

NORTH YORKSHIRE COUNTY COUNCIL

CHILDREN AND YOUNG PEOPLE'S SERVICE

CORPORATE DIRECTOR'S MEETING WITH EXECUTIVE MEMBERS

23 November 2021

LOWERING THE AGE RANGE OF BARROWCLIFF COMMUNITY PRIMARY SCHOOL

1.0 PURPOSE OF THE REPORT

1.1 To provide Executive Members with information upon which to make a decision on proposals published by North Yorkshire County Council to change the age range of Barrowcliff Community Primary School from 3-11 to age 2-11 with effect from 1st January 2022.

2.0 EXECUTIVE SUMMARY

2.1 The Governing Body of Barrowcliff CP School has asked the Local Authority to propose lowering of the age range of their school from 3-11 to 2-11 in order to offer nursery education for two year old children.

2.2 The Governing Body of Barrowcliff CP School consulted with parents and the local community on their proposal from 14 May to 18 June 2021.

2.3 The Executive met on 21 September 2021 and considered the outcome of the governors' consultation. They agreed to publish statutory proposals on 1 October giving 4 weeks until 29 October 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 Eligible two-year-old children are entitled to government-funded Early Years education and care for up to 15 hours per week for 38 weeks per year from the term following their second birthday until the term following their third birthday. The government funded entitlement may be taken in a maintained school nursery and/or in an Ofsted registered private and voluntary sector provision. The funding may be split between more than one provider. It is parental choice as to which type of provision is the most appropriate for their child and which meets their individual circumstances.

4.0 THE PROPOSAL

- 4.1 Barrowcliff School is proposing to provide places for two-year-old children as an extension of the current nursery class provision in the school, by the creation of an additional 'Early Years' class. The Early Years Class would have a qualified Early Years teacher and suitably qualified and experienced teaching assistant(s) 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) with at least one member of staff for every four children who are aged two.
- 4.2 There will be high quality play-based provision for the two-year-old children in the new class which meet the requirements of the Early Years Foundation Stage (EYFS) including role play, sand, water, construction, access to books and reading, mark making and opportunities for outdoor learning. The room will be equipped with suitable furniture, equipment and resources which will support two-year-old children's learning and development. There will be free flow between areas, including outside, offering children a choice of activities and allowing them to engage in learning which is relevant and appropriate to their stage of development. They will be supported by knowledgeable and appropriately trained adults who are in tune with each individual child's needs. The Early Years class will be situated in a suite of rooms adjoining the school office and reception area and the outdoor spaces directly outside the rooms. Children will also have access to the existing Nursery outdoor area.
- 4.3 Barrowcliff School is proposing that the new 'early years' class will provide up to 12 places per morning or afternoon session for two year old children.
- 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.
- 4.5 The School Leadership report that they have had many enquiries over the last few years from parents asking if they have places for 2-year-olds in the current Nursery. Although none of these parents responded to the consultation, since it was published, they have had many conversations with current parents, who have younger children, and they have expressed a keen interest to have their children attend the Nursery

when they are 2 years old. They say they have been very happy with the provision the school offers for 3-year-olds, and they feel that their younger children would benefit from being in the school's Nursery from an earlier age.

- 4.6 From an educational point of view, there has been a significant decline in the number of children reaching age-typical milestones in Barrowcliff's Nursery baseline assessments. This has been across all curriculum areas, but especially within Communication & Language. The school leadership feel that having the children in Nursery from the age of two will enable them to narrow the attainment gap, as the majority of children who attend their Nursery from the age of 3 years make better than typical progress compared to children who do not attend the nursery and this continues into Reception. They believe they will also be able to engage outside agency support sooner for those children with significant additional needs.

5.0 CONSULTATION UNDERTAKEN AND ANALYSIS OF RESPONSES

- 5.1 From 14 May to 18 June 2021 the Governing Body of Barrowcliff Community Primary School consulted the local community on their proposal. The consultation document, which is appended to this report, was sent out to parents, local stakeholders, and other Early Years providers. The consultation document and the responses to the consultation are included in Appendix 3.
- 5.2 The Executive met on 21 September 2021, considered the consultation responses, and resolved to proceed with publication of the statutory proposals.

6.0 STATUTORY PROPOSALS AND NOTICES

- 6.1 The Statutory Notice was published on 1 October 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 surplus of £4.8k in 2021/22. £33.9k is also projected for 2022/23, £17.5k in 2023/24. 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.

7.2 Capital Implications

The school has worked with Local Authority Officers from the Early Years Team and Health and Safety Team to identify a suitable space within their existing buildings. This will be funded from their existing Devolved Capital budget.

7.3 Transport costs

There are no transport costs related to this proposal.

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 In Barrowcliff's last Full Ofsted Inspection in October 2019 the school was judged 'Requires Improvement' overall but 'Good' in Early Years. In their recent 2021 Monitoring Inspection report Ofsted stated that "*Leaders and those responsible for governance are taking effective action in order for the school to become a good school...[and they]...have a clear, strategic plan in place to make the school a good school. Leaders are clear what their priorities are and have precisely planned the actions they will undertake to address these. Throughout this inspection [they] showed a strong understanding of your community. The pastoral support and care you provide for your families are tangible.*"

VIEWS OF INTERESTED PARTIES

10.2 From Friday 14 May to Friday 18 June the Governing Body of Barrowcliff 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. Six responses to the consultation were received (Appendix 3). All six responses supported the proposal. These were made up of four responses from Staff, one from a Parish Council and one from the Headteacher of a neighbouring school.

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 Prescribed Alterations to Maintained Schools' was updated in October 2018¹. 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.

¹ DfE, School Organisation (Making Prescribed Alterations to Maintained Schools) Regulations 2013 and Department for Education statutory guidance for proposers and decision makers, Making Prescribed Alterations to Maintained Schools, October 2018.

13.0 OTHER IMPLICATIONS

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

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 Barrowcliff Community Primary School to age 2-11 with effect from 1st January 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, 21 September 2021.

APPENDIX 1: Statutory Notice

NORTH YORKSHIRE COUNTY COUNCIL

Change of age range at Barrowcliff 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 Barrowcliff Community Primary School, Ash Grove, Scarborough, North Yorkshire, YO12 6NQ by lowering its age range from 3-11 to 2-11 with effect from 1 January 2022.

Barrowcliff Community Primary School is proposing to provide places for 2 year olds by the creation of a Nursery class.

The proposed 2 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, by 5pm on 29 October 2021.

Signed

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

Publication Date:

1 October 2021

APPENDIX 2: Statutory Proposal

Statutory Proposal by North Yorkshire County Council for the Lowering of the School Age Range at Barrowcliff 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:

Barrowcliff Community Primary School, Ash Grove, Scarborough, North Yorkshire, YO12 6NQ

Proposed Implementation date:

1st January 2022

Description of alteration and evidence of demand

To lower the age range of Barrowcliff Community Primary School to provide places for 2 year olds. Governors have been aware for some time that some of their children do not access two year old early years education and have decided that offering this provision at the school would be of benefit to pupils and parents.

The School Leadership report that they have had many enquiries over the last few years from parents asking if they have places for 2-year-olds in the current Nursery. Although none of these parents responded to the consultation, since it was published, they have had many conversations with current parents, who have younger children, and they have expressed a keen interest to have their children attend our Nursery when they are 2 years old. They say they have been very happy with the provision the school offers for 3-year-olds, and they feel that their younger children would benefit from being in the school's Nursery from an earlier age.

Objectives educational standards and parental choice

To provide additional Early Years provision for parents, pupils and the local community. Barrowcliff School is proposing to provide places for two-year-old children as an extension of the current nursery class provision in the school, by the creation of an additional 'Early Years' class. The Early Years Class would have a qualified Early Years teacher and suitably qualified and experienced teaching assistant(s) 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) with at least one member of staff for every four children aged two.

From an educational point of view, there has been a significant decline in the number of children reaching age-typical milestones in Barrowcliff's Nursery baseline assessments. This has been across all curriculum areas, but especially within Communication & Language. The school leadership feel that having the children in Nursery from the age of two will enable them to narrow the attainment gap, as the majority of children who attend their Nursery from the age of 3 years make better than typical progress and this continues into Reception. They believe they will also be able to engage outside agency support sooner for those children with significant additional needs.

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

There will be no effect on surrounding schools and local providers of Early Years education were notified as part of the non-statutory pre-consultation and will again have a chance to comment as part of the statutory representation period.

