thereby created.

19. As mentioned in paragraph 6 of the Introduction, the Secretary of State considers that in the interest of increased diversity LEAs should invite other potential providers to bring forward proposals when a new school is proposed in the area, including replacement schools, mergers and amalgamations (this approach is required by legislation for additional secondary schools). The
statutory guidance in section A3 requires LEAs to consult the local dioceses and anyone else who has previously expressed an interest in setting up a secondary school.

20. The Secretary of State particularly expects LEAs to invite other providers to consider whether they would wish to be involved in the provision of a new secondary school where:

   a. a failing school is being replaced; or

   b. the LEA’s percentage of pupils getting 5 or more GCSEs at grades A*-C is below the national LEA floor target of 38%; or

   c. pupils in that area do not have access to a school where at least 25% of pupils get 5 or more GCSEs at grades A*-C; or

   d. the area has been designated by the Secretary of State as an area to which supplementary guidance will apply.

If any of the above conditions apply, there should be a presumption in favour of approval of proposals where either the promoters have a good track record of involvement in education, or their proposals seem likely to improve standards in the area.

21. In considering any proposals for new schools, the Decision Maker must consider proposals on their merits and not assume an optimum size for a school. In particular, the Decision Maker should not work on the basis that a school needs to be of a certain size to be effective.

**Expansion of successful and popular schools**

22. The Government’s *Education and Skills: Investment for Reform* document published on 16 July 2002 set out its vision of radical reform of the structure of secondary education, including, as a priority, making better use of our best schools. This is particularly important in areas of multiple deprivation where children’s life-chances may crucially depend on good education breaking the cycle of dependency. Underperforming schools cannot be allowed to pass unchallenged.

23. When LEAs are considering expanding school provision, they should take account of the wishes of parents in deciding which schools to expand. The Secretary of State also wishes to encourage LEAs to reorganise provision in order to ensure that places are located where parents want them.

24. Key issues that Decision Makers should take into account when considering expansion proposals for successful and popular schools are as follows. The Decision Maker should take into account the views, wishes and preferences of all parents and the relative popularity and standards of all schools in the area. The Decision Maker should start from the presumption that proposals to expand successful and popular schools should normally be approved. The existence of surplus capacity in neighbouring less popular schools should not in itself prevent this expansion, but the Decision Maker
should consider the impact of expansion on other local schools and, if necessary, ask the LEA how they plan to tackle the consequences to other schools of the expansion. However the Decision Maker should only turn down proposals for successful and popular schools to expand in the areas mentioned above if there is compelling objective evidence that expansion would have a damaging effect on standards overall in an area, which cannot be avoided by LEA action.

Balance of denominational provision

25. In deciding proposals to close or reduce the capacity of denominational schools, the effect that this will have on the balance of denominational and non-denominational provision should be considered. The Adjudicator should not approve proposals for the closure of a denominational school where the relevant church SOC group had voted against its closure and it is clear that the closure, in conjunction with any related changes, will reduce the proportion of such denominational places within the LEA, unless it is failing or severely undersubscribed.

Surplus Places

26. It continues to be important that education is provided as cost-effectively as possible. Empty places represent a poor use of resources. LEAs have been encouraged to take action to remove surplus places, especially where schools have a quarter or more of their places unfilled and at least 30 surplus places. However, standards at the schools also need to be taken into account, as does the effect on any community use of the premises (see paragraphs 51 and 52). As noted in paragraphs 18 to 24 above, the Secretary of State wishes to encourage LEAs to organise provision in order to ensure that places are located where parents want them. In the case of any unfilled places at any schools in the area, especially where these are increasing, the LEA should take positive action to remove those at schools where parents do not choose to send their children, and which are least successful in raising standards. The removal of surplus places must always support the core agenda of raising standards and respect parents’ wishes by seeking to match school places with parental choices.

Finance

27. The Decision Maker will need to be satisfied that the proposals represent a cost-effective use of public funds.

28. The Decision Maker must be satisfied that any capital required to implement the proposals will be available. Normally, this will be some form of written confirmation from the source of funding on which the promoters rely. In the case of a Local Education Authority, this may be from an authorised officer within the Authority.

29. There can be no assumption that the approval of proposals will trigger the release of capital funds from the Department unless the Department has confirmed in writing that such resources will be available; nor that any allocation “in principle” can be increased. In such circumstances the
proposals should be rejected, or consideration of them deferred until it is clear that the capital necessary to implement the proposals will be provided. Proposals may NOT be approved conditional upon availability of capital, from sales or otherwise (although they may be approved conditional upon the entering into of a Private Finance Initiative transaction).

30. Implementation of proposals may depend on the disposal of land previously used for the purposes of a county or community school, perhaps because of capital receipts. Those bringing forward proposals and the Decision Maker should therefore assure themselves that any necessary consent for disposal of the land under paragraph 2 of Schedule 35A to the Education Act 1996 has been received from the Secretary of State. Consent is also necessary for the disposal by foundation or voluntary schools of any publicly funded land and buildings under Schedule 22 of the SSFA 1998.

31. The prior agreement of the Secretary of State will also be needed where it is proposed that capital should be raised from the disposal of school playing fields (details are given in DfES Guidance 0580/2001 The Protection of School Playing Fields and Land for City Academies published in July 2001). Proposals dependent on disposal of land for their implementation may not receive full approval until consent for their disposal has been received. Proposals may, however, be approved conditionally under Regulation 9 of the Education (School Organisation Proposals) (England) Regulations 1999 conditional upon the acquisition of a site or playing fields.

32. For proposals for a new voluntary aided school the Decision Maker must have a statement (preferably Form 18), signed by the promoters, that provides evidence that the Governing Body will be able to meet their financial responsibilities for all future building work.

Views of Interested parties

33. The Decision Maker must consider the views of all affected by the proposals or who have an interest in them including parents, residents, pupils, staff, other schools and colleges, LEAs, the LSC (where proposals affect post 16 provision) and the Early Years Development and Childcare Partnership (where proposals affect early years provision). This includes statutory objections and comments submitted during the representation period.

Community cohesion

34. The Government is concerned to promote ethnic, religious and cultural tolerance and respect between different groups of people living and working together. Tensions can grow where ethnic groups have segregated themselves from each other - whether by choice or circumstance - in housing, work, leisure and education. The Government is therefore committed to improving community cohesion: the uniting of people of different races, cultures and faiths in a common sense of belonging and pride in a shared civic identity. The areas which appear to be most successful in uniting different communities are those which combine an emphasis on shared values and common citizenship with a positive approach to celebrating diversity.
35. To realise the benefits of our multi-cultural society there is a need for positive action to promote community cohesion. Schools have a key part to play in this by providing opportunities for young people from different backgrounds to learn from each other; by encouraging through their teaching understanding of and respect for other cultures and faiths; and by activities in the community which help to build bridges between different ethnic groups.

36. When considering proposals for new schools the Decision Maker must consider whether the proposals will help to promote community cohesion. This will need to be considered on a case by case basis, taking account of the community that the new school will serve and the views of different sections within the community. There is no single model of school inclusiveness which can be applied to all circumstances. Factors that may need to be considered, and some specific examples of approaches to partnership working, are given in Annex [18], but the prime consideration should be the needs of their local community.

37. Promoters of new schools should include in their proposals information about how the school will tackle religious, racial and cultural division, and contribute to well-being across the community. Where proposed new maintained schools already exist as independent schools, information about what they are already doing and contributing will also be relevant.

38. The Decision Maker will need to consider the views of the local community, the commitment of the new school promoters and their own assessment of the robustness of the proposed means for achieving inclusiveness. Proposals for new faith schools should be judged on the same basis as proposals for other schools. The Local Government Association’s Guidance on Community Cohesion should also be referred to by those drawing up proposals for changes in school organisation. Proposals should be prepared against the background of the initiatives and documents referred to in that guidance, including the Local Strategic Partnership (LSP).

14-19 provision and collaboration

39. The Government has published proposals to develop 14-19 as a coherent phase of education in which young people remain committed to continuing learning after the age of 16. To that end, it wants young people to be able to choose from a broad range of general and vocational options from the age of 14 and to be able to progress through learning at a pace that is right for them. Where necessary, it expects that this should be achieved through increased collaborative working between local providers, including schools, colleges, training providers and employers.

40. Where a proposal relates to provision for 14-16 year-olds, the Decision Maker should consider the extent to which it will extend the range of options available to students in this age group and enhance the opportunities for collaboration between relevant local providers.

16-19 schools

41. The Learning and Skills Act 2000 allowed the establishment of
maintained schools which provide full-time education suitable for the requirements of pupils over compulsory school age but do not provide education suitable for the requirements of pupils of compulsory school age. Arrangements for the publication of proposals for the establishment of 16-19 schools are broadly as for other maintained schools.

LSC proposals to close inadequate 16-19 provision

42. The Learning and Skills Act 2000 gives the Learning and Skill Council (LSC) powers to propose the closure of inadequate sixth forms at all categories of school (by proposing to change the school’s age range to stop at 16); and to propose the closure of an inadequate 16-19 school of whatever category, including special schools. A sixth form is deemed inadequate if OFSTED reports it is failing to give students an acceptable standard of education, or has significant weaknesses in one or more areas of its activities. A 16-19 school is deemed inadequate if it requires special measures or has significant weaknesses in one or more areas of its activities. These LSC powers are triggered only where, in the light of two consecutive adverse reports from OFSTED, a school has failed to turn its 16-19 provision round. Where the sixth form is proposed for closure, the Decision Maker should normally approve these proposals, subject to evidence being provided by the LEA and other interests that the development will have a positive impact on standards.

New LSC powers to propose the reorganisation of 16-19 provision

43. The Education Act 2002 also gives the LSC power to make proposals for the reorganisation of post-16 provision in an area, including changes to school sixth forms. The proposals may be made in response to the findings of an area inspection, or in order to meet at least one of three relevant objectives:

- to increase participation amongst 16-19 year olds
- to increase the achievement of 16-19 year olds
- to expand the range of learning opportunities available to 16-19 year olds.

44. Decisions on LSC reorganisation proposals made under the 2002 Act will be made by the Secretary of State. School Organisation Committees will be consulted and their comments on the proposals, and any objections or comments by interested parties, must be passed by the LSC to the Secretary of State within one month of the end of the objection period when the proposals are submitted for decision.

Conflicting Sixth Form Reorganisation proposals

45. Where the implementation of reorganisation proposals from the LSC conflict with other published proposals put to the School Organisation
Committee for decision, the Committee will be prevented by the School Organisation Proposals by the LSC for England Regulations 2003 from making a decision on the related proposals until the Secretary of State has decided the LSC proposals (see para 8-9 of A3). If proposals come before the adjudicator he should similarly delay a decision until the Secretary of State has taken a decision on the LSC proposals (i.e. in the same way as a SOC is required to do as explained above).

Equal Opportunity Issues

46. The Decision Maker must consider whether there are any sex, race or disability discrimination issues that arise from the changes being proposed e.g. where there is a proposed change to single sex provision in an area, that there is equal access to the other single sex provision to meet parental demand. In considering proposals for an existing independent school to become maintained the Decision Maker must be satisfied that if the school is co-educational it will provide equal opportunities for boys and girls.

Rural schools and Sites

47. In considering statutory proposals, the Decision Maker should have regard to the need to preserve access to a local school for rural communities. There should therefore be a presumption against the closure of rural schools. This does not mean that no rural school should ever close, but the case for closure should be strong and the proposals clearly in the best interests of educational provision in the area. The transport implications of rural school closures should also be carefully considered, including the welfare of the children, the recurrent cost to the LEA of transporting pupils to school further away, the effects on road traffic congestion, and the environmental costs of pupils travelling further to schools. The overall effect on the community of closure of the village school should also be taken into account. The new possibilities for federated and extended schools to increase the viability of rural schools should be considered before closure proposals are brought forward. The Decision Maker must decide whether a school is to be regarded as rural. The Department's register of schools - Edubase - includes a rural/urban indicator for each school in England based on an assessment by the Office of National Statistics. The Decision Maker should have regard to this indicator. Where a school is not recorded as rural on Edubase, the SOC may nonetheless wish to consider evidence provided by interested parties that a particular school should be regarded as rural. The Office of National Statistics is currently drafting guidance to assist with the definition of rural areas and may be prepared to advise in cases of doubt.

48. Proposals are required to close one of the sites of a school on more than one site if any of the remaining sites are a mile or more away from the site that is proposed for closure. The Decision Maker should take into account the same sort of factors in deciding whether to approve the closure of one of the sites of a rural school, and there should be a presumption against their closure also, particularly where schools have recently been amalgamated and there has been an understanding that education would continue on the site.
Effect on school journeys

49. In deciding statutory proposals, the Decision Maker should bear in mind that proposals should not have the effect of unreasonably extending journey times or result in children having to negotiate significant barriers such as railway lines or major roads. They should also be considered against Government objectives to reduce traffic congestion and promote alternatives to the car.

50. When considering proposals to close a school in a deprived area, Committees should have particular regard to the transport arrangements proposed by those bringing forward proposals, the quality of the transport links between the communities served by the school and the site of the alternative provision, and the possible effect of the proposed arrangements on pupil unauthorised absence.

Extended schools

51. As part of the wider strategy to raise pupils' standards of achievement, the Secretary of State wishes to encourage more schools to extend the services and facilities they offer, for the benefit of pupils and their families. The Education Act 2002 includes a new power to enable governors to provide, in partnership with others, family and community services. “Extended schools” aim to provide a range of services, built around the needs of children who attend the school, their families and the wider community. Services and facilities might embrace study support, breakfast clubs, homework clubs, other forms of childcare, family learning, adult education, healthcare and other community facilities. While enhanced facilities of this kind do not require statutory proposals, their inclusion would strengthen the case for approving any statutory proposals.

52. In some areas, a school may already be a focal point for family and community activity, and its closure may have wider social ramifications. It may also provide extended services for a range of users. In considering proposals for the closure of such schools, the effect on families and the community should be considered. The information presented by those bringing forward proposals to close such schools, particularly when they are in receipt of funding as part of regeneration activity, should therefore show evidence that options for maintaining community facilities in the area have been considered. The views of other relevant agencies and partnerships with responsibility for community and family services should be taken into account, alongside those of the local police and Government Offices and Regional Development Agencies having responsibility for the New Deal for Communities.

Early Years provision

53. In considering any proposals involving changes in early years provision, the Decision Maker should consider whether the proposals will integrate pre-school education with childcare services and/or with other services for young children and their families; and should have particular regard to the views of the Early Years Development and Childcare
Partnership.

54. In deciding whether to approve any proposals to close a nursery school, the Decision Maker should be aware that nursery schools generally offer high quality provision, and have considerable potential as the basis for developing integrated services for young children and families. Closure proposals should not generally be approved, unless the case for closure is strong, the proposals are clearly in the best interests of local children and families, and the LEA can show that it has duly considered:

- the quantity, quality, value for money and convenience to parents (in hours offered) of provision at the individual nursery school, and proposed replacement provision;
- the impact of the potential loss to the locality of the nursery school’s experience and knowledge in delivering early years education;
- alternatives to closure, such as developing the nursery school to support the development of integrated services for young children and their families, including through Government programmes such as the Neighbourhood Nursery Initiative, Sure Start, Early Excellence Centres and Children’s Centres.

55. In deciding whether to approve any proposals to close a nursery class, the Decision Maker should consider whether the alternative provision will maintain or enhance the standard of education provision. Alternative provision could be with providers in the private or voluntary sectors.

56. Regulations have also tightened up on gradual changes to the lower end of a school’s age range. Previously, only changes of a year or more required statutory proposals. From June 2003 proposals will also be required even if the change is less than a year in any one year, if the cumulative effect of such changes over a period is to lower the age of entry by a year or more.

Maintained nursery schools

57. From June 2003, statutory proposals will be required to open a new maintained nursery school (prior to this proposals were only required for closures). Section A.2.5 lists factors to be considered.

New schools

58. It has always been possible for any organisation, association or individual willing to meet the conditions associated with being in the maintained sector, to publish proposals to set up a new maintained school. The Government wishes to encourage the widest possible range of promoters with a contribution to make to educational standards and diversity to come forward – including parent and community groups, private and charitable companies, voluntary groups including church and faith communities, those offering distinctive educational philosophies, existing schools or consortia of schools. All proposals, from whatever source, should be considered on the basis of their educational merits and what they have to offer the local
Community.

59. However from June 2003, a different procedure applies where an LEA decides that an additional, wholly new, secondary school is needed (see para 2-4 of A3 for guidance on what constitutes an "additional" secondary school). The LEA must publish a notice inviting other interested parties to bring forward proposals for the new school, before publishing any proposals of its own. The proposals will be decided by the Secretary of State, in the light of any comments by the School Organisation Committee following local consultation. Though LEAs are encouraged to use this procedure as widely as possible – see paragraph 19 – the legal requirement to do so applies only to secondary schools, and does not affect amalgamations or re-organisations of existing schools, fresh-start proposals, closures and re-openings in order to gain, lose or change religious character, independent schools seeking maintained status or any situation where a promoter other than the LEA wishes to propose a new school. When the School Organisation Committee is commenting on additional secondary school proposals before a decision by the Secretary of State as above, it should consider the same list of factors as for new schools (Section A.2.1). And Decision Makers receiving proposals involving new secondary school provision should always check that they are not in fact covered by the legislative requirements for new school competitions to be held (see Section A3).

Academies

60. Academies (including the former City Academies) are publicly-funded independent schools established in partnership with business and voluntary sector sponsors. They either replace one or more schools facing challenging circumstances or will be set up to meet a need for new school places in disadvantaged areas. Academies (unlike City Academies) may be established in rural as well as urban areas. All Academies should contribute to a strategic approach to diversity in their area. The involvement of business and other non-Government partners will enable Academies to develop and implement new approaches to teaching and learning in order to raise standards and promote innovation. All Academies will be required to share their facilities and expertise with other local schools and the wider community.

