

Protocol and Procedure for establishing a new school by competition

1 Introduction

1.1 Scope of the protocol

Only the local authority can hold a competition for a new school. Any other proposer of a new school must apply to the Secretary of State for permission to establish a new school without a competition.

If permission not to hold a competition is granted, the five stage statutory consultation process outlined in the 'Protocol and Procedures for Conducting Provision Planning Reviews' must be followed.

1.2 Aim of the protocol

The local authority is responsible for holding competitions for new schools. The aim of this protocol is to establish procedures which engage all interested parties at the appropriate stages in the process and to ensure that:

- information from all sources is collected;
- partners understand the local authority's strategic role in this area; and
- consultation complies with the law and DFE guidance.

This protocol may need to be curtailed or modified if the local authority were to conduct a whole borough review of provision.

2 Pre-consultation

If the pre-consultation stage of a provision planning review outlined in the 'Protocol and Procedures for Conducting Provision Planning Reviews' identifies that a new school is required, it will be necessary to hold a school competition in most circumstances.

2.1 Specification of new school

The outline specification of the new school will be agreed during the pre-consultation stage. This should include:

- the number of places to be provided at the school;
- the age range, including any proposed sixth form or early years provision;
- whether the school will be mixed or single sex;
- the proposed admission number;
- the location, including playing field provision and transport links;

- the opening date;
- the estimate capital costs of the school and funding sources in accordance with DFE guidance;
- any provision that will be reserved for pupils with special educational needs;
- the area and community to be served by the school;
- any extended services or other community use;
- any preferred specialism that the school should have; and
- proposed arrangements for transport to the new school and sustainable transport alternatives.

Cabinet will be invited to agree the proposal and outline specification for the new school and to decide whether to give permission to commence consultation.

The stages below reflect legislation, regulations and DFE guidance.

3 Statutory consultation

3.1 Stage 1: Consultation

Consultation will take place for a period of six to eight weeks during term time.

The purpose of the consultation is to:

- inform local people about the proposal; and
- seek their views on the specification for the new school

not how the specification may be met or what the category of the school should be, for example whether or not it should be a community, voluntary aided or foundation school.

Consultation documents will be issued to all interested parties (listed at Appendix A). Written consultation responses will be requested.

Consultation documents will contain the:

- proposal(s);
- reasons for the proposal(s);
- specification of the new school;
- details of the consultation process;
- relevant timescales;

and will clearly explain when and how to make views known.

Open consultation meetings for parents and members of the public will also be held and notes will be taken.

The consultation gives all interested parties the opportunity to make comments on the proposal(s). These will be presented to Cabinet. The local authority will not enter into correspondence on individual responses.

3.1.2 Children and Young People's Panel and Cabinet.

Following consultation, Cabinet will determine the final specification for the new school and whether it wishes to proceed to Stage 2. Cabinet will also decide whether the local authority will submit a bid as the proposer of the new school.

If new options emerge as a result of the consultation and members wish to amend the proposal, a second round of stage 1 consultation must be held.

3.2 Stage 2: Invitation to bid (first statutory notice)

The local authority must publish a statutory notice inviting interested parties to submit proposals to set up the new school. The notice must be:

- published in a national newspaper covering education issues;
- published in a local newspaper;
- posted in a conspicuous place in the area to be served by the school; and
- sent to those parties listed at Appendix A within one week of publication.

Proposers have up to four months to submit their bids.

3.3 Stage 3: Publication of competition proposals (second statutory notice)

Within three weeks of the expiry date for submitting proposals the local authority must publish a second statutory notice summarising all the proposals received. The notice must be:

- published in a local newspaper;
- posted in a conspicuous place in the area to be served by the school; and
- published on the local authority's website.

Copies of the complete proposals must also be made available on the local authority's website.

The local authority must also send full copies of all proposals to all listed in Appendix A.

3.4 Stage 4: Representations

There is a period of six weeks from the date on which the statutory notice is published during which comments can be submitted.

A public meeting to inform people of the proposals received and to tell them how they can make their comments or objections must be held within two weeks of the publication of the second notice.

3.5 Stage 5: Decision

Cabinet will make the decision on the competition unless:

- the local authority fails to make a decision within two months of the end of the consultation period;
- the local authority is a proposer for the school; or
- the proposal is for a foundation school in certain circumstances.

If any of the above applies the schools adjudicator will make the decision.

3.6 Stage 6: Implementation

The proposers and local authority are under a statutory duty to implement any proposals which the decision maker (the local authority or the schools adjudicator) has approved.

4 Linked proposals

Where proposals are related, for example when a new school will replace a school proposed for closure, the consultation and notices for both proposals are linked as illustrated in Appendix B

New school competition

Stage 1: Consultation

Consultation documents will be sent to:

- the families of pupils at any other school who may be affected, including primary schools for secondary school proposals as appropriate
- pupils who may be affected
- the governors of any other school that may be affected
- the staff of any other school that may be affected
- any other local authority likely to be affected
- trade unions and professional associations
- all elected members
- the diocesan authorities
- private and voluntary early years providers (if early years proposals)
- the member of parliament for the area
- the Early Years and Childcare Strategic Management Group (if early years proposals)
- any other interested parties, such as those who might use school premises.

Copies of consultation documents will also be placed at:

- local libraries
- town halls

Stage 2: Invitation to bid

Statutory notices will be sent to:

- any local authority likely to be affected by the proposals
- the Secretary of State
- the Diocesan authorities
- any other person or organisation that has expressed an interest in writing to the authority in establishing a new school to serve pupils in the area
- the schools adjudicator
- any other body or organisation that is likely to be interested; and
- the relevant health authorities if the proposed school is a special school.

Stage 3: Publication of competition proposals

Copies of the full proposals will be sent to:

- all proposers who have submitted proposals in response to the competition notice;
- any other local authority likely to be affected by the proposals
- the Diocesan authorities;

- any other person or organisation that has previously expressed an interest in writing to the local authority in establishing a school to serve pupils in the area;
- the Learning and Skills Council if 14-19 provision;
- the relevant health authorities if the proposed school is a special school; and
- the Secretary of State.

If there are linked proposals to close a school or schools and hold a competition to establish a new school the process is as follows:

