

Public Document Pack

North Yorkshire County Council Children and Young Peoples Service - Executive Members & Corporate Director Meetings

Thursday, 17 March 2022 / 4.00 pm

A G E N D A

1 **Apologies for Absence**

2 **Declarations of Interest**

Items for Executive Member decision

- 3 Lowering the age range of Goathland Community Primary School (Pages 3 - 76) (Pages 3 - 76)

To determine the proposal to lower the age range of Goathland Community Primary School to age 3-11 with effect from 25 April 2022.

Items for Corporate Director decision

- 4 High Needs Budget, including Special School & PRS Budgets (Pages 77 - 90) (Pages 77 - 90)

To approve the proposed high needs block budget outlined at section 3.1 of the report

Any Other Business

- 5 Date of future formal meetings
31 March
5 April
3 May
24 May
7 June
5 July
2 August
6 September
4 October
1 November
6 December

Circulation:

Executive Members

Janet Sanderson
Patrick Mulligan

Officer attendees

Stuart Carlton
Howard Emmett
M Sadler

Presenting Officers

Matt George
Sally Dunn

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NORTH YORKSHIRE COUNTY COUNCIL

CHILDREN AND YOUNG PEOPLE'S SERVICE

CORPORATE DIRECTOR'S MEETING WITH EXECUTIVE MEMBERS

17 March 2022

LOWERING THE AGE RANGE OF GOATHLAND COMMUNITY PRIMARY SCHOOL

1.0 PURPOSE OF THE REPORT

- 1.1 To provide the Executive Member with information upon which to make a decision on proposals published by North Yorkshire County Council to change the age range of Goathland Community Primary School from 4-11 to age 3-11 with effect from 25 April 2022.

2.0 EXECUTIVE SUMMARY

- 2.1 The Governing Body of Goathland School has asked the Local Authority to propose lowering of the age range of their school from 4-11 to 3-11 in order to offer nursery education for three and four year old children.

- 2.2 The Governing Body of Goathland CP School consulted with parents and the local community on their proposal from 1 November to 3 December 2021.

- 2.3 The Executive met on 11 January 2022 and considered the outcome of the governors' consultation. They agreed to publish statutory proposals on 21 January giving 4 weeks until 18 February for representations to be made. There have been no objections or responses to the statutory notice.

- 2.4 The Executive agreed a model for making decisions on school organisation proposals on 25 September 2007. Under this model, school organisation decisions, for which the decision-maker is the Local Authority, will be taken by the County Council's Executive, or if there are no objections to the statutory notice, the decision is delegated to the Executive Members for Education and Skills.

- 2.5 This report is supported by a number of appendices as listed below:

Appendix 1: Statutory Notice

Appendix 2: Statutory Proposal

Appendix 3: Consultation document and consultation responses

Appendix 4: School Organisation Guidance for Decision Makers

Appendix 5: Equality Impact Assessment

3.0 BACKGROUND

3.1 All three and four year old children are entitled to 15 hours of government funding (known as Universal Funding) per week for 38 weeks per year to access Early Years Foundation Stage education and childcare. This will be from the beginning of the school term following their third birthday until compulsory school age or until they take up a place in a Reception class. From September 2017, eligible working families have been able to access up to an additional 15 hours of government funding known as Extended Entitlement to access the equivalent of 30 hours of government-funded childcare per week for 38 weeks per year. A government-funded place can be taken in a maintained school nursery and Foundation Stage class and/or in an Ofsted registered private or voluntary sector provision. It is parental choice as to which type of provision is most appropriate for their child and most convenient for individual circumstances.

4.0 THE PROPOSAL

4.1 Goathland Primary School is proposing to provide places for 3 and 4 year olds by creating a new Nursery class. Early Years staff would work together to provide an excellent environment for a young child's development in Base 1. The Nursery class will be led by a qualified Early Years teacher, and a suitably qualified and experienced teaching assistant to support the learning and development of the 3 and 4 year olds.

4.2 The nursery provision would be similar to what is currently available in the existing reception class in school. There will be high quality play-based provision including role play, sand, water, construction, reading, mark making, and outside play. The learning environment will be equipped with suitable furniture, equipment and resources for 3 and 4 year olds. There will be free flow between the indoor and outdoor areas offering children the choice of activities and allowing them to engage in learning which is relevant and appropriate to their age and stage of development. They will be supported by knowledgeable and appropriately trained adults who are in tune with each child's individual needs.

4.3 Goathland School is proposing that the new 'early years' class will provide up to 12 places each morning initially, but the school will consider extending this across the full day subject to demand for the service.

4.4 Priority for admission of nursery-aged children will be determined by the County Council's Admissions Policy for Nurseries. This is separate from admissions to the school, which are determined by the County Council's policy for Community and Voluntary Controlled Schools. Attendance in Nursery does not provide priority for admission to the Reception year.

5.0 CONSULTATION UNDERTAKEN AND ANALYSIS OF RESPONSES

- 5.1 From Monday 1 November to Friday 3 December the Governing Body of Goathland Community Primary School consulted the local community on their proposal. The consultation document, which is appended to this report (as Appendix 3), was sent out to parents, local stakeholders, and other Early Years providers.
- 5.2 Ten responses to the consultation have been received and are available to read in full as Appendix 3. The Executive met on 11 January 2022, considered the outcome of the governors' consultation, and resolved to publish statutory proposals.

6.0 STATUTORY PROPOSALS AND NOTICES

- 6.1 The Statutory Notice was published on 21 January and a representation period of 4 weeks has been observed. A copy of the Statutory Notice is enclosed as Appendix 1 of this report. A copy of the complete proposal, including all the information required in the school organisation regulations and guidance, was published on the County Council's website. A copy of the proposal is attached as Appendix 2.
- 6.2 At the end of the representation period there have been no objections received to this Statutory Notice.

7.0 FINANCIAL IMPLICATIONS

7.1 School revenue funding

The school is currently projecting a deficit of £4.6k in 2021/22 and a surplus of £3k in 2022/23. In 2023/24 there is a forecast deficit of £7.4k. The Governing Body and the Headteacher have modelled the potential income and costs of running nursery-aged provision and feel that this is financially viable. The provision would utilise the existing staffing complement plus an additional 3 hours GTA and would therefore have minimal impact on expenditure.

7.2 Capital Implications

The school will utilise the classroom which already accommodates the youngest pupils within the school and is therefore already appropriate for an early year's classroom. Therefore, there will not be any capital implications.

8.0 REGULATIONS AND GUIDANCE

- 8.1 The consideration and determination of school organisation proposals by the Local Authority is set out in regulations and in guidance produced by the Department for Education. Careful regard has been had to these provisions.

PRELIMINARY CHECKS

- 8.2 The guidance requires that the Decision Maker must consider, on receipt of each proposal, whether any information is missing; whether the published notice of the proposal complies with statutory requirements; whether the statutory consultation has been carried out prior to the publication of the notice; and whether the proposal is related to other published proposals.

Having undertaken an audit of these preliminary checks, the Assistant Chief Executive (Legal and Democratic Services) advises that:

- all information required has been supplied;
- the published notice complies with statutory requirements;
- statutory consultation has been carried out prior to publication of the notice;
- and that the preliminary points for consideration have been dealt with sufficiently to permit the Executive to proceed to determine this proposal.

TYPES OF DECISION THAT CAN BE MADE

- 8.3 In considering proposals for making changes to school provision, the Executive, as Decision Maker can decide to:
- reject the proposals;
 - approve the proposals;
 - approve the proposals with a modification;
 - approve the proposals subject to them meeting a specific condition (these conditions are set out in paragraph 8 of Schedule 3 to the Prescribed Alterations Regulations, and are not considered applicable to this proposal).

9 PROCEDURE FOR THE MEETING

- 9.1 The Executive agreed on 25 September 2007 that in making a decision on school organisation proposals:

(a) The Executive must have regard to decision makers' guidance published by the DfE and to the Executive Procedure Rules laid down in the North Yorkshire County Council Constitution.

(b) All decisions must give reasons for the decision, indicating the main factors/criteria for the decision.

10.0 REASONS FOR RECOMMENDATIONS

EDUCATION STANDARDS

- 10.1 The Local Authority Education Advisers have confirmed that as part of the annual risk assessment undertaken by the school Improvement service the school has been allocated 8.5 days of Senior Education Adviser (SEA) monitoring, challenge and support time. In the period since September 2021,

the work of the SEA has scrutinised school self-evaluation and development planning. The school's self-evaluation form (SEF) recognises areas of sustained good practice in the period since the most recent Ofsted inspection and evaluated the quality of education as 'Good'. The Early Years Foundation Stage provision is accommodated in a spacious area that could be easily adapted to include additional, younger, pupils without adversely impacting on the quality of education and class sizes.

VIEWS OF INTERESTED PARTIES

- 10.2 From Monday 1 November to Friday 3 December the Governing Body of Goathland Community Primary School consulted the local community on their proposal. The consultation document, which is appended to this report (as Appendix 3), was sent out to parents, local stakeholders, and other Early Years providers.
- 10.3 Ten responses to the consultation were received and are available to read in full as Appendix 3.
- 10.4 Nine of the responses supported the proposal and one opposed it. These were made up of six responses from parents of pupils, three from parents of prospective pupils and one from the local Parish Council.
- 10.5 The majority of responses were in support of the proposal. Positive responses referred to benefits such as creating a seamless transition between Nursery and Reception early years education, convenience for parents and opportunity to promote learning at a younger age. Several responses also thought that the proposal would benefit the school by increasing the number on roll.

11.0 LEGAL IMPLICATIONS

- 11.1 The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 set out the manner in which prescribed alterations could be made to maintained schools. The statutory guidance 'Making significant changes ('prescribed alterations') to maintained schools' was updated in October 2018 and is attached as Appendix 4¹. Careful attention has been paid to this guidance throughout the process.

12.0 HUMAN RIGHTS IMPLICATIONS

- 12.1 There are no Human Rights issues in relation to this decision.

13.0 OTHER IMPLICATIONS

- 13.1 An Equality Impact Assessment has been undertaken in respect of this change and is attached at Appendix 5.

¹ The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 and Department for Education statutory guidance for proposers and decision makers, Making significant changes ('prescribed alterations') to maintained schools, October 2018.

14.0 RECOMMENDATIONS

(a) That having undertaken the required preliminary checks, the Executive Members resolve that the four key issues listed above in paragraph 8.2 have been satisfied and there can be a determination of the proposals.

(b) that the following proposal be determined:

To lower the age range of Goathland Community Primary School to age 3-11 with effect from 25 April 2022.

Stuart Carlton
Corporate Director – Children and Young People’s Service

Report prepared by Matt George – Strategic Planning Officer

Appendices

Appendix 1: Statutory Notice

Appendix 2: Statutory Proposal

Appendix 3: Consultation Document & consultation responses

Appendix 4: School Organisation Guidance for Decision Makers

Appendix 5: Equalities Impact Assessment

Background documents

Report to Executive, 11 January 2022.

Appendix 1: Statutory Notice

NORTH YORKSHIRE COUNTY COUNCIL Change of age range at Goathland Community Primary School

Notice is hereby given in accordance with the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 that North Yorkshire County Council, County Hall, Northallerton, DL7 8AD is proposing to make a prescribed alteration to Goathland Community Primary School, Beck Hole Rd, Goathland, Whitby YO22 5ND by lowering its age range from 4-11 to 3-11 with effect from 25 April 2022.

Goathland Community Primary School is proposing to provide places for 3 and 4 year olds by the creation of a Nursery class.

The proposed 3 and 4 year old provision will provide up to 12 places (or equivalent part-time places) per session.

The notice is an extract from the complete proposal. A copy of the complete proposal can be viewed at: <https://www.northyorks.gov.uk/current-consultations>

Copies of the complete proposal can be obtained from: Strategic Planning - Children and Young People's Service, North Yorkshire County Council, County Hall, Northallerton, DL7 8AD and are available on the County Council's website at <https://www.northyorks.gov.uk/current-consultations>

Within four weeks from the date of publication of this proposal, any person may object to or make comments on the proposal by sending them to Strategic Planning - Children and Young People's Service, North Yorkshire County Council, County Hall, Northallerton, DL7 8AD or by emailing schoolorganisation@northyorks.gov.uk by 5pm on 18 February 2022.

Signed

B. Khan
Assistant Chief Executive
(Legal and Democratic Services)

Publication Date:

21 January 2022

APPENDIX 2: Statutory Proposal

Statutory Proposal by North Yorkshire County Council for the Lowering of the School Age Range at Goathland Community Primary School

Full Proposal Document

Name and contact details of the Local Authority or governing body publishing the proposal:

North Yorkshire County Council, County Hall, Northallerton, North Yorkshire, DL7 8AE

Name, address and category of the school proposed for alteration:

Goathland Community Primary School, Beck Hole Rd, Goathland, Whitby YO22 5ND

Proposed Implementation date:

25 April 2022

Description of alteration and evidence of demand

To lower the age range of Goathland Community Primary School to provide places for 3 and 4 year olds.

The School Leadership report that they have had many enquiries over the last few years from parents asking if they have places for 3 and 4 year-olds and they believe that the lack of early years provision has been a negative for some prospective parents. The consultation that the school carried out in November 2021 has confirmed that there is demand for early years places at the school.

Objectives educational standards and parental choice

To provide additional Early Years provision for parents, pupils and the local community. Goathland School is proposing to provide places for 3 and 4 year old children as part of a nursery class provision in the school, which would be an extension of the existing Base 1 which includes Reception, Year 1 and Year 2 pupils. The Early Years Class would have a qualified Early Years teacher and suitably qualified and experienced teaching assistant who will provide a high-quality learning environment to support each child's learning and development appropriate to their age and stage of development. It will be in line with the Statutory Framework for the Early Years Foundation Stage (EYFS).

From an educational point of view, the Local Authority Education Advisers have confirmed that as part of the annual risk assessment undertaken by the school Improvement service the school has been allocated 8.5 days of Senior Education

Adviser (SEA) monitoring, challenge and support time. In the period since September 2021, the work of the SEA has scrutinised school self-evaluation and development planning. The school's self-evaluation form (SEF) recognises areas of sustained good practice in the period since the most recent Ofsted inspection and evaluated the quality of education as 'Good'. The Early Years Foundation Stage provision is accommodated in a spacious area that could be easily adapted to include additional, younger, pupils without adversely impacting on the quality of education and class sizes.

The school leadership have confirmed that have confirmed that to support the class teacher, a teaching assistant will enhance provision in Base 1. Careful planning by the class teacher will ensure that all children receive high quality teaching, with the suitably qualified teaching assistant deployed to focus specifically on the day to day needs of the nursery children. Whilst the Base environment already incorporates provision areas to support early learning, these will be enhanced with the addition of specific resources to meet the needs of younger children. Drawing on the support of local partners, this new provision will be carefully monitored to ensure it is fit for purpose.

Effect on other schools, academies and educational institutions within the area:

It is not anticipated that there will be any significant impact on surrounding schools and local providers of Early Years education. Schools and local early years providers were notified as part of the non-statutory pre-consultation and did not raise any concerns. They will have the opportunity to comment again during the statutory representation period.

Project Costs:

The revenue cost will be met from a combination of means based funding and parental subscription.

There are no capital implications.

There are no transport costs related to this proposal.

Implementation:

Following a formal decision to approve the lowering of age range, Goathland Primary School will work to have the new arrangements in place for 25 April 2022.

Procedure for making representations (objections and comments)

Within four weeks from the date of publication of this proposal on 21 January 2022, any person may object to or make comments on the proposal by sending them to Corporate Director- Children and Young People's Service, North Yorkshire County Council, County Hall, Northallerton, DL7 8AE by 5pm on 18 February 2022.



APPENDIX 3

GOATHLAND PRIMARY SCHOOL

PROPOSAL TO CHANGE THE AGE RANGE OF OUR SCHOOL AND CREATE A NEW NURSERY CLASS

The Governing Body of Goathland Primary School is proposing to make new Early Years provision for three and four year old children. We would like to know the views of parents and other interested members of the community.

Why are the governors making these proposals?

All three and four year old children are entitled to 15 hours of government funding (known as Universal Funding) per week for 38 weeks per year to access Early Years Foundation Stage education and childcare. This will be from the beginning of the school term following their third birthday until compulsory school age or until they take up a place in a Reception class. From September 2017, eligible working families have been able to access up to an additional 15 hours of government funding known as Extended Entitlement to access the equivalent of 30 hours of government funded childcare per week for 38 weeks per year. A government funded place can be taken in a maintained school nursery and Foundation Stage class and/or in an Ofsted registered private or voluntary sector provision. It is parental choice as to which type of provision is most appropriate for their child and most convenient for individual circumstances.

Goathland Primary School is proposing to provide places for 3 and 4 year olds by creating a new Nursery class. Early Years staff would work together to provide an excellent environment for a young child's development in Base 1. The Nursery class will be led by Mrs Knight, who is a qualified Early Years teacher, and a suitably qualified and experienced teaching assistant to support the learning and development of the 3 and 4 year olds.

What would our new nursery provision look like?

It would be similar to what is currently available in the existing reception class in school. There will be high quality play-based provision including role play, sand, water, construction, reading, mark making, and outside play. The learning environment will be equipped with suitable furniture, equipment and resources for 3 and 4 year olds. There will be free flow between the indoor and outdoor areas offering children the choice of activities and allowing them to engage in learning which is relevant and appropriate to their age and stage of development. They will be supported by knowledgeable and appropriately trained adults who are in tune with each child's individual needs..

Why is this consultation taking place?

Currently the youngest children that the school can admit are in the reception class. In order to take younger children into the proposed new nursery class, legal processes must be followed to lower the age range of the school from 4-11 years to 3-11 years. The first step in this process is that local people must be asked for their views. As a Community Primary School, the Governing Body then needs to request that the County Council's Executive formally lowers the age range of the school in order to create the new Early Years provision.

How many places will be offered?

The proposed nursery class will provide up to 13 part-time early education places, each morning.

We are also considering options to offer 'wrap around' childcare places, and lunch if there is sufficient interest from families. This would extend the day from 9am to 3pm. Parents will be charged for this service.

Which children would be eligible for a place?

Priority for admission to the nursery class will be determined by the County Council's Admissions Policy for Nurseries. Admissions to the nursery class are separate from admissions to the school, which are determined by the County Council's policy for Community and Voluntary Controlled Schools. Further details are available at: <http://www.northyorks.gov.uk/article/26372/Admissions-policies>

Deciding on admissions

The Headteacher will make the offer of a place in the 'Early Years class' in writing to parents and carers.

How will the new Nursery class affect other providers?

The new nursery class would take children aged 3 and 4. Local Early Years' providers are being consulted and have the opportunity to make their views on the proposal known.

What will happen next?

This is the first step of the consultation. Comments on this consultation will be considered by the Governing Body who will then decide whether to ask the County Council's Executive to publish statutory proposals to lower the age range of the school on their website. This will provide a further period of four weeks in which views and comments can be made.

If these proposals go ahead, when will the new Nursery class open?

It is proposed that the first children will join the Nursery class in April 2022.

How do I make my views known?

Your views are important and we would value your opinions.

You should complete the attached comments sheet and return it to the school.

Comments should be returned by 3rd December 2021.

If you have any further queries, these should be addressed to Helen Isaac (Headteacher)

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Goathland Primary School

CONSULTATION ON THE PROPOSAL TO CHANGE THE AGE RANGE AND CREATE A NEW FOUNDATION STAGE CLASS AT GOATHLAND PRIMARY SCHOOL

Do you consider it desirable that the age range of the school is changed from 4-11 to 3-11 and a nursery class is set up at our school?

Yes

No

Any further comments you would like to make:

Name: _____

Address: _____

Post Code: _____

Please tick the category you represent:

Parent

Governor

Other

Please specify _____

Please return to Goathland Primary School

The closing date for receipt of responses is Friday 3rd December 2021

We are collecting this information for the purpose of gathering views on the proposal. Your personal data will not be published or passed to any other organisation unless a legal obligation compels us to do so. We may contact you to discuss your views further.

		Comment	Interest
1	Yes	<p>Do you consider it desirable that the age range of the school is changed from 4-11 to 3-11 and a nursery class is set up at our school?</p> <p>My feeling is that this would be a positive addition to the school. From my observations, children who attend a school nursery almost always then apply to the school itself. This would give Goathland a desired boost in pupil numbers. Having a specialist Early Years teacher (and an existing play-based environment) would make this change relatively easy to manage. The option of extending the nursery until 3pm would also be a positive step for working families, although having a true 'after school' club would open up this lovely school to even more children.</p>	Prospective Parent
2	No	<p>I feel this would take away from the local playgroup many children (and now adults) have attended. When the children attend the local playgroup this also gives them the opportunity to mix with other children from surrounding villages which does help when the child leaves primary school to secondary school, therefore having friends from other villages which makes the transition less daunting, especially if your child is the only one moving up.</p> <p>I know the school are desperate to increase numbers and it would be interesting to see the potential forecast of numbers you would be looking at.</p> <p>I strongly believe the school need to concentrate on the current age range and teaching criteria as it certainly isn't all about Maths and English, although important the children need to learn through fun. The school need to develop what they have already and should be an outstanding school, rather than one children look forward to seeing friends but not the constant repetitive lessons.</p>	Parent

3	Yes	My only worry would be that there would be an impact on the learning of the Base 1 children. Is the infants classroom to be divided up or are all the children in the infants to be together?	Parent
4	Yes	This would certainly benefit the younger generation within the village and the surrounding area. Community and working together plays a vital role in the upbringing of our children. If this was an option years ago I certainly would have used the school instead of traveling out of the village.	Parent
5	Yes	This all sounds very exciting and would be very beneficial for my child to start next April if this get approved.	Prospective Parent
6	Yes	This would help both children and parents have a seamless transition between early years settings. Being in a small school environment will also promote learning at an earlier age. It is important that having 3 year olds within the school doesn't then restrict the reception and above from attending school trips/outings. Child and staff ratio would potentially need increasing if pupil numbers increased. i.e if numbers in Reception, Year 1 and Year 2 increased as well as Early Years. The impact on teaching reception phonics and meeting the demands on years 1 and 2 may be effected if larger numbers.	Parent
7	Yes	I think this would be a fantastic opportunity to bring younger children in the Goathland School family. The continuity of education would be improved and families with children already in attendance would have less disruption as they would only have one venue to attend. The only concern I have is that the current base one arrangement is fully open plan with one teacher. If the numbers were sufficient I would hope an extra member of staff would be made available. Overall I fully support this proposal and think it would become a great asset for the school and the community.	Parent
8	Yes	We will be moving into the area shortly and are looking forward to our 4yr old daughter starting in the school. We also have a 2yr old daughter and it would be extremely helpful to us if the school were able to accommodate her when she turns 3. The locality of the	Prospective

		school, ease of her being in the same place as her sister and the provision of education by the wonderful staff would be something we would be very grateful for.	
9	Yes	It was felt it was a good ideal, especially to help with numbers.	Goathland Parish Council.
10	Yes	<p>In short, yes we do think that this proposal desirable and that we could potentially benefit from this new facility when our younger child turns 3.</p> <p>However, we do have some concerns regarding the impact these changes could have on the current pupils learning in Base 1. The significance of these concerns would largely be determined by just how many preschoolers would be in attendance, and for how many hours of school week they would be present.</p> <p>As we understand it the states there could be potentially up to 13 pre-schoolers joining Base 1 at certain times of the week, mornings only if wrap around care is not provided, but we are concerned that that if the number of pre-schoolers were to outnumber the older children, the older children would be disadvantaged in their learning, as they will effectively become a small minority in a large class. This would be more of a concern for the key stage 1 pupils than reception year.</p> <p>The youngest children will also need the attention of staff in not only learning and play also assistance with toilet / potty training/ nappy changes etc which will also detract from the amount of time staff can dedicate to teaching the older children. Preschoolers will also be less able to play and learn quietly than the older children when quieter times are necessary for concentration and more advanced learning. While the classroom and outside space can be separated to a degree, there will always be a finite amount of space available for all of the children.</p>	Parent

		<p>Our preference would be for preschool care to be offered to a small number of children for a few hours a week, rather than the potential of up to 13 for a whole school week. if this is feasible.</p> <p>Our personal circumstances mean that we would not currently be interested in paying for wrap around care for our youngest daughter, but we potentially may be interested in her attending one or two mornings a week, no more than this routinely though.</p> <p>We hope that this does not come as sounding too negative as we are absolutely thrilled with how our child has settled into school at Goathland and progressed throughout. We really like the small school setting for then and been very impressed over and over by the level of attention they receive together with all the frequent additional thoughtful and personal touches added to their daily routine from all the staff and teachers. They seem to be flourishing in a small class which is exactly what we had hoped and one of the reasons Goathland was our first choice. We are sure you will therefore appreciate why this proposed change to the current set up, although potentially providing a good opportunity for our younger child, has also been met with some trepidation when we consider what be best our older child who is already settled in reception. We are more than to discuss this further if you wish to us.</p>	
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Department
for Education

Making significant changes (‘prescribed alterations’) to maintained schools

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

October 2018

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1: Summary

About this guidance

This is statutory guidance from the Department for Education. This means that recipients must have regard to it when making 'prescribed alterations' to maintained schools.

The purpose of this guidance is to ensure that good quality school places can be provided quickly where they are needed; that local authorities (LAs) and governing bodies (GBs) do not take decisions that will have a negative impact on other schools in the area; and that changes can be implemented quickly and effectively where there is a strong case for doing so. In line with these aims it is expected that, where possible, additional new places will only be provided at schools that have an overall Ofsted rating of 'good' or 'outstanding'. Schools which do not fall within the above categories should only be expanded where there are no other viable options.

A GB, LA or the [Schools Adjudicator](#) must have regard to this guidance when exercising functions under [The School Organisation \(Prescribed Alterations to Maintained Schools\) \(England\) Regulations 2013](#) ('the Prescribed Alterations Regulations'). It should be read in conjunction with Parts 2 and 3 and Schedule 3 of the [Education and Inspections Act \(EIA\) 2006](#) and the Prescribed Alterations Regulations. It also relates to the [Establishment and Discontinuance Regulations](#) and [The School Organisation \(Removal of Foundation, Reduction in the Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations \(2007\)](#) ('the 'Removal Regulations').

It is the responsibility of LAs and GBs to ensure that they act in accordance with the relevant legislation when making changes to a maintained school and they are advised to seek independent legal advice where appropriate.

Review date

This guidance will be reviewed in October 2019.

Who is this guidance for?

Those proposing to make changes and making decisions on changes to maintained schools (e.g. GBs, LAs and the Schools Adjudicator), and for information purposes for those affected by a proposal (trustees of the school, diocese or relevant diocesan board, any other relevant faith body, parents etc.).

This guidance is relevant to all categories of maintained schools (as defined in section 20 of the [School Standards and Framework Act \(SSFA\) 1998](#)), unless explicitly stated. It is not relevant to [Pupil Referral Units](#). Separate advice [on making significant changes to an academy](#) and [opening and closing a maintained school](#) is available.

Please refer to the '[Further Information](#)' section for the full website address should you be unable to access documents via the hyperlinks provided.

Terminology

Definitions of common terms used in this guidance:

Schools with a religious character - All schools designated as having a religious character in accordance with the [SSFA](#).

Foundation Trust - For the purpose of this guidance the term 'foundation trust' refers to a foundation complying with the requirements set out in section 23A of the SSFA.

Parent(s) - The Education Act 1996 defines 'parent' as including someone who has care of, or legal responsibility for, the child. Therefore, a parent can include, for example, a grandparent, other family member or foster carer if they have care of or responsibility for the child.

Main points

- All proposals for prescribed alterations must follow the processes set out in this guidance.
- Where a LA proposes to expand a school that is eligible for intervention as set out in Section 59 of the [Education and Inspections Act 2006](#), they should copy the proposal to the relevant [Regional Schools Commissioner \(RSC\)](#) at the point of publication.
- To enable the department to monitor potentially contentious proposals, the proposer should copy any proposal, which falls within the definitions set out in [part 3](#), to the School Organisation mailbox as soon as it is published schoolorganisation.notifications@education.gov.uk.
- LAs and GBs proposing to make a significant change to a school which has been designated as having a religious character should engage the trustees of the school, and in the case of Church schools the diocese or relevant

diocesan board, or any other relevant faith body, where appropriate at the earliest opportunity.

- Where a LA is the decision maker, it must make a decision within a period of two months of the end of the representation period. Where a decision is not made within this time frame, the LA must refer the proposal to the Schools Adjudicator for a decision.
- It is not possible for any school to gain, lose or change religious character through a change of category. Information on the process to be followed is available in the [opening and closing maintained schools guidance](#).
- Once a decision has been made the proposer (GB or LA) must make the necessary changes to the school's record in the department's system [Get Information About Schools](#) (GIAS) by the date the change is implemented.
- Where a school wishes to change their name, the GB will need to amend the Instrument of Government in line with regulation 30 of [The School Governance \(Constitution\) \(England\) Regulations 2012](#). Once that is done, either the school or the LA will need to update the school record in the department's GIAS system.