Project Costs:

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

There are limited capital implications to refurbish an existing teaching space to facilitate this proposal. The school are utilising their devolved formula capital to carry out these works and also considering any opportunities for grant funding.

There are no transport costs related to this proposal.

Implementation:

Following a formal decision to approve the lowering of age range, Barrowcliff Primary School will work to have the new arrangements in place for 1 January 2022.

Procedure for making representations (objections and comments)

Within four weeks from the date of publication of this proposal on 1 October 2021, 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 29 October 2021.

Appendix 3A

Barrowcliff School

PROPOSAL TO CHANGE THE AGE RANGE OF THE SCHOOL AND CREATE EARLY YEARS PROVISION FOR 2 YEAR OLDS

.....

The Governing Body of Barrowcliff School is proposing to make Early Years provision for two-year-old children. We would like to know the views of parents and other interested members of the local community.

Why are the governors making these proposals?

Eligible two-year-old children are entitled to up to 15 hours per week for 38 weeks per year of government-funded Early Years education and care from the term following their second birthday until the term following their third birthday. The government funded entitlement may be taken in a maintained school nursery and/or in an Ofsted registered private and voluntary sector provision. The funding may be split between more than one provider. It is parental choice as to which type of provision is the most appropriate for their child and which meets their individual circumstances.

Barrowcliff School is proposing to provide places for two-year-old children as an extension of the current nursery class provision in the school, by the creation of an additional 'Early Years' class. The Early Years Class would have a qualified Early Years teacher and suitably qualified and experienced teaching assistant(s) 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) with at least one member of staff for every four children.

What will our 'Early Years' provision look like?

There will be high quality play-based provision for the two-year-old children in the new class which meet the requirements of the Early Years Foundation Stage (EYFS) including role play, sand, water, construction, access to books and reading, mark making and opportunities for outdoor learning. The room will be equipped with suitable furniture, equipment and resources which will support two-year-old children's learning and development. There will be free flow between areas, including outside, offering children a choice of activities and allowing them to engage in learning which is relevant and appropriate to their stage of development. They will be supported by knowledgeable and appropriately trained adults who are in tune with each individual child's needs. The Early Years class will be situated in a suite of rooms adjoining the school office and reception area and the outdoor spaces directly outside the rooms. Children will also have access to the existing Nursery outdoor area.

Why is this consultation taking place?

Currently the youngest children that the school can admit are in the nursery class. In order to take younger children into the proposed new 'Early Years class', legal processes must be followed to formally lower the age range for the school from 3-11 year olds to 2-11 year olds. The first step in this process is that local people must be asked for their views. A formal statutory process will then be followed.

We are proposing to offer morning, afternoon or full day sessions for 2-year-olds. The option of a school lunch will be available for those staying a full day. We would be interested to know if provision for before and after school hours care was something parents/carers may require.

How many places will be offered?

The proposed new 'early years' class will provide up to 12 places per morning or afternoon session.

Which children would be eligible for a place?

Priority for admission to the early years class will be determined by the admission policy of North Yorkshire County Council. For more information please visit:

<https://www.northyorks.gov.uk/school-admissions>

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 class affect other providers?

The new Early Years class would take children aged between two and three years old. Local Early Years providers are being consulted and will have the opportunity to make their views on this proposal known.

What will happen next?

This is the first step of the consultation. All views and comments on this consultation will be considered by the Governing Body before a decision is made to proceed with statutory process.

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

It is proposed that the first two-year-old children will be able to join the Early Years class in January 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 or send as an email attachment to schoolorganisation@northyorks.gov.uk.

Comments should be returned by 18th June 2021

If you have any further queries, these should be addressed to Mark Rogers (Headteacher).

APPENDIX 2: Consultation Responses

	Do you consider it desirable that the age range of the school is changed from 3-11 to 2-11 and a new Early Years class is set up at the school?	Comment	Interest
1	Yes	Newby and Scalby Parish Council support the proposal by the Governors of Barrowcliff School to change the age range and create a new early years class.	Newby and Scalby Parish Council
2	Yes	The recent decision to offer additional sessions in nursery on top of the funded hours has been an excellent help to lots of families – I have seen an immediate positive response and have heard many positive comments. The further expansion to accommodate 2 year olds will be so useful to so many more potential starters and I would have loved the provision when my daughter was younger. I have myself had to disappoint parents hoping their child was able to start before age 3 so I believe the demand is there.	Barrowcliff Primary School Member of Staff
3	Yes	Potential to increase numbers on roll in main school. Opportunity to positively impact on financial sustainability of nursery and the creation of jobs. Parental engagement opportunities.	Barrowcliff Primary School Member of Staff
4	Yes	I feel that having provision for 2-year-olds will: <ul style="list-style-type: none"> • Increase the school roll & therefore have a positive impact on school finance • Provide excellent education for children from 2 years & a smooth transition into Nursery & beyond • Provide support to families sooner than we can presently 	Barrowcliff Primary School Member of Staff
5	Yes		Headteacher of Neighbouring School
6	Yes	This should benefit the school in the long term bringing more reception children to start each year, after building a good teacher/ pupil/ parent relationship.	Barrowcliff Primary School Member of Staff



Department
for Education

Opening and closing maintained schools

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

November 2019

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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 carrying out duties relating to establishing (opening) a new maintained school and / or the discontinuance (closing) of an existing maintained school.

The purpose of this guidance is to ensure that good quality school places are provided where they are needed, and that surplus capacity is removed where necessary. It should be read in conjunction with Part 2 and Schedule 2 of the Education and Inspections Act (EIA) 2006 as amended by the Education Act (EA) 2011 and *The School Organisation (Establishment and Discontinuance of Schools) Regulations 2013*.

Review date

This guidance will be reviewed in September 2020.

Who is this guidance for?

This guidance is relevant to all categories of maintained school, unless explicitly stated otherwise, and is for those proposing to open and / or close a school (e.g. governing bodies, dioceses, and local authorities (LAs)), decision-makers (LAs, the [Schools Adjudicator](#) and governing bodies), and for those affected by a proposal (e.g. dioceses, trustees, parents etc.).

Proposers and decision-makers must have regard to this guidance when making proposals or decisions related to Schedule 2 of [EIA 2006](#) (as amended by [EA 2011](#)) and the [Establishment and Discontinuance Regulations](#).

Separate advice is available on making [prescribed alterations to maintained schools](#) and [significant changes to academies and academy closure by mutual agreement](#).

It is the responsibility of LAs, proposers and school governing bodies to ensure that they act in accordance with the relevant legislation and have regard to statutory guidance when seeking to make changes to or to open or close a maintained school and they are advised to seek independent legal advice where appropriate. Similarly when making decisions on such proposals, LAs and

Schools Adjudicator must act in accordance with the law and must have regard to statutory guidance.

Main points

- Where a LA identifies the need for a new school, specifically to meet increased basic need in their area, section 6A of EIA 2006 places them under a duty to seek proposals to establish an academy (free school) via the '[free school presumption](#)' process. The LA is responsible for providing the site for the new school and meeting all associated capital and pre-/post-opening revenue costs.
- The final decision on all new free school presumption proposals lies with the [Regional Schools Commissioner](#) (RSC) on behalf of the Secretary of State.
- In November 2018, the department launched a capital scheme for proposers to apply to the department for capital funding to support the creation of new voluntary aided (VA) schools under section 11 of the EIA 2006. More information can found [here](#).
- Proposers wishing to establish a new school may also wish to consider [opening a free school](#).
- It is possible for any person ('proposer'), in certain circumstances, to publish a proposal for a new maintained school outside of the competitions processes under section 11 of EIA 2006. It is also possible to apply to the Secretary of State for consent to publish proposals to establish a new maintained school under section 10 of EIA 2006.
- All decisions on proposals to open or close a maintained school must be made with regard to the factors outlined in this guidance and follow the relevant [statutory process](#).
- Both the consultation period and the representation period should be carried out in term time to allow the maximum numbers of people to see and respond to what is proposed.
- The decision-maker will need to be satisfied that the consultation and representation period were appropriate, fair and open, and that the proposer has given full consideration to all the responses.
- Proposers should be aware of the guidance for decision makers set out in part 5 of this guidance and ensure that their proposals address the considerations that the decision-maker must take into account. The decision-maker must consider the expressed views of all those affected

by a proposal or who have an interest in it, including cross-LA border interests. The decision-maker should not simply take account of the number of people expressing a particular view. Instead, they should give the greatest weight to responses from those stakeholders likely to be most directly affected by a proposal – especially parents¹ of children at the affected school(s).

