

Local Authorities: Establish a New Secondary School

Handbook for local authorities establishing new secondary schools (from September 2006).

■ Background and Introduction

1. With effect from **1 September 2006** a new statutory framework applies for the establishment of new secondary schools – whether they are to be brand new schools (e.g. to meet population growth) or to replace existing schools (e.g. flowing from a reorganisation). The provisions will not apply to proposals to re-build a school on its existing site or to transfer it to a new site.

2. The new provisions will apply in all circumstances where it is intended to establish a new school but proposals have not been published before this date.

3. Where the local authority (LA) wish to see a new secondary school established they must either:

- a. invite proposals for such a school as provided for in section 66 of the Education Act 2005 and The Education (New Secondary School Proposals) (England) Regulations 2006 (SI: 2006 No 2139). The process is generally referred to as a “competition”. This is expected to be the route by which most new secondary schools will be established; or
- b. apply to the Secretary of State for consent to publish proposals for a new secondary school, without running a competition, as provided for in section 28A of the School Standards and Framework Act 1998 (as inserted by Section 65 of the Education Act 2005).

4. Similarly where proposers (i.e. other than an LA) wish to establish a new secondary school, they must also apply to the Secretary of State for consent to publish proposals for a new secondary school, without triggering a competition (i.e. as in b above). There is no provision for proposers other than LAs to hold competitions.

5. It is important to note that the consent being sought, and which can be given, is consent only to **publish** proposals: it is not permission to establish a new school. Where consent is granted to publish proposals, the normal statutory process will apply - i.e. Consultation; Publication; Representations; Decision (normally by the School Organisation Committee (SOC) or schools adjudicator if the SOC cannot reach a unanimous decision).

6. Where an LA is working with sponsors to establish a new Academy in their area, they will not have to run a competition or seek the Secretary of State’s consent to publish proposals as above. Academies are publicly funded independent schools and Section 482 of the Education Act 1996 provides for

the Secretary of State to enter into funding agreements for new Academies with sponsors.

■ **Who this guidance is for?**

7. This guidance is for LAs who have identified a requirement for a new secondary school. Separate guidance is available for proposers:

- who wish to publish proposals for a new school in response to a competition - “Handbook for those responding to a competition for a new secondary school”.

■ **What this guidance covers**

8. This guidance covers:

- the stages involved in running a competition for a new secondary school, from initial idea to implementation

■ **Establishing a Secondary School by Competition**

■ **Overview**

9. LAs are required by Section 66 of the Education Act 2005 (“the Act”) to invite proposals from potential providers for any proposed new secondary school. They can also publish their own proposals for the new school as part of a competition. All proposals are decided by local SOCs or the schools adjudicator (unless the only proposals made are the LA’s, there are no objections and a conditional approval or modification is not required – in which case the LA can decide the proposals).

10. The following pages include an outline of the main steps in running a competition together with information on the advice and support that is available from the DfES.

■ **When is a secondary school competition required?**

11. Circumstances in which a competition is required include cases where:

- a brand new school is required to meet an increase in the local population
- a school is required to replace a discontinuing school
- one or more schools are proposed to be closed and a new school or schools are to be established to replace them.

12. Competitions are not required where a secondary school is:

- transferring from its existing site to a new site
- to be re-built on its existing site
- to be replaced by an Academy and discussions on a funding agreement are underway (but proposals for a new Academy may also be put forward in response to a competition).

■ The statutory process

13. When identifying the requirement for a new school the LA will need to consider the following:

- The outline specification for the school including:
 - the number of places to be provided at the school;
 - the age range including any proposed sixth form provision;
 - the location including playing field provision and transport links;
 - the opening date;
 - the estimated capital costs of the school and funding sources in accordance with DfES guidance on education building projects;
 - any provision that will be reserved for pupils with special educational needs;
 - the area and community to be served by the school; and
 - any extended services or other community use.

■ Capital considerations

14. Capital allocations are made to LAs and schools over each spending review period. For secondary provision, these are largely made through formulaic programmes, which include new pupil places criteria, Building Schools for the Future (the secondary schools renewal programme), and the Targeted Capital Fund (TCF). TCF has several elements within the fund and is reviewed for each cycle. It has included a Basic Need "safety-valve" mechanism whereby LAs can trigger additional capital support to meet an exceptional need for new pupil places where an overall shortfall of resources can be demonstrated. It also provides an opportunity to apply for capital resources for new schools by proposers where there is a local need. In addition, the Learning and Skills Council (LSC) administers a 16-19 capital fund for new post-16 places (this funds new school sixth form places for schools which have not yet entered BSF). Generally, voluntary-aided capital projects are funded at the rate of 90 per cent.

■ Stages and prescribed timeline

15. There are nine stages in the competition process:

Stage 1	Consultation (includes consultation on any linked school closures)	Not prescribed –(minimum of 6 weeks recommended)
Stage 2	Invitation to bid (first notice)	1 day
Stage 3	Community engagement	This will fall within the 4 month period below
Stage 4	Submission of proposals	Minimum of 4 months from the first notice
Stage 5	Publication of proposals (second notice) & promotion of public awareness	Within 3 weeks of the expiry date for submitting proposals
Stage 6	Representations	6 weeks (LA holds at least 1 public meeting within the first 2 weeks)
Stage 7	Submission to School Organisation Committee (or schools adjudicator when required)	Within 2 weeks of the expiry of the representation period
Stage 8	Decision by: School Organisation Committee Schools adjudicator Local authority (i.e. if there are no other proposals etc – see paragraph 43)	Within 2 months of receiving proposals No prescribed timescale Within 4 months of the publication of the second notice
Stage 9	Implementation	No prescribed timescale

■ Stage 1 – Consultation

16. Before publishing the notice inviting proposals for the competition the LA must consult a range of local stakeholders about the specification for the new school. The consultation should cover the following:

- the reason why the new secondary school is considered necessary;
- site issues:
 - the location of the proposed site (including details of whether the school is to occupy a single or split site), including where appropriate the postal address or addresses;

- the reasons for the choice of site;
 - the area or particular community or communities the school is expected to serve;
 - the accessibility of the site (and if the school is to occupy a split site the accessibility of the accommodation on each site);
 - the proposed arrangements for transport of pupils to the new school and a statement about other sustainable transport alternatives where pupils are not using transport provided, and how the school will seek to discourage car use in the school area;
 - the 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; and
 - a statement explaining that (by virtue of paragraphs 13(4) and 14(5) of Schedule 10 to the Education Act 2005) the LA will transfer its interest in the site to the school's trustees, foundation body, or governing body according to the status of the school.
- the date on which the school should open or where it is proposed that there should be transitional arrangements, the dates on which each stage should be implemented;
 - the number of pupil places the school should provide;
 - the upper and lower age limits of the proposed school and, where it is intended that it should provide sixth form education, the number of pupils for whom it is intended that such education should be provided;
 - the number of pupils to be admitted to the proposed school in each relevant age group in the first school year in which the proposals have been implemented or, where it is intended that the proposals should be implemented in stages, the number of pupils to be admitted to the proposed school in each stage;
 - whether it is proposed that the school should admit pupils of both sexes or boys or girls only and, in the case of a single sex school where it is intended to provide sixth form education, whether both sexes or boys or girls only are to be admitted to the sixth form;
 - whether the new school should make provision which is recognised by the LA as reserved for children with special educational needs, and if so the range of special needs and the number of pupils for which provision is proposed; and
 - the estimated capital costs of providing the school in line with DfES guidance on capital costs.

17. Regulations require the following parties to be consulted:

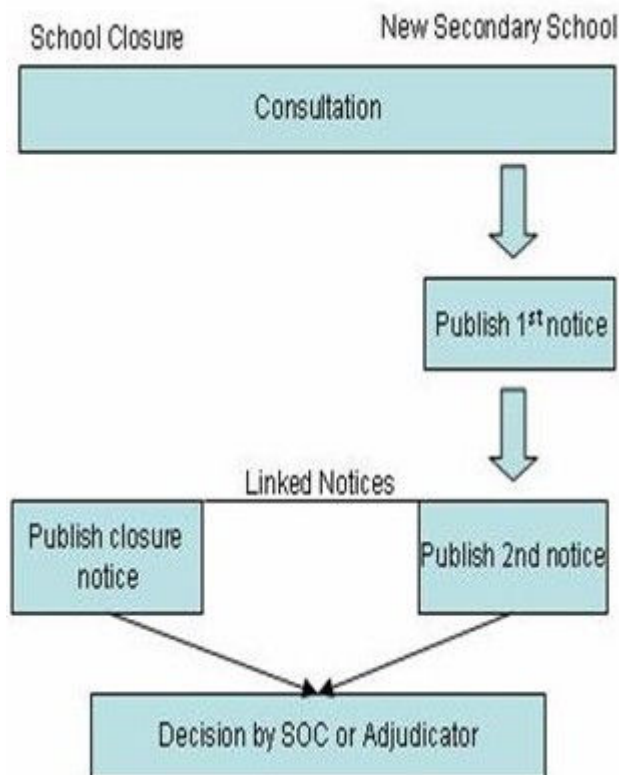
- the governing bodies of any schools which are proposed to be discontinued and whose pupils may be expected to transfer to the new school;
- the governing bodies of any primary schools whose pupils might be expected to attend the new school;

- the governing bodies of other maintained schools in the area, including schools in an adjoining LA that may be affected by the proposals;
- any other LA which might be affected by the establishment of the new school;
- parents, teachers, school staff in the area who may be affected by the proposals, including parents of pupils at feeder primary schools and those living, or who have children attending a school, in the area of an adjoining LA and representatives of any trade union of which staff at schools likely to be affected by the proposals are members;
- the Diocesan Board of Education for any diocese of the Church of England which is comprised in the area of the LA, the local ordinary of a diocese of the Roman Catholic Church which is comprised in the area of the LA;
- any other person or organisation that has expressed an interest in writing to the LA in establishing an additional secondary school to serve pupils in the area;
- the local LSC;
- any Member of Parliament, whose constituency includes the site of the proposed school, or whose constituents are likely to be affected by the proposals; and
- the district council (where it is not a LA) and any parish council for the area where the proposed school is to be situated.