2: Prescribed alteration changes

Enlargement of premises (expansion)

Under section 14 of the [Education Act 1996](#), LAs have a statutory duty to ensure that there are sufficient schools for primary and secondary education in their areas. The department expects LAs to manage the school estate efficiently and to reduce or find alternative uses for surplus capacity (for example, increasing the provision of early education and childcare) to avoid detriment to schools' educational offer or financial position. LAs are encouraged to consider the use of modular construction solutions for any physical building expansion and to consider all options for the reutilisation of space including via remodelling, amalgamations, or closure where this would be the best course of action.

Where additional places are needed, including where there is a local demand for a particular category of places (for example in schools designated as having a religious character), the LA can propose an enlargement of the capacity¹ of premises.

The statutory process should be followed to enlarge premises as set out in the [Prescribed Alterations Regulations](#) (see [part 5](#)) if:

- the proposed enlargement is permanent (longer than three years) and **would increase the capacity of the school** by:
 - more than 30 pupils; **and**
 - 25% or 200 pupils (whichever is the lesser).
- the proposal involves making permanent any temporary enlargement (which was intended to be in place for no more than three years) that meets the above threshold.

GBs of all categories of mainstream schools and LAs can propose small scale expansions that do not meet the thresholds above without the need to follow the formal statutory process in [part 4](#). In many cases this can be achieved solely by increasing the school's published admissions number² (PAN); please see the [School Admissions Code](#). The thresholds do not, however, apply to special schools. Details of how special schools can increase their intake³ are covered below.

¹ Net capacity as calculated using the DfE Guidance Assessing the Net Capacity of Schools (2002).

² All admission authorities must set a published admission number (PAN) for each 'relevant age group' when they determine their admission arrangements. So, if a school has an admissions number of 120 pupils for Year 7, that is its PAN.

³ The number of pupils admitted into the school at a particular time

Examples of when mainstream schools would/would not need to publish 'enlargement' proposals

A secondary school with a capacity of 750 (5 form of entry - 30 pupils per class, 5 year groups) **could** enlarge its premises to add 1 form of entry (30 extra pupils x 5 year groups = increase of 150 pupils) bringing the capacity to 900 pupils, **without** having to publish statutory proposals. Although the increase would be by 'more than 30' pupils, it is less than '200', and also less than '25%' of the current capacity (i.e. by less than 187).

A small primary school with a capacity of 50 **could** enlarge its premises to increase its capacity by up to 29 pupils **without** having to publish statutory proposals, because although it would be more than '25%', it is less than 30.

A school of any size enlarging its premises to enable it to add 300 places **would** need to follow the statutory process as the increase would be **both** 'more than 30' **and** '200' (it may or may not be more than '25%' but that is irrelevant if the 200 threshold would be met).

A primary school with a capacity of 210 enlarging its premises to enable it to add 105 places (1.5 forms of entry 45 x 7 = 315), **would** need to follow the statutory process as the increase would be 'more than 30' and **more than** '25%' (it would be less than 200 but this is irrelevant as the 25% threshold would be met).

The quality of new places created through expansion

We expect LAs to consider a range of performance indicators and financial data, before deciding whether a school should be expanded. Where schools are underperforming, we would not expect them to expand, unless there is a strong case that this would help to raise standards. We expect LAs to create new places in schools that have an overall Ofsted rating of 'good' or 'outstanding'. If, however, there are no other feasible ways to create new places in the area, the LA should notify their Pupil Places Planning adviser⁴. In cases where there is a proposal to expand a school that is rated inadequate, the LA should also send a copy of the proposal to the [relevant RSC](#) so that they can ensure appropriate intervention strategies are in place.

The table below sets out who can propose an enlargement of premises and what process must be followed:

⁴ Advisers.PPP@education.gov.uk

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for community	Enlargement of premises that meets the threshold	Statutory process	LA	CofE Diocese RC Diocese
LA for voluntary or foundation	Enlargement of premises that meets the threshold	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees
LA for voluntary and foundation	Enlargement of premises (below the threshold)	Non statutory process	LA	N/A
GB of all categories mainstream	Enlargement of premises (below the threshold)	Non statutory process	GB	N/A

Expansion onto an additional site (or ‘satellite sites’)

Where proposers seek to expand onto an additional site they will need to ensure that the new provision is genuinely a change to an existing school and not in reality the establishment of a new school. Where a LA decides that a new school is needed to meet basic need, they should refer to the [guidance for opening new schools](#).

Decisions about whether a proposal represents a genuine expansion will need to be taken on a case-by-case basis, but proposers and decision makers will need to consider this non-exhaustive list of factors which are intended to expose the extent to which the new site is integrated with the existing site, and the extent to which it will serve the same community as the existing site:

The reasons for the expansion

- What is the rationale for this approach and this particular site?

Admission and curriculum arrangements

- How will the new site be used (e.g. which age groups/pupils will it serve)?
- What will the admission arrangements be?
- Will there be movement of pupils between sites?

Governance and administration

- How will whole school activities be managed?
- Will staff be employed on contracts to work on both sites? How frequently will they do so?
- What governance, leadership and management arrangements will be put in place to oversee the new site (e.g. will the new site be governed by the same GB and the same school leadership team)?

Physical characteristics of the school

- How will facilities across the two sites be used (e.g. sharing of the facilities and resources available at the two sites, such as playing fields)?
- Is the new site in an area that is easily accessible to the community that the current school serves?

The purpose of considering these factors is to determine the level of integration between the two sites; the more integration, the more likely the change will be considered as an expansion.

LAs should copy any proposal to expand a school onto a satellite site to schoolorganisation.notifications@education.gov.uk for monitoring purposes.

Expansion of existing grammar schools

Legislation prohibits the establishment of new grammar schools⁵. Expansion of any existing grammar school onto a satellite site can only happen if the new site is genuinely part of the existing school. Decision-makers must consider the factors listed above when deciding if an expansion is a legitimate enlargement of an existing school.

Changes to the published admissions number (PAN) where an enlargement of premises has not taken place

Admission authorities⁶ must set a PAN for each 'relevant age group' when determining their admission arrangements. If an admission authority of a mainstream school wishes to increase or decrease PAN, without increasing the overall physical

⁵ Except where a grammar school is replacing one of more existing grammar schools

⁶ The LA in the case of community and voluntary controlled (VC) schools or the GB in the case of voluntary aided (VA) and foundation schools

capacity of the buildings, this would be classed as an admissions change, not a prescribed alteration. The statutory process described in this guidance would not need to be followed (please see the [School Admissions Code](#) for further details of the processes admission authorities must follow).

Change in number of pupils in a special school

The School Admissions Code does not apply to special schools. GBs of all categories of special school, and LAs for community special schools, may seek to increase the number of places by following the statutory process in [part 5](#), if the increase is by:

- 10%; or
- 20 pupils (or 5 pupils if the school is a boarding-only school),

(whichever is the smaller number).

The exception to this is where a special school is established in a hospital.

GBs of all categories of special school, and LAs for community special schools, may seek to decrease the number of pupils, by following the statutory process in [part 5](#).

The table below sets out who can propose a change in the number of pupils in a special school and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
GB foundation special	Increase by 10% or 20 pupils (5 for boarding special) or decrease numbers	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees
GB community special	Increase by 10% or 20 pupils (5 for boarding special) or decrease numbers	Statutory process	LA	CofE Diocese RC Diocese
LA for community special and foundation special	Increase by 10% or 20 pupils (5 for boarding special)	Statutory process	LA	CofE Diocese RC Diocese

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for foundation special	Increase by 10% or 20 pupils (5 for boarding special)	Statutory process	LA	GB/Trustees
LA for community special	Decrease of numbers	Statutory process	LA	CofE Diocese RC Diocese

Change of age range

For changes that are expected to be in place for more than 2 years (as these are considered permanent increases):

LAs can propose:

- a change of age range of up to 2 years (except for adding or removing a sixth form) for voluntary and foundation schools by following the non-statutory process, see [part 4](#).
- a change of age range of 1 year or more for community schools (including the adding or removal of sixth form or nursery provision) and community special schools or alter the upper age limit of a foundation or voluntary school to add sixth form provision by following the statutory process, see [part 5](#).

GBs of foundation and voluntary schools can propose:

- an age range change of up to 2 years (except for adding or removing a sixth form) by following the non-statutory process, see [part 4](#).
- an age range change of 3 years or more (including adding or removing a sixth form) by following the statutory process, see [part 5](#).

Before making such a proposal, the GB should consult with LAs, and where the school is designated as having a religious character the trustees of the school, dioceses or relevant diocesan boards, or any other relevant faith body, to understand the place management needs of the area.

GBs of community schools can propose the alteration of their upper age limit to add sixth form provision following the statutory process, see [part 5](#).

GBs of community special and foundation special schools can propose a change of age range of 1 year or more following the statutory process, see [part 5](#).

Where a proposed age range change would also require an expansion of the school's premises, the LA or GB must also ensure that they act in accordance with the requirements for proposals for the [enlargement of premises](#).

In cases where the age-range of the school has changed, this should be altered on GIAS. For example if the age-range is changed so that the school no longer caters for pupils below compulsory school age, the lower age range of the school would need to be increased so as not to include that age group.

The table below sets out who can propose a change of age range and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for voluntary and foundation	Alteration of upper or lower age range of up to 2 years (excluding adding or removing a sixth form)	Non statutory process	LA	NA
GB of voluntary and foundation	Alteration of upper or lower age range by up to 2 years (excluding adding or removing a sixth form)	Non statutory process	GB	N/A
GB of voluntary and foundation	Alteration of upper or lower age range by 3 years or more	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees
LA for community and community special	Alteration of upper or lower age range by 1 year or more (for community schools including the adding or removal of sixth form or nurse provision)	Statutory process	LA	CofE Diocese RC Diocese
GB foundation special	Alteration of upper or lower age range by one year or more	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees
GB community special	Alteration of upper or lower age range by one year or more	Statutory process	LA	CofE Diocese RC Diocese
LA for community	Alteration of upper age range so as to add or	Statutory process	LA	CofE Diocese RC Diocese

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
	remove sixth form provision			
LA for voluntary and foundation	Alteration of upper age range so as to add sixth form provision	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees
GB of voluntary and foundation	Alteration of upper age range so as to add sixth form provision	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees
GB of community	Alteration of upper age range so as to add sixth form provision	Statutory process	LA	CofE Diocese RC Diocese
GB of voluntary and foundation	Alteration of upper age range so as to remove sixth form provision	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees

Adding a sixth form

The department wants to ensure that all temporary (which is anticipated will be in place for no more than 2 years) and permanent provision is of the highest quality and provides genuine value for money. There is a departmental expectation that proposals for the addition of sixth form provision will only be put forward for secondary schools that are rated as 'good' or 'outstanding' by Ofsted. Proposers should also consider the supply of other local post-16 provision in the area and assess if there is a genuine need for the additional provision.

In deciding whether new sixth form provision would be appropriate, proposers and decision makers should consider the following guidelines:

- **Quality:** The quality of pre-16 education must be good or outstanding (as rated by Ofsted) and the school must have a history of positive Progress 8 scores (above 0);
- **Size:** The proposed sixth form will provide at least 200 places and there should be sufficient demand for those places;
- **Subject Breadth:** The proposed sixth form should - either directly or through partnership - offer a minimum of 15 A level subjects. LAs may wish to consider the benefits of delivering a broader A level curriculum through

partnership arrangements with other school sixth forms. Working with others can offer opportunities to:

- Improve choice and attainment for pupils
- Deliver new, improved or more integrated services
- Make efficiency savings through sharing costs
- Develop a stronger, more united voice
- Share knowledge and information.

Schools proposing a partnership arrangement must include evidence of how this will operate on a day-to-day basis, including timetabling and the deployment of staff;

- **Demand:** There should be a clear demand for additional post-16 places in the local area (including evidence of a shortage of post-16 places and a consideration of the quality of Level 3 provision in the area). The proposed sixth form should not create excessive surplus places or have a detrimental effect on other high quality post-16 provision in the local area;
- **Financial viability:** The proposed sixth form should be financially viable (there must be evidence of financial resilience should student numbers fall). The average class size should be at least 15, unless there is a clear educational argument to run smaller classes – for example to build the initial credibility of courses with a view to increasing class size in future.

Not all changes in age range to add a sixth form will necessitate a change to the school's admissions arrangements, for example a school may set up sixth form provision solely for its own pupils. However, if the intention is to also admit external applicants to the sixth form the school will need to adopt a sixth form PAN and may also wish to add academic entry requirements on changing its age-range.

The addition of post-16 provision requires a change of age-range, therefore, where a decision-maker is considering a proposal to add post-16 provision, they should refer to the section on changing an age range.

Closing an additional site

For foundation and voluntary schools that are already operating on a satellite site(s), GBs must follow the statutory process in [part 5](#) if they are proposing the closure of one or more sites, where the main entrance at any of the school's remaining sites is one mile or more from the main entrance of the site which is to be closed. The LA may make such a proposal for a community school following the statutory process in [part 5](#).

The table below sets out who can propose the closure of an additional site and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for community	Closure of one or multiple sites	Statutory process	LA	CofE Diocese RC Diocese
GB voluntary or foundation	Closure of one or multiple sites	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees

Transfer to a new site

Where the main entrance of the proposed new site for a school would be more than two miles from the main entrance of the current school site, or if the proposed new site is within the area of another LA:

- **LAs** can propose the transfer to an entirely new site for community schools, community special schools and maintained nursery schools following the statutory process in [part 5](#).
- **GBs of voluntary, foundation, foundation special and community special** schools can also propose a transfer to a new site following the statutory process in [part 5](#).

The table below sets out who can propose a transfer to a new site and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for community, community special and maintained nursery	Transfer to new site	Statutory process	LA	CofE Diocese RC Diocese
GB voluntary foundation or foundation special	Transfer to new site	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees
GB community special	Transfer to new site	Statutory process	LA	CofE Diocese RC Diocese

Changes of category

GBs of all categories of maintained schools, apart from GBs of foundation special schools, may propose to change category by following the statutory process. The [addition or removal of a foundation](#) is described in [part 6](#). Where GBs are proposing a change of category covering a change in provision (e.g. from mainstream to special school) they are encouraged to seek advice by emailing schoolorganisation.notifications@education.gov.uk.

For a proposal to change the category of a school to voluntary-aided, the decision-maker should be satisfied that the GB and/or the foundation are able and willing to meet their financial responsibilities for building work. The decision-maker may wish to consider whether the GB has access to sufficient funds to enable it to meet 10% of its capital expenditure for at least five years from the date of implementation, taking into account anticipated building projects.

Guidance on adding or changing a designated religious character can be found in the [Opening and closing maintained schools](#) guidance.