- In determining proposals decision-makers must ensure that the guidance on [schools causing concern](#) (intervening in failing, underperforming and coasting schools) has been considered where necessary.
- Within one week of the date of their publication the documents below **MUST** be sent to the Secretary of State (via schoolorganisation.notifications@education.gov.uk):
 - a copy of the statutory proposal
 - a copy of the statutory notice
 - a copy of the decision record on the proposal.
- The School Organisation Team will make the necessary updates to the [Get Information About Schools](#) (GIAS) system

¹ A 'parent' should be considered to be anyone who has parental responsibility, including parents, carers and legal guardians.

2: Proposing a new school

This section sets out how to propose the establishment of a new school. Proposer groups may also wish to consider [establishing a free school](#).

Type of Proposal	Proposer	Decision-Maker	Right of appeal to the Adjudicator?
Free School Presumption	Other proposers (academy trusts/sponsors)	RSC (on behalf of the Secretary of State)	No
Section 7 (Stage 1) Any free school proposals will be considered first. If a proposal is received and considered suitable the competition ends and the the free school proposal is taken forward.	Other proposers	RSC (on behalf of the Secretary of State)	No
Section 7 (Stage 2) Where no suitable free school bid is received, proposals submitted for a new foundation, foundation special or voluntary school will be considered.	Other proposers	LA ² (Schools Adjudicator where the LA is involved in the Trust of a proposed foundation school)	No

² Where the LA does not make a decision within the prescribed two month period, they must refer the proposal to the Schools Adjudicator.

Type of Proposal	Proposer	Decision-Maker	Right of appeal to the Adjudicator?
Section 11	Other proposers	LA ³	<p>The Diocesan Board of Education of any CofE diocese in the relevant area.</p> <p>The bishop of any Roman Catholic church in the relevant area.</p> <p>Proposers (if the LA is the decision maker)</p>
Section 10	LA	Schools Adjudicator	No.
Section 10	All other proposers	LA (Schools Adjudicator where the LA is involved in the Trust of a foundation school)	<p>Where the LA is the decision maker⁴;</p> <p>Proposers</p> <p>The Diocesan Board of Education of any CofE diocese in the relevant area.</p> <p>The bishop of any Roman Catholic church in the relevant area.</p>

Related proposals

A proposal should be regarded as ‘related’ if its implementation (or non-implementation) would prevent or undermine the effective implementation of another proposal. Proposers should ensure that this information is set out clearly within their proposal.

³ Where the LA does not make a decision within the prescribed two-month period, they must refer the proposal to the Schools Adjudicator.

⁴ Where the Schools Adjudicator is the decision-maker, there is no right of appeal.

The free school presumption

Where a LA identifies the need for a new school to meet basic need for additional school places, section 6A of EIA 2006 places the LA under a duty to seek proposals to establish an academy (free school) via the [‘free school presumption’](#).

The LA is responsible for providing the site for the new school and meeting all associated capital and pre-/post-opening revenue costs. All new free school presumption proposals require the RSC’s approval (on behalf of the Secretary of State) as it is the Secretary of State who will enter into a funding agreement with the academy trust/sponsor.

LAs planning a presumption project to establish a primary school should include nursery provision in the specification, unless there is a demonstrable reason not to do so.

In considering the need for a new school, the LA should take account of any proposals they are aware of that will meet that need. If a LA has received a proposal for a new LA maintained school, and subsequently identifies the need for a new school, then the LA can decide the maintained school proposal⁵ before deciding whether it is necessary to seek proposals via the free school presumption.

School competitions

If the free school presumption competition does not yield a suitable proposal, then a statutory competition can be held under section 7 of the EIA 2006. This will not require a separate application for the Secretary of State’s approval, because the Secretary of State will inform the LA that approval to hold a section 7 competition is given at the same time as informing the LA that no suitable free school proposal was identified.

Where a LA holds a section 7 competition, the LA must follow the statutory process set out in Schedule 2 to EIA 2006 and the [Establishment and Discontinuance Regulations](#).

The LA must publish a specification for the new school. The specification is only the minimum requirement and proposals may go beyond this. Proposers may submit proposals for a free school, foundation, foundation special or voluntary school into the competition. Where a free school proposal is received, the RSC

⁵ Where the LA does not make a decision within the prescribed two month period, they must refer the proposal to the Schools Adjudicator.

(on behalf of the Secretary of State) will consider any free school proposals first when making a decision on the case.

The LA is expected to provide premises and meet the capital costs of implementing the winning proposal and must include a statement to this effect in the notice inviting proposals. Proposers should set out the estimated premises requirements and/or capital costs of a proposal submitted in response to a competition and, where these exceed the initial cost estimate made by the LA, the proposer should set out the reasons for the additional requirements and/or costs.

Proposing a maintained school outside competitive arrangements

It is possible to publish proposals for a new maintained school outside of the competitive arrangements at any time. Sections 10 and 11 of the EIA 2006 permit proposals to establish new schools under certain conditions either with the Secretary of State's consent (section 10 cases) or without (section 11 cases).

In all cases, proposers must follow the required statutory process as set out in part 4 of this guidance.

Section 11 proposals

Any persons ('proposer'), e.g. a diocese or charitable trust, may publish a proposal, at any time, for a new school outside the free school presumption and competitions process under section 11 of the EIA 2006.

The Secretary of State's consent is not required in the case of proposals for:

- a new community or foundation primary school to replace a maintained infant and a maintained junior school;
- a new voluntary aided school (e.g. in order to meet demand for a specific type of place such as demand from those of a particular faith);
- a new foundation or voluntary controlled school resulting from the reorganisation of existing faith schools in an area, including an existing faith school losing or changing its religious designation;
- a new foundation or community school, where a section 7 competition has been held but did not identify a suitable provider;
- a former independent school wishing to join the maintained sector; and
- a new maintained nursery school.

The statutory process described in [part 4](#) must be followed to establish the new school.

In November 2018, the department launched a capital scheme to support the delivery of new voluntary aided schools. Further information about the scheme is available [here](#).

Section 10 proposals

It is also possible to apply to the Secretary of State for 'consent to publish' proposals to establish a new school under section 10 of EIA 2006:

- for a community or foundation school to replace an existing maintained school; or
- for a brand new foundation or voluntary controlled school.

Proposers wishing to apply for consent should email schoolorganisation.notifications@education.gov.uk and request an application form. Each request for consent will be considered on its merits and the particular circumstances of the case.

Proposers should wait to receive confirmation of consent before following the statutory process in [part 4](#) to establish the new school.

The Schools Adjudicator will decide LA proposals (as well as proposals where the LA are involved in the trust of a proposed foundation school or fails to determine the proposals within the specified time). The LA will decide proposals from other proposers⁶.

Factors to consider when proposing a new school

Proposers should consider the following factors when making proposals to establish a new school.

Demand vs Need

For parental choice to work effectively, there may be some surplus capacity in the system as a whole. Competition from additional schools and places in the system will lead to pressure on existing schools to improve standards. However, excessive surplus capacity should be managed appropriately. Proposers may wish to discuss their plans with their LA to understand levels of need for their proposed school.

Proposers should also demonstrate parental demand for the new school places and the type of provision being proposed, the quality and diversity of provision available in the local area, and the impact of the new places on existing educational provision in the local area.

⁶ Where the LA does not make a decision within the prescribed two month period, they must refer the proposal to the Schools Adjudicator.

Proposed admission arrangements

Proposers should set out their intentions for the admission arrangements of the proposed school, including, where the proposal is for a voluntary or foundation school, whether the school will have a religious character and apply faith-based admissions criteria.

Proposers should ensure that they consider all expected admission applications when considering demand for the school, including those from outside the LA area in which the school is situated.

National Curriculum

All maintained schools must follow the National Curriculum unless they have secured an exemption for groups of pupils or the school community⁷.

Integration and 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.

Proposer should have regard to the [Integrated Communities Action Plan](#) as well as any local integration and community cohesion strategies.

When making a proposal, the proposers should take account of the community to be served by the school and set out how:

- The school will be welcoming to pupils of all faiths and none; and show how the school will address the needs of all pupils and parents.
- How the school will provide a broad and balanced curriculum and prepare children for life in modern Britain including through the teaching of spiritual, moral, social and cultural (SMSC) education.
- How the school will promote fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs or none.
- How the school will encourage pupils from different communities, faiths and backgrounds to work together, learn about each other's customs, beliefs and ideas and respect each other's views.

