



Department
for Education

Changes to the system of school organisation

**Government response to the autumn
2013 consultation on school organisation
changes**

December 2013

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Introduction

The school organisation system provides the legal and policy framework that governs how schools are categorised, the process by which they can make significant changes to their size and characteristics; the opening of new provision under the academy presumption process and the circumstances in which new maintained schools may be established; and the closure of maintained schools.

On 12 September 2013 we published proposals to reform the school organisation system. The consultation closed on 24 October. Reform was prompted by representations from schools and local authorities (LAs) who argued that it takes too long, and imposes unnecessary bureaucratic and financial burdens on them. Our proposals have been designed to allow schools to make their own decisions about size and characteristics and to allow them to respond to what parents want locally without being unduly restricted by process.

We received 102 written responses to the consultation, and held discussions with interested groups. We also had telephone contact with several bodies in advance of the consultation. The analysis of responses to the consultation responses is at Annex A, and a list of organisations that responded to the consultation is at Annex B.

The proposals were broadly welcomed as an improvement on the current system. We therefore intend to proceed with the policy direction set out in the consultation document, with some changes to details in the regulations in light of the responses to the consultation. Other concerns raised in the consultation will be addressed through new statutory guidance, which will be published at the same time as the new regulations and processes come into force.

Summary of responses

The majority of respondents welcomed a reduction in bureaucracy whilst raising a small number of concerns and cautioning against diluting statutory procedures too much. In particular:

- many respondents welcomed proposals to make it easier for maintained schools to make significant changes, whilst emphasising the importance of working in partnership with other schools in the area;
- there was strong support for slimming down the statutory processes, provided there was sufficient opportunity for parents and other members of the community to feed in their views;
- there was broad support for the proposed reduction in red tape associated with making significant changes, provided that there was still adequate oversight of proposals from within the department;
- there was a desire to see parity across the sector on how academies/free schools and maintained schools make alterations.

Alterations to maintained schools

Individual maintained mainstream schools will have the freedom to make the following changes without following a statutory process:

- expansion (enlargement of premises on the same site);
- alteration of upper or lower age limit by up to three years (except for adding or removing a sixth form). In particular this will make it easier for schools to offer nursery places to two-year-olds;
- adding boarding provision (although schools will need to meet the standards required of boarding schools to ensure the safety of children in their care).

Special schools will have to follow the new streamlined statutory process to make changes to their school size and characteristics.

As stated in the consultation document, schools will need to secure sufficient capital funding (as well as securing planning permission and agreement on playing fields where necessary) before making any changes.

Local collaboration is key to these new processes. We will set out in guidance our expectation that maintained schools will work with their LA when making any changes, to ensure that wider local reorganisation plans are taken into account and that sufficient funding has been secured. Particularly in areas where there are large numbers of academies, local authorities (LAs) already work collaboratively with local schools and academies to ensure that there are sufficient school places. We would expect this to continue.

Under the new regulations, schools will be responsible for their own decisions around size and characteristics, but LAs will retain their overarching duty to ensure sufficient high quality school places, along with powers to propose changes to maintained schools where they feel it necessary to meet that duty. Retaining a statutory process where a LA makes such proposals will ensure that individual schools are involved in changes that affect them.

We will also ensure that the guidance highlights the links between school organisation changes and school admissions – to ensure that schools are aware that under the School Admissions Code, where they wish to increase PAN, their admissions authority must do this by determining a higher PAN at the next date of admissions arrangements determination.

Streamlined statutory process for changes to maintained schools

The new statutory process reduces the length of time it takes to make changes, by removing the requirement to consult before publishing a proposal and reducing the remaining statutory representation period from six to four weeks. Retaining a representation period means that comments on proposals can still be made to the decision maker.

We will set out in statutory guidance our strong expectation that local consultation will take place in advance of any proposals being published, so that the local community is made aware of any proposed. We will highlight that it is best practice for consultations to take place during term time, so that parents have as much time as possible to comment. We will work with interested groups to produce this guidance to ensure that it is both clear and useful.

The new regulations also remove much of the bureaucracy and financial cost of the current process by reducing some of the prescription around: the detail that proposals must contain; publication requirements; and the prescribed list of bodies that must be notified of proposals and decisions taken. They allow LAs more discretion to use their local knowledge to take decisions in a way that best suits their local circumstances.

In response to views expressed during the consultation, we intend to amend the proposed prescribed list of bodies that must be notified of proposals and decision. In addition to the governing body or LA, the parents of children at the school (where the school is a special school), and anyone else that the proposer considers appropriate, the list will also retain the current wording around religious authorities.

We will slim down the publication requirements for statutory proposals, although we note the concern raised by some respondents about our proposals to limit publication to the LA website and a local newspaper. We recognise that this risks parents and other

community members without internet access not being made aware of plans that might affect them. We therefore intend to retain the current requirement to post the statutory notice at the school gate, in addition to the revised requirements around publishing online and in a local newspaper.

Significant changes to academies

We will make changes to the administrative process for academies to: a) expand on the same site through enlargement of premises; b) amend their age range (where this does not add a sixth form or new phase of education); c) add boarding provision and d) allow those academies on old-style funding agreements to amend their admission arrangements. Academies will still need to seek approval from the Secretary of State to make these changes, but in future the process will be quicker, and will not require a formal business case.

As with maintained schools, we will set out in guidance our strong expectation that academies will consult on their proposals with those who will be affected. We would also expect academies and local authorities to work together to ensure that sufficient places are provided locally.

The Secretary of State will approve the majority of academies' requests, provided that he is assured that adequate local consultation has taken place, that financial arrangements are sound, and that appropriate planning permissions have been secured.

The changes to academy processes will come into force at the same time as the regulations for maintained schools.

Establishing and closing maintained schools

The Education Act 2011 introduced the 'academy presumption'. Where a LA has identified the need for a new school, it must first seek proposals to establish an academy or free school. However, there are limited circumstances in which a new maintained school can be established: where no suitable academy or free school proposal is received; or where the Secretary of State agrees to the establishment of brand new or replacement community, foundation or voluntary maintained schools.

We have made minor changes to the process for establishing and closing maintained schools by introducing new secondary legislation – The School Organisation (Establishment and Discontinuance) (England) Regulations 2013 – to remove the unnecessary prescription from the statutory process. As with the new Prescribed Alterations to Maintained Schools Regulations, the aim is to remove bureaucracy and to allow proposers to follow the process in a way that reflects their local circumstances.

The revised regulations remove the statutory requirement to hold a public meeting and reduce requirements in relation to: the detail that proposals and revocation proposals must contain; the length of the representation period for non-academy proposals; and the bodies who must be informed of non-academy proposals. Other than the requirement to notify the Secretary of State of non-academy proposals, it will be for the LA to determine who needs to be informed and they need only inform others if no academy proposals are received or approved.

We have also reduced the level of prescription required to close a school, whilst retaining the statutory consultation period and representation period. Specifically, we have reduced requirements on: how proposals must be published; the detail they must contain; the length of the representation period (from 6 weeks to 4 weeks); and the bodies who must be informed of the decision. Beyond these changes, the process for closure of a maintained school remains the same as the current process.

We will reiterate in guidance that there is a presumption against the closure of rural schools, and clarify issues around ownership of playing fields.

Implementation timetable

We will lay the revised regulations before parliament in late 2013 and - subject to approval - they will come into force in early 2014, along with the parallel processes for academies.

We are currently revising the accompanying guidance and will be seeking input from key stakeholders as part of that process. The guidance will be published at the same time as the regulations come into force.

Annex A: Consultation questions and analysis of responses

Question 1: Comment on proposals to enable maintained mainstream schools to make the alterations below without following a statutory process.

- Expansion (enlargement of premises).
- Changes to a school's lower and upper age range (except adding or removing a sixth form).
- Adding boarding provision.

There were 91 responses to this question.

The majority of respondents supported the reduction in bureaucracy although some concerns around reducing statutory responsibilities were highlighted. These were mainly concerns about the impact of changes to other schools in the area, and the local authority's ability to carry out its statutory duties to plan school places effectively. There were some concerns about whether maintained schools would have sufficient funding in place to expand.

Many respondents particularly welcomed the removal of a statutory process to amend age ranges, including offering nursery places to 2 year olds.

Some respondents felt that LAs should not have to follow a statutory process to make alterations where schools would not.

A very small number of respondents commented on proposals to allow schools to add boarding provision without following a statutory process. Their comments highlighted the standards that must be met for boarding schools, and the importance of schools attaining these standards to ensure the safeguarding of children in their care.

Question 2: Comment on the proposals to streamline the statutory process for making other changes to maintained schools

There were 91 responses to this question.

Many respondents supported the proposals to reduce the length of the statutory process including reducing the length of time for representations from 6 to 4 weeks and the removal of the requirement to consult before publishing proposals. Many of these respondents also suggested that consultations are held only in term-time to maximise the opportunity for parents to be consulted.

Several respondents highlighted the importance of local consultation, and suggested that there be an imperative to involve communities in what is happening in their locality. A number of respondents also suggested the need for guidance to support good practice in undertaking consultations with the local community.

There was wide support for the reduction in the level of detail that statutory proposals must contain, but there were concerns that the list of bodies that must be notified of proposals and decisions was not prescriptive enough. In particular, dioceses and faith organisations felt very strongly that they must be consulted and notified when a school decided to make any alterations, regardless of whether the school was designated with a religious character.

Some respondents also raised concerns that parents may not be consulted fully on changes affecting their child's school, and that parents for whom online access is difficult may be disenfranchised by not hearing about proposals until decisions had already been made.

Some respondents suggested that we should prescribe that parents at the school (regardless of whether a special school) should be notified. It is important to note that the revised regulations set out a minimum of who must be consulted and notified of changes, and allow decision makers to also consult and notify 'any other body or person that the local authority think appropriate'. It is unlikely that there will be any cases where it was not felt appropriate to notify the parents at the school of proposals and decisions made, and it is therefore unnecessary to specifically prescribe this.

Question 3: Comment on the proposals to enable academies to make the alterations below without the need to have a business case agreed by ministers.

- Expansion (enlargement of premises).
- Changes to an academy's lower and upper age range (except adding or removing a sixth form).
- Adding boarding provision.
- Changes to admissions arrangements for the first academies where this was written into their funding agreements

There were 86 responses to this question.

There was support for academies to be able to make proposals to make changes to their size and characteristics provided that the system retains checks and balances, and that the impact of changes on other local schools is fully considered. There was support for the department (via EFA) agreeing business cases for alterations to size and age limit of academies, and academy respondents welcomed the reduction in the length of the

significant change process. Many respondents felt that more parity was needed between maintained schools and academies.

Several LAs suggested that it should be a requirement for academies to consult with them prior to agreeing any significant change so that the LA could carry out its statutory duty to plan places.

The proposal to bring the process for amending the admission arrangements of the original 200 academies into line with later academies was universally welcomed.

There were no comments about adding boarding provision.

Question 4: Comment on what further changes, if any, the government could make to enable schools to be more in charge of their own decisions about school size and composition.

There were 19 responses to this question.

Over half of the respondents to this question talked about the need to maintain local accountability. Three respondents questioned whether schools would have the power to increase Published Admission Numbers (PAN) when expanding the size of their school. Two respondents highlighted the need to provide clear guidance on the issues of playing fields. Two respondents raised rural issues as a concern and another raised funding as an issue. One respondent set out their objection to allowing selective schools to expand.

Annex B: List of organisations that responded to the consultation

Afasic

Association of Directors of Children's Services Ltd (ADCS),

Association of School and College Leaders (ASCL)

Blackburn with Darwen Borough Council

Borough of Poole

Bracknell Forest Council

Buckinghamshire CC

Catholic Archdiocese of Birmingham

Catholic Education Service

Central Bedfordshire Council

Cheshire East Council

City of York Council

Comprehensive Future

Cornwall Council

Coventry City Council

Cumbria County Council

Daubrey Academy

Derby City Council

Derbyshire County Council

Dimple Well Infant School & Nursery

Diocese of Arundel & Brighton Catholic Schools Service

Diocese of Bath and Wells

Doncaster Metropolitan Borough Council

Durham County Council

East Riding of Yorkshire Council

East Sussex County Council

Education Building and Development Officers Group (EBDOG)

Essex County Council

Freedom and Autonomy for Schools - National Association (FASNA)

Gloucestershire County Council

Northampton School for Boys

Hampshire County Council

Hawthorn Primary School

Horbury Academy

Kent County Council
Kibworth High School
Kings Worthy Primary School
Leeds City Council
Leicestershire County Council
Lincolnshire County Council
London Borough of Camden
London Borough of Richmond-upon-Thames and Royal Borough of Kingston-upon-Thames
London Borough of Sutton
London Borough of Tower Hamlets
London Borough of Waltham Forest
Maiden Beech Academy
Devon County Council
Meadows Primary School
Middlesbrough Council
Milton Keynes Council
National Association for Small Schools
National Association of Head Teachers
National Association of Orthodox Jewish Schools (NAJOS)
National Governors' Association
National Middle Schools' Forum
National Society (Church of England) For Promoting Religious Education
National Union of Teachers (NUT)
New Waltham Academy
North Somerset Council
North Yorkshire County Council
Northumberland County Council
The King John School
Office of the Schools Adjudicator
OpenBox Consulting
Oxfordshire County Council
Peterborough Diocese Board of Education
Walton Priory Middle School
Primary School
Richmond and Kingston Borough Councils
Robert Smyth Academy

Royal Borough of Windsor and Maidenhead
Sheffield City Council
Society of Local Authority Chief Executives (SOLACE)
Somerset County Council
South Gloucestershire Council
South Tyneside Council
Suffolk County Council
Surrey County Council
Torch Academy Gateway Trust
United Synagogue / Office of the Chief Rabbi
Voice: the union for education professionals
Wakefield Council
Wandsworth Borough Council
Westfield Middle School
West Sussex County Council
Wigan Council
Yanwath Primary School
London Diocesan Board for Schools
Worcestershire County Council
Yorkshire & Humberside (LAs) Schools Organisation



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