The table below sets out who can propose a change of category and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
GB of voluntary	VC to VA VA to VC	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees
GB of voluntary	VC or VA to foundation school VC or VA to foundation school and acquire a foundation VC or VA to foundation school, acquire a foundation and majority foundation governors on GB	Statutory process	GB	For proposals at a VA school when decided by the GB: LA CofE Diocese RC Diocese
GB of foundation	Foundation school to VC or VA	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
GB of foundation	Acquire foundation Acquire a majority of foundation governors on the GB Removal of foundation and/or reduction in majority of foundation governors on GB	Statutory process	GB	N/A
GB of community	Community to VC or VA	Statutory process	LA	CofE Diocese RC Diocese
GB of community	Community to foundation school Community to foundation school and acquire foundation Community to foundation school and acquire majority of foundation governors on GB	Statutory process	GB	N/A
GB of foundation special	Remove foundation and/or reduce majority of foundation governors on GB	Statutory process	GB	N/A

Single sex school becoming co-educational (or vice versa)

Proposers can seek to change their school from single sex to co-educational (or vice versa) when they can show that this would better serve their local community. A co-educational school cannot change its nursery or post-16 provision to single sex. When making a decision, LAs will need to consider the demand for and balance of school places for boys and girls in line with the [Equality Act 2010](#).

The table below sets out who can change a school from single sex to co-educational (or vice versa) and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for community or community special	To co-ed or single sex provision	Statutory process	LA	CofE Diocese RC Diocese
GB of foundation. foundation special or voluntary	To co-ed or single sex provision	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees
GB of community special	To co-ed or single sex provision	Statutory process	LA	CofE Diocese RC Diocese

Mainstream school: establish/remove/alter special educational needs (SEN) provision

When considering any reorganisation of provision that the LA recognises as reserved for pupils with special educational needs, including that which might lead to children being displaced, proposers will need to demonstrate how the proposed alternative arrangements are likely to lead to improvements in the standard, quality and/or range of educational provision for those children.

The table below sets out who can propose to establish, remove or alter SEN provision and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for community	Establish, remove or alter SEN provision	Statutory process	LA	CofE Diocese RC Diocese
LA for voluntary and foundation	Establish or remove SEN provision	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees
GB of foundation	Establish, remove or alter SEN provision	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
and voluntary				

Change the types of need catered for by a special school

The table below sets out who can propose a change to the type of need catered for by a special school and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for community special	Change designation and categories of SEN provision	Statutory process	LA	CofE Diocese RC Diocese
LA for foundation special	Change designation and categories of SEN provision	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees
GB of community special	Change designation and categories of SEN provision	Statutory process	LA	CofE Diocese RC Diocese
GB of foundation special	Change designation and categories of SEN provision	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees

Boarding provision

The introduction of boarding provision can require the statutory process to be followed (depending on the type of school in question – see table below). LAs and GBs will need to consider how the Prescribed Alterations Regulations apply in conjunction with this guidance and, where there is any doubt, seek independent legal advice, as the department cannot advise on individual cases.

LAs can propose for:

- community schools; the establishment, removal or alteration (decrease by 50 pupils or 50% whichever is the greater) of boarding provision by following the statutory process in [part 5](#).

- community special schools; the establishment, removal or alteration (increase or decrease by 5 places or more where there are both day and boarding places) of boarding provision following the statutory process in [part 5](#).

GBs of voluntary and foundation schools can propose the establishment or increase of boarding provision following the non-statutory process in [part 4](#) and the removal or alteration (decrease by 50 pupils or 50% whichever is the greater) of boarding provision by following the statutory process in [part 5](#).

GBs of special schools can add or remove boarding provision or, where the school makes provision for day and boarding pupils, can increase or decrease boarding provision by five pupils or more following the statutory process in [part 5](#).

The table below sets out who can propose to establish, change or remove boarding provision and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
LA for community	Add, remove or change (decrease by 50 pupils or 50% whichever is greater) boarding provision	Statutory process	LA	CofE Diocese RC Diocese
LA for community special	Add, remove or change (increase or decrease by 5 pupils or more) boarding provision	Statutory process	LA	CofE Diocese RC Diocese
GB of foundation or voluntary	Add boarding provision	Non-statutory process	GB	N/A
GB of foundation or voluntary	Remove or change (decrease by 50 pupils or 50% whichever is greater) boarding provision	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees
GB of foundation special	Add, remove or change (increase or decrease by 5 pupils or more) boarding provision	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees
GB of community special	Add, remove or change (increase or decrease by 5 pupils or more) boarding provision	Statutory process	LA	CofE Diocese RC Diocese

In making a decision on a proposal to remove boarding provision from a school, the decision-maker should consider whether there is a state funded boarding school within reasonable distance from the school and whether there are satisfactory alternative boarding arrangements for those currently in the school and those who may need boarding places in the foreseeable future, including the children of service families.

Remove selective admission arrangements at a grammar school

The table below sets out who can propose the removal of selective admission arrangements⁷ and what process must be followed:

Proposer	Type of proposal	Process	Decision-maker	Right of appeal to the adjudicator
GB of voluntary or foundation	Remove selective admission arrangements	Statutory process	LA	CofE Diocese RC Diocese GB/Trustees
GB of community	Remove selective admission arrangements	Statutory process	LA	CofE Diocese RC Diocese

Amalgamations

The LA and/or GB (depending on school category) can publish a proposal to close one school (or more) and enlarge/change the age range/transfer site (following the statutory process as/when necessary) of an existing school, to accommodate the displaced pupils. The remaining school would retain its original school number, as it is not a new school, even if its phase has changed.

Alternatively, LAs may propose to close all the schools involved and replace them with a new school. For more information, please consult the separate guidance on [opening and closing a maintained school](#).

⁷ In accordance with s.109 (1) of the School Standards and Frameworks Act 1998

3: Contentious proposals

When proposing changes, LA's and GBs should act reasonably, and in line with the principles of public law, to ensure that the changes do not have a negative impact on the education of pupils in the area.

To enable the department to monitor potentially controversial proposals, LAs and GBs should notify schoolorganisation.notifications@education.gov.uk of the publication of any proposals which would:

- involve [expansion onto a separate 'satellite' site](#); or
- where objections have been raised that the proposed change could potentially undermine the quality of education in the local area by creating additional places where there is surplus capacity.

4: Changes that can be made outside of the statutory process

LAs and GBs of mainstream maintained schools can make limited changes (see [part 2](#) for the exact detail) to their schools without following a statutory process, including some temporary changes; they are nevertheless required to adhere to the usual principles of public law. They MUST:

- act rationally;
- take into account all relevant and no irrelevant considerations; and
- follow a fair procedure.

The department expects that in making these changes, LAs and GBs will work together and will:

- liaise with the trustees of the school, and in the case of schools designated as having a religious character the diocese or relevant diocesan board, or any other relevant faith body, to ensure that a proposal is aligned with wider place planning/organisational arrangements, and that any necessary consents have been gained;
- not undermine the quality of education provided or the financial viability of other 'good' and 'outstanding' schools in the local area;
- not create additional places in a local planning area where there is already surplus capacity in schools, taking the quality and diversity of the provision into account as well as cross boundary impacts; and
- ensure open and fair consultation with parents, any affected educational institutions in the area (e.g. primary, secondary, special schools, sixth form and FE colleges as required) and other interested parties. The [consultation principles guidance](#) can be referenced for examples of good practice.

Before making any changes GBs should ensure that:

- they have consulted with the LA to ensure the proposal is aligned with local place planning arrangements
- they have secured any necessary funding;
- they have identified suitable accommodation and sites;

- they have secured planning permission and/or agreement on the transfer of land where necessary⁸. The proposal can be approved subject to planning permission being granted;
- they have the consent of the site trustees or other land owner where the land is not owned by the GB;
- where a school is designated as having a religious character, they have the consent of the trustees of the school, the diocese or relevant diocesan board, or any other relevant faith body, where appropriate; and
- the admissions authority is content for the published admissions number (PAN) to be changed where this forms part of expansion plans, in accordance with the School Admissions Code.

Once a decision on the change has been made, the proposer (i.e. LA or GB) is responsible for making arrangements for the necessary changes to be made to the school's record in the department's [GIAS](#) system. These changes must be made no later than the date of implementation for the change and can be input in advance, once a decision is made.

⁸ Including, where necessary, approval from the Secretary of State for change to the use of playing field land under Section 77(1) of the SSFA 1998.

5: Statutory process: prescribed alterations

The statutory process for making prescribed alterations to schools has four stages:

Stage	Description	Timescale	Comments
Stage 1	Publication (statutory proposal/notice)		
Stage 2	Representation (formal consultation)	Must be 4 weeks	As set out in the 'Prescribed Alterations' regulations
Stage 3	Decision	LA should decide a proposal within 2 months otherwise it will fall to the Schools Adjudicator	Any appeal to the adjudicator must be made within 4 weeks of the decision
Stage 4	Implementation	No prescribed timescale	It must be as specified in the published statutory notice, subject to any modifications agreed by the decision-maker

Although there is no longer a statutory 'pre-publication' consultation period for prescribed alteration changes, there is a strong expectation that schools and LAs will consult interested parties in developing their proposal prior to publication, to take into account all relevant considerations. Schools should have the consent of the site trustees and where a school is designated as having a religious character the trustees of the school, the diocese or relevant diocesan board, or any other relevant faith body.

When considering making a prescribed alteration change, it is best practice to take timing into account, for example:

- by holding consultations and public meetings (either formal or informal) during term time, rather than school holidays and, where appropriate, extend the consultation period if it overlaps school holidays etc;
- plan where any public and stakeholder meetings are held to maximise response;
- take into account the admissions cycle for changes that will impact on the school's admission arrangements.

A number of changes can impact admissions necessitating reductions in PAN, new relevant age groups for admission or the adoption of revised admission criteria. Changes to admission arrangements can be made by the admission authority in one of two ways:

- the consultation on changing the admission arrangements (as set out in the [School Admissions Code](#)) takes place sufficiently in advance of a decision on the prescribed alteration so that the change to admissions can be implemented at the same time as the proposals; or
- a variation is sought, where necessary, in view of a major change in circumstances, from the [Schools Adjudicator](#) so that the changes to the admission policy can be implemented at the same time as the prescribed alteration is implemented.

Decision-makers should, so far as is possible, co-ordinate with the admission authority, if different, to ensure they avoid taking decisions that will reduce a PAN or remove a relevant age group for admission after parents have submitted an application for the following September (e.g. 31 October for secondary admissions or 15 January for primary admissions).

Publication

A statutory proposal must contain sufficient information for interested parties to make a decision on whether to support or challenge the proposed change. [Annex A](#) sets out the minimum that this should include. The proposal should be accessible to all interested parties and should therefore use 'plain English'.

Where the proposal for one change is linked to another, this should be made clear in any notices published. Where a proposal by a LA is 'related' to a proposal by other proposers (e.g. where one school is to be enlarged because another is being closed) a single notice could be published.

The full proposal must be published on a website (e.g. the school or LA's website) along with a statement setting out:

- how copies of the proposal may be obtained;
- that anybody can object to, or comment on, the proposal;
- the date that the representation period ends; and
- the address to which objections or comments should be submitted.

A brief notice (including details on how the full proposal can be accessed e.g. the website address) must be published in a local newspaper. If the proposal is published by a GB then notification must also be posted in a conspicuous place on the school premises and at all of the entrances to the school.

Within one week of the date of publication on the website, the proposer must send a copy of the proposal and the information set out in the paragraph above to:

- the GB/LA (as appropriate);
- the parents of every registered pupil at the school - where the school is a special school;
- if it involves or is likely to affect a school which has been designated as having a religious character:
 - the local Church of England diocese;
 - the local Roman Catholic diocese; or
 - the relevant faith group in relation to the school;
- proposals affecting a special school should go to any LA that has commissioned a place at the school (i.e. all relevant authorities who have made an out of county/borough placement there); and
- any other body or person that the proposer thinks is appropriate e.g. any affected educational institutions in the area.

Within one week of receiving a request for a copy of the proposal, the proposer must send a copy to the person requesting it.

There is no maximum limit on the time between the publication of a proposal and its proposed date of implementation. However, proposers will be expected to show good reason (for example an authority-wide reorganisation) if they propose a timescale longer than three years.

Representation (formal consultation)

The representation period must last for four weeks from the date of the publication. During this period, any person or organisation can submit comments on the proposal to the LA to be taken into account by the decision-maker. It is also good practice for representations to be forwarded to the proposer to ensure that they are aware of local opinion.

Decision

The LA will be the decision-maker in all cases except where a proposal is 'related' to another proposal that must be decided by the [Schools Adjudicator](#)⁹.

Decision-makers will need to be satisfied that the appropriate fair and open local consultation and/or representation period has been carried out and that the proposer has given full consideration to all the responses received. Decision-makers should not simply take account of the numbers of people expressing a particular view. Instead, they should give the greatest weight to responses from those stakeholders likely to be most affected by a proposal – especially parents of children at the affected school(s).

Decisions must be made within a period of two months of the end of the representation period or they must be referred to the Schools Adjudicator.

When issuing a decision, the decision-maker can:

- reject the proposal;
- approve the proposal without modification;
- approve the proposal with modifications, having consulted the LA and/or GB (as appropriate); or
- approve the proposal, with or without modification – subject to certain conditions¹⁰ (such as the granting of planning permission) being met.

A proposal can be withdrawn by the proposer at any point before a decision is taken. When doing so, the proposer must send written notice to the LA or the GB (as appropriate); or the Schools Adjudicator (if the proposal has been sent to them). A notice must also be placed on the website where the original proposal was published.

Within one week of making a decision the LA must publish their decision and the reasons for it, on the website where the original proposal was published and send copies to:

- the LA (where the Schools Adjudicator is the decision-maker);
- the Schools Adjudicator (where the LA is the decision-maker);

⁹ For example where a change is conditional on the establishment of a new school under section 10 or 11 of EIA 2006 (where the Schools Adjudicator may be the default decision maker).

¹⁰ The prescribed events are those listed in paragraph 8 of Schedule 3 to the Prescribed Alterations Regulations

- the GB/proposers (as appropriate);
- the trustees of the school (if any);
- the local Church of England diocese;
- the local Roman Catholic diocese;
- the parents of every registered pupil at the school – where the school is a special school; and
- any other body that they think is appropriate (e.g. other relevant diocese or diocesan board, faith organisation and any affected educational institutions in the area).

If the [Schools Adjudicator](#) is the decision-maker they must notify the persons above of their decision, together with the reasons, within one week of making the decision. Within one week of receiving this notification the LA must publish the decision, with reasons, on the website where the original proposal was published.