⁷ Under sections 90, 91, 92 and 93 of the Education Act 2002.

Travel and accessibility

Proposers should be satisfied that accessibility planning has been properly taken into account and that the proposal will not adversely impact disadvantaged groups.

LAs have a duty to promote the use of suitable travel and transport to school.

Proposals should include a statement that the proposals are not expected to increase journey times, increase transport costs or result in children being prevented from travelling sustainably due to unsuitable walking or cycling routes.

Funding

Proposers must include a statement setting out that any land, premises or necessary funding required to implement the proposal will be available and that all relevant local parties (e.g. trustees or religious authority) have given their agreement to the funding arrangements.

Proposers relying on the department as a source of capital funding should not assume that approval of the 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.

School premises and playing fields

Under the School Premises (England) Regulations 2012 all maintained schools 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.

Under the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013, where proposals for a new VA school provide for the provision of playing fields, the duty to implement that part of the proposal (i.e. to provide the playing field) rests with the LA.

For Foundation, Foundation Special, and Voluntary Controlled schools, the duty to implement any proposals falls to either the governing body, or LA, as the proposal respectively provides for them to do so (i.e. the proposal for the new school will specify who will be providing the playing fields, which they then have a duty to actually provide).

[Non-statutory guidelines](#) setting out suggested areas for pitches and games courts are in place. Where the proposals for a new foundation or voluntary school are approved, the LA must transfer any interest it has in the premises to either the trustees of the school or, where the school has no trustees, the school's foundation body to be held by that body for the relevant purposes. The LALAMust pay to relevant persons any reasonable costs incurred in connection with the transfer.

If any doubt or dispute arises as to the persons to whom that transfer it to be made, it must be made to such persons as the Schools Adjudicator thinks proper.

3: Proposing to close (discontinue) a maintained school

This section sets out information for LAs and governing bodies wishing to propose the closure of a maintained school.

Under Section 15 of the EIA 2006, a LA can propose the closure of ALL categories of maintained school. The statutory process is set out in [part 4](#). The governing body of a voluntary, foundation or foundation special school may also publish proposals to close its own school following the statutory process. Alternatively, it may give [at least two years' notice of its intention to close](#) the school to the Secretary of State and the LA.

The table below sets out a summary of the process for closing a maintained school⁸:

Proposer	Type of proposal	Decision-maker	Right of appeal to the Adjudicator? ⁹
LA	Following a statutory process to close a community, community special or maintained nursery school	LA	The Diocesan Board of Education of any CofE diocese in the relevant area. The bishop of any Roman Catholic church in the relevant area.

⁸ Proposers should be aware that in ALL cases where the LA does not make a decision within the prescribed two month period, they must refer the proposal to the Schools Adjudicator.

⁹ Where the Schools Adjudicator is the decision maker, there is no right of appeal.

Proposer	Type of proposal	Decision-maker	Right of appeal to the Adjudicator? ⁹
LA	Following a statutory process to close a foundation, foundation special or voluntary (VC or VA) school	LA	<p>The Diocesan Board of Education of any CofE diocese in the relevant area.</p> <p>The bishop of any Roman Catholic church in the relevant area.</p> <p>The governing body or any foundation of the foundation or voluntary school specified in the proposals.</p>
Governing Body	Following a statutory process to close a voluntary (VC or VA), foundation or foundation special school	LA	<p>The Diocesan Board of Education of any CofE diocese in the relevant area.</p> <p>The bishop of any Roman Catholic church in the relevant area.</p> <p>The governing body or any foundation of the foundation or voluntary school specified in the proposals.</p>

Reasons for closing a school

Reasons for closing a maintained school include, but are not limited to, where:

- There are surplus places elsewhere in the local area which can accommodate displaced pupils and there is no predicted demand for the school in the medium to long term;
- It is to be [merged or amalgamated with another school](#);
- It has been judged inadequate by Ofsted and there is no sponsored academy solution;
- It is to [acquire, lose or change its religious character](#);
- It is no longer considered viable; or
- It is being replaced by a new school.

Schools causing concern

In determining proposals, decision-makers must ensure that the guidance on [schools causing concern](#) (intervening in failing or underperforming schools) has been considered where necessary.

Related proposals

Where proposals are related, this should be made clear in consultation and representation periods, in published notices, and proposals. All notices should be published together / or as one notice (e.g. where one school is to be enlarged because another is being closed, a single notice could be published) and specified as 'related'.

Related proposals must also be considered together and, where possible, decisions should be made at the same time.

The presumption against the closure of rural schools

Proposers should be aware that the Department expects all decision-makers to adopt a presumption against the closure of rural schools. This doesn't mean that a rural school will never close, but that the case for closure should be strong and clearly in the best interests of educational provision in the area.

The presumption doesn't apply where a rural infant and junior school on the same site are being closed to establish a new primary school.

Proposers should set out whether the school is referred to in the [Designation of Rural Primary Schools \(England\) Order](#) or, where it is a secondary school, whether the school is identified as rural on the [Get Information about Schools](#) database.

Proposers should provide evidence to show they have carefully considered:

- alternatives to closure including: federation with another local school; conversion to academy status and joining a multi-academy trust; the

scope for an extended school to provide local community services and facilities e.g. child care facilities, family and adult learning, healthcare, community internet access etc;

- transport implications i.e. the availability, and likely cost of transport to other schools and sustainability issues;
- the size of the school and whether it puts the children at an educational disadvantage e.g. in terms of breadth of curriculum or resources available;
- the overall and long term impact on the local community of the closure of the village school and of the loss of the building as a community facility; and
- wider school organisation and capacity of good schools in the area to accommodate displaced pupils.

The presumption against the closure of maintained nursery schools

Proposers should be aware that decision-makers are expected to adopt a presumption against the closure of maintained nursery schools. This does not mean that a maintained nursery school will never close, but that the case for closure should be strong.

Where a proposal is for the closure of a maintained nursery school, the proposer should set out:

- plans to develop alternative early years provision clearly demonstrating that it will be at least equal in quantity and quality to the provision provided by the nursery school with no loss of expertise and specialism; and
- replacement provision is more accessible and more convenient for local parents.

Amalgamations

There are two ways to amalgamate two (or more) existing maintained schools:

- The LA or governing body (depending on school category) can publish a proposal to close two, or more, schools and the LA, or a proposer other than the LA (e.g. diocese, faith or parent group, trust), can publish a proposal to open a new school, depending on category. Where this is a presumption school, this will be subject to publication of a section 6A notice (see [part 2](#)). This will result in a new school number being issued.

- The LA and / or governing body (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.

Existing schools wishing to acquire, change or lose a religious character

It is not possible for an existing maintained school to change its religious character. Instead, the LA or governing body must publish a proposal to close the existing school and a proposer, normally a faith organisation, must issue a 'related' proposal to establish a new voluntary or foundation school with a religious character. This can be done by either gaining the Secretary of State's consent under section 10 or as a special case under section 11 of EIA 2006.

In **ALL** cases, before the religious designation flexibilities can be utilised, the proposer will need to [apply separately, to the Secretary of State, for the new school to be designated with a religious character](#). This would normally be done once the proposal for the new school has been approved.

Schools designated with a religious character that close will automatically have the designation revoked. This means that where two or more schools have amalgamated and the intention is that the successor school will have a religious designation, the new school will have to apply for that designation. Upon gaining a religious designation, a school cannot immediately change its admissions policy to include faith-based criteria. It will need to have consulted on, and determined, its admission arrangements in accordance with the [School Admissions Code](#).

Two years notice of closure – voluntary and foundation schools

In addition to the statutory process for closure in [part 4](#), the governing body of a voluntary or foundation school may, subject to specified provisions¹⁰, give the Secretary of State and the LA at least two years' notice of their intention to close the school.

The trustees of a foundation or voluntary school must give their governing body at least two years' notice if they intend to terminate the school's occupation of its

¹⁰ As outlined in section 30 of the SSFA 1998, and including those in the DBE Measure 1991.

site. The minimum two years' notice allows the LA and / or governing body time to make alternative arrangements for pupils.

Closure of a community or foundation special school in the interests of pupils

The Secretary of State may direct¹¹ a LA to close a community special or foundation special school if he considers it is in the interests of the health, safety or welfare of the pupils. Prior to making the direction, the Secretary of State must consult: the LA, any other LA who would be affected by the closure of the school; the person(s) who appoints the foundation governors (for a foundation special school with a foundation); and any other person(s) the Secretary of State considers appropriate.