18. Although Regulations do not specify the consultation's duration, the LA should allow at least 6 weeks for this. This will allow consultees an opportunity to consider what is proposed and to send their comments. The LA should avoid consulting on proposals during school holidays.

19. As part of the consultation the LA must hold at least one public meeting to inform the public of the consultation, the planned specification for the school and a brief explanation of the competition process. It is good practice to hold the meeting in a venue close to the proposed location of the new school.

20. If the need for the new school arises from an area wide reorganisation, the LA should consult on any proposed school closures at the same time as consulting on the new secondary school competition. However the LA should not publish notices for the closure until the second notice for the competition is published, and must ensure the proposals are linked so that they can be decided together. The following diagram illustrates the process:-



21. During the consultation the LA should make it clear that the Government wishes to encourage a range of providers to put forward proposals for new schools in order to increase diversity and maximise parental choice. The LA should direct any interested parties to the “Handbook for those responding to a competition for a new secondary school” on the Department’s website www.dfes.gov.uk/schoolorg . The LA should also keep a record of all interested parties as the regulations require the LA to send a copy of the notice inviting proposals to any party who may be interested in this. The LA should also pass contact details to the Department’s contractor who will carry out community engagement activity (see Stage 3 below).

22. Once the LA have started their consultation they must inform the Secretary of State in writing, confirming the proposed duration of the consultation. This notification should be e-mailed to SecondarySchools.COMPETITIONS@dfes.gsi.gov.uk and should include the information provided in the consultation document. The Department will contact the LA to confirm who will be their DfES contact for questions relating to the competition and inform the community engagement contractor.

23. At the end of the consultation the LA must consider the views expressed during the consultation before reaching any final decision about the specification for the school and publication. Where, in the course of consultation, a new option emerges which the LA wish to consider, it will probably be appropriate to consult afresh on this option before proceeding to publish.

24. Where the LA carry out any preliminary consultation to consider a range of options, and/or principles, for a possible reorganisation, this would not be regarded as the statutory period of consultation as required by Section 66(4) of the Education Act 2005. The statutory consultation would need to cover the specific location and specification of the school in question.

■ Stage 2 - Invitation to bid

25. When the LA have considered the responses to the consultation they may then publish a statutory notice inviting interested parties to bring forward proposals for setting up the new school. The regulations allow four months for proposals to be submitted (see Stage 4). The notice must be published in at least one local newspaper circulating in the area to be served by the school and displayed in a prominent place in the area. The notice must also be sent to:

- any other LA likely to be affected by the proposals;
- the Secretary of State (via the School Organisation Unit (SOU) Mailbox: schools.organisation-unit@dfes.gsi.gov.uk or by mail to School Organisation Unit, DfES, Mowden Hall, Darlington, DL3 9BG);
- the Diocesan Board of Education for any diocese of the Church of England which is comprised in the area of the LA;
- the local ordinary of a diocese of the Roman Catholic Church which is comprised in the area of the LA;
- any other person or organisation that has expressed an interest in writing to the LA in establishing a new secondary school to serve pupils in the area;
- the local LSC;
- the schools adjudicator (Office of the Schools Adjudicator, Mowden Hall, Staindrop Road, Darlington, DL3 9BG or email: offschl.adj@dfes.gsi.gov.uk);
- any other body or organisation that in the opinion of the LA is likely to be interested in the notice; and
- in cases where the proposed establishment of a school relates to the discontinuance of another school or schools, be posted at the main entrance to any school which is proposed to be discontinued.

26. The Education (New Secondary School Proposals) (England) Regulations 2006 set out the information that must be included in the statutory notice and details are included in Annex A. To help the LA prepare their statutory notice the School Organisation website includes a notice builder tool which will ensure that the notice complies with the Regulations. The notice builder can be found at www.dfes.gov.uk/schoolorg . To gain access an LA official must register as a member of "The Forum" on the website but this is free of charge.

■ Compulsory Purchase Orders

27. Where an LA needs to acquire land compulsorily for the new school they should not make the compulsory purchase order until the SOC or schools adjudicator have confirmed that proposals have been approved conditionally on the acquisition of the site. The Secretary of State will not consider confirming and sealing an order until proposals have been approved.

■ Stage 3 – Community engagement

28. When the LA have decided to publish a notice inviting proposals they should e-mail the Department SecondarySchools.COMPETITIONS@dfes.gsi.gov.uk for advice on how the Department can support the competition.

29. The Department has appointed consultants who will market a competition to potential providers and will help to engage the local community in the competition. They will also alert national provider organisations who have expressed an interest in submitting proposals for new schools in response to competitions.

30. The consultants will place advertisements, publicising the competition in the local newspapers. These advertisements will summarise the LA's requirement for the new school and offer the consultants as the first point of contact for advice on the competition.