Related proposals

Where proposals appear to be related to other proposals, the decision-maker must consider the related proposals together. A proposal should be regarded as related if its implementation (or non-implementation) would prevent or undermine the effective implementation of another proposal.

Conditional approval

For many types of proposal, decision-makers may make their approval conditional on certain prescribed kinds of events¹¹. The decision-maker must set a date by which the condition should be met but can modify the date if the proposer confirms, before the date expires, that the condition will be met later than originally thought.

The proposer should inform the decision-maker when a condition is met. If a condition is not met by the date specified, the proposal should be referred back to the decision-maker for fresh consideration.

¹¹ Under paragraph 8 of Schedule 3 to the Prescribed Alterations Regulations

Education standards and diversity of provision

Decision-makers should consider the quality and diversity of schools in the relevant area and whether the proposal will meet or affect the needs of parents, raise local standards and narrow attainment gaps.

Equal opportunities issues

The decision-maker must comply with the Public Sector Equality Duty (PSED), which requires them to have 'due regard' to the need to:

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

Further information on the considerations can be found on the [Equality and Human Rights Commission](#) website.

Community cohesion

Schools have a key part to play in providing opportunities for young people from different backgrounds to learn with, from, and about each other; by encouraging through their teaching, an understanding of, and respect for, other cultures, faiths and communities. When considering a proposal, the decision-maker should consider its impact on community cohesion. This will need to be considered on a case-by-case basis, taking account of the community served by the school and the views of different groups within the community.

Travel and accessibility

Decision-makers should satisfy themselves that accessibility planning has been properly taken into account and the proposed changes should not adversely impact on disadvantaged groups.

The decision-maker should bear in mind that a proposal should not unreasonably extend journey times or increase transport costs, or result in too many children being prevented from travelling sustainably due to unsuitable walking or cycling routes. A proposal should also be considered on the basis of how it will support and contribute to the LA's duty to promote the use of sustainable travel and transport to school.

Further information is available in the statutory [Home to school travel and transport guidance](#) for LAs.

Funding

The decision-maker should be satisfied that any necessary funding required to implement the proposal will be available and that all relevant local parties (e.g. trustees of the school, diocese or relevant diocesan board) have given their agreement. A proposal **cannot** be approved conditionally upon funding being made available.

Where proposers are relying on the department as the source of capital funding, there can be no assumption that the approval of a proposal will trigger the release of capital funds from the department, unless the department has previously confirmed in writing that such resources will be available; nor can any allocation 'in principle' be increased. In such circumstances the proposal should be rejected, or consideration deferred until it is clear that the capital necessary to implement the proposal will be provided.

Rights of appeal against a decision

The following bodies may appeal to the Schools Adjudicator against a decision made by a LA decision-maker, within four weeks of the decision being made:

- the local Church of England diocese;
- the local Roman Catholic diocese; and
- the governors and trustees of a foundation, foundation special or voluntary school that is subject to the proposal.

On receipt of an appeal, a LA decision-maker must then send the proposal, representations received and the reasons for their decision to the Schools Adjudicator within one week of receipt. There is no right of appeal on determinations made by the Schools Adjudicator.

Implementation

The proposer must implement a proposal in the form that it was approved, taking into account any modifications made by the decision-maker.

Modification post determination

Proposers can seek modifications from the decision-maker before the approved implementation date. However, proposals cannot be modified to the extent that new proposals are substituted for those that have been published.

Details of the modification must be published on the website where the original proposals were published.

Revocation of proposals

If the proposer no longer wants to implement an approved proposal, they must publish a revocation proposal to be relieved of the duty to implement, as set out in the Prescribed Alterations Regulations.

Land and buildings

Foundation, foundation special or voluntary controlled schools

Where a LA is required to provide a site for a foundation, foundation special or voluntary controlled school, the LA must¹²:

- transfer their interest in the site and in any buildings on the site which are to form part of the school's premises to the trustees of the school, to be held by them on trust for the purposes of the school; or
- if the school has no trustees, to the GB, to be held by that body for the purposes of the school.

In the case of a dispute as to the persons to whom the LA is required to make the transfer, the adjudicator will make a decision.

Voluntary aided schools

Where a LA is required to provide a site for a voluntary aided school, they must transfer their interest in the land to the trustees of the school, and must pay the reasonable costs to the GB in connection with the transfer.

¹² Under paragraph 17 of schedule 3 of the Prescribed Alterations Regulations

School premises and playing fields

Under the School Premises (England) Regulations 2012, all schools maintained by local authorities are required to provide suitable outdoor space in order to enable physical education to be provided to pupils in accordance with the school curriculum; and for pupils to play outside safely.

[Guidelines](#) setting out suggested areas for pitches and games courts are in place although the department has been clear that these are non-statutory.

6: Statutory process: foundation proposals

Changing category to foundation, acquiring a foundation trust and/or acquiring a foundation majority

A 'foundation trust school' is a foundation school with a charitable foundation complying with the requirements set out in SSFA 1998¹³. These include that the foundation trust must have a charitable purpose of advancing education and must promote community cohesion.

The term 'acquire a foundation majority' means acquiring an instrument of government whereby the school's foundation trust has the power to appoint a majority of governors on the GB.

Where a school's GB considers changing category to foundation or acquiring a foundation trust and/or acquiring a foundation majority on the school's GB, the following five-stage statutory process must be followed:

Stage	Description	Timescale	Comments
Stage 1	Initiation		The GB considers a change of category to foundation/acquisition of a foundation trust/acquisition of a foundation majority
Stage 2	Publication		Having gained consent where appropriate
Stage 3	Representation (formal consultation)	Must be 4 weeks	As set out in the prescribed alteration regulations. The LA may refer a foundation trust proposal to the Schools Adjudicator during this period if it considers the proposal to have a negative effect on standards at the school
Stage 4	Decision	The GB must decide within 12 months of the date of publication	Unless the LA has referred the proposal to Schools Adjudicator at Stage 3
Stage 5	Implementation	No prescribed timescale	Must be as specified in the statutory notice, subject to any modifications agreed by the decision-maker

¹³ Section 23A

Initiation

For a proposal to change the category of a school to a foundation school, the GB should inform the LA in writing, at least seven days in advance of a meeting, if a motion to consult on a change of category proposal is to be discussed.

Before the GB can publish a proposal to change category from a voluntary school to a foundation school, the existing trustees and whoever appoints the foundation governors must give their consent.

Publication

A statutory proposal must contain sufficient information for interested parties to make a decision on whether to support or challenge the proposed change. Part 1 of [Schedule 1 to the Prescribed Alterations Regulations](#) specifies the information that the statutory proposal must contain. Further details on the publication stage can be found in [Part 5](#).

Representation (formal consultation)

The representation period starts on the date of the publication of the proposal and must last four weeks. During this period, any person or organisation can submit comments on the proposal to the GB, to be taken into account when the decision is made.

During the representation period, the LA has the power to require the referral of a proposal to acquire a foundation trust/foundation majority to the [Schools Adjudicator](#) for decision, if they consider it will have a negative impact on standards at the school.

The LA does not have this power in respect of a proposal solely to change the category to foundation¹⁴.

Where a proposal is referred to the [Schools Adjudicator](#), the GB must forward any objections or comments it has received to the Schools Adjudicator within one week of the end of the representation period.

¹⁴ However, where such a proposal is related to a proposal to acquire a trust, then the whole set of proposals will be referred to the Schools Adjudicator

Decision

Unless a proposal has been referred to the Schools Adjudicator (as set out above), the GB will be the decision-maker and must make a decision on the proposal within 12 months of the date of publication of the proposal.

Where a proposal to acquire a foundation trust or a foundation majority is linked to a proposal to change category to a foundation school, they will be decided together.

When issuing a decision, the decision-maker can:

- reject the proposal;
- approve the proposal without modification;
- approve the proposal with modifications, having consulted the LA;
- approve the proposal with or without modifications but conditional upon:
 - the making of any scheme relating to any charity connected with the school; and
 - the establishment of a foundation¹⁵.

Where the LA has referred a proposal to acquire a foundation trust/foundation majority to the Schools Adjudicator for decision, any related proposal(s) (including a change of category to foundation) will also fall to be decided by the Schools Adjudicator.

Decision-makers should consider the impact of changing category to foundation school, and acquiring or removing a foundation trust on educational standards at the school. In assessing standards at the school, the decision-maker should take account of recent reports from Ofsted and a range of performance data. Recent trends in applications for places at the school (as a measure of popularity) and the local reputation of the school may also be relevant context for a decision.

If a proposal is not considered strong enough to significantly improve standards at a school that requires it, the decision maker should consider rejecting the proposal. Foundation trusts have a duty¹⁶ to promote community cohesion, and decision-makers should carefully consider the foundation trust's plans for partnership working with other schools, agencies or voluntary bodies.

¹⁵ As defined in section 23A of the SSFA 1998

¹⁶ Under section 23A(6) of the SSFA 1998.

Foundation schools acquiring a foundation trust

For foundation trust schools the decision-maker should be satisfied that the following criteria are met for the proposal to be approved:

- the proposal is not seeking for a school to alter, acquire, or lose a designated religious character. These alterations cannot be made simply by acquiring a foundation trust;
- the necessary work is underway to establish the foundation trust as a charity and as a corporate body; and
- that none of the foundation trustees are disqualified from exercising the function of foundation trustee, either by virtue of:
 - o disqualifications from working with children or young people;
 - o not having obtained a criminal record check certificate¹⁷;
 - o [Charities Act 2011](#)¹⁸ which disqualify certain persons from acting as charity trustees.

Suitability of partners

Decision-makers will need to be satisfied of the suitability of foundation trust partners and members. They should use their own discretion and judgement in determining on a case-by-case basis whether the reputation of a foundation trust partner is in keeping with the charitable objectives of a foundation trust, or could bring the school into disrepute. However, the decision-maker should make a balanced judgement, considering the suitability and reputation of the current/potential foundation trust.

The following sources may provide information on the history of potential foundation trust partners:

- [The Health and Safety Executive Public Register of Convictions](#)¹⁹
- [The Charity Commission's Register of Charities](#); and
- [The Companies House web check service](#).

¹⁷ Under section 113A of the Police Act 1997

¹⁸ section 178 onwards

¹⁹ Appearance on this database should not automatically disqualify a potential trust member; decision-makers will wish to consider each case on its merits

Within one week of making a decision the GB must publish a copy of the decision (together with reasons) on the website where the original proposal was published and send copies to:

- the LA;
- the local Church of England diocese; and
- the local Roman Catholic diocese.

Where a proposal has been decided by the GB and is to change the category of a VA school to foundation (with or without the acquisition of a foundation trust/foundation majority), the following bodies have the right of appeal to the [Schools Adjudicator](#)²⁰:

- the LA;
- the local Church of England diocese(s); and
- the local Roman Catholic diocese(s).

Conditional approval

For many types of proposal, decision-makers may make their approval conditional on certain prescribed kinds of events²¹. The decision-maker must set a date by which the condition should be met but can modify the date if the proposer confirms, before the date expires, that the condition will be met later than originally thought.

The proposer should inform the decision-maker when a condition is met. If a condition is not met by the date specified, the proposal should be referred back to the decision-maker for fresh consideration.

Implementation

The GB must implement any approved proposal by the approved implementation date, taking into account any modifications made by the decision-maker.

Within one week of implementation, the GB must provide information to the Secretary of State²² about foundation proposals that have been implemented. Copies of the statutory proposals and decision record should be submitted to

²⁰ The specific circumstances in which a referral can be made are prescribed under paragraph 15 of Schedule 1 to the Prescribed Alterations Regulations

²¹ under paragraph 16 of Schedule 1 to the Prescribed Alterations Regulations

²² Paragraph 18 of Schedule 1 of the Prescribed Alterations Regulations

schoolorganisation.notifications@education.gov.uk in order for the school record to be updated on GIAS.

Modification post determination

Modifications can be made to a proposal by the governing body after determination but before implementation.

Revocation

If the proposer no longer wants to implement an approved proposal they must publish a revocation proposal to be relieved of the duty to implement, as set out in Paragraph 19 of Schedule 1 of the Prescribed Alterations Regulations.

Governance and staffing issues

Schedule 4 of the Prescribed Alterations Regulations provides further information on the requirements about:

- the revision or replacement of the school's instrument of government;
- reconstitution or replacement of the GB;
- current governors continuing in office;
- surplus governors;
- transfer of staff; and
- transitional admission arrangements.

Land transfer issues

Requirements as to land transfers, when a school changes category or acquires a foundation trust, are prescribed in Schedule 5 of the Prescribed Alterations Regulations.

Removing a foundation trust and/or removing a foundation majority

There are five or six statutory stages (depending on the proposal and circumstances) to remove a foundation trust and/or to reduce a foundation majority. It may be triggered in two different ways – either by a majority or a minority of the GB:

Stage	Description	Timescale	Comments
Stage 1	Initiation		<p>Majority A majority of governors considers publishing a proposal to remove a foundation trust/reduce the number of governors appointed by the foundation.</p> <p>or</p> <p>Minority A minority (of not less than a third of the governors) notify the clerk of the GB of their wish to publish a proposal to remove a foundation trust/reduce the number of governors appointed by the foundation</p>
Stage 2	Land Issues (applicable only to removal of trusts)	If not resolved within 3 months, disputes must be referred to the Schools Adjudicator	In cases of removing foundation trusts, the GB, trustees and the LA must resolve issues related to land and assets before a proposal is published
Stage 3	Consultation	<p>Majority A minimum of 4 weeks is recommended.</p> <p>or</p> <p>Minority No consultation required</p>	<p>Majority It is for the GB to determine the length of consultation</p>
Stage 4	Publication and representation	<p>Majority 6 week representation period.</p> <p>or</p> <p>Minority</p>	

Stage	Description	Timescale	Comments
		Where there are no land or asset issues – publish within 3 months of receipt of notice by GB clerk – followed by a 6-week representation period. Where there are land issues, publish within 1 month of receipt of School Adjudicator’s determination – followed by a 6-week representation period	
Stage 5	Decision	Within 3 months	A proposal initiated by a minority of governors may not be rejected unless at least two-thirds of the GB are in favour of the rejection
Stage 6	Implementation	No prescribed timescale	But must be as specified in the statutory notice, subject to any modifications agreed by the decision-maker

Initiation

A proposal for removing a foundation trust and/or removing a foundation majority can be triggered by:

- a) a majority²³ of the GB or a committee deciding to publish a proposal. The decision to publish must be confirmed by the whole GB at a meeting held at least 28 days after the meeting at which the initial decision was made; or
- b) at least one-third²⁴ of the governors requesting in writing to the clerk of the GB, that a proposal be published. No vote of the GB is required as they are obliged to publish a proposal. To prevent on-going challenges

²³ Regulation 4 of the Removal Regulations

²⁴ Regulation 5 of the Removal Regulations

there are a number of prescribed circumstances²⁵ in which there is no obligation to follow the wishes of the minority of governors.