61. Statutory proposals are not required for the establishment of an Academy. The legal basis for Academies is section 482 of the Education Act 1996, which provides for the Secretary of State to enter into funding agreements with persons undertaking to establish and maintain specific types of independent school. Where an Academy is to replace an existing school or schools, however, the proposals for the closure of those schools should indicate whether pupils currently attending the schools will transfer to the Academy and, if appropriate, what arrangements will be made for pupils who are not expected to transfer.

62. All statutory proposals for changes to maintained schools relating to the establishment of an Academy should be considered together. If provision for pupils at a school proposed for closure is dependent on the establishment of an Academy, any approval of the closure proposals should be conditional.
upon the making of an agreement for an Academy, but there should be a general presumption in favour of approval. It should be noted that **LEAs may not give conditional approvals**, only a SOC or Adjudicator may do that. But from June 2003 LEAs may refer statutory proposals requiring conditional approval to the Committee for decision even if there are no objections, without the need to wait for the four-month decision period to elapse. This facility applies only to proposals requiring a conditional approval. All other proposals by the LEA must be decided by them if there are no objections, or the objections are withdrawn in writing within the representation period (unless the proposals are related to proposals which must be decided by the SOC, or to proposals published by the LSC, in which case the LEA may not decide the proposals – see Section A.3 of this guidance).

**Infant class sizes**

63. Local education authorities and schools have a legal duty\(^3\) to ensure that no infant class of 5, 6 and 7 year olds with a single teacher contains more than 30 pupils (apart from a few very limited exceptions, which relate to children with special needs or those offered places outside the normal admissions round). Before approving any statutory proposal affecting infant classes, the Decision Maker should ensure that its implementation will not compromise the Authority’s ability to meet the class size limit.

**Special educational needs provision**

64. Almost every school in the country will have some children on roll who have special educational needs (SEN). So there are likely to be SEN implications in every school reorganisation. School reorganisation provides opportunities for LEAs to consider the most effective ways of ensuring that appropriate SEN support is delivered to pupils wherever it is needed. This may be in mainstream schools, in specialist provision attached to, or co-located with, mainstream schools, or in special schools.

65. When considering proposals for the reorganisation of special educational needs provision the Decision Maker should have regard to:

- the statutory duty placed on Local Education Authorities\(^4\) to keep under review their arrangements for special educational needs provision;

- the elements of the Local Education Authority’s Education Development Plan relevant to special educational needs, and in particular the Authority’s plans for promoting inclusion (that is, for educating a higher proportion of pupils with special educational needs within a mainstream setting);

- arrangements promoted by the Secretary of State for the regional co-

\(^3\) Under Section 1 of the School Standards and Framework Act 1998.
\(^4\) Under section 315 of the Education Act 1996.
ordination of SEN provision and services, including the work of the SEN Regional Partnerships;

• the particular SEN factors mentioned at the end of section A2: "Provision for children with disabilities".

66. Some children’s special educational needs will be because of disabilities, and some disabled children, though they may not have special educational needs, may have particular access requirements. From September 2002 schools and LEAs are under a statutory duty under the Disability Discrimination Act to increase the accessibility of schools for disabled pupils. LEAs are required to prepare accessibility strategies and schools are required to prepare accessibility plans. These strategies and plans must show how the LEA or school plan to:

• increase the extent to which disabled pupils can participate in the school curriculum;

• improve the physical school environment;

• improve the delivery to disabled pupils of written information in different formats.

Foundation Body

67. Foundation and Voluntary schools may establish foundation bodies to be responsible for the land and assets of a group of schools. Proposals may therefore include a reference to plans to establish a new foundation body or join an existing body. Where the proposals include a reference to the need to establish a new foundation body, an approval should be conditional upon the Secretary of State approving the establishment of that body by a certain date.

Federation of Schools

68. Under the Education Act 2002\(^5\), schools may become federated under a single governing body. Where proposals for a new school include plans for a new federation, or to join an existing federation, any approval should be conditional upon the school being accepted into the federation or the federation coming into being by a certain date.

Independent Schools

69. If the proposal is from an existing independent school the Decision Maker would need to consider whether the school has, or would have, a range of suitable staff to meet the school’s needs, including teachers with qualified teacher status, and whether the premises would be suitable for the purpose of a maintained school.

Change of school category

\(^5\) Sections 24-25.
70. All categories of school - community, foundation, voluntary aided or voluntary controlled - are of equal value. All proposals to change the category of a school should therefore be considered on their individual merits. There should be no presumption for or against any particular category. A school cannot gain, lose or change a religious character by changing category. To do this a school must close and open as a new school.

71. In deciding such proposals the Decision Maker must take into account the restrictions on changing category prescribed in the regulations:

- if the school proposes to change to the voluntary aided category, evidence must be provided that the governing body are able and willing to meet their financial responsibilities for building work for at least 5 years after the proposed implementation date (Form 18 should be provided);
- the change of category cannot authorise a school to establish, join or leave a foundation body; and
- a foundation, voluntary aided and voluntary controlled school may not become a community school and a foundation special school may not become a community special school unless the required transfer agreement is entered into (i.e. regarding the land or buildings owned by the trustees and/or governing body).

72. Where the change of category will lead to a change in admission arrangements those bringing forward proposals should also ensure that all interested parties are consulted on the proposed arrangements at an early stage. These parties should include schools and parents of children already at, or likely to attend the school. In considering proposals for a change of school category the Decision Maker may not modify proposed admission arrangements. These fall to be dealt with under the normal admission arrangements.

Implementation

73. Where as a result of a voluntary aided (VA) school changing category the Local Education Authority becomes responsible for the implementation of previously approved statutory proposals in respect of the VA school which have not yet been fully implemented, the Department would continue its support of any agreed capital costs for those proposals, and would be prepared to consider applications from an LEA to meet its share of any capital costs which previously fell to the governing body. LEAs would also be able to publish statutory proposals to be relieved of the duty to implement approved proposals in respect of the school in its previous category. The Decision Maker would decide any such proposals under the provisions of paragraph 5 of Schedule 6 to the School Standards and Framework Act.

Conditional approvals

74. Some proposals to become a foundation school may involve becoming
a member of a group foundation and may only be approved conditionally i.e. upon the Secretary of State approving the establishment of the new foundation body, or agreeing to the school joining an existing group foundation by a specified date. All such change of category proposals must be decided by the School Organisation Committee (or Adjudicator) and may not be determined by the LEA.

75. Where it is necessary for a trust to be established or for an existing trust deed to be varied for the school to change category, any approval must also be conditional upon this occurring by a specified date.

School Playing Field issues

76. The Education (School Premises) Regulations 1999 set out the standards for school premises, including minimum areas of team game playing fields to which schools must have access. Statutory proposals should ensure that these standards are met. However, section 543 of the Education Act 1996 (as amended by paragraph 159 of Schedule 30 to the School Standards and Framework Act 1998) empowers the Secretary of State, in certain circumstances, to relax the prescribed standards. Detailed guidance on the circumstances in which a relaxation may be given and on how to apply are set out in the Department's circular, 'Standards for School Premises', published in February 2000.

Land Tenure arrangements

77. For new voluntary aided schools it is desirable that a trust holds the freehold interest in the site. Sites of certain voluntary schools are held on diocesan general trusts, or by religious orders on their general trusts and these arrangements may apply to new schools. Other arrangements can provide for sites to be held on specific trust for the purposes of the school. Where there are no existing established arrangements, promoters of new schools, should consider creating a specific trust.

78. Where the trustees of the proposed VA school hold or will hold a leasehold interest in the site, the Decision Maker will need to be assured that the arrangements provide sufficient security for the school. A leasehold interest under a specific trust would do so where the lease is for a substantial period - normally at least 99 years - and where it avoids clauses, which would allow the leaseholder to evict the school before the termination of the lease. The lease should, for example, also avoid provisions which would obstruct the governing body or the headteacher in the exercise of their functions under the Education Acts, or place indirect pressures upon the funding bodies.

79. The Department will consider the land tenure arrangements in deciding whether grant-aid can be offered in principle for the establishment of a new VA school. The Department will offer advice as necessary to the promoters on how far the proposed arrangements are acceptable and this advice can be made available to the Decision Maker. For proposals to change a school’s category to VA the SOC will need to refer to details of proposed land tenure in the prescribed information to satisfy itself that proposed arrangements are satisfactory.
80. Promoters of new foundation or voluntary controlled schools, and any governors seeking a change of category to such, should discuss their land tenure arrangements with the LEA. The LEA should provide assurance to the SOC that land tenure arrangements will be satisfactory.

Linked Proposals

81. Proposals that are interdependent must be considered together by the Decision Maker (see paras 6-7 of A3 for further guidance on whether proposals are linked). The decisions should be compatible, for example if one set of proposals is for the removal of provision, and another is for the establishment or enlargement of provision to which the pupils are proposed to transfer, the proposals to remove provision should not be approved separately from proposals for the accommodation of the displaced pupils. This would include proposals for the closure of sixth forms that were dependent on additional provision elsewhere.

82. If the School Organisation Committee is unable to reach a unanimous view on either of the proposals, they should both be passed to the Adjudicator to decide.