The Secretary of State must give notice of the direction in writing to both the governing body and the head teacher of the school. The school must be closed on the date specified by the Secretary of State.

Temporary school closures

A proposal to close a school is not required where a school will temporarily cease to operate due to a rebuild. Where a school operating over multiple sites proposes to cease operations on one (or more) of its sites, the proposal will be for a [prescribed alteration](#), and not a school closure.

¹¹ Section 17 of EIA 2006

4: The statutory process

This section sets out the stages of the statutory process. The statutory process below must be followed for opening¹² and closing¹³ a maintained school.

Stage one: consultation

It is a statutory requirement to consult any parties the proposer thinks is appropriate before publishing proposals under section 10 or 11 for new schools and for section 15 proposals to close a maintained school.

The proposer may use the consultation to consider a range of options for the future of a school (e.g. amalgamation, federation or closure). However, the proposer must then publish specific proposals (see stage two of the statutory process below). It is these specific proposals setting out details of the new school or the school to be closed which can be commented on or objected to during the statutory representation period.

It is for the proposer to determine the nature and length of the consultation. It is best practice for consultations to be carried out in term time to allow the maximum number of people to respond. Proposers should have regard to the Cabinet Office guidance on [Consultation principles](#) when deciding how to carry out the consultation period.

In the case of the closure of rural primary schools and special schools, the Act sets out some particular groups who must be consulted. This is set out in Annex A.

Stage two: publication

A statutory proposal should be published within 12 months of the initial consultation period being completed. This is so that it can be informed by up-to-date feedback. A proposal **MUST** contain the information specified in either Schedule 1¹⁴ for establishing a new school or Schedule 2 for closing a school of the Establishment and Discontinuance Regulations. Annex B summarises the information required for closure proposals and Annex C summarises the information required for establishing a new school under the section 10 or 11 processes.

¹² Under sections 10 and 11 of EIA 2006

¹³ Under section 15 of EIA 2006

¹⁴ Of the School Organisation (Establishment and Discontinuance) (England) Regulations 2013.

The proposer must publish the full proposal on a 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 containing the website address of the full proposal must be published in a local newspaper and may also be published in a conspicuous place on the school premises (where any exist), such as at all of the entrances to the school.

In all cases, 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 above to:

- the Secretary of State
(schoolorganisation.notifications@education.gov.uk);
- Where the proposal is to close a special school, the parents of every registered pupil at the school;
- The Diocesan Board of Education of any Church of England diocese in the relevant area;
- the bishop of any diocese of the Roman Catholic Church any part of which is comprised in the area of the relevant authority; and
- any other body or person that the proposer thinks is appropriate (e.g. any relevant religious authority).
- Where the proposal is for a new school under section 10 or 11 of the EIA 2006 and the LA is not the proposer, the LA which it is proposed would maintain the school.
- Where the proposal is for the closure of a maintained school, the governing body or the LA responsible for maintaining the school (as appropriate)

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

Stage three: representation

Except where a proposal is for the closure of a rural primary school or a special school, where there are prescribed consultees (see [Annex A](#)), proposers of a school closure should consult organisations, groups and individuals they feel to be appropriate during the representation period (the information at Annex A can be used for examples).

The representation period starts on the date of publication of the statutory proposal and **MUST** last for four weeks. 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 LAs to forward representations to the proposer (subject to any issues of data protection or confidentiality) to ensure that they are aware of local opinion.

The decision-maker will need to be satisfied that the proposer has had regard for the statutory process and must consider **ALL** the views submitted during the representation period, including all support for, objections to, and comments on the proposal.

Stage four: decision

The LA will be the decision-maker on a school closure proposal, unless the closure proposal is 'related' to another proposal that is to be decided by the [Schools Adjudicator](#).

The Schools Adjudicator will decide proposals for new schools made by the LA (and cases where the LA is involved in the trust of a proposed foundation school). The LA will decide proposals for new schools from other proposers.

The Schools Adjudicator will also be the decision-maker in any case where the LA does not make a decision within a period of two months of the end of the representation period. Where this happens, the LA must, within a week of the end of that two-month period, refer the case to the Schools Adjudicator.

The decision-maker must have regard to the statutory decision makers guidance contained in this document.

When issuing a decision, the decision-maker can:

- reject the proposal;
- approve the proposal without modification;
- approve the proposal with such modifications as they think desirable, after consulting the LA and/or proposer (as appropriate); or

- approve the proposal – with or without modification – subject to certain conditions¹⁵ (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 revoking a proposal prior to a decision being made, the proposer must send written notice to the LA and the [Schools Adjudicator](#) (where applicable). A notice must also be placed on the website where the original proposals were published.

Where the LA is the decision-maker, within one week of making a determination they **MUST** publish their decision and the reasons for that decision being made on their website. They **MUST** arrange for notification of the decision and reasons for it to be sent to:

- The Secretary of State (via schoolorganisation.notifications@education.gov.uk)
- the governing body/proposers (as appropriate);
- the Schools Adjudicator;
- The Diocesan Board of Education of any Church of England diocese in the relevant area;
- the bishop of any diocese of the Roman Catholic Church any part of which is comprised in the area of the relevant authority; and
- for a special school, the parents of every registered pupil at the school;
- any other body considered appropriate (e.g. other relevant religious authority); and
- the trustees of the school (where relevant e.g. site trustees).

Where the Schools Adjudicator is the decision-maker, where possible they should send notification of the decision and reasons for it, within one week of making a determination to the LA and the Secretary of State (via schoolorganisation.notifications@education.gov.uk) to ensure the appropriate records can be updated and to allow for any actions required as a consequence of the decision to be completed (e.g. an admissions preference exercise following approval to close a school).

Rights to refer LA decisions to the Schools Adjudicator

For rights to refer a decision taken by the LA on establishment proposals to the Schools Adjudicator, see table on page 6. For rights to refer a decision taken by the LA on closure proposals to the Schools Adjudicator, see table on page 15.

¹⁵ As specified in regulation 16 of the Establishment and Discontinuance Regulations

Within one week of receipt of a request for a referral, a LA decision-maker must send the proposal, representations received and the minutes and papers from the meeting at which it considered the proposals to the [Schools Adjudicator](#).

There is no right of appeal against determinations made by the Schools Adjudicator. Adjudicator decisions can be challenged only by judicial review in the courts.

Stage five: implementation

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

The proposer must implement a proposal in the form approved, including any modifications made by the decision-maker.

The school organisation team will make the necessary changes to the school(s) GIAS record(s).

For proposals to establish a new school, the proposer should contact the school organisation team (via schoolorganisation.notifications@education.gov.uk) one month before the proposed opening date to confirm that the new school will be opening on time. It is at this point that a GIAS record will be created and your school will be assigned a URN.

Modification post determination

If it becomes necessary, due either to a major change in circumstance or it being unreasonably difficult to implement a proposal as approved, the proposer can propose modifications (e.g. to amend the implementation date) to 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 approved.

The LA or the Schools Adjudicator (where the original proposals were decided by the Schools Adjudicator) will be the decision maker for any proposals for modifications post determination.

Revocation

If the proposer does not wish to implement an approved proposal because doing so would be unreasonably difficult or circumstances have changed (so that implementation would be inappropriate) the proposer must publish a revocation

proposal, in order to be relieved of the duty to implement. A revocation proposal must contain:

- a description of the original proposal as published;
- the date of the publication of the original proposal; and
- a statement as to why the duty to implement the original proposal should not apply.

The proposer must publish the revocation proposal on a website and a brief notice of the proposal in a local newspaper. Details of what must be included in this notice are the same as in the [publication section](#).

Within one week of publication, the proposer must send copies of the proposal to:

- The Secretary of State (via schoolorganisation.notifications@education.gov.uk)
- Any other body or person that the proposer think appropriate.

Proposers must send the revocation proposal to the LA within one week of the date of publication on the website. Where the original proposal was decided by the [Schools Adjudicator](#), the LA must refer the revocation proposal together with any comments or objections within two weeks of the end of the representation period to the Schools Adjudicator.

5: Guidance for decision-makers

This section sets out the considerations that should be made by the LA or Schools Adjudicator when deciding proposals to establish or discontinue (close) a school. The decision-maker must have regard to the statutory guidance contained in this document. Proposers will wish to ensure that their proposals contain the information that the decision-maker will need in order to decide the proposal taking account of this section of the guidance.

The LA will be the decision-maker on a school closure proposal, unless the closure proposal is 'related' to another proposal that is to be decided by the [Schools Adjudicator](#).

The Schools Adjudicator will be the decision-maker for LA proposals to establish a new school (and cases where the LA is involved in the trust of a proposed foundation school). The LA is the decision-maker for any proposals for a new school from other proposers.

The Schools Adjudicator will be the decision-maker in any case where the LA does not make a decision within a period of two months from the end of the representation period. Where this happens, the LA must, within a week of the end of that two month period, refer the case to the Schools Adjudicator.

In all cases, the decision-maker should be satisfied that the proposer has carried out the statutory process satisfactorily and should have due regard to all responses received during the representation period.

Issuing a decision

When issuing a decision, the decision-maker can:

- reject the proposal;
- approve the proposal without modification;
- approve the proposal with such modifications as they think desirable, after consulting the LA and/or proposer (as appropriate);
or
- approve the proposal – with or without modification – subject to certain conditions¹⁶ (such as the granting of planning permission) being met.

Such decisions **must** be taken within two months of the end of the representation period, it is **not** possible for a LA to defer the decision beyond the two-month period.

¹⁶ As specified in regulation 16 of the Establishment and Discontinuance Regulations

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 and 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. It is good practice to notify any other interested parties that the proposal has been withdrawn.

Where the LA is the decision-maker, within one week of making a determination they **must** publish their decision and the reasons for such a decision being made on their website. They **must** arrange for notification of the decision and reasons for it to be sent to:

- The Secretary of State (via schoolorganisation.notifications@education.gov.uk)
- the governing body/proposers (as appropriate);
- the Schools Adjudicator;
- The Diocesan Board of Education of any Church of England diocese in the relevant area;
- the bishop of any diocese of the Roman Catholic Church any part of which is comprised in the area of the relevant authority; and
- for a special school, the parents of every registered pupil at the school;
- any other body considered appropriate (e.g. other relevant religious authority); and
- The trustees of the school (where relevant e.g. site trustees).
- Where the Schools Adjudicator is the decision-maker, where possible they should send notification of the decision and reasons for it, within one week of making a determination to the LA and the Secretary of State (via schoolorganisation.notifications@education.gov.uk) to ensure the appropriate records can be updated and to allow for any actions required as a consequence of the decision to be completed (e.g. an admissions preference exercise following approval to close a school).

Factors to consider when determining proposals

Demand and need

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

- the evidence presented for any projected increase in pupil population (such as planned housing developments) and any new provision opening in the area (including free schools), in relation to the number of places to be provided.
- the quality and diversity of schools in the relevant area and whether the proposal will meet or affect the needs of parents; raise local standards and narrow attainment gaps.
- the popularity of other schools in the area and evidence of parental demand for a new school. Whilst the existence of surplus capacity in neighbouring schools should not in itself prevent the creation of new places, they should consider the impact of the new places on existing good educational provision in the local area.

When determining proposals to discontinue (close) provision, the decision-maker should be satisfied that there are sufficient surplus places elsewhere in the local area to accommodate displaced pupils, and the likely supply and future demand for places in the medium and long term.

The decision-maker should take into account the overall quality of alternative places in the local area, balanced with the need to reduce excessive surplus capacity in the system. The decision-maker should have regard for the local context in which the proposals are being made, taking into account the nature of the area, the age of the children involved and, where applicable, alternative options considered for reducing excess surplus capacity.

Suitability

When considering any proposal for a new maintained school, the decision-maker should consider the proposal on its merits and take into account all matters relevant to the proposal. Any proposal put forward by organisations which advocate violence or other illegal activity must be rejected. In order to be approved, a proposal should demonstrate that, as part of a broad and balanced curriculum, the proposed new school would promote the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, as set out in the department's guidance on [Promoting fundamental British values through SMSC](#).

Proposed admission arrangements

Before approving a proposal the decision-maker should confirm that the admission arrangements of the school are compliant with the [School Admissions Code](#). Although the decision-maker cannot modify proposed admission

arrangements, the decision-maker should inform the proposer where arrangements seem unsatisfactory and the admission authority should be given the opportunity to revise them.

National Curriculum

All maintained schools must follow the National Curriculum unless they have secured an exemption for groups of pupils or the school community¹⁷.

School size

Decision-makers should not make blanket assumptions that schools should be of a certain size to be good schools, although the viability and cost-effectiveness of a proposal is an important factor for consideration. The decision-maker should also consider the impact on the LA's budget of the need to provide additional funding to a small school to compensate for its size.

Equal opportunity issues

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

- eliminate discrimination;
- advance equality of opportunity; and
- foster good relations between people with a protected characteristic and those without that characteristic.

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

Integration and community cohesion

The decision-maker should consider the impact of any proposal on local integration and community cohesion objectives and have regard to the [Integrated Communities Action Plan](#).

¹⁷ Under sections 90, 91, 92 and 93 of the Education Act 2002.

When considering, publishing or deciding a proposal, the proposer and the decision-maker should take account of the community to be served by the school and the views of different sections within the community. They should also consider:

- Whether the school will be welcoming to pupils of any faith and none; and how the school will address the needs of all pupils and parents.
- Whether the curriculum will be broad and balanced and prepare children for life in modern Britain including through the teaching of spiritual, moral, social and cultural (SMSC) education.
- Whether the school will promote fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs and none.
- Whether the school will encourage pupils from different communities, faiths and backgrounds to work together, learn about each other's customs, beliefs and ideas and respect each other's views.

Travel and accessibility

The decision-maker should satisfy themselves that the proposers have been taken into account accessibility planning and that the proposal will not adversely impact on disadvantaged groups.

Decision-makers should consider whether the proposal will 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. The decision-maker will need to consider the local context, for example in areas with excessive surplus places, the decision-maker should consider whether the travel implications of the proposal are reasonable compared to those for alternative options.

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 land, premises or necessary funding required to implement the proposal will be available and that all relevant local parties (e.g. trustees or religious authority) have given their agreement to the funding arrangements.

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.

Where a proposer is proposing a new voluntary aided school under section 11 and has applied for capital funding from the department, the decision-maker may, if satisfied that the department has given written 'in principle' agreement to provide capital funding, approve the proposals on the condition that the proposer enter into an arrangement with the Department for Education for any necessary building work.

Schools causing concern

In determining proposals, decision-makers must ensure that the guidance on [schools causing concern](#) (intervening in failing or underperforming schools) has been considered where necessary.

Rural schools and the presumption against closure

Decision-makers should adopt a presumption against the closure of rural schools. This does not mean that a rural school will never close, but the case for closure should be strong and a proposal must be clearly in the best interests of educational provision in the area. When producing a proposal to close a rural primary school, the proposer must consider:

- the likely effect of the closure of the school on the local community;
- the proportion of pupils attending the school from within the local community i.e. is the school being used by the local community;
- educational standards at the school and the likely effect on standards at neighbouring schools;
- the availability, and likely cost to the LA, of transport to other schools;
- whether the school is now surplus to requirements (e.g. because there are surplus places elsewhere in the local area which can accommodate displaced pupils, and there is no predicted demand for the school in the medium or long term);
- any increase in the use of motor vehicles which is likely to result from the closure of the school, and the likely effects of any such increase; and
- any alternatives to the closure of the school.

'Rural primary school', in this context, means any school referred to in the [Designation of Rural Primary Schools \(England\) Order](#). Proposers should also consider the above factors when proposing the closure of a rural secondary school. Rural secondary schools are identified on the Get Information about Schools database using the Office for National Statistics' [Rural and Urban Area Classification](#). Decision-makers should consider this indicator when deciding a proposal for the closure of a rural secondary school. Where a school is not recorded as rural on GIAS, the decision-maker can consider evidence provided by interested parties that a particular school should be regarded as rural. The presumption against the closure of rural schools does not apply in cases where a rural infant and junior school on the same site are being closed to establish a new primary school.

Maintained nursery schools and the presumption against closure

Decision-makers should adopt a presumption against the closure of maintained nursery schools. This does not mean that a nursery school will never close, but the case for closure should be strong and the proposal should demonstrate that:

- plans to develop alternative early years provision clearly demonstrate that it will be at least equal in quality and quantity to the provision provided by the nursery school with no loss of expertise and specialism; and
- replacement provision is more accessible and more convenient for local parents.

In considering a proposal to close a school which currently includes early years provision, the decision-maker should consider whether the alternative early years provision will integrate pre-school education with childcare services and/or with other services for young children and their families.

Balance of denominational provision

In deciding a proposal to close a school that has been designated with a religious character, decision-makers should consider the effect that this will have on the balance of denominational provision in the area, as well as taking account of the number of pupils currently on roll, the medium and long term need for places in the area, and whether standards at the school have been persistently low.

In relation to the balance of denominational provision, if an infant and a junior school of a particular religious character in an area are to close and be replaced with a new all-through school, then there should normally be a preference for

that new school to be of the same religious character as the predecessor schools.

Where one school has a religious character and the other does not, or has a different religious character, both proposers and decisions-makers should consider what would best meet the needs of the local community. Decision-makers should consider what impact the proposal will have on the balance of denomination provision in the area, the quality of the provision available (particularly when proposing a merger) and parental demand in the area for the different types of provision.

Community services

Some schools may be a focal point for family and community activity, providing extended services for a range of users, and their closure may have wider social consequences. Where the school is providing access to extended services, provision should be made for the pupils and their families to access similar services through their new schools or other means.

Determining revocation proposals

When a proposer or LA does not wish to implement an approved proposal because doing so would be unreasonably difficult or circumstances have changed (so that implementation would be inappropriate), the proposer must publish a revocation proposal, to be relieve themselves and/or the LA of any duty to implement.

The LA will be the decision-maker for revocation proposals with the exception of cases where the original proposal was determined by the [Schools Adjudicator](#). In such cases, the LA must refer the revocation proposal together with any comments or objections within two weeks of the end of the representation period to the Schools Adjudicator. Where the LA made the initial determination of the original proposals and the proposals were later referred to the adjudicator, the LA should determine any revocations proposals made.

The decision-maker should be satisfied that the proposer has carried out the statutory process appropriately (as set out in part 4 of this guidance) and should have regard for any responses received during the representation period.

LAs must determine a revocation proposal within two months of the end of the representation period. Where the LA has not determined the proposal by the end of the two-month period, the decision-maker must refer the decision to the Schools Adjudicator. The decision-maker should make such persons aware of the decision as they consider appropriate. This should include:

- the Secretary of State (via schoolorganisation.notifications@education.gov.uk)
- the governing body/proposers (as appropriate);
- the Schools Adjudicator or LA (as appropriate);
- the Diocesan Board of Education of any Church of England diocese in the relevant area;
- the bishop of any diocese of the Roman Catholic Church any part of which is comprised in the area of the relevant authority; and
- for a special school, the parents of every registered pupil at the school;
- any other body considered appropriate (e.g. other relevant faith organisation); and
- the trustees of the school (where relevant e.g. site trustees).

Determining requests to modify approved proposals

Proposers may request modifications to approved proposals or ask the body which approved the proposals to specify a later date in respect of conditional approval¹⁸. Where the Schools Adjudicator determined the original proposals, the LA must refer the case to the Schools Adjudicator within two weeks of receipt of the request from the proposers.

The decision-maker should be satisfied that the proposal does not modify the existing proposals to the extent that new proposals are substituted for those that were originally published.

Where approved proposals are modified, the LA or the Schools Adjudicator (as the case may be) must notify the Secretary of State (via schoolorganisation.notifications@education.gov.uk) within one week of the date of the proposals being modified.

Where the bodies listed below are unsatisfied with the outcome of a decision taken on a revocation, they may appeal to the Schools Adjudicator within four weeks of the publication of the decision. The Schools Adjudicator will take a fresh decision on the proposals.

- the Diocesan Board of Education for any diocese in the Church of England that is comprised in the area of the relevant authority;
- the bishop of any Roman Catholic Church in the area of the relevant authority;
- the proposers;

¹⁸ Under paragraph 21(2)(a) of Schedule 2 to the Act

- the governing body or trustees of any foundation or voluntary school which is the subject of the proposals (where relevant).

Within one week of receiving the appeal the LA must send to the adjudicator:

- any objections or comments in relation to the proposals;
- minutes of the meeting at which the revocation proposals were considered; and
- any papers considered by the LA at that meeting.

Annex A: School closure consultations

In the case of the proposed closure of a rural primary school or a community or foundation special school, prior to publishing a statutory notice and proposal, proposers **must**, under section 16(1) of EIA 2006 consult:

- The LA (as appropriate);
- The parents of registered pupils at the school;
- where the LA is a county council the local district or parish council where the school that is the subject to the proposal is situated; and
- in the case of a special school – any LA which maintains an EHC plan or statement of special educational needs in respect of a registered pupil at the school.

The Secretary of State considers that these bodies, along with those listed below should be consulted in the case of the proposed closure of all schools:

- the governing body (as appropriate);
- pupils at the school¹⁹;
- (if a proposal involves, or is likely to affect a school which has a particular religious character) the appropriate diocese or relevant faith group²⁰;
- the trustees of the school (if any);
- teachers and other staff at the school;
- any LA likely to be affected by the proposal, in particular neighbouring authorities where there may be significant cross-border movement of pupils;
- the governing bodies, teachers and other staff of any other school that may be affected;
- parents of any pupils at other schools who may be affected by the proposal including where appropriate families of pupils at feeder primary schools;
- any trade unions who represent staff at the school; and representatives of any trade union of staff at other schools who may be affected by the proposal;

¹⁹ Under section 176 of the Education Act 2002.

²⁰ Under the DBE Measure 1991 Church of England schools must consult with their diocese before making closure proposals.

- MPs whose constituencies include the school that is the subject of the proposal or whose constituents are likely to be affected by the proposal; and
- any other interested organisation / person that the proposer thinks are appropriate.

Annex B: Statutory proposals for school closures

As set out in Schedule 2 to the Establishment and Discontinuance Regulations the information below **must** be included in a proposal to close a school:

Contact details

The name and contact address of the LA or governing body publishing the proposals and the name, address and category of the school it is proposed that should be discontinued.

Implementation

The date on which it is proposed to close the school or, where it is proposed that the closure be implemented in stages, the dates of and information about each stage.

Reason for closure

A statement explaining the reason why closure of the school is considered necessary.

Pupil numbers and admissions

The numbers (distinguishing between compulsory and non-compulsory school age pupils), age range, sex, and special educational needs of pupils (distinguishing between boarding and day pupils) for whom provision is currently made at the school.

Displaced pupils

A statement and supporting evidence about the need for school places in the area including whether there is sufficient capacity to accommodate displaced pupils.

Details of the schools or further education colleges at which pupils at the school to be discontinued will be offered places, including—

- a) any interim arrangements;
- b) the provision that is to be made for those pupils who receive educational provision recognised by the LA as reserved for children with special educational needs; and
- c) in the case of special schools, the alternative provision made by any LA other than the LA which maintain the school.

Details of any other measures proposed to be taken to increase the number of school or further education college places available if necessary, in consequence of the proposed discontinuance.

Impact on the community

A statement and supporting evidence about the impact on the community of the closure of the school and any measures proposed to mitigate any adverse impact.

Rural primary schools

Where proposals relate to a rural primary school designated as such by an order made for the purposes of section 15, a statement that the LA or the governing body (as the case may be) considered section 15(4).

Balance of denominational provision

Where the school has a religious character, a statement about the impact of the proposed closure on the balance of denominational provision in the area and the impact on parental choice.

Maintained nursery schools

Where proposals relate to the discontinuance of a maintained nursery school, a statement setting out—

- a) the LA's assessment of the quality and quantity of the alternative provision compared to the school proposed to be discontinued and the proposed arrangements to ensure the expertise and specialism continues to be available; and
- b) the accessibility and convenience of replacement provision for local parents.

Sixth form provision

Where the school proposed to be discontinued provides sixth form education, the effect for 16 to 19 year olds in the area that the closure will have in respect of—

- a) their educational or training achievements;
- b) their participation in education or training; and the range of educational or training opportunities available to them.

Special educational needs provision

Where existing provision that is recognised by the LA as reserved for pupils with special educational needs is being discontinued, a statement as to how the LA or the governing body (as the case may be) believes the proposals are likely to lead to improvements in the standard, quality and/or range of the educational provision for these children.

Travel

Details of length and journeys to alternative provision.

The proposed arrangements for travel of displaced pupils to other schools including how the proposed arrangements will mitigate against increased car use.

Annex C: Statutory proposals for establishing a new school

As set out in the Establishment and Discontinuance Regulations the information below must be included in section 10 and 11 proposals to establish a new school:

Contact details

The name and contact address of the LA or the proposers (as the case may be).

