

Appendix D

Establishing a new school

Most new schools are now expected to be established by a “competition” where the LA invites proposals to establish the new school.

Alternatively, the LA must apply for consent from the Secretary of State to publish proposals for a new school without running a competition. This does not mean permission to establish a new school has been granted, and the proposal would be subject to the usual statutory process.

Other proposers can also apply for the Secretary of State’s consent to publish proposals for a new school without a competition.

Competition

A competition is now required when the LA wishes to establish a new school.

- The LA must invite proposals from potential providers
- The LA can publish their own proposal as part of the competition

Are there exemptions to a competition?

The following do not require a competition:

- A new Academy
- New 16 to 19 provision
- A new Nursery School
- Transferring an existing school to a new site
- Rebuilding an existing school on its current site

Who makes the decision?

If the LA:

- Has entered its own proposal
- Is a member or has appointed a member of a proposed “Trust School”
- Appoints a charity trustee of the foundation of a proposed “Trust School”
- Exercises any voting rights or appoints a person with voting rights in the foundation of a proposed Trust school

Then the decision maker is the Schools Adjudicator, otherwise, the LA is the Decision Maker.

Who can appeal the decision?

If the LA is the Decision Maker, there is no provision to appeal the decision.

If the decision is not made within 2 months of the end of the representation period, the proposals must be referred to the Adjudicator.

The specification

The LA decides the outline specification for the new school, including

- Number of places
- Age range including any early years provision
- Mixed or single sex
- Admission number
- Location, playing field provision and transport links
- Opening date
- Estimated capital costs and funding sources
- Provision for pupils with SEN
- The area and community to be served
- Extended services or other community use
- Preferred specialism (secondary)
- Arrangements for transport and sustainable transport alternatives.

Capital funding

Regardless of the proposer who wins the competition, the LA must provide the total capital funding to invest in the new school, unless the proposer offer funding towards the project.

Building Schools for the Future applies only to secondary and secondary special schools. A Primary Capital Programme has now been announced for primary and primary special schools.

If a new Voluntary Aided school wins, the governing body are responsible for funding 10% of capital costs.

Sites

The LA must identify the proposed site, although proposers may put forward proposals to establish the school on a different site.

If the approved proposal is for a new Foundation, Trust, Voluntary Aided or Voluntary Controlled school, the LA must provide the school site.

The use of existing buildings should be considered on value for money considerations.

New housing

A Section 106 agreement can sometimes be negotiated where the developer bears all or part of the costs of a new school. A competition must still be run, and the winner must have input into the design and specification of the school.

What are the stages of competition?

- 1 Consultation, including on any linked closures – recommended minimum of 6 weeks, no upper limit, including at least one public meeting. Followed by:
 Invitation to bid (notice published)

- 2 Proposer engagement and submission of proposals – minimum of four months from invitation to bid
- 3 Publication of proposals (notice published) and promotion of public awareness – within 3 weeks of the expiry date for submitting proposals. Any linked closure proposals would be published at the same time.
- 4 Representations – 6 weeks, with a public meeting within the first 2 weeks
- 5 Decision – within 2 months of end of representation period (LA) or whenever (Adjudicator)
- 6 Implementation – as specified in the proposal notice

How does the LA submit a proposal for a community school?

After the invitation to bid, the LA must apply to the Secretary of State for permission.

Does this mean we will need to consult again?

Yes. The statutory consultation needs to cover the specific location and specification of the new school. Preliminary consultation to consider a range of options, and/or principles, for a possible reorganisation, is not regarded as the statutory period of consultation.