83. Where proposals are published that conflict with existing proposals (e.g. proposals to change the category of a school, for which there are already proposals to close the school or remove its sixth form) this need not delay consideration of the earlier proposals. Any decision on the later proposals would be informed by the decision on the earlier proposals.
SECTION A 2

STATUTORY GUIDANCE ON FACTORS TO BE CONSIDERED IN DECIDING PROPOSALS

A.2.1 Proposals for new schools
A.2.2 Proposals to close schools, including rural schools and nursery schools
A.2.3 Proposals to expand or enlarge schools
A.2.4 Proposals to change school category
A.2.5 Proposals to open nursery schools or add nursery classes
A.2.6 Proposals for new sixth forms or LEA maintained 16-19 institutions
A.2.7 Proposals to close sixth forms or LEA maintained 16-19 institutions
A.2.8 General school reorganisation proposals
A.2.9 Proposals affecting special schools and SEN provision
A.2.1. PROPOSALS FOR NEW SCHOOLS

(For new nursery schools see Annex A.2.5 and for new sixth form schools see Annex A.2.6)

These should not be taken to be exclusive. Importance of factors varies, depending on type and circumstances of decisions. All proposals should be considered on their individual merits.

The Decision Maker must consult statutory guidance in Section A1, in particular where a reference is indicated in brackets after each factor.

There should be a presumption to approve proposals for a new school to replace a failing school closed by direction of the Secretary of State (paragraph 16 of section A1).

Effect on standards and contribution to school improvement

- Whether the proposals will improve the standards, quality, range and/or diversity of educational provision in the area (Paras 1-3, 5, 58-59);

- Whether they advance the national and local transformation strategies set out in *Education and Skills: investment for reform* and the local Education Development Plan (Para 2-4);

- Whether the proposals will deliver a broad and balanced curriculum (Para 6);

- The effect of the proposals on other institutions’ standards, bearing in mind the effect on quantity and quality of other schools’ intakes and any suggestions put forward for collaboration, partnership or federation (Para 2-3).

Need for places

- Whether there is a need for additional places in the area, or whether there are surplus places (Para 18-21 and 26);

- The extent of parental demand for the type of school in question, for example, provision for particular faiths or denominations or specialisms (Para 18, 58).

Finance

- Whether the proposals represent a cost-effective use of public funds (para 27);

- Whether the capital resources required are available (Para 28-29);

- Whether the sale proceeds of redundant sites are to be made available and whether the Secretary of State’s consent has been
obtained where necessary (Para 30-31);

- If the proposal is for a new voluntary aided school, whether the promoters have provided a statement that the governing body would be able to meet their financial responsibilities for building work (Para 32).

**Views of interested parties (Para 33)**

- The views of parents and other local residents, including those who may be particularly affected by the proposals or have a particular interest in them;
- The views of any Local Education Authority affected by the proposals or with an interest;
- The views of other schools and colleges in the area;
- The views of the Learning and Skills Council (if the proposals affect the provision of post-16 education);
- The views of the Early Years Development and Childcare Partnership (where proposals affect early education provision).

**Community cohesion, inclusiveness and partnerships**

- The extent to which, and how satisfactorily in the circumstances of the community, the proposals address the need to promote community cohesion (Para 34-36);
- Where a proposed new maintained school already exists as an independent school, its current approach and contribution to community cohesion will be relevant (Para 37);
- The extent to which the proposals take account of the needs of families and the wider community, (Para 38).

**14-19 Issues**

- Where 14-19 provision is involved, the extent to which appropriate collaborative arrangements have been considered (Para 39 – 40);
- The criteria for considering new sixth forms should also be taken into account where the proposed school includes 16-19 provision (See Annex A.2.6).

**Equal Opportunities**

- Any sex, race or disability discrimination issues or other human rights issues including any sex discrimination issues in relation to proposals for a single sex school (Para 46).
Effect on school journeys

- The existence of safe walking, cycling and bus routes to the proposed site (Para 49).

Other Issues

- Whether the school will provide strong links with the local community and provide family and community services (Para 51);

- (Primary provision only) Whether the proposals comply with class size limit (Para 63);

- For voluntary and foundation schools where a trust is not to hold the freehold of the site, whether the land tenure arrangements are satisfactory (Para 77-80);

- For voluntary and foundation schools, whether the proposal is to join an existing group foundation body or to jointly establish a new group foundation body (Para 67);

- Whether the proposal is to join an existing federation or to jointly establish a new federation (Para 68);

- Whether the new school will meet the minimum statutory requirement for provision of school playing fields (Para 76).

Proposal from an existing independent school:

- if co-educational, whether it would provide equal opportunities for boys and girls (Para 46);

- whether it would have suitably qualified staff and the premises would be suitable for the purpose of a maintained school (Para 69);
A.2.2. PROPOSALS TO CLOSE SCHOOLS AND SCHOOL SITES

The following factors should not be taken to be exclusive. The importance of factors will vary, depending on the type and circumstance of proposals. All proposals should be considered on their individual merits.

The Decision Maker must consult the statutory guidance in Section A1, in particular the reference indicated in brackets after each factor.

There should be a presumption to:

- **approve** both sets of proposals where a failing school is to close and a "fresh start" school is to open on the same site (paragraph 11 of section A1);

- **approve** proposals to close a failing school, if there is sufficient capacity in the area for the displaced pupils and to meet future demand (paragraph 14 of A1);

- **approve** proposals for a school to close so that it may be merged with a more successful school, if there is sufficient evidence that the development will have a positive impact on standards (paragraph 15 of A1);

- **approve** proposals for the closure of a school that is to be replaced by an Academy, conditional on the making of the agreement for the Academy (paragraph 61 of A1);

- **reject** proposals for the closure of rural schools and sites unless the case for closure is strong and the proposals clearly in the best interests of educational provision in the area (paragraph 46 of A1);

- **reject** proposals for the closure of a maintained nursery school, unless the case for closure is strong, the proposals are clearly in the best interests of local children and families, and the LEA can show that it has properly evaluated all the options (paragraph 53 of A1).

In addition, the Adjudicator should not approve proposals for the closure of a denominational school where the relevant church SOC group had voted against its closure and it is clear that the closure, in conjunction with any related changes, will reduce the proportion of such denominational places within the LEA, unless it is failing or severely undersubscribed (paragraph 25 of A1).

Effect on Standards and contribution to school improvement

- Whether the proposals will improve the standards, quality, range and/or diversity of educational provision in the area (Para 1-3, 7-17, 60-62);

- Whether they advance national and local transformation strategies
set out in *Education and Skills: investment for reform* and the local Education Development Plan (Para 2-4);

- The standards of education in existing and proposed alternative provision, and, particularly in the case of nursery schools, that the alternative provision will be able to maintain or enhance the standards of education provision (Para 4-5, 54-55);
- The effect of the proposals on other institutions.

**Need for places**

- The overall supply and likely future demand for places;
- Whether there is sufficient capacity to accommodate displaced pupils in the area;
- Whether the proposals will reduce the proportion of denominational places (Para 25).

**Finance**

- Whether the proposals represent a cost-effective use of public funds (Para 27);
- Whether the capital resources required can be found (Para 28-29);
- Whether the sale proceeds of redundant sites are to be made available and whether the Secretary of State’s consent has been obtained where necessary (Para 30-31).

**Views of interested parties (Para 33)**

- The views of parents and other local residents, including those who may be particularly affected by the proposals or have a particular interest in them;
- The views of any Local Education Authority affected by the proposals or with an interest;
- The views of other schools and colleges in the area;
- The views of the Learning and Skills Council (if the proposals affect the provision of post-16 education);
- The views of the Early Years Development and Childcare Partnership (where proposals affect early education provision).

**Other issues**

- The length and nature of journeys to alternative provision (Paras 49-50);
• Any sex, race or disability discrimination issues or other human rights issues (Para 46);

• Whether the change will affect the ability to meet the minimum statutory requirement for provision of school playing fields (Para 76);

• The effect of the proposals on infant class sizes (Para 63);

• The overall effect of a closure on the local community, particularly in areas receiving funding as part of regeneration activity (Para 52);

• Whether the proposals are in connection with the establishment of an Academy (Para 60-62).

**Additional factors if school on special measures**

• If proposals are linked to expansion of other schools for transferring pupils, consider popularity of alternate schools (Para 10);

• If straight closure of school, whether there are sufficient places available to cater for displaced pupils and foreseeable demand (Para 14);

• If Fresh Start school proposed, whether the places being provided are needed (Para 12);

• If Fresh Start school proposed, whether the school is making progress, sufficiently quickly (Para 14).

**Rural schools and sites**

• Whether the case is strong and in best interests of educational provision in the area (Para 47);

• The overall effect of the closure on the local community (Para 47);

• The transport implications (Para 47);

• Whether the possibilities of federated or extended schools to increase viability had been considered (Para 47);

• (Closure of a site) Whether the schools had recently been amalgamated and if there was an expectation that the site would continue to be used as part of the school (Para 48).

**Closure of Maintained Nursery Schools**

• Whether the case is strong and clearly in the best interest of local children and families in the area (Para 54);

• The quantity, quality, value for money and convenience to parents of the nursery school and proposed replacement provision (Para 54-
• The impact of the loss of the nursery school’s experience and knowledge in delivering early years education (Para 54);

• Whether the LEA has duly considered alternatives to closing the nursery school, such as using it to support the development of integrated services for young children and their families (Para 54).
A.2.3. PROPOSALS TO EXPAND SCHOOLS

The following factors should not be taken to be exclusive. Importance of factors varies, depending on type and circumstances of decisions. All proposals should be considered on their individual merits.

The Decision Maker must consult statutory guidance in Section A1, in particular where reference indicated in brackets after each factor.

There should be a presumption to:

- approve proposals to expand successful and popular schools unless there is compelling objective evidence that expansion would have a damaging effect on standards overall in the area, which cannot be avoided by LEA action (paragraphs 222 - 24 of Section A1);

- approve proposals to expand a school in order to replace places removed by the closure of a failing school closed by direction of the Secretary of State (paragraph 16 of A1).

Effect on standards and contribution to school improvement

- Whether the proposals will improve the standards, quality, range and/or diversity of educational provision in the area (Para 1-3, 5);

- Whether they advance national and local transformation strategies set out in Education and Skills: investment for reform and the local Education Development Plan (Para 2-4);

- Standards at the school in question, and the impact of expansion on those standards (Para 18);

- The effect of the proposals on standards in the area generally, bearing in mind effect on quantity and quality of other schools’ intakes and any collaborative or other suggestions put forward to mitigate adverse impact (Para 2-3).

Need for places

- Extent of school’s popularity and unmet demand for its places (Para 18, 22-24);

- Whether there is a need for additional places in the area, or whether there are surplus places (paras 18, 26);

- Whether expansion will draw in pupils from other local schools, or attract extra pupils to the area or the maintained sector. The effect of the expansion on other schools’ intakes (para 18).

Finance

- Whether the proposals represent a cost-effective use of public funds
• Whether the capital resources required are available (Para 28-29);

• Whether the sale proceeds of redundant sites are to be made available and whether the Secretary of State’s consent has been obtained where necessary (Para 29-30).

**Views of interested parties (Para 33)**

- The views of other schools and colleges in the area;

- The views of parents and other local residents, including those who may be particularly affected by the proposals or have a particular interest in them;

- The views of any Local Education Authority affected by the proposals or with an interest;

- The views of the Learning and Skills Council (if the proposals affect the provision of post-16 education);

- The views of the Early Years Development and Childcare Partnership (where proposals affect early education provision).

**14-19 issues**

- Where 14-19 provision is involved, the extent to which appropriate collaborative arrangements have been considered (Para 39 – 40);

- The criteria for considering new sixth forms should also be taken into account where the proposed school includes 16-19 provision (Section A.2.6).

**Equal Opportunities**

- Any sex, race or disability discrimination issues or other human rights issues, including any sex discrimination issues in relation to proposals for a single sex school (Para 46).

**Other issues**

- Whether the change will affect the ability to meet the minimum statutory requirement for provision of school playing fields (Para 76);

- The existence of safe walking, cycling and bus routes to the school (Para 49);

- The effect of the proposals on infant class sizes (Para 63);
A.2.4. PROPOSALS FOR CHANGES IN CATEGORY OF SCHOOL

These should not be taken to be exclusive. Importance of factors varies, depending on type and circumstances of decisions. All proposals should be considered on their individual merits.

The Decision Maker must consult statutory guidance in Section A1, in particular where reference indicated in brackets after each factor.

Effect on standards and contribution to school improvement

- Whether the proposals will improve the standards, quality, range and/or diversity of educational provision in the area (Para 1-3, 5);

- Whether they advance national and local transformation strategies set out in Education and Skills: investment for reform and the local Education Development Plan (Para 2-4).

Finance

- Whether, if the proposal is for a change in category to voluntary aided, the promoters have provided evidence that the governing body would be able to meet their financial responsibilities for repairs and capital work for at least a period of five years (Para 71).

Views of interested parties (Para 33)

- The views of other schools and colleges in the area;

- The views of parents and other local residents, including those who may be particularly affected by the proposals or have a particular interest in them;

- The views of any Local Education Authority affected by the proposals or with an interest;

- The views of the Learning and Skills Council (if the proposals affect the provision of post-16 education);

- The views of the Early Years Development and Childcare Partnership (where proposals affect early education provision);

- Where proposals are published by the LEA, the views of the governing body;

- For proposals involving changes in category of schools with a religious character, the views of the relevant diocesan authority or appropriate faith group.

Other issues

- For proposals involving changes to foundation or voluntary-aided
status, any concerns about potential changes to admission arrangements (Para 72);

- Where 14-19 provision is involved, the extent to which appropriate collaborative arrangements have been considered (Para 39-40);

- Any sex, race or disability discrimination issues or other human rights issues (Para 46);

- Whether the change will affect the ability to meet the minimum statutory requirement for provision of school playing fields (Para 76);

- For proposals involving schools with a religious character, the effects of any changes to the RE syllabus as a result of the school changing category;

- For proposals to change to VA or foundation, where in exceptional circumstances a trust is not to hold the freehold of the site, whether the land tenure arrangements are satisfactory (Para 77-80);

- Whether a trust deed is required or whether an existing trust deed requires variation by the Charity Commission (Para 75);

- Whether the proposal is to change the category of the school and to join an existing group foundation body or to change the category of the school and jointly establish a new group foundation body (Para 74);

- Whether the proposal is to change the category of the school and to join an existing federation or to change the category of the school and jointly establish a new federation (Para 67);

- When the proposals involve a transfer of land, and in particular the transfer by means of a “transfer agreement” of non-publicly funded land held by a school’s governing body, the trustees or a foundation body, that the parties agree the terms of the “transfer agreement” (Para 71);

- Whether the school is in special measures, has serious weaknesses or is subject to a warning notice by the LEA under section 15 of the School Standards and Framework Act;

- Whether the LEA has suspended, or given notice of its intention to suspend, the school’s delegated budget (of potential relevance to all proposals, but of particular relevance where a school is becoming VA);

- If the change of category involves a school with a religious character, the outcome of any inspection under section 23 of the School Inspection Act 1996.
A.2.5. PROPOSALS TO OPEN NURSERY SCHOOLS OR ADD NURSERY CLASSES

These should not be taken to be exclusive. Importance of factors varies, depending on type and circumstances of decisions. All proposals should be considered on their individual merits.

The Decision Maker must consult statutory guidance in Section A1, in particular where reference indicated in brackets after each factor.

Early Years and Development Child Care Plan and child care audit

The Early Years Development and Child Care Partnership and the Local Education Authority are responsible for planning local early education and childcare. Their views should be a key consideration in deciding the proposals.

Effect on standards and contribution to school improvement

- Whether the proposals will improve the standards, quality, range and/or diversity of educational provision in the area (Para 1-3, 5);
- Whether they advance national and local transformation strategies set out in Education and Skills: investment for reform and the local Education Development Plan (Para 2-4);
- The extent to which proposals will integrate pre-school education with childcare services or are consistent with an integrated approach (Para 53);
- The effect of the proposals on other institutions, including private and voluntary providers, and the standards, quality, range and diversity of provision;
- The standard of education and viability of the school that wishes to add nursery places.

Need for places:

- Whether there is a need for additional nursery places in the area, taking into account the proportion of three and four year olds who already attend maintained nursery and reception classes;
- Whether there is demand for a particular type of place, for example provision for particular faiths or denominations (Para 22-24).

Finance

- Whether the proposals represent a cost-effective use of public funds (Para 27);
- Whether the capital resources required are available (Paras 28-29);
• Whether the sale proceeds of redundant sites are to be made available and whether the Secretary of State's consent has been obtained where necessary (Paras 30-31).

Views of interested parties (Para 33)

• The views of other schools and private and voluntary providers in the area;

• The views of parents and other local residents, including those who may be particularly affected by the proposals or have a particular interest in them;

• The views of any Local Education Authority affected by the proposals or with an interest;

• The views of the Early Years Development and Childcare Partnership.

Other issues

• Any sex, race or disability discrimination issues or other human rights issues (Para 46);

• Whether the change will affect the ability to meet the minimum statutory requirement for provision of school playing fields (Para 76);

• Any effect of the proposals on class sizes (Para 63);

• The existence of safe walking and public transport routes to the proposed site (Para 49).
A.2.6. PROPOSALS FOR NEW SIXTH FORMS AND 16-19 SCHOOLS

These should not be taken to be exclusive. Importance of factors varies, depending on type and circumstances of decisions. All proposals should be considered on their individual merits.

The Decision Maker must consult statutory guidance in Section A1, in particular where reference indicated in brackets after each factor.

Effect on standards and contribution to educational improvement

- Whether the proposals will improve the standards, quality, range and/or diversity of educational provision in the area (Para 1-3, 5, 58);

- Whether they advance national and local transformation strategies set out in Education and Skills: investment for reform and the local Education Development Plan (Para 2-4);

- Whether the proposed provision will be of sufficient size and quality to deliver a range of courses appropriate to the particular needs and abilities of the likely intake, either on its own or through planned collaboration or partnership arrangements (Para 39-41);

- The school's track record in providing a high standard of 11-16 education, and whether the proposed post-16 provision would be likely to have an adverse or beneficial effect on 11-16 provision at the school;

- The effect of the proposals on the staying-on rate, and whether the proposals would be likely to increase participation amongst post-16 learners;

- Whether the proposals would impact adversely on institutions already providing good-quality post-16 provision in the area, including both school sixth forms and FE institutions.

Need for places

- Whether there are already sufficient 16-19 places in the area;

- Whether there is demand for a particular type of place, for example provision for particular faiths or denominations or specialisms or vocational education (Para 22-24, 39-40).

Finance

- Whether the proposals represent a cost-effective use of public funds taking into account the costs of the new provision relative to the cost of other similar provision in the area (Para 27);

- Whether the capital resources required are available (Para 28-29);
• Whether the sale proceeds of redundant sites are to be made available and whether the Secretary of State's consent has been obtained where necessary (Para 30-31);

• Whether the proposals would have a significantly adverse impact on students' travel costs;

• If proposal is for a new voluntary aided 16-19 school, whether the promoters have provided a statement that the governing body would be able to meet their financial responsibilities for repairs and capital work (Para 32).

Views of interested parties (Para 33)

• The views of other schools and colleges in the area;

• The views of parents and other local residents, including those who may be particularly affected by the proposals or have a particular interest in them;

• The views of any Local Education Authority affected by the proposals or with an interest;

• The views of the Learning and Skills Council;

• The views of local employers.

Equal Opportunities

• Any sex, race or disability discrimination issues or other human rights issues including any sex discrimination issues in relation to proposals for a single sex school (Para 46).

Other issues

• Whether the change will affect the ability to meet the minimum statutory requirement for provision of school playing fields (Para 76);

• The provision of continuity for students and staff;

• Whether the Secretary of State has proposals from the LSC which could impact on proposals (Para 43-45);

• For non-LEA proposals, where a trust is not to hold the freehold of the site, whether the land tenure arrangements are satisfactory (Para 77-80);

• Whether the proposal is to join an existing group foundation body or to jointly establish a new group foundation body (Para 67);

• Whether the proposal is to join an existing federation or to jointly establish a new federation (Para 68).
These should not be taken to be exclusive. Importance of factors varies, depending on type and circumstances of decisions. All proposals should be considered on their individual merits.

The Decision Maker must consult statutory guidance in Section A1, in particular where reference indicated in brackets after each factor.

There should be a presumption to approve proposals by the LSC for the closure of a failing sixth form, provided that the Decision Maker is satisfied that the development will have a positive impact on standards (paragraphs 41 of section A1).

Effect on standards and contribution to educational improvement

- Whether the proposals will improve the standards or quality of educational provision in the area (Para 1-3, 7-17, 60-62);

- Whether they advance national and local transformation strategies set out in Education and Skills: investment for reform and the local Education Development Plan (Para 2-4);

- The standard of education provided in the sixth form or institution proposed for closure, and the standards of alternative 16-19 provision, including whether it will be of sufficient size and quality to deliver a range of courses appropriate to the particular needs and abilities of the students (Para 39-40, 42);

- The effect of the proposals on the range of 16-19 options available in the area;

- The effect of the proposals on the overall staying-on rate in the area;

- The effect of proposals to close the sixth form on the school as a whole;

- The effect of the proposals on other institutions.

Need for places:

- The overall supply of 16-19 places in the area and the likely future demand for places;

- The length and nature of journeys to alternative provision, including the quality of the transport links and any possible effect on pupil absence (Para 49-50);

- Where there is a demand for a particular type of 16-19 place, for example provision for particular faiths or denominations or
specialisms or vocational education (Para 18, 22-24, 39-40).

Finance

- Whether the closure of the sixth form will lead to education for the 16-19 age group being provided at least as cost effectively as at present, including long-term transport, road safety and environmental costs;

- Whether the capital resources required can be found (Para 28-29);

- Whether the sale proceeds of redundant sites are to be made available and whether the Secretary of State's consent has been obtained where necessary (Para 30-31).

Views of interested parties (Para 33)

- The views of other schools and colleges in the area;

- The views of parents and other local residents, including those who may be particularly affected by the proposals or have a particular interest in them;

- The views of any Local Education Authority affected by the proposals or with an interest;

- The views of the Learning and Skills Council.

Equal Opportunities

- Any sex, race or disability discrimination issues or other human rights issues including any sex discrimination issues in relation to proposals for a single sex school (Para 46).

Other issues

- Whether the change will affect the ability to meet the minimum statutory requirement for provision of school playing fields (Para 76);

- Where the proposals are published by the Learning and Skills Council under section 113 of the Learning and Skills Act 2000, confirmation that the sixth form has received two consecutive adverse Ofsted reports, deeming the provision to be inadequate (Para 42);

- Whether any transitional arrangements for the education of pupils in the closing sixth form or 16-19 institution are satisfactory;

- The effect, if any, of closure of the sixth form or 16-19 institution on the local community, particularly in rural areas and those receiving funding as part of regeneration activity (Para 52).
A.2.8. OTHER SCHOOL REORGANISATION PROPOSALS

These should not be taken to be exclusive. Importance of factors varies, depending on type and circumstances of decisions. All proposals should be considered on their individual merits.

The Decision Maker must consult statutory guidance in Section A1, in particular where reference indicated in brackets after each factor.

Effect on standards and contribution to school improvement

- Whether the proposals will improve the standards, quality, range and/or diversity of educational provision in the area (Paras 1-3, 5);
- Whether they advance national and local transformation strategies set out in Education and Skills: investment for reform and the local Education Development Plan (Para 2-4);
- Whether the proposals will deliver a broad and balanced curriculum (Para 6);
- The effect of the proposals on other institutions.

Need for places:

- The effect of surplus provision in the area (Para 18, 22-24, 26);
- Whether there is demand for a particular type of place in the area, for example provision for particular faiths or denominations or specialisms (Para 18, 22-24, 58).

Finance

- Whether the proposals represent a cost-effective use of public funds (Para 27);
- Whether the capital resources required are available (Paras 28-29);
- Whether the sale proceeds of redundant sites are to be made available and whether the Secretary of State's consent has been obtained where necessary (Paras 30-31).

Views of interested parties (Paras 33)

- The views of other schools and colleges in the area;
- The views of parents and other local residents, including those who may be particularly affected by the proposals or have a particular interest in them;
- The views of any Local Education Authority affected by the proposals or with an interest;
• The views of the Learning and Skills Council (if the proposals affect the provision of post-16 education);

• The views of the Early Years Development and Childcare Partnership (where proposals affect early education provision).

**Equal Opportunities**

• Any sex, race or disability discrimination issues or other human rights issues (Para 46).

**Closure of a Nursery Class**

• Whether the alternative provision will maintain or enhance the standard of education provision (Para 54-55).

**Other issues**

• Where 14-19 provision is involved, the extent to which appropriate collaborative arrangements have been considered (Para 39-40);

• Whether the change will affect the ability to meet the minimum statutory requirement for provision of school playing fields (Para 76);

• The effect of the proposals on infant class sizes (Para 63).
A.2.9. PROPOSALS FOR THE REORGANISATION OF SPECIAL SCHOOLS AND SEN PROVISION IN MAINSTREAM SCHOOLS

These should not be taken to be exclusive. Importance of factors varies, depending on type and circumstances of decisions. All proposals should be considered on their individual merits.

The Decision Maker must consult statutory guidance in Section A1, in particular where reference indicated in brackets after each factor and also Section A3.

Effect on standards and contribution to school improvement

- Whether the proposals will improve the standards, quality, range and/or diversity of educational provision in the area;
- Whether they advance national and local transformation strategies set out in *Education and Skills: investment for reform* and the local Education Development Plan;
- Whether the proposals will enable pupils’ special educational needs to be met;
- How the proposals will support increased inclusion;
- Whether the proposals will improve standards of accommodation;
- How the proposals will address any specific health, safety and welfare requirements;
- How the proposal will contribute to the efficient use of resources;
- The impact of the proposal on other special educational needs provision within the area.

Note: Where proposals are for closure or to alter a special school with the result that some pupils will have to change school, it is particularly important to ensure that appropriate full-time education will be available to all displaced pupils. Please see the end of this section for further advice on special school closures.

Need for provision

- Whether there is a need for a particular type of special educational needs provision within the area;
- Whether there is surplus special educational needs provision within the area;
- The length and nature of journeys to alternative provision.
Finance

- Whether the proposals represent a cost-effective use of public funds;
- Whether the capital resources required can be found;
- Whether the necessary recurrent funding is available;
- Whether the sale proceeds of redundant sites are to be made available and whether the Secretary of State’s consent has been obtained where necessary.

Views of interested parties

- The views of parents and other local residents, including those who may be particularly affected by the proposals or have a particular interest in them;
- The views of any Local Education Authority affected by the proposals or with an interest;
- The views of the Learning and Skills Council (if the proposals affect the provision of post-16 education);
- The views of the Early Years Development and Childcare Partnership (where proposals affect early education provision);
- The views of parents of pupils at any school(s) affected by the proposals;
- The views of governors and staff of any school(s) affected by the proposals;
- Where appropriate the views of the Health Authority or local NHS Trust;
- The views and concerns of other parties affected by the proposals e.g.
  - other schools in the area;
  - local residents;
  - where appropriate, local social services departments.