Land and assets (when removing a foundation trust)

Before publishing proposals to remove a foundation trust, the GB must reach agreement with the trustees and LA on issues relating to the school's land and assets. Where such issues remain unresolved within three months of the initial decision (majority) or receipt of notice by the clerk (minority), they must be referred to the [Schools Adjudicator](#) for determination.

On the removal of the foundation trust, all publicly provided land held by the foundation trust for the purposes of the school will transfer to the GB²⁶. Where the land originated from private sources (for example, where land was gifted on trust), the land will transfer to the GB in accordance with a transfer agreement, providing for consideration to be paid by the GB to the foundation trust where appropriate. However, there may be land which has benefited from investment from public funds which remains with the trustees under the transfer agreement.

Alternatively, there may have been investment by trustees in the publicly provided land or from public funding in the land provided by the trustees. In either of these cases, it may be appropriate for either the trustees or the public purse to be compensated. The possibility of stamp duty land tax may also need to be taken into account.

The Schools Adjudicator will announce its determination in writing to both parties.

Consultation

Where a minority of governors initiated the process, this stage does not apply.

Where a majority of governors initiated the process, before publishing a proposal the GB must consult:

- families of pupils at the school;
- teachers and other staff at the school;
- the trustees and, if different, whoever appoints foundation governors;
- the LA;

²⁵ See regulation 5(4) of the Removal Regulations

²⁶ By virtue of regulation 17(1) of the Removal Regulations

- the GBs of any other foundation or foundation special schools maintained by the same LA for which the foundation acts as a foundation;
- any trade unions who represent school staff;
- if the school has been designated as having a religious character, the appropriate diocesan authority or other relevant faith group in relation to the school;
- any other person the GB consider appropriate.

Publication

Where the decision to publish a proposal was made by a majority of governors, the GB at this stage must decide whether to go ahead with publishing the proposal.

Where the decision to publish a proposal was made by a minority of governors and there are no land issues to be determined, the GB must publish the proposal within 3 months of the receipt of the notice by the clerk. If land issues were referred to the [Schools Adjudicator](#), the proposal must be published within 1 month of receipt of its determination.

Proposals to remove a foundation trust or to alter the instrument of government so that foundation governors cease to be the majority of governors must contain the information set out in [The School Organisation \(Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations 2007](#). Further details on the publication stage can be found in [Part 5](#).

At the same time as publishing the proposals, the GB must send copies of the proposals to the LA, trustees, and the Secretary of State via schoolorganisation.notifications@education.gov.uk.

Representation

The representation period starts on the date of the publication of the proposal and must last six weeks. During this period, any person or organisation can submit comments on the proposal to the GB to be taken into account when the decision is made.

Unlike the foundation trust acquisition process, there is no power for the LA to refer a proposal to the Schools Adjudicator to remove a school's foundation trust or to reduce the number of governors appointed by the foundation trust. However, GBs

must bear in mind that failure to follow the requirements of the statutory process could lead to a complaint to the Secretary of State under Section 496/497 of the Education Act 1996, and/or ultimately be challenged through judicial review.

Decision

The GB is the decision-maker for a removal proposal and must determine the proposal within 3 months of the date of its publication.

If a proposal was brought forward by a majority of governors, then it may be determined by a majority vote of those governors present²⁷.

If a proposal was brought forward by a minority of governors, then the GB may not reject the proposal unless two thirds or more of the governors indicate that they are in favour of its rejection²⁸.

When deciding a proposal for the removal of a foundation trust, the GB should consider the proposal in the context of the original proposal to acquire the foundation trust, and consider whether the foundation trust has fulfilled its expectations. Where new information has come to light regarding the suitability of foundation trust partners, this should be considered.

All decisions must be taken in accordance with the processes prescribed in [The School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013](#)²⁹.

The GB must notify the relevant LA, trustees and the Secretary of State via schoolorganisation.notifications@education.gov.uk of their decision.

Implementation

The GB is under a statutory duty to implement any approved proposal, as published, by the approved implementation date, taking into account any modifications made. In changing category, an implementation period begins when the proposal is decided and ends on the date the proposal is implemented. During this period the LA and GB are required to make a new instrument of government for the school, so enough time must be built into the timeframe for this to happen. The GB must then be reconstituted in a form appropriate to the school's new category and also in accordance with the appropriate instrument of government taking into account the [School Governance \(Constitution\) \(England\) Regulations 2012](#).

²⁷ As per the School Governance (Roles, Procedures and Allowances) (England) Regulations 2013.

²⁸ As per regulation 11(2) of the Removal Regulations.

²⁹ Except as otherwise provided by the Removal Regulations.

When removing a foundation trust or a foundation majority, a governor may continue as a governor in the corresponding category (e.g. staff governor, parent governor) if that category remains under the new instrument of government. A member of a current GB who continues as a governor on these grounds holds office for the remainder of the term for which he or she was originally appointed or elected. Where a school with a religious character has no foundation trust, the GB must appoint partnership governors with a view to ensuring that the religious character of the school is preserved and developed in accordance with the School Governance (Constitution) (England) Regulations 2012. There is nothing to prevent the appointment of a former foundation governor being reappointed by the GB as a partnership governor.

The terms of the trust on which land is held for a voluntary or foundation school often include very specific provisions regarding the conduct of the school and the use of any fund held by the foundation trust for the use of the school and premises. When making a proposal to change category, proposers will need to consider whether the current terms on which the school's land is held on trust allows for the change in category proposed. If in doubt, or if a variation in the foundation trust is clearly necessary, promoters and the relevant site trustees are advised to make early contact with the Charity Commission to apply for the terms of the trust to be varied under the relevant trust law.

Modification of proposals

Modifications can only be made to the implementation date and the proposed constitution of the governing body.

Annex A: Information to be included in a prescribed alteration statutory proposal

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

Proposers will need to be mindful of the factors that will inform the decision-makers assessment when determining the proposal.

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

- school and LA details;
- description of alteration and evidence of demand;
- objectives (including how the proposal would increase educational standards and parental choice);
- the effect on other educational institutions within the area;
- project costs and indication of how these will be met, including how long-term value for money will be achieved;
- implementation plan; and
- a statement explaining the procedure for responses: support, objections and comments.

Annex B: Further Information

This guidance primarily relates to:

- [The School Organisation \(Prescribed Alterations to Maintained Schools\) \(England\) Regulations 2013](http://www.legislation.gov.uk/uksi/2013/3110/contents/made)
www.legislation.gov.uk/uksi/2013/3110/contents/made
- [The School Organisation \(Removal of Foundation, Reduction in Number of Foundation Governors and Ability of Foundation to Pay Debts\) \(England\) Regulations 2007](http://www.legislation.gov.uk/uksi/2007/3475/contents/made) www.legislation.gov.uk/uksi/2007/3475/contents/made
- [The School Organisation \(Requirements as to Foundations\) \(England\) Regulations 2007](http://www.legislation.gov.uk/uksi/2007/1287/contents/made) www.legislation.gov.uk/uksi/2007/1287/contents/made
- [The Education and Inspections Act 2006](http://www.legislation.gov.uk/ukpga/2006/40)
www.legislation.gov.uk/ukpga/2006/40
- [The School Standards and Framework Act 1998](http://www.legislation.gov.uk/ukpga/1998/31/contents)
www.legislation.gov.uk/ukpga/1998/31/contents

It also relates to:

- [The School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013](http://www.legislation.gov.uk/uksi/2013/3109/contents/made) www.legislation.gov.uk/uksi/2013/3109/contents/made
- [The School Governance \(Constitution\) \(England\) Regulations 2012](http://www.legislation.gov.uk/uksi/2012/1034/contents/made)
www.legislation.gov.uk/uksi/2012/1034/contents/made
- [The School Governance \(Constitution and Federations\) \(England\) \(Amendment\) Regulations 2014](http://www.legislation.gov.uk/uksi/2014/1257/pdfs/uksi_20141257_en.pdf)
www.legislation.gov.uk/uksi/2014/1257/pdfs/uksi_20141257_en.pdf
- [The School Governance \(Miscellaneous Amendments\) \(England\) Regulations 2015](http://www.legislation.gov.uk/uksi/2015/883/pdfs/uksi_20150883_en.pdf) www.legislation.gov.uk/uksi/2015/883/pdfs/uksi_20150883_en.pdf
- [The School Governance \(New Schools\) \(England\) Regulations 2007](http://www.legislation.gov.uk/uksi/2007/958/pdfs/uksi_20070958_en.pdf)
www.legislation.gov.uk/uksi/2007/958/pdfs/uksi_20070958_en.pdf
- [The School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013](http://www.legislation.gov.uk/uksi/2013/1624/contents/made) www.legislation.gov.uk/uksi/2013/1624/contents/made
- [The Childcare Act 2006](http://www.legislation.gov.uk/ukpga/2006/21/contents) www.legislation.gov.uk/ukpga/2006/21/contents
- [The School Premises \(England\) Regulations 2012](http://www.legislation.gov.uk/uksi/2012/1943/contents/made)
www.legislation.gov.uk/uksi/2012/1943/contents/made

- [Making Significant Changes to an Existing Academy](http://www.gov.uk/government/publications/making-significant-changes-to-an-existing-academy)
www.gov.uk/government/publications/making-significant-changes-to-an-existing-academy
- [Academy/Free School Presumption – departmental advice](http://www.gov.uk/government/publications/establishing-a-new-school-free-school-presumption)
www.gov.uk/government/publications/establishing-a-new-school-free-school-presumption
- [Establishing New Maintained Schools – departmental advice for local authorities and new school proposers](http://www.gov.uk/government/publications/establishing-new-maintained-schools)
www.gov.uk/government/publications/establishing-new-maintained-schools
- [The School Admissions Code](http://www.gov.uk/government/publications/school-admissions-code--2) www.gov.uk/government/publications/school-admissions-code--2
- [Education Act 1996](http://www.legislation.gov.uk/ukpga/1996/56/contents) www.legislation.gov.uk/ukpga/1996/56/contents
- [Equality Act 2010](http://www.legislation.gov.uk/ukpga/2010/15/contents) www.legislation.gov.uk/ukpga/2010/15/contents
- [Police Act 1997](http://www.legislation.gov.uk/ukpga/1997/50/contents) www.legislation.gov.uk/ukpga/1997/50/contents
- [Charities Act 2011](http://www.legislation.gov.uk/ukpga/2011/25/contents) www.legislation.gov.uk/ukpga/2011/25/contents
- [Public Sector Equality Duty](http://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty) www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty
- [Home-to-school travel and transport - GOV.UK](http://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance)
www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance
- [Get information about schools - GOV.UK](http://www.get-information-schools.service.gov.uk/) www.get-information-schools.service.gov.uk/
- [Consultation principles: guidance - GOV.UK](http://www.gov.uk/government/publications/consultation-principles-guidance)
www.gov.uk/government/publications/consultation-principles-guidance
- [School land and property: protection, transfer and disposal - GOV.UK](http://www.gov.uk/guidance/school-land-and-property-protection-transfer-and-disposal)
www.gov.uk/guidance/school-land-and-property-protection-transfer-and-disposal

Annex C: Contact details for RSC offices

- East and North East London - RSC.EASTNELONDON@education.gov.uk
- North - RSC.NORTH@education.gov.uk
- East Midlands and Humber - EMH.RSC@education.gov.uk
- Lancashire and West Yorkshire - LWY.RSC@education.gov.uk
- South Central England and North West London - RSC.SCNWLON@education.gov.uk
- South East and South London - RSC.SESL@education.gov.uk
- South West - RSC.SW@education.gov.uk
- West Midlands - RSC.WM@education.gov.uk



Department
for Education

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APPENDIX 5: Equality Impact Assessment

Equality impact assessment (EIA) form: evidencing paying due regard to protected characteristics

(Form updated April 2019)

Proposal to Lower the Age Range of Goathland Community Primary School

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如欲索取以另一語文印製或另一格式製作的資料，請與我們聯絡。

اگر آپ کو معلومات کسی دیگر زبان یا دیگر شکل میں درکار ہوں تو برائے مہربانی ہم سے پوچھئے۔

Equality Impact Assessments (EIAs) are public documents. EIAs accompanying reports going to County Councillors for decisions are published with the committee papers on our website and are available in hard copy at the relevant meeting. To help people to find completed EIAs we also publish them in the Equality and Diversity section of our website. This will help people to see for themselves how we have paid due regard in order to meet statutory requirements.

Name of Directorate and Service Area	CYPS Strategic Planning Team
Lead Officer and contact details	Andrew Dixon, County Hall
Names and roles of other people involved in carrying out the EIA	Matt George, Strategic Planning Officer
How will you pay due regard? e.g. working group, individual officer	LA Officers and School Governing Body
When did the due regard process start?	Non-statutory pre-consultation started in November 2021

Section 1. Please describe briefly what this EIA is about. (e.g. are you starting a new service, changing how you do something, stopping doing something?)

We are proposing to lower the age range of Goathland Community Primary School from 4-11 to 3-11.

Section 2. Why is this being proposed? What are the aims? What does the authority hope to achieve by it? (e.g. to save money, meet increased demand, do things in a better way.)

The County Council has been asked by the Governing Body of Goathland Community Primary School to propose the lowering of their age range to provide places for 3 year olds.

The proposed 3 year old Nursery Class will provide up to approximately 12 places. This would be arranged flexibly depending upon the needs of the family and current legislation. This could include supervision during lunch-time although there will be an additional charge if lunch is provided.

Section 3. What will change? What will be different for customers and/or staff?

Goathland Community Primary School is proposing to provide places for 3 and 4 year olds by the creation of provision for early years class from 25 April 2022. Priority for admission to the nursery aged provision will be determined by the County Council's Admissions Policy for Nurseries. Admissions for the nursery children are separate from admissions to the school, which are determined by the County Council's policy for Community and Voluntary Controlled Schools. Attendance in Nursery does not provide any priority for admission to the Reception Year so parents who do not wish to use the nursery are not disadvantaged.

Section 4. Involvement and consultation (What involvement and consultation has been done regarding the proposal and what are the results? What consultation will be needed and how will it be done?)

The school have undertaken the non-statutory consultation period as recommended by the Statutory Guidance.

Section 5. What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?

Please explain briefly why this will be the result.

It is envisaged that this proposal will be cost neutral as the Early Years funding will be received from means tested funding where children are eligible and by parental subscription where they are not.

There are no capital implications.