31. Once potential proposers have been identified, the consultants will arrange and manage a seminar to inform potential proposers about:

- the competition process;
- the requirements that need to be covered in a proposal;
- what it means to win a competition; and
- consultancy support to help proposers formulate a proposal.

32. The LA will have the opportunity to attend and take part in the seminar, particularly the Q&A session.

■ Stage 4 - Submission of proposals

33. The LA's first notice must allow potential proposers at least four months from its date of publication to prepare proposals. Regulations specify the information that they must give in response to the first notice.

34. Once all of the proposals have been received, the LA should decide whether they wish to publish proposals for a foundation or a community school. Details of the information required are at Annex B.

■ Stage 5 – Publication of Proposals

35. Within three weeks of the expiry of the date for submitting proposals, the LA must publish a second notice summarising the proposals received, including any proposal they wish to make. The summary must include, for each proposal:

- the name of the proposer or proposers, and a contact address;
- the category of school the proposers propose to establish;
- any religious character the proposers intend the school to have;
- any particular ethos the school is proposed to have;
- any specialism the school is proposed to have; and
- any proposed divergence from the characteristics specified by the LA in the notice inviting proposals.

36. The notice must also tell people where they can inspect full copies of the published proposals. It should also say where comments should be sent and clearly state the deadline for sending comments. The deadline must be a minimum of six weeks from the notice publication date.

37. The notice must be published in at least one local newspaper circulating in the area and in a conspicuous place in the area that the school will serve.

38. The LA must also send full copies of all proposals to:

- any other LA likely to be affected by the proposals;
- the Diocesan Board of Education for any diocese of the Church of England which is comprised in the area of the LA;
- the local ordinary of a diocese of the Roman Catholic Church which is comprised in the area of the LA;
- any other person or organisation that has previously expressed an interest in writing to the LA in establishing a secondary school to serve pupils in the area;
- the local LSC; and
- the Secretary of State (via the School Organisation Unit, DfES, Mowden Hall, Darlington, Co Durham DL3 9BG or via email to schoolsorganisation-unit@dfes.gsi.gov.uk).

39. The LA must also send a copy of any particular proposal to any individual or organisation that requests it.

■ Stage 6 – Representations

40. Comments on the proposals must be sent to the LA within six weeks of the publication of the second notice. Any person can send comments, which

can be objections as well as expressions of support for specific proposals or elements of proposals.

41. During the representation period the LA must hold at least one public meeting within two weeks of publishing the second notice. The purpose of this meeting is to inform people of the proposals received and tell them how they can provide their comments and objections. The LA must invite all of the proposers to all of the meetings - this will give them the opportunity to outline their proposals in more detail and give people an opportunity to ask questions.

■ **Stage 7 - Submission to the SOC:**

42. The LA must submit copies of all proposals, together with all comments received during the representation period (i.e. that have not been withdrawn), to the SOC within two weeks of the end of the six week representation period.

■ **Stage 8 – Decision**

■ **Decision by the local authority**

43. The LA can determine the proposals if:-

- the only proposals published are proposed by the LA; there are **no** objections;
- the proposals do **not** require conditional approval (see paragraph 50 below); and
- the proposals are **not related** to any of the following types of proposals, that have not yet been decided:
 - proposals, by the LA, to establish a community of foundation school;
 - proposals, by another proposer, to establish a voluntary or foundation school; or
 - proposals made by the LSC under Section 113A or Schedule 7 of the Learning and Skills Act 2000.

44. The LA must make a determination within four months of the publication of the second notice. Failure to make a determination within this time-scale means the proposals will require the approval of the SOC. Proposals determined by an LA must be notified to the SOC and also the School Organisation Unit, DfES, Mowden Hall, Darlington, Co Durham DL3 9BG or via email to schoolsorganisation-unit@dfes.gsi.gov.uk .

■ Decision by the SOC

45. The SOC has two months from receiving the proposals in which to decide the competition.

46. If one of the proposals is for an Academy, the SOC must consult the Secretary of State within two weeks of receiving the proposals. The Secretary of State must confirm whether he would be willing in principle to commence negotiations with a view to entering into an agreement for establishing an Academy. Following a response from the Secretary of State the SOC can consider all the proposals submitted, including the Academy.

■ Decision by the Schools Adjudicator

47. The proposals are decided by the schools adjudicator if the SOC:

- fails to decide proposals unanimously;
- fails to reach a decision within two months of receiving the proposals from the LA; or
- two groups abstain from voting because members have an interest in the case.

The Secretary of State also has the power direct a SOC to refer proposals to the schools adjudicator for decision.

■ Decision Makers' Guidance

48. The Education Act 2005 requires that, when deciding competitions, the SOC and schools adjudicator must have regard to guidance issued by the Secretary of State. The full guidance is available at www.dfes.gov.uk/schoolorg/ in Decision Makers' Guidance Sections 1 and 2A,

■ Types of Decision

49. In considering proposals the SOC and schools adjudicator can decide to:

- reject all of the proposals;
- approve any of the proposals (e.g. they may decide to approve complementary proposals which together meet the need for the new school);
- approve any of the proposals with a modification (e.g. the school opening date); or
- approve any of the proposals subject to them meeting a specific condition such as the granting of planning permission.

■ Conditional Approval

50. The regulations provide for a conditional approval to be given where the SOC or schools adjudicator are otherwise satisfied that the proposals can be approved, and approval can automatically follow an outstanding event. The SOC or schools adjudicator can only give conditional approval in the limited circumstances specified in the regulations:

- a. the grant of planning permission under Part 3 of the Town and Country Planning Act 1990;
- b. the acquisition of the site on which a new school is to be constructed;
- c. the acquisition of playing fields to be provided for the school;
- d. the securing of any necessary access to a site referred to in sub-paragraph (b) or playing fields referred to in sub-paragraph (c);
- e. the private finance credit approval given by the Department for Education and Skills following the entering into of a private finance contract by an LA or the approval by the Department for Education and Skills of capital grant in an equivalent arrangement for voluntary aided schools;
- f. the entering into an agreement for any necessary building project supported by the Department for Education and Skills in connection with the programme known as “Building Schools for the Future”;
- g. the making of any scheme relating to any charity connected with the school;
- h. the formation of any federation (within the meaning of section 24(2) of the 2002 Act) of which it is intended that the proposed school should form part, or the fulfilling of any other condition relating to the proposed school forming part of a federation;
- i. the Secretary of State giving notice under regulation 5(4) of the Education (Foundation Body) (England) Regulations 2000 that a foundation body must be established and that the school must form part of a group for which a foundation body must act;
- j. the Secretary of State making a declaration under regulation 22(3) of the Education (Foundation Body) (England) Regulations 2000 that the school must form part of a group for which a foundation body acts;
- k. the agreement to any change to admission arrangements specified in the approval, relating to another school.

51. The SOC or schools adjudicator must set a date by which the condition must be met but will be able to modify the date if the proposers confirm, before the date expires, that the condition will be met later than originally thought. The LA should inform the SOC or schools adjudicator when a condition is met. If a condition is not met by the date specified, the proposals must be referred back to the SOC or schools adjudicator for fresh consideration. If the LA decide they no longer wish to proceed, they should formally withdraw the proposals and inform interested parties, including the School Organisation Unit, DfES, Mowden Hall, Darlington, Co Durham DL3 9BG (or via email to schoolsorganisation-unit@dfes.gsi.gov.uk).

■ **Linked Proposals**

52. Where proposals are linked they must be considered together by the SOC or the schools adjudicator and the guidance makes it clear that the decisions should be compatible: for example if one set of proposals is to close a school and another is for the establishment of a school to which the pupils are proposed to transfer.

■ **Related Proposals**

53. Where proposals are “related” to proposals published by the local LSC, which are to be decided by the Secretary of State, the SOC must defer taking a decision until the Secretary of State has taken a decision on the LSC proposals. This applies where the proposals before the SOC concern:

- a. the school that is the subject of the LSC proposals;
- b. any other secondary school, maintained by the same LA that maintains a school that is the subject of the LSC proposals; or
- c. any other secondary school in the same LA area as any FE college which is the subject of the LSC proposals.

54. The proposals will be regarded as **related** if their implementation would prevent or undermine effective implementation of the LSC proposals.

■ **Stage 9 – Implementation**

55. The LA, or proposers as the case may be, are under a statutory duty to implement any statutory proposals which an LA has determined to implement or which have been approved by the SOC or schools adjudicator. The following bodies are responsible for the implementation of proposals:

Type of School	Body that published proposals	Duty to implement
Community	Local authority	Local authority
Foundation	Proposers	Local authority and the proposers as set out in published proposals
	Local authority	Local authority
Voluntary Controlled	Proposers	Local authority and the proposers as set out in published proposals
Voluntary Aided	Proposers	Proposers but Local authority to provide any "relevant site" *
Academy	Proposers	Proposers
* "relevant site" does not include playing fields but otherwise includes any site which is to form part of the premises of the school.[See Paragraph 4 of Schedule 3 to the School Standards & Framework Act 1998]		

56. If the proposals are to be implemented on the site that was identified on the first notice, and proposals are approved for a new foundation, voluntary aided or voluntary controlled school, the LA must provide the school site and convey its interest to the school trustees (or the governing body if the new foundation school will not have a foundation).

■ Can proposals be modified?

57. If it proves impossible to implement the proposals as approved, the proposers can seek a modification. If the proposers want to modify proposals to a significant extent, they must withdraw them and publish new proposals, as the SOC cannot modify proposals to the extent it substitutes new proposals for those that have been consulted upon and published. The most common modification is to the implementation date.

58. Before modifying proposals the SOC must consult those who published the proposals and also the LA that is to maintain the school (i.e. if they did not publish the proposals). The SOC should not modify proposals in a way that would in effect substitute their own proposals for those that have been published. For example, SOC's should not normally modify proposals for a new school by modifying the proposed site, unless the circumstances are exceptional and the new site is adjacent to, or very close to, the originally proposed site. Such action would run the risk of successful legal challenge in the courts.

■ Revocation

59. If the LA, or proposer, cannot implement approved proposals they must consult interested parties and then publish fresh proposals to be relieved of the duty to implement (paragraph 10(4) of Schedule 10 to the Education Act 2005). These proposals must be decided by the SOC (or schools adjudicator if the SOC cannot reach a unanimous decision). To approved these proposals the SOC or schools adjudicator must be satisfied that implementation of the original proposals would be unreasonably difficult, or that circumstances have so altered since the proposals were approved that their implementation would be inappropriate.

■ **Annex A Matters to be specified in a notice inviting proposals**

The matters to be specified, required by regulations, are as follows:

1. The reason why the new secondary school is considered necessary.
2. An explanation of—
 - a. the location of the proposed site (including details of whether the school is to occupy a single or split site), including where appropriate the postal address or addresses;
 - b. the reason for the choice of site;
 - c. the area or particular community or communities the school is expected to serve;
 - d. the accessibility of the site (or if the school is to occupy a split site the accessibility of the accommodation);
 - e. the proposed arrangements for transport of pupils to the new school and a statement about other sustainable transport alternatives where pupils are not using transport provided, and how the school will seek to discourage car use
 - f. in the school area;
 - g. the 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; and the effect of paragraphs 13(4) and 14(5) of Schedule 10 to the Education Act 2005 (that the LA must transfer their interest in the site to the school's trustees, foundation body, or governing body).
3. The date on which the school should open or where it is proposed that there should be transitional arrangements, the dates on which each stage should be implemented.
4. Information on—
 - a. the number of pupil places the school should provide;
 - b. the upper and lower age limits of the proposed school and, where it is intended that it should provide sixth form education, the number of pupils for whom it is intended that such education should be provided;

- c. the number of pupils to be admitted to the proposed school in each relevant age group in the first school year in which the proposals have been implemented or, where it is intended that the proposals should be implemented in stages, the number of pupils to be admitted to the proposed school in each stage;
- d. whether it is proposed that the school should admit pupils of both sexes or boys or girls only and, in the case of a single sex school where it is intended to provide sixth form education, whether both sexes or boys or girls only are to be admitted to the sixth form;
- e. whether the new school should make provision which is recognised by the LA as reserved for children with special educational needs, and if so the range of special needs and the number of pupils for which provision is proposed; and
- f. the estimated capital costs of providing the school (such an estimate to be made in accordance with the guidance provided at pages 17 to 19 of Department for Education and Skills Guidance "Education Building Projects - Information on Costs and Performance Data - Schools Building and Design Unit", (reference DfES/0288/2003) (ISBN 1 84185 950 8) issued in April 2003).

5. An explanation that proposals should be in line with requirements set out in paragraph 4 above, but that proposals that do not comply with all of the requirements but meet the need for secondary places in the area will be considered.

6. The address of the LA, and the name of the person to whom proposals should be addressed.

7. The date, being not less than four months from the date of publication of the notice, by which proposals must be submitted to the LA.

8. A brief explanation of the procedure to be followed after the date when proposals must be received by the LA.

9. The requirement that any proposals made pursuant to a notice published under section 66(1) must contain the information required by Part 1 of Schedule 2.

10. A statement that the LA will meet the capital costs of implementing the proposals to the extent required by any enactment.

11. The types of and extent of extended services the school is expected to provide.

■ Annex B Information to be provided by proposers about their proposals

■ **A - Information to be provided by proposers in response to notice**

1. The name of the proposer, or proposers, and a contact address.
2. Whether the proposals are being submitted independently or jointly with another proposer or proposers.
3. The type of school falling within section 66(2) that the proposers propose to establish (a foundation school, a voluntary school or an Academy).
4. The area or particular community or communities the school is expected to serve.
5. The proposed ethos of the school, and if the school is to have a religious character, information about the religious character, or if it is to adhere to a particular philosophy, information about that philosophy.
6. An indication of the proposed admission arrangements and over-subscription criteria for the proposed school including, where the school is proposed to be a foundation or voluntary school or Academy 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 faith or denomination; and
 - b. the extent if any to which priority is to be given for any places to children of other faiths or denominations or to children in specified groups regardless of their faith or denomination.
7. Whether it is intended that the proposed admission arrangements for the school will make provision for selection by ability as is mentioned in section 101 of the 1998 Act (pupil banding).
8. Evidence of any relevant experience in education held by the proposer, or proposers. In particular, details of any involvement in the improvement of standards in education.
9. Where the school is—
 - a. proposed to have a religious character, evidence of the demand in the area for education in accordance with the tenets of the religion; or
 - b. proposed to adhere to a particular philosophy, evidence of the demand for education in accordance with the philosophy in question that is not already met in other maintained schools or Academies in the area.
10. —(1) A statement that special educational needs provision will be in line with that specified in the notice or, where it will not, the nature of any such

provision and the proposed number of pupils for whom such provision is to be made.