Other issues

- Any sex, race or disability discrimination issues or other human rights issues;
• Whether the change will affect the ability to meet the minimum statutory requirement for provision of school playing fields.
A3 – OTHER STATUTORY GUIDANCE

1. This section contains guidance on:
   a. whether a new secondary school planned by the LEA is an "additional" school and a notice must therefore be published inviting other interested parties to bring forward proposals before the LEA may publish its own proposals;
   b. whether any statutory proposals made by the LEA to which there are no objections may be decided by them or must be decided by the School Organisation Committee;
   c. whether the School Organisation Committee may decide proposals or whether they are related to proposals by the LSC and may therefore not be decided;
   d. who should be consulted by those considering publishing statutory proposals for mainstream schools (this replaces the guidance on consultation in paragraph 10 of Circular 9/99;).

Whether a new secondary school to be proposed by the LEA is an "additional" school.

2. Section 70(7) of the Education Act 2002 defines an "additional" secondary school as one that does not replace a discontinued school. In deciding whether a school replaces another regard must be had to guidance given by the Secretary of State.

3. The Secretary of State expects that a school which caters for a growth in pupil numbers would not replace another school. Its purpose would not be to enable pupils to transfer from another school, whether maintained or independent, although it is recognised that parental preference may lead some pupils to transfer from other schools. A school would also be unlikely to replace another school if it was to be formed by adapting existing premises that had not been used as a school for the preceding academic year.

4. A school formed by the amalgamation of two or more existing schools is regarded as a replacement school for the purposes of these provisions and is not an additional school. Similarly, a school is not an additional school if it is transferring to a new site or if its premises are being rebuilt.

Consideration by LEA of whether any statutory proposals made by them may be decided by them

5. Under paragraph 4 of Schedule 6 to the SSFA, as amended by paragraph 115(3) of Schedule 21 to the Education Act 2002, an LEA may only determine statutory proposals if:
a. there are no statutory objections; or

b. any such objections have been withdrawn in writing before the end of the representation period; and

c. the LEA are satisfied that the proposals are not related to any proposals which:

   i. must be decided by the School Organisation Committee; or

   ii. have been published by the LSC, including certain proposals to establish or discontinue further education colleges.

6. In deciding whether proposals are related, the LEA is required to have regard to any guidance issued by the Secretary of State. The Secretary of State’s guidance is that the following proposals should be regarded as related:

   a. all proposals that are included in the same notice;

   b. proposals where a decision on one of them would be likely directly to affect the outcome of consideration of the other;

   c. proposals which if implemented would prevent or undermine effective implementation of an LSC proposal.

7. Examples of item b would be where both proposals were to provide additional nursery places within the same 2 mile radius or where both proposals were to provide sixth form places in an area where the schools would be in competition for pupils. Another example would be the change in age range of a school so that there would be a need for the other school to follow the same pattern. Item b would not, however, include indirect effects such as the fact that the level of capital funding available for other proposals would be reduced by the approval of one of the proposals.

Consideration by SOC of whether any statutory proposals may be decided by them or cannot be so decided because they are related to proposals made by the LSC

8. Paragraph 3 of Schedule 6 to the SSFA, as amended by paragraph 115(2) of Schedule 21 to the Education Act 2002 together with regulation 11 of the School Organisation Proposals by the Learning and Skills Council for England Regulations 2003, places restrictions on the power of the SOC to decide statutory proposals if they are related to proposals made by the LSC, including proposals to establish or discontinue further education colleges. Where the proposals before the Committee concern:

   a. the school the subject of the proposals; or
b. any other secondary school maintained by the same LEA as maintains a school the subject of LSC proposals; or

c. any other secondary school in the same LEA area as any FE college which is the subject of the LSC proposals;

and are related to the LSC proposals, the School Organisation Committee may not decide the proposals until the Secretary of State has reached a decision on the LSC proposals.

9. In deciding whether proposals are related, the SOC is required to have regard to any guidance issued by the Secretary of State. The Secretary of State's guidance is that proposals should be regarded as related if their implementation would prevent or undermine effective implementation of an LSC proposal. If the proposals would not affect the practicality or achievement of the objective of the LSC proposals, they should not be considered related proposals, and the SOC is free to decide them in the normal way.

**Those who must be consulted about statutory proposals**

10. This section replaces the statutory guidance on consultation contained in Circular 9/99. Under sections 28(5) and 29(4) of the SSFA those considering bringing forward statutory proposals must consult interested parties, and in doing so must have regard to the Secretary of State’s guidance. The Secretary of State considers that those bringing forward proposals should consult all interested parties. In doing so they should allow adequate time, and provide sufficient information for those being consulted to form a considered view on the matters on which they are being consulted, and should make clear how their views can be made known. Those bringing forward proposals should be able to demonstrate how they have taken into account the views expressed during consultation in reaching any subsequent decision as to the publication of proposals. Where, in the course of consultation, a new option emerges which the proposers wish to consider, it will probably be appropriate to consult afresh on this option before proceeding to publish proposals.

11. The Secretary of State considers that the interested parties who should be consulted by proposers include:

- any school which is the subject of proposals;

- any Local Education Authority likely to be affected by the proposals, including in particular neighbouring LEAs where there may be significant cross-border movement of pupils;

- other schools in the area, including schools in an adjoining Local Education Authority that may be affected by the proposals, whether community, foundation, voluntary, community special or foundation special schools;
• parents and teachers in the area who may be affected by the proposals, including those living in, or who have children attending a school in the area of, an adjoining Local Education Authority;

• in the case of any proposals by the LEA for a new secondary school (including replacement schools, mergers and amalgamations), the local CE and RC dioceses and anyone else who has previously expressed an interest in setting up a secondary school;

• (if proposals involve, or are likely to affect a school which has a particular religious foundation) the appropriate diocesan authorities, or where there is no diocesan structure, the national faith group which provides the school;

• (if a foundation or voluntary school does not have a religious character), any trust or foundation providing the school;

• (if the proposals affect the provision of full-time 16-19 education) the Learning and Skills Council (LSC);

• any other interested party, for example, the Early Years Development and Child Care Partnership where proposals affect early years provisions, or those who benefit from a contractual arrangement giving them the use of the premises;

• (in the case of new schools proposed by promoters) parents and teachers of independent schools that may be closed as a result of the proposals.
The following sections provide further guidance to assist School Organisation Committees in considering and reaching decisions on proposals for the reorganisation of provision to meet special educational needs, whether in special schools or within mainstream schools. Although statutory proposals are not required to enable mainstream schools to adopt a more inclusive approach to catering for special educational needs, we expect that as LEAs implement their inclusion policies there will be ever increasing co-operation between special and mainstream schools. The School Organisation Committee should consider carefully the development of mainstream provision where this is linked to the reorganisation of special schools provision. In particular, the Committee may need to consider the role of Local Education Authority specialist support services, e.g. visual impairment, hearing impairment and behavioural support services, in providing support to mainstream schools. Nursing / medical requirements, access to therapists and other professionals may also require consideration.

The School Organisation Committees and Adjudicators should seek to ensure:

• that, where appropriate they can draw upon expert advice on the educational and other aspects of a particular proposal;

• that any reorganisation proposal fits within a clear strategic framework set by the Authority for meeting the full range of special educational needs and for promoting inclusion;

• that the pattern of specialist provision that results, and the way schools operate, should support the development of a more locally inclusive system of education.

Evidence from OFTSED inspections reveals few hard and fast rules about what approach to organising special schools makes for the most effective provision. The Authority’s strategy should:

• be based on the educational needs of pupils within the local area, and where appropriate region, taking account of the needs of other LEAs, and how these can be provided for in an appropriate organisational setting;
  • The Department's National Performance Framework provides benchmarking data for all LEAs - this is available by SEN Regional Partnership region, the Local Education Authority’s statistical neighbour or individually.

• focus on the establishment of flexible systems of provision and support that can respond to the needs of individual pupils, rather than establishing broad categories of provision according to disability and / or medical need;

• take account of the advantages and disadvantages of making provision
and providing support for pupils with a range of special educational needs within the same school setting. Where schools provide for pupils with a variety of needs, the Authority, governors and staff will need to give careful consideration to internal organisation. The Authority and schools may need to give particularly careful consideration to the arrangements for supporting children with challenging behaviour when they are placed with other pupils;

- take full account of other educational considerations, in particular the need to ensure a broad and balanced curriculum with appropriately trained staff, to enable individual pupils to achieve to the maximum extent possible;

- be consistent with and support the Authority’s plans for greater inclusion within a mainstream setting. The Authority may be providing for some pupils in special schools who, with appropriate support, could be accommodated in resourced provision;

- takes account of the provisions contained in the Special Educational Needs and Disability Act 2001 with respect to making schools accessible to children with disabilities, both in terms of their physical access and access to the curriculum);

- take account of parental preference for particular styles of provision or education settings;

- contribute to the requirement to ensure appropriate provision for 16-19 year-olds, taking account of the role of local LSC funded institutions and their admissions policies;

- take account of the need to ensure appropriate accommodation, day and residential provision, and specialist equipment and resources to meet the needs of individual pupils. In the case of residential provision, the Local Education Authority may need to involve other authorities e.g. health and the National Care Standards Commission;

The resulting patterns of specialist provision will depend to a large extent on local circumstances; a widely shared local understanding of the roles of special schools, mainstream schools and specialist support services; and the criteria for referral and admission.

Evidence from OFSTED inspections suggests that, in considering particular proposals, particular attention should be given to the following issues:

- What is the most appropriate range of special educational needs that can be catered for in a particular special school? OFSTED’s Four Year Review of Special School Inspections notes that some schools which provide for pupils with a very wide range of special educational needs deal less well with management and curriculum issues.

- What is the most appropriate age range for a particular special school?
OFSTED evidence suggests it is almost always educationally and socially beneficial for pupils if special schools cover just the primary or secondary phase, or a narrower age range. However, the benefits need to be weighed against the possibility that a school may need to cater for a wider range of special educational needs as a result.

If a school is all age there are benefits in making clear distinctions between the provision that is made for nursery and early years, primary, secondary and post-16 pupils.

• What is the most appropriate size for a particular special school? There is no conclusive evidence on this. Some small special schools are very effective. But smaller schools may find it more difficult to provide a balanced curriculum particularly if they cater for a wide range of ages and special educational needs. On the other hand, larger schools tend to draw from a wider area, giving rise to access and transport difficulties, and may also cater for a wide range of needs.

• Whether a particular proposal provides effectively for both boys and girls. This is particularly important in proposals affecting residential provision, and pupils who show challenging behaviour.

• How to provide effectively for pupils with emotional and behavioural difficulties (EBD)? The Authority will need to be very clear about the role of special schools designated as catering for such pupils, and the circumstances in which pupils will be referred to them, taking account of the Secretary of State’s policy on pupil exclusions. The evidence points to the difficulty of catering effectively for severe EBD cases alongside pupils with other kinds of special educational needs.

• Some pupils have challenging behaviour which may pose major health and safety risks, and so access to therapists and other professionals who will advise on management of each pupil will need to be considered.

The following documents will provide further background and detail on particular aspects of special educational needs organisation and proposals for change:

Planning and strategy -

the Local Education Authority’s SEN policy (see the Special Educational Needs (Provision of Information by Local Education Authorities) (England) Regulations 2001;

the Local Education Authority’s EDP;

the Local Education Authority’s Behaviour Support Plan;

the Local Education Authority’s School Organisation Plan;
the Local Education Authority’s Accessibility Strategy (as required by the Disability Discrimination Act 1995);

Asset Management Plan;

Early Years Development and Childcare Plan;

Health Improvement Plan;

Children’s Services Plan;

Quality Protects Management Action Plan;

Guidance "Education of Young People in Public Care;

Standards -

Social Services Department reports for residential schools, where applicable;

recent OFSTED inspection reports; and in the case of schools that are in special measures or have serious weaknesses, letters to the school from HMI;

OFSTED’s Annual report on Quality and Standards in Education;

Accommodation (including nursing / medical requirements) -

Building Bulletin 77 - Designing for Pupils with Special Educational Needs: Special Schools;

Building Bulletin 84 - School Boarding Accommodation: A design Guide;


The Education (School Premises) Regulations 1999;

DfEE 1997 Constructional Standards (under cover of DfEE letter of 19 September 1997)

The Children Act 1989, Parts VI and VII;

Accessible Schools: Planning to Increase Access to Schools for Disabled Pupils (DfES ref/ LEA 0168/2002).

Medical needs -
Supporting Pupils with Medical Needs in School, Circular 14/96;


Statutory Guidance - "Access to education for children and young people with Medical needs";

Guidance - "Promoting Children's Mental Health within Early Years and School Settings".

Staffing -

Circular 11/90.

Social Exclusion

Circulars 10/99 (Chapter 6 and Annex D of which have been replaced by 'Guidance on Exclusion from Schools and Pupil Referral Units' Ref: DfES/0087/2003) and 11/99 on social inclusion and pupil support
PROPOSALS FOR CLOSING SPECIAL SCHOOLS

For all reorganisation proposals there should be a clear statement of education intention, which, if appropriate, should provide the rationale for any special school closure. Proposals should reflect the LEA’s strategic plans for school improvement as set out in their EDP, including plans for promoting inclusion; plans for providing school places as set out in the SOP; and any arrangements for the regional co-ordination of SEN provision promoted by the Secretary of State.

The above general considerations relating to special school reorganisation proposals apply. In addition, in the case of closure:

- it is important to ensure that appropriate full-time education will be available to all displaced pupils. Their statements may need amending and all parental rights must be ensured. Other interested partners, such as the Health Authority and Social Services Department, may need to be involved;

- arrangements for alternative provision should be clearly stated. A ‘hope’ or ‘intention’ to find places elsewhere is not acceptable. Wherever possible, the host or alternative schools should confirm in writing that they are willing to receive pupils, and have all the facilities necessary to provide an appropriate curriculum.

It may be necessary to consider more than one alternative should the initial placement break down. This is particularly important where pupils have emotional or behavioural difficulties or challenging behaviour.

SEN PROVISION WITHIN MAINSTREAM SCHOOLS AND CO-LOCATED ON MAINSTREAM SITES

All mainstream schools will need to make provision for pupils on their roll who have special educational needs. In addition some schools may be designated as having a specific role for supporting children within the local area or region who have a particular special need, such as hearing or visual impairment. Specialist provision may be provided within mainstream schools, or co-located on a mainstream school site. Such provision may take a variety forms, and terminology may vary from authority to authority, but some of the most common arrangements are:

a. Co-location - pupils are educated in separate special school facilities with separate staff but on a mainstream school site. There may be some interchange of staff and dual use of facilities;

b. Integrated Department - pupils are on the mainstream school roll with SEN staff supporting pupils in lessons where necessary;

c. Resource Base - pupils have a base for storage of equipment,
some lessons and possibly break times etc.

d. Designated Unit - pupils are taught separately for much of the time.

Any proposals for the location of special need provision within a mainstream setting or on a mainstream site should be specific about the arrangements intended in each case.

The above general considerations relating to mainstream and special school reorganisation proposals will apply. In addition, proposals for the establishment of mainstream SEN designated provision should cover the following:

- details of the specific educational benefits that will flow from the proposals;
- a clear written statement from all the schools concerned supporting the proposals;
- plans and/or schedules to show that suitable accommodation will be provided;
- clear specification of the transport arrangements that will support appropriate access to the premises, and participation in the life of the school;
- clear specification of any physical adaptations to be made and equipment to be provided to meet the special educational and other needs of the pupils;
- clear specification of the funding and staffing arrangements, including access to external support services.
ANNEX [18]

Community cohesion – additional factors that may need to be considered

• How the school proposes to fulfil the Race Relations Amendment Act 2000 requirement to promote racial equality.

• How good citizenship will be encouraged.

• Where the school is to have a religious character, what are the intentions for religious education in the school's own and other faiths.

• Where the school is to have a religious character, whether it intends to give priority for at least some places to applicants of other faiths/denominations, or to specified groups of applicants (e.g. from the locality or local feeder schools) regardless of faith/denomination.

• Where the school is seeking to join the maintained sector from the independent sector, what it already does to demonstrate care for community cohesion.

• What plans the school has for partnership working with other schools, that would contribute to community cohesion by enabling pupils to gain an understanding of, and share experiences with, others from different ethnic, cultural or faith backgrounds. Illustrative examples of possible approaches are given below. This list is not exhaustive or prescriptive and promoters of new schools should be encouraged to be as creative as possible in the light of local circumstances.

  • Inter-school twinning between schools with pupils from mainly different cultural backgrounds

  • Lesson exchanges giving opportunities for children of different backgrounds to meet and learn together

  • Teacher exchanges whereby teachers have the opportunity to take classes comprising children from different ethnic backgrounds

  • Joint school trips, either field trips where pupils work together in groups, or recreational trips such as visits abroad.

  • Joint school choirs, orchestras or sports teams - offering opportunities for cross-cultural groups to work as part of the same team.

  • Joint visits to theatres, museums and galleries.

  • Joint drama productions.
• Joint committees of school governors/teachers/parents, working together to share experience and improve standards within the local family of schools.

• Joint cross-cultural community projects such as community action groups to help people living in isolation, or with special needs, for example young mothers, the elderly and infirm; or joint charity events.

• Community projects within the school designed to coach people with English language difficulties, helping them with conversation, reading and writing.

• Mentoring arrangements at various levels - between schools where the best schools help the lowest achievers, on a one-to-one basis between governors and heads where the more experienced help the less experienced, and between pupils where individuals have a named mentor in another school.

• Shared facilities so that less advantaged pupils have access to good IT facilities, science and language laboratories etc.

• Shared secular school assemblies.

• Joint workshops for brainstorming cross-cultural issues.

• Joint communications such as pupils and teachers working together on an inter-school newspaper, video conferencing between schools and electronic linking between schools, for example via a local area network.