Section 6. How will this proposal affect people with	No impact	Make things better	Make things worse	Why will it have this effect? Provide evidence from engagement, consultation and/or service user data or demographic information etc.
---	------------------	---------------------------	--------------------------	--

protected characteristics?				
Age		x		<p>This proposal constitutes a broadening of provision in the area.</p> <p>Provision of additional 3 year old early years places where needed. Providing improved local choice for nursery places for families.</p>
Disability	x			<p>No impact is anticipated.</p> <p><u>Pupils</u> – the school is mainstream, offering universal and appropriate educational provision for all learners for whom a mainstream placement is considered appropriate. It promotes inclusive opportunities and expertise is utilised from the County Council to provide appropriate SEN support.</p> <p>In addition, the School Admissions Code makes it unlawful to discriminate against or disadvantage disabled children or those with special educational needs.</p> <p><u>Staff</u> – As an organisation NYCC will continue to meet the requirements of the Equality Act 2010 which obligates us to make reasonable adjustments to accommodate disabled individuals as employees or service users.</p>
Sex	x			No impact is anticipated.
Race	x			No impact is anticipated.
Gender reassignment	x			No impact is anticipated.
Sexual orientation	x			No impact is anticipated.
Religion or belief	x			No impact is anticipated.
Pregnancy or maternity	x			No impact is anticipated.
Marriage or civil partnership	x			No impact is anticipated.

Section 7. How will this proposal affect people who...	No impact	Make things better	Make things worse	Why will it have this effect? Provide evidence from engagement, consultation and/or service user data or demographic information etc.
..live in a rural area?		x		Goathland is a rural area and this proposal will increase the provision of early years places within that locality.
...have a low income?		x		People on low income particularly those who live in Goathland will have an increased offer of early years education without having to pay for transport to neighbouring villages/towns.
...are carers (unpaid family or friend)?	x			No impact is anticipated.

Section 8. Geographic impact – Please detail where the impact will be (please tick all that apply)	
North Yorkshire wide	
Craven district	
Hambleton district	
Harrogate district	
Richmondshire district	
Ryedale district	
Scarborough district	X
Selby district	
If you have ticked one or more districts, will specific town(s)/village(s) be particularly impacted? If so, please specify below.	
Goathland and surrounding hamlets.	

Section 9. Will the proposal affect anyone more because of a combination of protected characteristics? (e.g. older women or young gay men) State what you think the effect may be and why, providing evidence from engagement, consultation and/or service user data or demographic information etc.
No

Section 10. Next steps to address the anticipated impact. Select one of the following options and explain why this has been chosen. (Remember: we have an anticipatory duty to make reasonable adjustments so that disabled people can access services and work for us)	Tick option chosen

1. No adverse impact - no major change needed to the proposal. There is no potential for discrimination or adverse impact identified.	x
2. Adverse impact - adjust the proposal - The EIA identifies potential problems or missed opportunities. We will change our proposal to reduce or remove these adverse impacts, or we will achieve our aim in another way which will not make things worse for people.	
3. Adverse impact - continue the proposal - The EIA identifies potential problems or missed opportunities. We cannot change our proposal to reduce or remove these adverse impacts, nor can we achieve our aim in another way which will not make things worse for people. (There must be compelling reasons for continuing with proposals which will have the most adverse impacts. Get advice from Legal Services)	
4. Actual or potential unlawful discrimination - stop and remove the proposal – The EIA identifies actual or potential unlawful discrimination. It must be stopped.	
Explanation of why option has been chosen. (Include any advice given by Legal Services.) It is considered that this proposal will not affect any of the groups listed above.	

Section 11. If the proposal is to be implemented how will you find out how it is really affecting people? (How will you monitor and review the changes?)

Monitoring will be carried out through the County Council's Education and Skills Team and through Ofsted inspections.

Section 12. Action plan. List any actions you need to take which have been identified in this EIA, including post implementation review to find out how the outcomes have been achieved in practice and what impacts there have actually been on people with protected characteristics.

Action	Lead	By when	Progress	Monitoring arrangements
Not applicable				

Section 13. Summary Summarise the findings of your EIA, including impacts, recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

The County Council's Officers feel that this decision is in the best interests of children and families served by the school to ensure quality early years education provision is provided in the area.

Section 14. Sign off section

This full EIA was completed by:

Name: Matt George

Job title: Strategic Planning Officer
Directorate: CYPS

Completion date: 14/12/2021

Authorised by relevant Assistant Director (signature): Amanda Newbold

Date: 21/12/2021

NORTH YORKSHIRE COUNTY COUNCIL

CHILDREN & YOUNG PEOPLE'S SERVICE

CORPORATE DIRECTOR'S MEETING WITH EXECUTIVE MEMBERS

17 March 2022

THE HIGH NEEDS BLOCK 2022-23

1.0 PURPOSE OF THE REPORT

1.1 This report summarises the expected budget for the High Needs Block in 2022-23 and outlines the extent of the anticipated financial pressure. It also provides a summary of a number of proposed changes to the budget.

2.0 HIGH NEEDS BLOCK FUNDING

2.1 The anticipated overall High Needs Block allocation available for North Yorkshire in 2022-23 is £68.67m, plus £2.63m of Supplementary Funding that has been allocated following the Spending Review. This figure is reduced by the Education and Skills Funding Agency (ESFA) in relation to funding provided directly to academies and for some post-16 provision. It also includes an anticipated import/export adjustment (adjustments made to reflect cross-border movement of pupils living in one local authority who attend provision in another; adjustments for 2022/23 will be finalised by the DfE in early Summer 2022). The total deductions amount to an estimated £6.79m resulting in a net funding allocation to the local authority of £64.51m. This compares to a final cash allocation for 2021-22 of £56.9m – an increase of £7.6m. The final High Needs Block figure will not be known until June 2022 following confirmation of the import/export adjustment. Table 1 summarises the anticipated funding position.

Table 1: HNB Funding Position

	2021-22	2022-23	Variance
	£m	£m	£m
HNB allocation	62.161	68.670	6.509
Supplementary Allocation		2.630	2.630
	62.161	71.300	9.139
ESFA Deductions	(5.292)*	(6.791)*	(1.499)
North Yorkshire LA allocation	56.869	64.509	7.640

** These figures are the LA's prediction.*

2.2 Changes in government regulations since January 2020 prohibit the local authority from using its general resources to fund any overspend in the High Needs Block (and any other DSG blocks). However, the local authority has chosen to set aside a provision to mirror any projected in-year 2022-23 High Needs Block deficit in order to adhere to its sound and prudent financial management principles. This provision will continue to be held in place until such a time that the overall cumulative High Needs Budget deficit has been fully recovered.

2.3 Nationally, the DfE have allocated an additional £325m to high needs funding in 2022/23 on top of the DSG high need block allocations to provide support for the

costs of the Health & Social Care Levy and wider cost pressures. NYCC will receive an additional funding allocation of £2.63m. The DfE have stated that special schools and alternative provision will not receive allocations from this funding using the national methodology implemented for mainstream schools. Whilst the DfE have provided some national guidance on the use of the additional high needs funding allocations, it appears that individual local authorities will need to consider the deployment of the funding in terms of balancing the additional pressures within settings and addressing the funding shortfall within the High Needs Block. The local authority is currently considering how this funding is to be utilised within North Yorkshire.

3.0 HIGH NEEDS BUDGETS

3.1 The proposed budget for High Needs has been prepared building in provisional estimates for increased numbers of children and young people assessed as requiring Education, Health and Care Plans. This reflects recent trends, known planned movements and best estimates of future demand. The proposed High Needs Budget for 2022-23 is outlined in Table 2 below:

Table 2: High Needs Budget

	2022-23
	£k
High Needs Commissioning	59,557
Alternative Provision	1,678
Inclusion	1,469
Hubs & SEN Provision	2,493
AD - Inclusion	39
Financial Support	54
DSG Overheads	420
Estimated Spending	65,710
Estimated Funding	64,509
Estimated In-year Deficit	1,201
	-
Projected In-year Deficit	1,201
Projected Accumulated Deficit B/f	9,671
Projected Accumulated Deficit C/f	10,872

3.2 In total, anticipated expenditure in 2022/23 amounts to £65.7m with a provisional projected shortfall of £1.2m. This includes provision for additional demand arising from disrupted education during the covid-19 pandemic. It should be noted that c.90% of anticipated spend is within High Needs Commissioning. This principally funds special school commissioned places and top-up funding, mainstream Element 3 top-up funding, independent and non-maintained special school commissioned places and special provision institution (SPI) commissioned places. The figures included in section 3.1 reflect the latest estimates and will be closely monitored throughout the year.

3.3 For financial planning purposes, the 2022-23 High Needs Commissioning budget supports approximately 4,051 FTE children and young people assessed as requiring Education, Health and Care Plans (EHCPs). In reality, the number of children currently supported is in excess of this. The financial planning assumptions indicate that there

will be an increase of approximately 508 children and young people financially supported through EHCPs in 2022-23 in different types of provision. This represents an expected increase in demand of 13% in the next year alone.

- 3.4 The High Needs Commissioning Budget of £59,557k represents the single largest area of spending; most of the financial pressure in the last three years has been in this area. The budget comprises:

Table 3: High Needs Commissioning Budget 2022-23

	£k	%
North Yorkshire Special Schools	21,613	36.3
North Yorkshire Mainstream School E3 Top-up Funding	9,119	15.3
Independent and Non-maintained Special Schools	10,799	18.1
Special Provision Institutions	2,814	4.7
Other Local Authority provision	2,725	4.6
Pooled Budget	2,931	4.9
FE Colleges	2,161	3.6
Personalised Learning Pathways	1,724	2.9
ILP's	644	1.1
Early Years	919	1.6
Targeted Mainstream Provision	1,001	1.7
PRU's	2,881	4.8
Other	225	0.4
Total	59,557	100

- 3.5 51.6% of the High Needs Commissioning is spent directly with schools and academies in North Yorkshire, with nearly two-fifths targeted at supporting the ten special schools in North Yorkshire to develop and deliver provision to meet the needs of children and young people locally. However, £10,799k is spent on approximately 200 places in independent and non-maintained special schools. This represents just over 18% of the High Needs Commissioning Budget and represents an increase in absolute cost and an increase in overall share of the total spend compared with 2021-22. This continues to represent a high per pupil cost to the overall budget.

4.0 SPECIAL SCHOOLS

- 4.1 The Special schools funding formula for 2022-23 was agreed by Executive on 11 January 2022, taking into account the following specific aspects of the budget allocations :-

- The inflationary uplift factors applied to banding allocations (for top-up funding) and Contextual funding;
- The specific operation of the Minimum Funding Guarantee (MFG) in the Special school sector

- 4.2 The position adopted for 2022-23 was informed by a consultation exercise undertaken with the Special school sector between 22 September and 22 October 2021, which specifically considered the setting of the MFG rate for 2022-23. The outcome of the consultation exercise was reported to the November meeting of the Schools Forum, which was supportive of the local authority's proposals to set the MFG at 2% for the sector for the 2022-23 financial year. The consultation outcome, and associated

recommendations, was reported to CYPS Executive Members on 7 December 2021. The proposals were subsequently endorsed by the County Council Executive on 11 January, 2022.

- 4.3 The County Council Executive confirmed approval for Banded Funding allocations to increase in line with an assumed rate of inflation of 2% in the 2022/23 financial year. The banded funding allocation reflects costs incurred beyond the Element 2 funding allocation of £6,000. Due to this figure remaining constant for the eighth year in a row, the allocations for each banding will actually increase by greater than 2% with the highest percentage increases applying to the lower banding allocations. The new rates of funding are detailed below; these rates will apply across all settings in receipt of top-up funding.

	Funding Rates 2021-22	Funding Rates 2022-23 (including 2% inflationary increase)
Band 3	£0	£0
Band 4	£1,430	£1,580
Band 5	£3,500	£3,690
Band 6	£5,190	£5,420
Band 7	£8,090	£8,380
Band 8	£9,720	£10,040
Band 9	£13,610	£14,010
Band 10	£20,000*	£20,000*

**actual allocations dependent on Band 10 panel evaluation

- 4.4 Executive approval was also provided to increase the factor elements within the Special Schools Contextual Funding by the assumed inflationary increase of 2% for the 2022/23 financial year.
- 4.6 Indicative special school funding statements have been prepared and shared with North Yorkshire special schools on the basis of the adoption of the proposals above, alongside accompanying guidance on how the formula allocations have been determined, and incorporating the assessment of the commissioned places for the 2022-23 academic year. Final Special school funding statements will be issued by mid March 2022.

5.0 PUPIL REFERRAL SERVICE

- 5.1 The Pupil Referral Service / Alternative Provision budget for 2022-23 has been constructed on the basis that planned commissioned places at all settings will be at the same level of local authority commissioned places in the 2022-23 academic year as in the 2021-22 academic year (i.e. 158 places). Top-up funding allocations (Element 3 funding) and preventative place funding allocations will be increased in line with the inflationary uplift described in Section 4 above.
- 5.2 The Local Authority has maintained the number of preventative places for the 2022/23 academic year at the same level as in the 2021/22 academic year. Whilst to date for the current academic year the take-up of places has generally been significantly lower than the planned places, the challenges of developing this offer during the Covid pandemic period are acknowledged. However, where numbers remain significantly below the number of planned places through the 2022/23 academic year, there is the

potential that the LA will reduce the number of preventative places commissioned places for future years.

6.0 FURTHER DEVELOPMENT WORK

- 6.1 The overall financial position on the High Needs budget is such that the local authority needs to continue to work to identify potential efficiency improvements and opportunities to support young people more cost effectively, which will compliment the initiatives already in place within the SEN Strategic Plan. The local authority is committed to working collaboratively with school leaders to both identify and research such opportunities, as evidenced in the support for locality boards as a vehicle to explore local solutions to issues forming a barrier to improving outcomes, and through the work of the Schools Forum High Needs Sub-Group.
- 6.2 In 2020-21, the DfE introduced the 'safety valve' intervention programme for those local authorities with the very highest percentage DSG deficits, to support these authorities to address the financial deficits. This support included providing the authorities with additional funding over time to contribute to their historic deficits, contingent on delivery of the reforms. The DfE have expanded the 'safety valve' intervention programme to other local authorities during 2021-22 and it will be extended further in 2022-23, with the programme being reshaped as "Delivering Better Value in SEND Support Programme". The programme continues to target those local authorities with the most substantial DSG deficits, on an iterative basis. North Yorkshire has been identified as one of 55 local authorities to receive intervention through the programme in the 2022/23 financial year. The programme will see North Yorkshire receive support, in the form of project management and change management capacity to develop a three year transformational programme, with the DfE providing grants directly to North Yorkshire to enable the local authority to implement and embed reforms, with ongoing support and challenge by DfE officials.