Implementation

The date on which it is proposed that the school be opened or, where it is proposed that the opening be implemented in stages, the dates of and information about each stage.

Where the proposals are to establish a voluntary, foundation or foundation special school, a statement as to whether the proposals are to be implemented by the LA or by the proposers, and if the proposals are to be implemented by both,

- (a) a statement as to the extent that they are to be implemented by each body, and
- (b) a statement as to the extent to which the capital costs of implementation are to be met by each body.

Reason for the new school

A statement explaining the reason why the new school is considered necessary and whether it is to replace an existing school or schools.

Category

Whether the school will be a foundation or foundation special school (and, if so, whether it is to have a foundation), a voluntary school (and whether it will be voluntary controlled or voluntary aided), a community or community special school, or a LA maintained nursery school and, if required by section 10, a statement that the Secretary of State's consent has been obtained to publish the proposals.

Ethos and religious character

A short statement setting out the proposed ethos of the school, including details of any educational philosophy, which it is proposed that the school will adhere to.

If it is proposed that the school is to have a religious character, confirmation of the religion or religious denomination in accordance with whose tenets religious education will, or may be required to be provided at the school; and a statement that the proposers intend to ask the Secretary of State to designate the school as a school with such a religious character.

Where it is proposed that the school—

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

Pupil numbers and admissions

The numbers (distinguishing between compulsory and non-compulsory school age pupils), age range, sex, and special educational needs of pupils (distinguishing between boarding and day pupils) for whom provision is to be made at the school.

Admission arrangements

Except in relation to proposals for special schools, the proposed admission arrangements and over-subscription criteria for the new school including, where the school is proposed to be a foundation or voluntary school which is to have a religious character—

- (a) the extent to which priority for places is proposed to be given to children of the school's religion or religious denomination; and
- (b) the extent, if any, to which priority is to be given to children of other religions or religious denominations or to children having no religion or religious denomination.

Early years provision

Where the proposals are to include provision for pupils aged two to five—

- (a) details of how the early years provision will be organised, including the number of full-time and part-time pupils, the number of places, the number and length of sessions in each week, and the services for disabled children that will be offered;
- (b) how the school will integrate the early years provision with childcare services, and how the proposals for the establishment of the school are consistent with the integration of early years provision with childcare;

- (c) evidence of parental demand for additional early years provision;
 - (d) assessment of capacity, quality and sustainability of provision in schools, and in settings outside of the maintained school sector which deliver the Early Years Foundation Stage within three miles of the school; and
 - (e) the reasons why schools and settings outside the maintained school sector which deliver the Early Years Foundation Stage within three miles of the school and which have spare capacity, cannot make provision for any forecast increase in the numbers of such children.
- Sixth form provision

Where it is proposed that the school will provide sixth form education, for 16 to 19 year olds in the area, how the proposals will —

- (a) improve the educational or training achievements;
- (b) increase participation in education or training; and
- (c) expand the range of educational or training opportunities available to them.

Where the addition of sixth-form provision is being proposed, a change of age-range will be required, and proposers should refer to the prescribed alterations guidance.

Special educational needs provision

Whether the school will have provision that is recognised by the LA as reserved for children with special educational needs and, if so, the nature of such provision.

Details of the proposed policy of the school relating to the education of pupils with special educational needs.

Where the school will replace existing educational provision for children with special educational needs—

- (a) a statement on how the proposer believes the proposal is likely to lead to improvements in the standard, quality and range of educational provision for these children;
- (b) details of the improvements that the proposals will bring in respect of—
 - (i) access to education and associated services including the curriculum, wider school activities, facilities and equipment with reference to the LA's Accessibility Strategy;

- (ii) access to specialist staff, both education and other professionals, including any external support or outreach services;
- (iii) access to suitable accommodation; and
- (iv) supply of suitable places.

Single sex school

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

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

Curriculum

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

Relevant experience of proposers

Evidence of any relevant experience in education held by the proposers including details of any involvement in the improvement of standards in education.

Effects on standards and contributions to school improvement

Information and supporting evidence on—

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

Location and costs

A statement about -

- (a) the area or the particular community or communities which the new school is expected to serve;
- (b) the location of the site or sites including, where appropriate, the postal address or addresses;

- (c) the current ownership and tenure (freehold or leasehold) on which the site will be held, and if the site is to be held on a lease, details of the proposed lease;
- (d) whether the site is currently used for the purposes of another school and if so, why the site will no longer be required by the other school;
- (e) the estimated capital costs of providing the site and how those costs will be met (including the extent to which the costs are to be met by the proposers and the LA) and how the proposers intend to fund their share of the costs of implementing the proposals (if any);
- (f) whether planning permission is needed under the Town and Country Planning Act 1990, and when it is anticipated that it will be obtained;
- (g) confirmation from the Secretary of State or LA (as the case may be) that funds will be made available (including costs to cover any necessary site purchase).

Travel

The proposed arrangements for travel of pupils to the school.

Federation

Details of any proposals for the school to be established as a federated school.

Voluntary aided schools

Where the school is to be a voluntary aided school—

- (a) details of the trusts on which the site is to be held; and
- (b) confirmation that the governing body will be able and willing to carry out their obligations under Schedule 3 to SSFA 1998.

Foundation schools

Where the school is to be a foundation or foundation special school, confirmation as to—

- (a) whether it will have a foundation and if so, the name or proposed name of the foundation;
- (b) the rationale for the foundation and the particular ethos that it will bring to the school;
- (c) the details of membership of the foundation, including the names of the members;

- (d) the proposed constitution of the governing body; and
- (e) details of the foundation's charitable objects.

Annex D: Further Information

This guidance primarily relates to:

- [The Education and Inspections Act 2006](#), as amended by the [Education Act 2011](#)
- [The School Standards and Framework Act 1998](#), as amended by the [Education Act 2002](#)
- [The School Organisation \(Establishment and Discontinuance of Schools\) Regulations 2013](#)
- [The School Organisation \(Prescribed Alterations to Maintained Schools\) \(England\) Regulations 2013](#)
- [The free school presumption – Departmental advice for local authorities and new school proposers \(May 2018\)](#)
- [Presumption against the closure of primary schools](#)
- [Rural and Urban Area Classification](#)
- [The Religious Character of Schools \(Designation Procedure\) Regulations 1998](#)
- [How to apply for religious designation](#)
- [Schools Adjudicator](#)
- [School Admissions Code](#)

It also relates to:

- [School Governance \(Constitution\) \(England\) Regulations 2012](#)
- [School Governance \(Roles, Procedures and Allowances\) \(England\) Regulations 2013](#)
- [Governors handbook](#).
- [School Premises \(England\) Regulations 2012](#)
- [The School Companies Regulations 2002](#) as amended by the [2003 Regulations](#) and the [2014 Regulations](#)
- [Change your charity's governing document](#)
- [Academies Act 2010](#)
- [Making significant changes to an existing academy and Closure by Mutual Agreement \(2018\)](#);
- [Regional Schools Commissioner](#)
- [Consultation principles](#)

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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 Barrowcliff Community Primary School

If you would like this information in another language or format such as Braille, large print or audio, please contact the Communications Unit on 01609 53 2013 or email communications@northyorks.gov.uk.



যদি আপনি এই ডকুমেন্ট অন্য ভাষায় বা ফরমেটে চান, তাহলে দয়া করে আমাদেরকে বলুন।

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 May 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 Barrowcliff Community Primary School from 3-11 to 2-11.

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 Barrowcliff Community Primary School to propose the lowering of their age range to provide places for 2 year olds.

The proposed 2 year old 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?

Barrowcliff Community Primary School is proposing to provide places for 3 and 4 year olds by the creation of provision for 2 year old children in an early years class from 1 January 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 limited capital implications to refurbish an existing teaching space to facilitate this proposal. The school are utilising their devolved formula capital to carry out these works and also considering any opportunities for grant funding.

Section 6. How will this proposal affect	No impact	Make things better	Make things worse	Why will it have this effect? Provide evidence from engagement, consultation
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people with protected characteristics?				and/or service user data or demographic information etc.
Age		x		<p>This proposal constitutes a broadening of provision in the area.</p> <p>Provision of additional 2 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			No impact is anticipated.
...have a low income?	x			No impact is anticipated.
...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.	
Scarborough Town	

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: 15/08/2021

Authorised by relevant Assistant Director (signature): Amanda Newbold

Date: 07/09/2021#####