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

11. Where it is proposed that the school will provide sixth form education, how the proposals will—

- a. improve the educational or training achievements;
- b. increase participation in education or training; or
- c. expand the range of educational or training opportunities

for 16-19 year olds in the area.

12. Whether the proposed school will have any specialisms on implementation and whether the proposer intends to apply to the Secretary of State for the school to be a specialist school from implementation.

13. Information on how the school would contribute to enhancing the diversity and quality of education in the area.

14. Information on how the school will help to raise the quality and standard of education in the area and contribute to school improvement.

15. Information on the extended services which will be provided.

16. Information on how the proposals will contribute to enabling children and young people to: be healthy; stay safe; enjoy and achieve; make a positive contribution to the community and society and achieve economic well-being.

17. The following information relating to the proposals—

- a. how the school will promote and contribute to community cohesion;
- b. how the school will increase inclusion and equality of access for all social groups; and
- c. how the school will collaborate with other schools, colleges and training providers.

18. Confirmation that the size, age-range and admission number of the school will be in line with the specification in the notice, or, if this is not the case, the proposed details.

19. Confirmation that the proposer is satisfied that accommodation will be adequate to meet the number of pupil places specified.

20. Whether the new school will admit pupils of both sexes or boys only or girls only and, in the case of a single sex school where it is intended to provide sixth form education, whether both sexes or boys or girls only are to be admitted to the sixth form.

21. Confirmation that the school will be established on the site specified in the notice or where that is not the case—

- a. the location of the site (including where appropriate the postal address or addresses if the school is to occupy a split site);
- b. whether the school will occupy a single or split site;
- c. the accessibility of the site (or if the school is to occupy a split site the accessibility of the accommodation);
- d. the current ownership and tenure (freehold or leasehold) of the site, the estimated cost of providing the site and the proposed use of any buildings already on the site;
- e. details of the tenure (freehold or leasehold) on which the site of the school will be held, and if the site is to be held on a lease, details of the proposed lease;
- f. whether the site is currently used for the purposes of another school which will no longer be required for the purposes of that school. If so, provide details as to why the site will no longer be required for the purposes of that school; and
- g. the estimated costs of providing the site and a statement about how the costs will be met.

22. Confirmation that the proposals will be implemented in line with the timing in the notice published by the LA or, if this is not the case, the date when it is planned that the proposals will be implemented, or where the proposals are to be implemented in stages, the date on which each stage is planned to be implemented.

23. Confirmation that the proposers consider that the costs of establishing the proposed school can be met within the estimate of capital costs of providing the school outlined in the notice published by the LA and where they cannot be met within that estimate, how any shortfall will be met.

24. Where the proposals are to establish a voluntary controlled or foundation 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.

25. Details of how the proposer proposes to fund his share (if any) of the capital costs of implementing the proposals.
26. The proposed arrangements for transport of pupils to the school.
27. Details of any proposals for the school to be federated with one or more schools (by virtue of sections 24 and 74(1) of the 2002 Act).
28. Confirmation that the school will meet the general requirements in relation to curriculum contained in section 78 of the 2002 Act and an outline of any provision that will be in addition to the basic curriculum required by section 80 to the 2002 Act, in particular any 14-19 vocational education.
29. In addition, where the proposed school is to be a voluntary aided school—
- a. details of the trusts on which the site is to be held together with details of any arrangements to secure that, if the school is discontinued or transfers to a new site, the proceeds of sale of the site will be available for use in connection with another maintained school;
 - b. the amount of capital grant under paragraph 5 or 6 of Schedule 3 to the School Standards and Framework Act 1998 for which it is intended that an application should be made;
 - c. confirmation that the governing body will be able and willing to carry out their obligations under Schedule 3 to the 1998 Act;
 - d. details of the proposed ownership of the site; and
 - e. confirmation that the proceeds of sale of other premises will be available to the trustees where that is the case.
30. Where the school is to be a foundation school—
- a. details of any trusts on which the site is to be held together with details of any arrangements to secure that, if the school is discontinued or transfers to a new site, the proceeds of sale of the site will be available for use in connection with another maintained school; and
 - b. confirmation as to whether the school—
 - i. will have a foundation established otherwise than under the 1998 Act and if so the identity of that foundation;
 - ii. will belong to a group of schools for which a foundation body acts under section 21 of the 1998 Act; or
 - iii. will not fall within sub-paragraph (i) or (ii).
31. An outline of the proposed senior staffing at the school.

■ **B - Information that must be published for Local Authority proposals**

1. The name of the LA submitting the proposals together with the name and address of the person to whom enquiries should be sent.
2. Whether the school is to be a community or foundation school.
3. The area or particular community or communities the school is expected to serve.
4. The proposed ethos of the school.
5. Whether the proposed school will have any specialisms on implementation and whether the LA intends to apply to the Secretary of State for the school to be a specialist school from implementation.
6. Information on how the school would contribute to enhancing the diversity and quality of education in the area.
7. Information on how the school will help to raise the quality and standard of education in the area and contribute to school improvement.
8. Information on the extended services which will be provided.
9. Information on how the proposals will contribute to enabling children and young people to: be healthy; stay safe; enjoy and achieve; make a positive contribution to the community and society and achieve economic well-being.
10. The following information relating to the proposals—
 - a. how the school will promote and contribute to community cohesion;
 - b. how the school will increase inclusion and equality of access for all social groups; and
 - c. how the school will collaborate with other schools, colleges and training providers.
11. An indication of the admission arrangements and over-subscription criteria for the proposed school.
12. Confirmation that the size, age-range and admission number of the school will be in line with the specification in the notice, or, if this is not the case, the proposed details.
13. The date on which the proposals are planned to be implemented, or where the proposals are planned to be implemented in stages, the date on which each stage is planned to be implemented.
14. —(1) Information as to 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 and the proposed number of pupils for whom such provision is to be made.

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

15. Where it is proposed that the school will provide sixth form education, how the proposals will—

- a. improve the educational or training achievements;
- b. increase participation in education or training; or
- c. expand the range of educational or training opportunities

for 16-19 year olds in the area.

16. Whether the new school will admit pupils of both sexes or boys only or girls only and, in the case of a single sex school where it is intended to provide sixth form education, whether both sexes or boys or girls only are to be admitted to the sixth form.

17. The proposed arrangements for transport of pupils to the school.

18. Details of any proposals for the school to be federated with one or more schools (by virtue of sections 24 and 74(1) of the 2002 Act).

19. Confirmation that the school will meet the general requirements in relation to curriculum contained in section 78 of the 2002 Act and an outline of any provision that will be in addition to the basic curriculum required by section 80 to the 2002 Act.

20. An outline of the proposed senior staffing at the school.

21. Where the school is to be a foundation school a statement as to whether the school—

- a. will have a foundation established otherwise than under the 1998 Act and if so the identity of that foundation;
- b. will belong to a group of schools for which a foundation body acts under section 21 of the 1998 Act; or
- c. will not fall within sub-paragraph (a) or (b).

22. Whether it is proposed that the new admission arrangements for the school will make provision for selection by ability as is mentioned in section 101 of the 1998 Act (pupil banding).

■ **Annex E Information that must be contained in published proposals to establish a new secondary school**

1. The name of the persons or body publishing the proposals.
2. The date on which the proposals are planned to be implemented or, where the proposals are planned to be implemented in stages, the date on which each stage is planned to be implemented.
3. A statement explaining the effect of paragraph 2 of Schedule 6 to the School Standards and Framework Act 1998 or, as the case may be, paragraph 7 of Schedule 7 to the same Act and regulation 7 of the Education (School Organisation Proposals)(England) Regulations (as amended) including—
 - a. the date by which objections should be sent to the relevant LA or SOC; and
 - b. the address of the LA or SOC to which objections should be sent.
4. The location of the site of the proposed school (including, where appropriate, the postal address).
5. The category of school (that is to say, community school, foundation school, voluntary aided school or voluntary controlled school) into which the proposed school will fall.
6. Information on—
 - a. the number of pupils for whom the school will provide;
 - b. the upper and lower age limits of the new school and, where it is intended that it should provide sixth form education (or nursery education if proposed school is to be an “all-through” school), the number of pupils for whom it is intended that such education should be provided;
 - c. whether the new school will admit pupils of both sexes or whether it will admit pupils of one sex only; and
 - d. whether it is proposed that the new admission arrangements for the school will make provision for selection by ability as is mentioned in section 101 of the Act (pupil banding).
7. Where the proposed school is to be established in substitution for one or more discontinued grammar schools a statement to this effect and (if regulations under section 104(5) of the Act so provide) a statement that the school may be designated as a grammar school for the purpose of Chapter II of Part III of the Act.

8. A description of what the proposals are intended to deliver in terms of community cohesion.
9. If the new school is to have a religious character, information about such religious character.
10. The proposed arrangements for transport of pupils to the new school.
11. Details of any proposals for the school to be federated with one or more schools (by virtue of sections 24 and 74(1) of the Education Act 2002).
12. (1) The number of pupils to be admitted to the new school in each relevant age group in the first school year in which the proposals have been implemented or, where it is intended that the proposals should be implemented in stages, the number of pupils to be admitted to the new school in the first school year in which each stage has been implemented.

(2) Where the number of such pupils in any relevant age group is lower than the indicated admission number for that relevant age group a statement to this effect and details of the indicated admission number in question.
13. Where the proposed school is to be established on the site which is occupied by a school to which section 15 of the Act applies and which it is intended to discontinue, a statement as to how the curriculum, staffing and (if relevant) the buildings of the proposed school will differ from those of the school proposed to be discontinued.
14. A statement as to whether the governing body of the proposed school or the LA will be the admission authority.
15. Where the proposals are to establish a new voluntary controlled or foundation 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 statement as to the extent to which they are to be implemented by each body.