7.0 CONSULTATION

- 7.1 Consultation was undertaken as part of the Council's budget setting process resulting in the approval of the Budget and MTFS on 16 February 2022. Feedback was given due consideration and informed the recommendations which were approved by Executive on 25 January 2022. Detailed reports and appendices outlining the detailed consultation feedback can be found here:
[Agenda for Executive on Tuesday, 25th January, 2022, 11.00 am | North Yorkshire County Council](#)
- 7.2 Consultation for proposals impacting on the Special School funding formula took place from 22 September 2021 to 22 October 2021. Specific recommendations relating to the Special School MFG were agreed by Executive on 11 January 2022. The report and appendices can be found here:
[Agenda for Executive on Tuesday, 11th January, 2022, 11.00 am | North Yorkshire County Council](#)

8.0 EQUALITIES IMPLICATION

- 8.1 An equality impact assessment form is attached in **Appendix 1**.

8.2 The local authority will continue to meet its statutory obligations in respect of its duties to make arrangements for children with Education, Health and Care Plans.

9.0 RECOMMENDATIONS

9.1 The Corporate Director – Children and Young People’s Service in conjunction with Executive Members is asked to:

- (i) note the contents of this report;
- (ii) note the financial position;
- (iii) to approve the proposed high needs block budget outlined at section 3.1

STUART CARLTON

Corporate Director – Children and Young People’s Service

Report Prepared by Howard Emmett, Assistant Director, Strategic Resources

Background Documents:

- Appendix 1 Equality Impact Assessment Form

Equality impact assessment (EIA) form: evidencing paying due regard to protected characteristics

(Form updated May 2015)

High Needs Block Budget 2022-23

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Name of Directorate and Service Area	North Yorkshire County Council: Central Services
Lead Officer and contact details	Howard Emmett - Assistant Director – Strategic Services
Names and roles of other people involved in carrying out the EIA	Jane Le Sage, Assistant Director – Inclusion Howard Emmett – Assistant Director – Strategic Resources Sally Dunn – Head of Schools, High Needs and Early Years Finance Martin Surtees – Senior Finance – Projects Leanne Stables – Senior Accountant Melissa Hird - Accountant

<p>How will you pay due regard? e.g. working group, individual officer</p>	<p>This work has been overseen by the High Needs Funding Officer Group. Monitoring takes place via the Children and Young People's Leadership Team. The High Needs Funding Subgroup of the Schools Forum and the Schools Forum itself have advisory roles.</p> <p>Changes in budget are informed by anticipated demand pressures and known changes. Proposals have also been informed by a technical consultation with special schools in the County and has had its own EIA, which was separately monitored and reviewed.</p> <p>The decision on the allocation of the High Needs Block Budget has been delegated to the Corporate Director – Children and Young People's Service in consultation with the Corporate Director, Strategic Resources and Executive Members for CYPS on 15th March 2022.</p>
<p>When did the due regard process start?</p>	<p>Work on the High Needs Budget has been ongoing since Autumn 2021.</p>

Section 1. Please describe briefly what this EIA is about. (e.g. are you starting a new service, changing how you do something, stopping doing something?)

Under the Children and Families Act 2014, the Council has a statutory responsibility to support the assessed needs of the children & young people with special education needs & disabilities (SEND). Under the School Standards & Framework Act 1998 and School Early Years Finance England Regulations 2020 the Council has statutory duties to set the non-schools education budget (including the High Needs Budget). This EIA considers the cumulative impact of changes in High Needs Budget informed by the wider budget setting by County Council members on 16th February 2022 where the decision to set the High Needs Budget was delegated to the Corporate Director Children & Young Peoples Service.

Section 2. Why is this being proposed? What are the aims? What does the authority hope to achieve by it? (e.g. to save money, meet increased demand, do things in a better way.)

High Needs Funding provided by central government to local authorities has remained insufficient to meet the increase in the number of children and young people assessed as requiring Education, Health and Care Plans as a result of changes in the Council's statutory duty introduced through the Children and Families Act 2014. This means the Council is now facing difficult decisions on how to ensure sufficient funding is allocated to meet the needs of every child and young person with special educational needs and disabilities (SEND), while at the same time setting a balanced budget.

Following continued unprecedented increases in the number of financially supported Education, Health and Care Plans (EHCPs), financial pressure on SEND and High Needs has continued to increase in 2021-22 with a projected underlying overspend of c.£0.94m and an accumulated deficit of £9.67m as at 31 March 2022. In 2022-23, the financial pressure is expected to continue. Following regulation changes in early 2020, the local authority is effectively prohibited from using core council funding towards costs which should be properly funded from Dedicated Schools Grant. However, the local authority has made provision within the LA budget to mirror any High Needs deficit as part of prudent budget setting arrangements. The High Needs Block Budget reflects the SEND Strategic Plan which aims to improve the service offer for children & young people with SEND.

Section 3. What will change? What will be different for customers and/or staff?

There are currently no new savings plans for the High Needs Block Budget for 2022-23 although reviews or developments consistent with the Strategic Plan for SEND may commence during the year. Where that is the case, any savings proposal will be accompanied by an individual Equalities Impact Assessment and changes reflected in future year budgets.

Section 4. Involvement and consultation (What involvement and consultation has been done regarding the proposal and what are the results? What consultation will be needed and how will it be done?)

This assessment is based on a process of consultation and equality impact assessment built into the Council's overall High Needs Block budget development process. This has included:

- Equality impact assessments (EIAs) for previous specific budget proposals where a potential equality impact has been identified;
- On-going discussions between colleagues, the High Needs Funding subgroup of North Yorkshire Schools Forum, and special school headteachers meetings;
- Additional consideration of cumulative equality and wider community impact of the proposals;
- Responses to public consultation through our website, through public meetings
- Special Schools have been consulted on the special school funding formula.

Section 5. What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?

The proposed High Needs Block Budget results in planned spending of £65.7m which is c.£1.2m in excess of available funding. Local authority provision will be established to mirror this deficit. It is the intention that the high needs deficit will be repaid and any local authority provision can be released back into the council's General Fund in due course.

The Council expects to receive £64.5m million in High Needs Block cash funding to deliver provision for children and young people with SEND and to fulfil our statutory duty under the Children and Families Act 2014.

Section 6. How will this proposal affect people with protected characteristics?	No impact	Make things better	Make things worse	Why will it have this effect? Provide evidence from engagement, consultation and/or service user data or demographic information etc.
Age	✓	✓		<p>Things will improve as follows:</p> <ul style="list-style-type: none"> • A revised continuum of special education provision and a wider AP offer for North Yorkshire for secondary aged pupils will in the longer term mean a strengthened offer with improved early identification and intervention. This should result in a reduction in the numbers of pupils being excluded. • Lower numbers of permanent exclusion and negative impact of such in terms of attainment and life chances • The development of targeted mainstream provision will increase provision for secondary pupils with SEMH and capacity of schools to support children with SEMH • Local approaches and funding will allow for tailored approaches to meet needs for the secondary age group. <p>There may be an impact on secondary schools as provision models are changed and as other aspects of the Strategic Plan are introduced. This will be mitigated by clear communication.</p> <p>There will be further mitigation in that for young people with an EHCP, the LA have a statutory duty to make the provision contained in that plan and for those young people who are permanently excluded it is statutory duty upon the LA to provide education.</p> <p>Age is not a factor in determining needs in the banded approach to top-up funding. The statutory obligations only apply to children aged 0-25. However, age is not a factor in this budget as all children aged 0-25 with SEND will be able to access the funding equally according to assessed need.</p> <p>A further mitigation for age, disability and gender is that for those with an EHCP, the LA have a statutory duty to meet the needs contained within the plan and this over-rides any other considerations, policies or resources</p>
Disability		✓		<p>For children and young people with a disability and special educational needs there will be a strengthened offer of special education provision</p>

	✓			<p>which will increase the number of children and young people educated in North Yorkshire and improve their outcomes.</p> <p>Requests for assessment will be accompanied by clear evidence of need, interventions and provision, making it more clear what provision is required to meet needs. This will ensure that the young person receives exactly the provision they require.</p> <p>A further mitigation for age, disability and gender is that for those with an EHCP, the LA have a statutory duty to meet the needs contained within the plan and this over-rides any other considerations, policies or resources.</p>
Sex (Gender)	✓	✓		<p>A revised continuum of special education provision and a wider AP offer for North Yorkshire for secondary aged pupils of both genders will in the longer term mean a strengthened offer with improved early identification and intervention. This should reduce the numbers of pupils that are excluded.</p> <p>It is anticipated there would be no identifiable impact on gender as a result of setting the High Needs Budget.</p> <p>The SEND population of young people with EHCPs is higher among boys however as the LA have a statutory duty to meet the needs contained within the plan, this over-rides any other considerations, policies or resources</p>
Race	✓			<p>It is anticipated there would be no identifiable impact on specific ethnic groups as a result of setting the High Needs Budget.</p>
Gender reassignment	✓			<p>It is anticipated there would be no identifiable impact in relation to gender reassignment as a result of setting the High Needs Budget.</p>
Sexual orientation	✓			<p>It is anticipated there would be no identifiable impact in relation to sexual orientation as a result of setting the High Needs Budget.</p>
Religion or belief	✓			<p>It is anticipated there would be no identifiable impact on specific religious groups or beliefs as a result of setting the High Needs Budget.</p>
Pregnancy or maternity	✓			<p>It is anticipated there would be no identifiable impact as a result of setting the High Needs Budget.</p>
Marriage or civil partnership	✓			<p>It is anticipated there would be no identifiable impact as a result of setting the High Needs Budget.</p>

Section 7. How will this proposal affect people who...	No impact	Make things better	Make things worse	Why will it have this effect? Provide evidence from engagement, consultation and/or service user data or demographic information etc.
..live in a rural area?	✓	✓		There may be a beneficial impact on those living in rural areas as a greater range of AP is developed. It is anticipated this will increase the range of options and the understanding of what is available in rural areas with a clear package into adulthood within the local rural community
...have a low income?	✓	✓		The proposals should have no or even a positive impact on low income families. Children in AP will be overseen by a central officer who will monitor participation and progress and can intervene if any difficulties arise and are impacting on outcomes. It is anticipated there would be no identifiable impact as a result of setting the High Needs Budget

<p>Section 8. Will the proposal affect anyone more because of a combination of protected characteristics? (e.g. older women or young gay men) State what you think the effect may be and why, providing evidence from engagement, consultation and/or service user data or demographic information etc.</p> <p>It is anticipated the proposed budget will impact more on the following:</p> <p><i>Secondary aged pupils with additional needs especially boys. Boys make up the larger numbers accessing PRS/AP provision at present.</i> These groups are more likely to find change challenging and will need support to make the transition. This will be mitigated by careful planning for any changes, work with ISOS on new models, phased transition to the new models, ongoing engagement with schools, young people and parents/carers and careful review during and following implementation of changes. The overall development of the continuum of need will also provide mitigation. In addition, for young people with an EHCP, the LA have a statutory duty to make the provision contained in that plan and for those young people who are permanently excluded it is statutory duty upon the LA to provide education.</p> <p>Young People with EHC Plans may also benefit from the wider implications of changes to the targeted mainstream provision model and the increase in capacity within the specialist sector.</p> <p><i>Young people with special educational needs and disabilities.</i> These groups are more likely to find change challenging if changes are made to current services they will need support to make the transition. For each child, there is a statutory process of annual reviews, which ensures that their needs are reviewed annually and the provision is reviewed to ensure it meets their special educational needs.</p>
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<p>Section 9. Next steps to address the anticipated impact. Select one of the following options and explain why this has been chosen. (Remember: we have an anticipatory duty to make reasonable adjustments so that disabled people can access services and work for us)</p>	<p>Tick option chosen</p>
<p>1. No adverse impact - no major change needed to the proposal. There is no potential for discrimination or adverse impact identified.</p>	<p>✓</p>

2. Adverse impact - adjust the proposal - The EIA identifies potential problems or missed opportunities. We will change our proposal to reduce or remove these adverse impacts, or we will achieve our aim in another way which will not make things worse for people.	
3. Adverse impact - continue the proposal - The EIA identifies potential problems or missed opportunities. We cannot change our proposal to reduce or remove these adverse impacts, nor can we achieve our aim in another way which will not make things worse for people. (There must be compelling reasons for continuing with proposals which will have the most adverse impacts. Get advice from Legal Services)	
4. Actual or potential unlawful discrimination - stop and remove the proposal – The EIA identifies actual or potential unlawful discrimination. It must be stopped.	
<p>Explanation of why option has been chosen. (Include any advice given by Legal Services.)</p> <p>The Council must set a budget for High Needs within the funding envelope available including the councils resources approved as part of the Budget/ Medium Term Financial Strategy (MTFS) on 16 February 2022. The High Needs Budget proposal enables funding to meet projected demand, alongside provision against any deficit approved as part of the Council's Budget/ MTFS on 16 February 2022. There is a projected shortfall of up to £1.2m and the proposals acknowledge that this represents a savings gap which will require further work to identify remedial budget action. Equalities impact and consultation will be developed alongside any further proposals.</p>	

<p>Section 10. If the proposal is to be implemented how will you find out how it is really affecting people? (How will you monitor and review the changes?)</p> <p>In addition to the regular monitoring and reporting of finances to the Schools Forum, the Strategic SEND Plan sets out a comprehensive countywide North Yorkshire Inclusion Partnership model which will provide a strategic vision across North Yorkshire.</p> <p>We will review performance across North Yorkshire Special Schools through regular discussions with Headteachers and Finance staff from special schools.</p> <p>Whilst this proposal incorporates decisions made by the Executive on 25 January 2022, the proposal is principally about setting the totality of the budget available for High Needs/ SEN. The proposal has been developed with due regard to the funding made available through the High Needs Block of the DSG, the budget provision made available through the Council. Therefore, the budget performance and system-wide performance will be reviewed by the Executive through the Quarterly performance monitoring regime.</p>
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<p>Section 11. Action plan. List any actions you need to take which have been identified in this EIA, including post implementation review to find out how the outcomes have been achieved in practice and what impacts there have actually been on people with protected characteristics.</p>				
Action	Lead	By when	Progress	Monitoring arrangements
1. Review of implementation / impact	Howard Emmett/ Jane Le Sage	March 2023		Quarterly Performance and Finance Monitoring Arrangements

Section 12. Summary Summarise the findings of your EIA, including impacts, recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

Section 13. Sign off section

This full EIA was completed by:

Name: Sally Dunn

Job title: Head of Finance – Schools, Early Years & High Needs

Directorate: Central Services

Signature: Sally Dunn

Completion date: 02/03/2022

Authorised by relevant Assistant Director (signature): Howard Emmett

Date: